

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Southeastern Fidelity Insurance Company, 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 John W. Seales.

WITNESS my hand this 27 day of May, 1969.

Alice J. Huerk

Service may be had on defendant by serving Mr. Joe H. Casehere, 1400 South 21st Street, Birmingham, Alabama, as the designated agent of said defendant.

JOHN W. SEALES

Plaintiff

vs

SOUTHEASTERN FIDELITY INSURANCE COMPANY

Defendant

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

~~EXHIBIT~~

NO. 8720

At Law

-1-

The plaintiff claims of the defendant Southeastern Fidelity Insurance Company Two Thousand Two Hundred (\$2,200.00) Dollars, the value of an automobile, to-wit, 1 - 1968 Ford Custom, 2 Dr. Sedan with standard equipment, Serial No. 8A30C231559 which the defendant on the 23rd day of May, 1968, insured against the loss or injury by fire or other perils in the policy of insurance mentioned for the term of one year, which automobile was wholly destroyed by fire or collision and upset on the 15th day of November, 1968, of which the defendant had notice.

-2-

The plaintiff claims of the defendant, the sum of One Thousand Dollars (\$1,000.00), the value of renting an automobile for transportation required by the plaintiff

Attorney for plaintiff

ALICE J. CLARK
CLERK
REGISTER

$\frac{1}{2} \left(\frac{1}{2} + \frac{1}{2} \right) = \frac{1}{2}$

8720
Baldwin
John W. Seales
Pltf.

vs.

Southeastern Fidelity
Insurance Co.
Def't

FILED

MAY 27 1969

ALICE J. DICK CLERK
REGISTER

MAY 28 11 27 AM '69
REC'D. SHERIFF'S
DEPT. JEFF. CO.

moore
C. L. Thompson

RECEIVED

MAY 27 1969

~~RECEIVED~~

Executed this the 29 day of MAY 1969
Southeastern Fidelity
Insurance Company
by leaving a copy of within with
A. J. Donaldson
of said co.
BY H. E. Moore
Joe H. Caschere - no
power with company

Melvin Bailey, Sheriff of
Jefferson County, Alabama,
claims \$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
H. E. Moore
Deputy Sheriff.

JOHN W. SEALES and FORD)	
MOTOR CREDIT CORPORATION,	)	IN THE CIRCUIT COURT OF
)	
PLAINTIFFS,	)	BALDWIN COUNTY, ALABAMA
)	
VS.	)	AT LAW
)	
SOUTHEASTERN FIDELITY)	
INSURANCE COMPANY,)	
)	
DEFENDANT.	)	CASE NO. 8720

PLEA

Comes now the Defendant and for answer to the Complaint as last amended alleges the following:

- (1) No guilty.
- (2) That the allegations of the Complaint are untrue.
- (3) In Count One the Defendant confesses that it had issued

an insurance policy to the Plaintiff insuring his automobile against loss or injury by fire or other perils and it further confesses that said automobile was totally destroyed by fire, collision or upset, but as a matter of avoidance alleges that the reasonable market value of said automobile at the time of the accident was not more than \$2,000.00.

(4) In Count Two the Defendant admits that it issued an insurance policy to the Plaintiffs on, to-wit: May 23, 1968 and in said policy there is a section designated Loss of Use by Theft-Rental Reimbursement, and that the first paragraph of this section of the insurance policy is set out verbatim in Count Two; but as a matter of avoidance the Defendant alleges the following: That the remaining two paragraphs of said section of the insurance policy reads verbatim as follows:

"Reimbursement is limited to such expense incurred during the period commencing seventy-two hours after such theft has been reported to the company and the police and terminating regardless of expiration of the policy period, on the date the whereabouts of the automobile becomes known to the insured or the company or on such earlier date as the company makes or tenders settlement for such theft.

Such reimbursement shall be made only if the stolen automobile was a private passenger automobile not used as a public or livery conveyance and not owned and held for sale by an automobile dealer."

The Defendant further alleges that there is another provision in

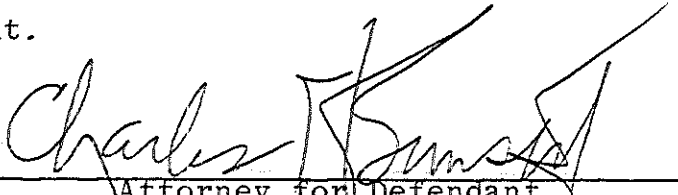
said insurance policy dealing with theft, set out verbatim as follows:

"Theft (Broad Form): To pay for loss of or damage to the automobile hereinafter called loss, caused by theft, larceny, robbery or pilferage."

The Defendant alleges that said automobile was not stolen but was removed by an independent insurance adjuster with the consent of the Plaintiff, John Seales to an enclosed storage place so that various items and parts would not be stolen from his wrecked vehicle.

The Defendant further alleges that the theft, if any, of said automobile was not reported to it and the police in accordance with the second paragraph of the section of the insurance policy designated Loss of Use by Theft-Rental Reimbursement.

Defendant further alleges that both the Plaintiff, John W. Seales and it knew the whereabouts of said automobile at all times which precludes any payments to the Plaintiffs in accordance with the second paragraph of the section designated Loss of Use by Theft-Rental Reimbursement.


Attorney for Defendant

I hereby certify that I have mailed a copy of the above Plea to the Honorable C. LeNoir Thompson, attorney of record for the Plaintiffs, by placing the same, properly addressed, postage prepaid in the U.S. Post Office in Foley, Alabama, on this 17th day of February, 1970.


Charles H. Sims, III

FILED

FEB 17 1970

ALICE J. DUCK

CLERK
REGISTER

CECIL G. CHASON

Attorney at Law

CHARLES H. SIMS III
ASSOCIATE

P. O. DRAWER 458
216 W. LAUREL AVENUE
FOLEY, ALABAMA 36535
PHONE 205/943-3171

February 9, 1970

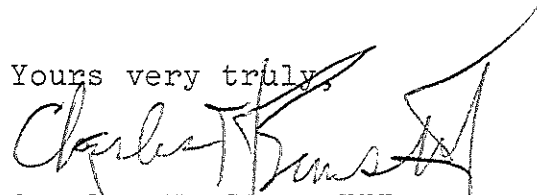
Mrs. Alice Duck
Clerk of the Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama

Re: John W. Seales and Ford Motor
Credit Corporation vs. Southeastern
Fidelity Insurance Company

Dear Mrs. Duck:

Enclosed please find Demurrer in the above-styled cause.
Please file.

Yours very truly,


Charles H. Sims, III

CHS,III:vd
Enc.

FILED

FEB 11 1970

ALICE J. DUCK

CLERK
REGISTER

CECIL G. CHASON

Attorney at Law

CHARLES H. SIMS III
ASSOCIATE

February 17, 1970

P. O. DRAWER 458
216 W. LAUREL AVENUE
FOLEY, ALABAMA 36535
PHONE 205/943-3171

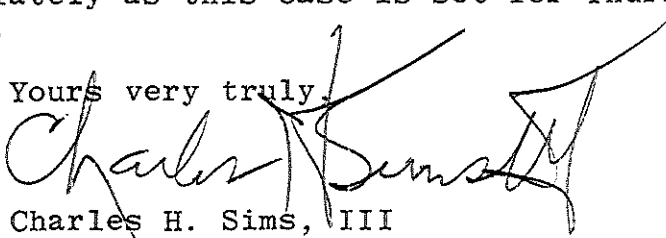
Mrs. Alice J. Duck
Circuit Clerk
Baldwin County
Bay Minette, Alabama 36507

RE: Seales vs. Southeastern Fidelity,
Case No. 8720

Dear Mrs. Duck:

Enclosed please find Plea in the above style cause,
a copy of which I have this day mailed to the Honorable
C. LeNoir Thompson, attorney of record for the Plaintiffs.
Please file immediately as this case is set for Thursday,
February 19, 1970.

Yours very truly,


Charles H. Sims, III

CHS, III:ec
enc:

JOHN W. SEALES and
FORD MOTOR CREDIT CORPORATION,

Plaintiffs,

Vs.,

SOUTHEASTERN FIDELITY
INSURANCE COMPANY,

Defendant.

X

X IN THE CIRCUIT COURT OF

X BALDWIN COUNTY, ALABAMA

X

AT LAW

X

CASE NUMBER: 8720

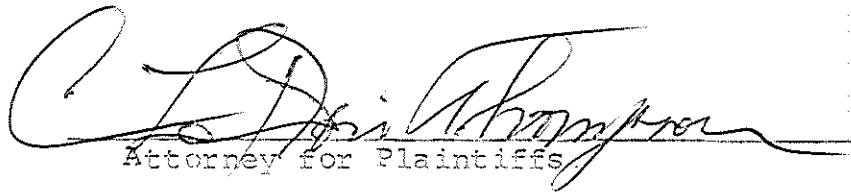
X

Come the plaintiffs in the above styled cause and
join issue on the following pleas:

1. Plea One
2. Plea Two
3. Plea Three

4. And for further replication as to Plea Three shows
that the reasonable market value of specific automobile
was in the amount of Two Thousand Six Hundred Ninety-five
(\$2695.00) Dollars immediately prior to the accident, which
destroyed said automobile, basis of this suit.

5. As to Plea Four, your plaintiffs join issue therewith
and for further replication show that the said automobile
was removed without the knowledge or consent of the said
plaintiffs and its possession was not tendered back to said
plaintiffs at any time.


Attorney for Plaintiffs

FILED

FEB 19 1970

ALICE J. BUCK CLERK
REGISTER

John W. Seales and
Ford Motor Credit Corporation) In The Circuit
Plaintiffs) Court of
vs.) Baltimore County
Southeastern Fidelity) at Law
Insurance Company,) Case No. 8720
Defendant)

Comes now the defendant and
for answer to the Plaintiffs'
Replication alleges the following:

- (1) Not guilty
- (2) That the allegations of the
Replication are untrue
- (3) In answer to paragraphs ~~3 and 4~~
3 and 4, not guilty
- (4) In answer to paragraphs 3 and 4
that the allegations of said
Paragraphs are untrue

Charles H. Simons
attorney for Defendant

FILED

FEB 19 1970

ALICE J. BUCK

CLERK
REGISTER

JOHN W. SEALES and FORD	)	IN THE CIRCUIT COURT OF
MOTOR CREDIT CORPORATION,)	
	)	BALDWIN COUNTY, ALABAMA
Plaintiffs,)	
	)	AT LAW
vs.)	
)	
SOUTHEASTERN FIDELITY)	
INSURANCE COMPANY,)	
)	
Defendant.	)	CASE NO. 8720

DEMURRER

Comes now the Defendant in the above-styled cause and demurs to the Complaint as last amended filed herein and to each and every count thereof separately and severally, and as grounds for such demurrer, assigns, separately and severally, as follows:

1. It does not state a cause of action.
2. The allegations of the Complaint are vague, indefinite, and uncertain.
3. Said count does not allege a breach of contract.
4. Said count does not allege the contract with sufficient certainty so as to apprise the matters it is called upon to defend.
5. In count one, the Plaintiffs describe the automobile involved as having standard equipment and this is not sufficient to apprise the Defendant of any extra equipment on said vehicle such as power steering, air conditioning, V-8 engine and automatic transmission.
6. Count two does not allege a promise or facts implying a promise by the Defendant.
7. Count two does not allege what the Plaintiffs gave or did or promised to do in exchange for and in consideration of the Defendant issuing the insurance policy.
8. Count two does not allege a breach of contract by the Defendant.
9. Count two does not allege a breach by the Defendant of any promise in the insurance contract.
10. Count two does not apprise the Defendant of the breach of contract on its part.

11. Count three does not sufficiently allege a promise or facts implying a promise by the Defendant.


12. Count three does not sufficiently allege the promise of the Defendant.

13. Count three does not allege what the Plaintiffs gave or did or promised to do in exchange for and in consideration of the Defendant's issuing the insurance policy.


14. In count three the Plaintiffs have not alleged that they or one of them have complied with all of the provisions of the contract dated May 23, 1968, on their part nor tendered their performance, nor alleged that they were ready, willing and able to perform the conditions of said contract.

15. Count three does not set out the breach of contract by the Defendant with sufficient certainty.

16. Count three does not allege a breach by the Defendant of any promise in the insurance contract.


Attorney for Defendant

I hereby certify that I have personally served a copy of the above Demurrer on the Honorable C. LeNoir Thompson, attorney of record for the Plaintiffs, on this 13th day of February, 1970.


Charles H. Sims, III

FILED
FEB 13 1970
ALICE J. BUCK CLERK
REGISTER

JOHN W. SEALES and FORD	X	
MOTOR CREDIT CORPORATION,	X	IN THE CIRCUIT COURT OF
PLAINTIFFS,	X	BALDWIN COUNTY, ALABAMA
VS.,	X	AT LAW
SOUTHEASTERN FIDELITY	X	CASE NUMBER: 8720
INSURANCE COMPANY,	X	
DEFENDANT.	X	

COMPLAINT AS LAST AMENDED:

Come the plaintiffs in the above styled cause and amend the complaint as last amended heretofore filed to read as follows:

-1-

The plaintiffs claim of the defendant, Southeastern Fidelity Insurance Company, Two Thousand Six Hundred Ninety-five (\$2,695.00) Dollars, the value of an automobile, to-wit, one 1968 Ford Custom, tow-door sedan with standard equipment, Serial No. 8A30C231559, which the defendant on the 23rd day of May, 1968, insured against the loss or injury by fire or other perils in the policy of insurance mentioned for the term of one year; which automobile was wholly destroyed by fire or collision and upset on the 15th day of November, 1968, of which the defendant had notice.

-2-

The plaintiff claims of the defendant Two Thousand (\$2,000.00) Dollars damages for the breach of agreement entered into by him on May 23, 1968, in substance as follows:

"II. Loss of Use by Theft--Rental Reimbursement:

The company, following a theft covered under this policy of the entire automobile, shall reimburse the insured for expense not exceeding \$5 for any one day nor totaling more than \$150 or the actual cash value of the automobile at time of theft, whichever is less, incurred for the rental of a substitute automobile, including taxicabs. Such reimbursement is payable by the company in addition to the applicable limit of liability of this policy."

And Plaintiff says that he complied with all its provisions on his part and that the defendant has failed to comply with its provisions thereof, viz. That the said automobile was

removed without the consent of said plaintiff by said defendant, its agent, servant or employee and the said defendant has failed or refused to reimburse said plaintiff subsequent to the action complained of concurring on the 20th day of November, 1968.

-3-

The plaintiff claims of the defendant specific reimbursement under that certain policy No. PB701954 the sum of Two Thousand Six Hundred Ninety-five (\$2,695.00) Dollars as damages due and for the breach of said insurance agreement entered into by said defendant, to-wit, May 23, 1968, and said automobile insured by said Policy No. PB701954 was damaged on November 15, 1968, and the plaintiff duly notified the defendant. The defendant without the consent of plaintiff removed said automobile from Baldwin County and failed or refused to comply with the provisions provided for the payment of damages suffered by the said plaintiff, to-wit:

"I. Coverage A--Collision or Upset: To pay for direct and accidental loss of or damage to the automobile, hereinafter called loss, caused by collision of the automobile with another object or by upset of the automobile.


ATTORNEY FOR PLAINTIFF.

FILED

FEB 13 1970

ALICE J. BUCK CLERK
REGISTER

JOHN W. SEALES and FORD	)	IN THE CIRCUIT COURT OF
MOTOR CREDIT CORPORATION,	)	BALDWIN COUNTY, ALABAMA
Plaintiffs,	)	AT LAW
vs.)	
SOUTHEASTERN FIDELITY)	
INSURANCE COMPANY,)	
Defendant.	)	CASE NO. 8720

DEMURRER

Comes now the Defendant in the above styled cause and demurs to the Amended Complaint filed herein and to each and every count thereof separately and severally, and as grounds for such demurrer, assigns, separately and severally, as follows:

1. It does not state a cause of action.
2. The allegations of the Complaint are vague, indefinite, and uncertain.
3. Said count does not allege a breach of contract.
4. Said count does not allege the contract with sufficient certainty so as to apprise the matters it is called upon to defend.
5. In count one, the Plaintiffs describe the automobile involved as having standard equipment and this is not sufficient to apprise the Defendant of any extra equipment on said vehicle such as power steering, air conditioning, V-8 engine and automatic transmission.
6. Count two does not allege a promise or facts implying a promise by the Defendant.
7. Count two does not allege a promise or facts implying a promise by the Defendant to the effect that it will pay \$1,000.00 for renting an automobile for transportation pending a settlement of the Plaintiffs' insurance claim.
8. Count two does not allege what the Planitiffs gave or did or promised to do in exchange for and in consideration of the Defendant issuing the insurance policy.
9. In count two the Plaintiffs have not alleged that they or one of them have complied with all of the provisions of the contract dated May 23, 1968 on their part nor tendered their performance, nor alleged that they were ready, willing and able to perform the conditions of said contract.

10. Count two does not allege a breach of contract by the Defendant.

11. Count two does not allege a breach by the Defendant of any promise in the insurance contract.

12. Count two does not apprise the Defendant of the breach of contract on its part.

13. Count three does not sufficiently allege a promise or facts implying a promise by the Defendant.

14. Count three does not sufficiently allege the promise of the Defendant.

15. Count three does not allege what the Plaintiffs gave or did or promised to do in exchange for and in consideration of the Defendant's issuing the insurance policy.

16. In count three the Plaintiffs have not alleged that they or one of them have complied with all of the provisions of the contract dated May 23, 1968 on their part nor tendered their performance, nor alleged that they were ready, willing and able to perform the conditions of said contract.

17. Count three does not set out the breach of contract by the Defendant with sufficient certainty.

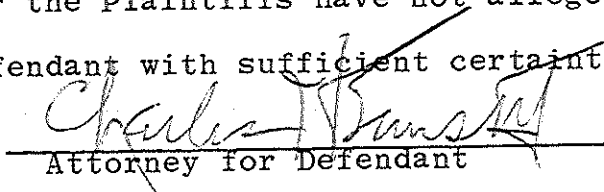
18. Count three does not allege a breach by the Defendant of any promise in the insurance contract.

19. Count four does not allege the promise of the Defendant with sufficient certainty.

20. Count four does not allege what the Plaintiffs gave, did or promised to do in exchange for and in consideration of the Defendant's issuing the insurance policy.

21. In count four the Plaintiffs have not alleged the breach of contract by the Defendant with sufficient certainty.

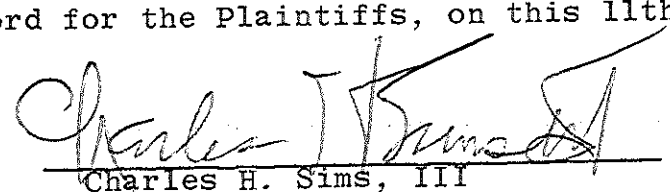
22. In count four the Plaintiffs have not alleged any breach of a promise by the Defendant with sufficient certainty.


Attorney for Defendant

I hereby certify that I have personally served a copy of the above Demurrer on the Honorable C. LeNoir Thompson, attorney of record for the Plaintiffs, on this 11th day of February, 1970.

FILED

FEB 11 1970


Charles H. Sims, III

C. G. C.

ALICE J. DUCK
CLERK
REGISTER

VOL

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JOHN W. SEALES and FORD	X	
MOTOR CREDIT CORPORATION,	X	IN THE CIRCUIT COURT OF
PLAINTIFFS,	X	BALDWIN COUNTY, ALABAMA
VS.,	X	AT LAW
SOUTHEASTERN FIDELITY	X	CASE NUMBER: 3720
INSURANCE COMPANY,	X	
DEFENDANT.	X	

AMENDED COMPLAINT:

Come the plaintiffs in the above styled cause and amend the complaint heretofore filed to read as follows:

-1-

The plaintiffs claim of the defendant, Southeastern Fidelity Insurance Company, Two Thousand Six Hundred Ninety-five (\$2,695.00) Dollars, the value of an automobile, to-wit, one 1968 Ford Custom, two-door sedan with standard equipment, Serial No. 8A30C231559, which the defendant on the 23rd day of May, 1968, insured against the loss or injury by fire or other perils in the policy of insurance mentioned for the term of one year, which automobile was wholly destroyed by fire or collision and upset on the 15th day of November, 1968, of which the defendant had notice.

-2-

The plaintiffs claim of the defendant the sum of One Thousand Dollars (\$1,000.00), the value of renting an automobile for transportation required by the plaintiff, Seales, pending the settlement of plaintiffs' insurance claim against the defendant as the result of a policy issued to the plaintiffs by the defendant on to-wit, May 23, 1968, for the term of one year, said automobile insured under the policy aforesaid having been wholly destroyed or damaged by fire or collision on the 15th day of November, 1968, of which the defendant has had notice.

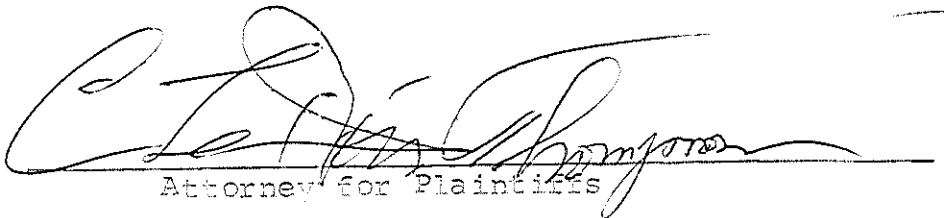
-3-

The plaintiffs claim of the defendant the sum of Two Hundred Eleven and 60/100 (\$211.60) Dollars damages

for the breach of the agreement entered into by the said defendant on, to-wit, May 23, 1968, by which said defendant promised to reimburse said plaintiff in accordance with that certain insurance policy serial No. PB701954 and said defendant has failed or refused to reimburse said plaintiff in accordance with the terms of said policy.

-4-

The plaintiffs claim from the defendant the sum of Two Thousand One Hundred Twenty-Five (\$2,125.00) Dollars as damages for the breach of an agreement entered into by said defendant on, to-wit, May 23, 1968, in substance as follows: That said defendant would reimburse said said plaintiffs, its insured, for any damages to the personal property named in the insurance policy No. PB701954 during the life of said policy and plaintiffs say although he complied with its provisions defendant has failed to comply with the provisions, providing for the payment of damages suffered by the plaintiffs. And said plaintiff, John W. Seales, has been without the use of said automobile since November 15, 1968.


Attorney for Plaintiffs

I hereby certify that I have this day mailed a copy of the above and foregoing instrument to Honorable Cecil Chason, Attorney at Law, Foley, Alabama, by depositing a copy of the same in the United States Mail properly addressed and postage prepaid.

Done this 5 day of February, 1970.



FILED

FEB 5 1970

ALICE J. DUCK CLERK
REGISTER

DEMURRER