

Law Offices of

PERLOFF & REID

SUITE 205 - VAN ANTWERP BLDG.

MOBILE, ALABAMA 36602

MAYER W. PERLOFF
T. DWIGHT REID
DONALD M. BRISKMAN

December 1, 1969

AREA CODE 205
TELEPHONE 433.5412

Honorable Telfair Mashburn
Judge Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama

RE: Termplan, Inc. vs Robbie B., Wayne R. & Ronald F. Butts
Case # 8588

Dear Judge Mashburn:

Enclosed you will find Mr. Gibbons motion to withdraw and motion to withdraw demand for jury trial. Enclosed you will also find a promissory note upon which the suit is based, together with an order which I have prepared for your convenience.

If the matter is in order, I would appreciate your accepting the note into evidence and executing the order of judgment at your convenience.

I thank you for your cooperation in this matter and apologize to the Court and Your Honor for not being present when the case was set for trial; however, in view of the fact that Mr. Gibbons had notified me that he no longer represented the Butts, I assumed that the case would be disposed of at a later time. With this in mind, I hope that you will excuse me not notifying the Court.

Yours very truly,


Donald M. Briskman

DMB:jkn

Law Offices of

PERLOFF & REID

SUITE 205 - VAN ANTWERP BLDG.

MOBILE, ALABAMA 36602

December 16, 1969

MAYER W. PERLOFF
T. DWIGHT REID

DONALD M. BRISKMAN

AREA CODE 205
TELEPHONE 433.5412

Honorable Telfair Mashburn
Judge Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama

RE: Termplan, Inc. vs Robbie B., Wayne R. & Ronald F. Butts
Case # 2588

Dear Judge Mashburn:

Enclosed is the promissory note upon which I would appreciate you accepting into evidence and executing an order of judgment received by you in my previous letter.

Thanking you for your cooperation and courtesy, I am,

Very truly yours,


Donald M. Briskman

DMB:jkn

* IN THE CIRCUIT COURT OF
* BALDWIN COUNTY, ALABAMA
* AT LAW

* BALDWIN COUNTY, ALABAMA

* AT LAW

T

* CASE NO. 8588

JUDGMENT

ted herein, the Plaintiff's submission
ment of this Court that a judgment be
ntiff and against the Defendants in
a reasonable attorneys' fee in the
refor and hereby ORDERED, ADJUDGED
be entered for the Plaintiff and
e amount of \$1814.40.

aldwin, State of Alabama, this the

Jesse J. Washburn
Judge

FILED

DEC 17 1969

ALICE J. BERRY
CLERK
REGISTER

TERMPLAN INCORPORATION,
a corporation

Plaintiff

VS

ROBBIE B. BUTTS, WAYNE R.
BUTTS and RONALD F. BUTT,
jointly and individually

Defendants

) IN THE CIRCUIT COURT

) OF BALDWIN COUNTY,


) ALABAMA.

) AT LAW.

) CASE NO. 8588

MOTION TO WITHDRAW DEMAND FOR JURY TRIAL

Comes now E. Graham Gibbons and respectfully moves the
Court to withdraw a demand for jury trial heretofore filed.



E. Graham Gibbons
Attorney for Defendants

TERMPLAN INCORPORATION,
a corporation

Plaintiff

VS

ROBBIE B. BUTTS, WAYNE R.
BUTTS and RONALD F. BUTT,
jointly and individually

Defendants

) IN THE CIRCUIT COURT

) OF BALDWIN COUNTY,

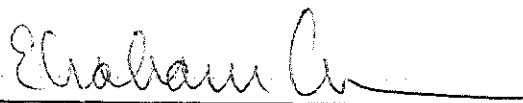
) ALABAMA.

)
) AT LAW.

)
CASE NO. 8588

MOTION TO WITHDRAW DEMAND FOR JURY TRIAL

Comes now E. Graham Gibbons and respectfully moves the
Court to withdraw a demand for jury trial heretofore filed.


E. Graham Gibbons
Attorney for Defendants

FILED

DEC 16 1969

ALICE J. DUCK CLERK
REGISTER

LAW OFFICES OF

PERLOFF & REID

SUITE 205 - VAN ANTWERP BLDG.

MOBILE, ALABAMA 36602

MAYER W. PERLOFF
T. DWIGHT REID
DONALD M. BRISKMAN

AREA CODE 205
TELEPHONE 433-5412

May 22, 1969

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

Re: Termplan Incorporated v. Butts, Robbie, et al #8588

Dear Mrs. Duck:

The above styled cause was filed on February 27, 1969, service obtained on defendants on the 28th of February. Subsequent to that time the Honorable E. Graham Gibbons filed a plea in abatement and as grounds therefor stated that there was a prior suit pending originally filed in the Circuit Court of Mobile County, and that case being number 24768.

Subsequent to that time I took a voluntary non suit on the prior case, which in my opinion would leave the plea in abatement without proper standing. Therefor, I ask that you set the above matter for trial at the earliest possible time.

Yours very truly,


DONALD M. BRISKMAN

DMB/rms

CC: E. Graham Gibbons
P. O. Box 293, Mobile

CASE NO. 24768 -

TERMPPLAN, INCORPORATED, a Corporation

VS.

ROBBIE B. BUTTS, WAYNE R. BUTTS, and
RONALD F. BUTTS, Jointly and Separately

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

I, ALICE J. DUCK, Clerk of the Circuit Court of Baldwin County, Alabama, do hereby certify that I have this day received and filed in this office, the complete transcript of the records and proceedings had in the above entitled cause in the Circuit Court of Mobile County, Alabama, together with a bill of costs to date in said Court.

DONE this the _____ day of _____, 1968.

ATTEST:

CLERK, CIRCUIT COURT, BALDWIN COUNTY, ALABAMA.

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW

CASE NO. 24768 - ERVIN

PERLOFF & REID
BY: Donald M. Briskman

TERMPLAN, INCORPORATED, a corporation

N.J.

VS. Suit for \$1814.40 due by promissory note.
(WAIVER)

E. GRAHAM GIBBONS
HOWELL, JOHNSTON, LANGFORD

ROBBIE B. BUTTS, WAYNE R. BUTTS, and
RONALD F. BUTTS, Jointly and Separately

JURY
JURY

& FINKBOHNER
BY: * JOHN L. LAWLER
PLEADINGS, ROCESS, ETC,

* FILING DATE

1. Complaint & Summons * 2-2-68 *
2. Pleas & Demand for * 2-26-68 *
3. Plea in Abatement and * 3-4-68 *

C & S served on Defendants on February 8, 1968.

March 8, 1968 - Plea in Abatement sustained, and Case ordered transferred
to Baldwin County, Alabama. /s/ Robert T. Ervin, Jr., Judge
36-840

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above
is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.
In Witness whereof I have hereunto set my hand and attached my Official Seal as such Clerk of said Court at Mobile, Mobile
County, Alabama, on this the 11th day of March 1968.

Clerk

TERMPIAN INCORPORATED,
a corporation,

Plaintiff,

vs.

ROBBIE B. BUTTS, WAYNE R.
BUTTS, and RONALD F. BUTTS, (
jointly and separately,
Defendants,

(IN THE CIRCUIT COURT OF
(MOBILE COUNTY, ALABAMA,
(AT LAW

(CASE NO. 24768

Plaintiff claims of the defendants, jointly and separately, the sum of EIGHTEEN HUNDRED FOURTEEN & 40/100 (\$1814.40) DOLLARS, for that heretofore on to-wit: February 17, 1967, the defendants executed a written promissory note wherein they agreed to pay plaintiff the sum of \$1632.00, in installments of \$68.00 per month, including interest, commencing on the to-wit: 25th day of March, 1967. Plaintiff avers that defendants defaulted in payment thereunder on to-wit: June 25, 1967, and pursuant to the terms of said promissory note the plaintiff herein has declared the entire balance due and owing.

Plaintiff avers that by the terms of said promissory note the defendants waived all right or claim of exemption under the Constitution and Laws of the State of Alabama and agreed to pay a reasonable attorney's fee in the event employment of an attorney was necessary for the collection, which said attorney's fee plaintiff claims in the amount of \$302.40, which is 20% of \$1512.00.

WHEREFORE, Plaintiff claims of the defendants \$1512.00, plus interest, plus attorney's fee as aforesaid.

PERLOFF & REID

[Signature]
Attorneys for Plaintiff

Defendants may be served:

All 3 defendants' address is General Delivery, Robertsdale, Ala.
Ronald F. Butts, ~~Robertsdale~~ ^{Mobile} City of Robertsdale, as lineman

I CERTIFY THIS PLEADING
WAS FILED ON

FEB 2 10 01 AM '68

[Signature]
CLERK

PERLOFF & REID

ATTORNEYS AT LAW

205 VAN ANTWERP BLDG.

MOBILE, ALABAMA 36602

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:
You are hereby commanded to summon

ROBBIE B. BUTTS, WAYNE R. BUTTS, and RONALD F. BUTTS,

jointly and separately.

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,
at the place of holding the same, then and there to answer the complaint of
TERMPIAN INCORPORATED, a corporation

WITNESS: John E. Mandeville, Clerk of said Court, this 2nd day of FEBRUARY, 1968

Attest: *John E. Mandeville*
Clerk

SHERIFF'S RETURN

Received day of 19 and on day of 19, I served a copy of
the within on
by service on

RAY D. BRIDGES, SHERIFF
By _____
D.S.

RECEIVED
JAN 28 1968
CLERK OF COURT

mail
No. 24768
JUDGE (3) DOCKET
CIVIL DIVISION
CIRCUIT COURT
MOBILE COUNTY

TERMPLAN INCORPORATED,
a corporation

VS. } Complaint and Summons

ROBBIE B. BUTTS, WAYNE R.
BUTTS, & RONALD F. BUTTS

Issued 2nd day of FEBRUARY, 19 68

Defendant's Address
ALL DEFTS.
General Delivery,
Robertsdale, Ala.
RONALD F. BUTTS
emp. at City of Robertsdale
as lineman

DONALD M. BRISKMAN

Plaintiff's Attorney

delivered 6 day of Feb 1968
on 8 day of Feb 1968
served a copy of the within to
Robbie B. Butts, Wayne
R. Butts, Ronald F.
service on Butts

TAYLOR WILKINS, Sheriff
By Charles Cheders
R K Ockle

156 miles go
Ten Cents per mile Total \$ 15.00
TAYLOR WILKINS, Sheriff
BY Charles Cheders
DEPUTY SHERIFF

TERMPPLAN, INCORPORATED,	)	IN THE CIRCUIT COURT OF
a corporation,)	
	)	MOBILE COUNTY, ALABAMA
Plaintiff,)	
)	
VS.	)	AT LAW
)	
ROBBIE B. BUTTS, WAYNE)	
R. BUTTS, and RONALD F.)	
BUTTS, jointly and separately,)	
)	
Defendants.	)	CASE NO. 24,768 - E


PLEA IN ABATEMENT

Comes the defendant, Robbie B. Butts, Wayne R. Butts, and Ronald F. Butts, by and through their attorney of record and appearing specially for the purpose of filing the following pleas in abatement and for no other purpose, pleads in abatement to the complaint filed in this cause and to each count thereof as follows, separately and severally:

1. That this Honorable Court is without jurisdiction of the cause of action sued on in this: for that each of the above captioned defendants is a bona fide resident of Baldwin County, Alabama and was at the time of the filing the within suit.

WHEREFORE, the defendants say they cannot be sued in Mobile County, Alabama and that the Circuit Court of Mobile County, Alabama has no jurisdiction of the cause of action made the basis of this suit and that this Court ought not to take further jurisdiction of this cause.

Defendant requests a trial by Jury.



 E. Graham Gibbons
 Attorney for Robbie B. Butts,
 Wayne R. Butts and Ronald F. Butts

STATE OF ALABAMA
 COUNTY OF MOBILE

Before me, Mildred Ingle, a notary public in and for said

County in said State, personally appeared E. Graham Gibbons, who being by me first duly sworn, deposes and says that he is cognizant of the facts hereinabove stated and that the facts as stated in the foregoing plea in abatement are true.

E. Graham Gibbons
E. Graham Gibbons

Subscribed and sworn to before me this 4th day of March, 1968.

Mildred K. Ingle
Mildred Ingle, Notary Public

CERTIFICATE OF SERVICE

I certify that on this 4th day of March, 1968 a copy of the foregoing pleading has been served upon counsel for all adverse parties to this proceeding by mailing the same to each by first class U. S. mail, properly addressed and postage prepaid.

E. Graham Gibbons
ATTORNEY FOR

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

MAR 4 2 34 PM '68

John Marshall
CLERK

TERMPPLAN INCORPORATED,	)	IN THE CIRCUIT COURT OF
a corporation,	)	MOBILE COUNTY, ALABAMA
Plaintiff,	)	AT LAW
vs.)	
ROBBIE B. BUTTS, WAYNE R.)	
BUTTS, and RONALD F. BUTTS,)	
jointly and separately,)	
Defendants.	)	CASE NO. 24768 -E

A N S W E R

Come now the Defendants and for answer to the complaint file the following plea:

1. The general issue.

HOWELL, JOHNSTON, LANGFORD & FINKBOHNER,
Attorneys for Defendants.

By: *John E. Lawler*
John E. Lawler

Defendants demand trial by jury.

John E. Lawler
One of attorneys for Defendants

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT I HAVE ON
THIS 26 DAY OF Feb, 1968.
SERVED A COPY OF THE FOREGOING PLEADING
ON COUNSEL FOR ALL PARTIES TO THIS PRO-
CEEDING BY MAILING THE SAME BY UNITED
STATES MAIL, PROPERLY ADDRESSED, AND
FIRST CLASS POSTAGE PREPAID.

John E. Lawler

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

FEB 26 12 05 PM '68

John E. Lawler
CLERK

FRIDAY, MARCH 8, 1968

TERMPLAN, INCORPORATED, a Corporation)	
ERVIN -vs- 24768	)	PLEA IN ABATEMENT SUSTAINED,
	)	AND CASE ORDERED TRANSFERRED
	)	TO BALDWIN COUNTY, ALABAMA
ROBBIE B. BUTTS, WAYNE R. BUTTS)	
& RONALD F. BUTTS, Jointly and)	
separately)	

 This day in open Court came the parties by their attorneys, and defendants' Plea in Abatement filed March 4, 1968, in this cause, coming on to be heard and being argued by counsel and understood by the Court;

 It is ordered and adjudged by the Court that the Defendants' said Plea in Abatement filed March 4, 1968, in this cause be, and the same is hereby sustained, and case ordered transferred to the Circuit Court of Baldwin County, Alabama.

STATE OF ALABAMA, }
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

as rendered by the said Circuit Court on the 8th day of March, 1968, in the cause
entitled No. 24768 - TERMPPLAN, INCORPORATED, a Corporation

_____, Plaintiff,

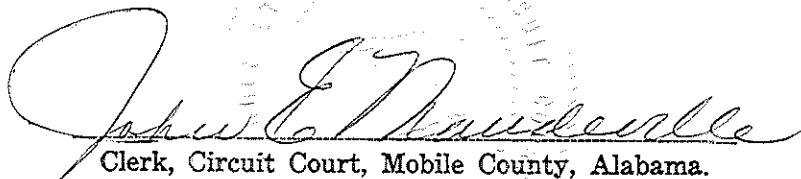
— versus — ROBBIE B. BUTTS, WAYNE R. BUTTS & RONALD F. BUTTS,

Jointly and separately _____

Defendant, (~~Together with the cancellation thereof~~), as the same remains of record in this office in
Minute Book No. 36, Page No. 840

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office
in the City of Mobile, Alabama, on this the 11th day of March, 1968

ATTEST:


Clerk, Circuit Court, Mobile County, Alabama.