

H. AUBREY WHITE, JR., M.D.  
INTERNAL MEDICINE  
CARDIOLOGY

1710 CENTER STREET  
MOBILE, ALABAMA 36604

CHARLES D. WEAVER, M.D.  
INTERNAL MEDICINE  
CARDIOLOGY

June 2, 1970

*Case 8782  
June 17, 1970*

TO WHOM IT MAY CONCERN:

Mr. Aubrey Spader has been under my care for coronary insufficiency since March 1969 and due to his heart condition, I think he should not appear in court for the case of Baldwin County Oliver Tractor Company.

If any other information is need, please contact the undersigned.

Sincerely,

*H. A. White, Jr.*  
H.A. White, M.D.

HAW/so

cc: Wilkers & Brantley, Attorney At Law

FILED

JUN 9 1970

ALICE J. BUGH CLERK  
REGISTER

- ~~1. Bergman, Albert W. III; Farmer, Foley, Ala. P1~~
- ~~2. Booker, Lester H.; Station Oper., Foley, Ala. D1~~
- ~~3. Boone, Alvin R.; Painter, Foley, Ala.~~
- ~~4. Brown, Jim; Carpenter, Foley, Ala.~~
- ~~5. Bryers, Ewing E.; Reserve Fleet, Bay Minette, Ala. P7~~
- ~~6. Burt, Calvin G.; Mechanic, Bay Minette, Ala. D8~~
- ~~7. Byrne, Charles; Merchant, Foley, Ala. D2~~
- ~~8. Chafin, Sally; Housewife, Perdido, Ala.~~
- ~~9. Cleaveland, Fred L.; Maintenance Foreman, Foley, Ala.~~
- ~~10. Cleverdon, William S.; Farmer, Foley, Ala.~~
- ~~11. Cole, Frank H.; Bowling Alley Manager, Foley, Ala.~~
- ~~12. Cometti, Carell E.; Businessman, Spanish Fort, Ala.~~
- ~~13. Cowles, Robert D.; Printer, Fairhope, Ala.~~
- ~~14. Cox, John; Laborer, Bay Minette, Ala. P5~~
- ~~15. Cox, M. Douglas; Farmer, Stockton, Ala.~~
- ~~16. Crosby, James W.; Bookkeeper, Foley, Ala.~~
- ~~17. Ceter, Ernest W. Jr.; Farmer, Fairhope, Ala.~~
- ~~18. Gibson, Mrs. Leon; Housewife, Bay Minette, Ala.~~
- ~~19. Guenther, Paul O.; Civil Service, Foley, Ala.~~
- ~~20. Hamburg, Floy; Clerk, Foley, Ala. D1~~
- ~~21. Hancock, W. H.; Farmer, Foley, Ala.~~
- ~~22. Herbison, J. C.; International Paper Co., Fairhope, Ala.~~
- ~~23. Hayes, Howard; Farmer, Foley, Ala. D3~~
- ~~24. Hall, Rex D.; Clerk, Foley, Ala.~~
- ~~25. Harding, Robert C. Jr.; Motel Oper., Foley, Ala. D4~~
- ~~26. Helms, John R.; Civil Service, Elberta, Ala.~~
- ~~27. Holman, George I.; Teller, Foley, Ala.~~
- ~~28. Lucke, Teddy; Salesman, Robertsdale, Ala.~~
- ~~29. Marks, Adlee E.; Cook, Fairhope, Ala.~~
- ~~30. Marsh, George R.; Forester, Bay Minette, Ala. P4~~
- ~~31. McCrory, Naomi B.; Office Worker, Belforest, Ala. D6~~
- ~~32. Means, Hermine B.; Housewife, Fairhope, Ala.~~
- ~~33. Metcale, Hugo S.; Farmer, Foley, Ala.~~
- ~~34. Mixon, Juanita; Housewife, Fairhope, Ala. D5~~
- ~~35. Osborne, James C.; Carpenter, Foley, Ala. P6~~
- ~~36. Quates, John W.; Carpenter, Foley, Ala.~~
- ~~37. Rolé, Willie; Carpenter, Bay Minette, Ala.~~
- ~~38. Rucher, Golden J.; Farmer, Spanish Fort, Ala. P2~~
- ~~39. Smith, Clinton; Defense Worker, Bay Minette, Ala.~~
- ~~40. Swindle, Bessie; Housewife, Spanish Fort, Ala. P3~~
- ~~41. Totsch, Kenneth L.; Carpenter, Foley, Ala.~~

41  
39  
12  
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3158

P XXXX XX

D XXXX XX

est  
James Brooks east

BALDWIN COUNTY OLIVER TRACTOR  
COMPANY, INC.,

Plaintiff,

VS.

W. M. CAMPBELL,

Defendant.

)  
) IN THE CIRCUIT COURT OF  
)  
) BALDWIN COUNTY, ALABAMA  
)  
) AT LAW  
)  
) CASE NO. 8782  
)

For answer to the Defendant, W. M. Campbell's, plea of recoup-  
ment, the Plaintiff says that he is not guilty of the matters  
alleged therein.

WILTERS, BRANTLEY & NESBIT

BY: Tolbert M. Brantley  
Tolbert M. Brantley

**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 15 day of January,  
1970, 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

By: Tolbert M. Brantley

**FILED**

JAN 16 1970

ALICE J. DUCK CLERK  
REGISTER

BALDWIN COUNTY OLIVER TRACTOR  
COMPANY, Inc.

Plaintiff

VS.

W. M. CAMPBELL and OLIVER  
CORPORATION, A TENNESSEE  
CORPORATION

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 8782

Comes now the Plaintiff in the foregoing cause and  
amends his amended complaint by striking the Oliver Corporation,  
a Tennessee Corporation as a party Defendant and by striking  
Count Three and Four.

ANSWER TO PLEA OF RECOUPMENT

The Plaintiff for answer to said Plea of Recoupment  
says that he is not guilty of the matters alleged therein.

WILTERS, BRANTLEY & NESBIT

BY:

Phyllis S. Nesbit  
Attorney for Plaintiff

FILED

JAN 18 1970

ALICE J. BUCK CLERK  
REGISTER

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 8 day of Jan.  
1970, 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:

Phyllis S. Nesbit

BALDWIN COUNTY OLIVER TRACTOR	)	
COMPANY, INC.,	)	
	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
	)	
VS.	)	BALDWIN COUNTY, ALABAMA
	)	
W. M. CAMPBELL and OLIVER	)	AT LAW
CORPORATION, A TENNESSEE	)	
CORPORATION,	)	CASE NO. 8782
	)	
Defendants.	)	

Comes now the Plaintiff in the above styled cause and amends his Amended Complaint heretofore filed on the 18th day of December, 1969, by striking Oliver Corporation, A Tennessee Corporation, as a party-Defendant and by striking Counts Three and Four of said Amended Complaint.

WILTERS, BRANTLEY & NESBIT

BY: Tolbert M. Brantley  
Tolbert M. Brantley

ORDER

At the request of the Plaintiff, this written Order is entered.

It appears to the Court that the Plaintiff in the foregoing cause has this day amended his Amended Complaint by striking Oliver Corporation, a Tennessee Corporation, as Defendant. It is therefore:

ORDERED, ADJUDGED and DECREED that Oliver Corporation, a Tennessee Corporation, be and they are now hereby stricken as a party Defendant in this cause.

This 14<sup>th</sup> day of January, 1970.

Telfair J. Mashburn  
Telfair J. Mashburn, Judge

FILED

JAN 14 1970

ALICE J. DUCK CLERK  
REGISTER

AMENDED COMPLAINT

BALDWIN COUNTY OLIVER TRACTOR  
COMPANY, INC.

Plaintiff

VS.

W. M. CAMPBELL

Defendant

I

I

I

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 8782

Comes now the Plaintiff in the above styled cause and amends his Complaint by adding the Oliver Corporation, a Tennessee Corporation, as a third party Defendant and by amending his Complaint heretofore filed in this cause, pursuant to an Order of the Court to read as follows:

BALDWIN COUNTY OLIVER TRACTOR  
COMPANY, INC.

Plaintiff

VS.

W. M. CAMPBELL and  
OLIVER CORPORATION, A TENNESSEE  
CORPORATION

Defendants

I

I

I

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 8782

1.

The Plaintiff claims of the Defendant the sum of SIX THOUSAND FIVE HUNDRED SEVENTY and 98/100 DOLLARS (\$6,570.98) due from him by account on the 16th day of October, 1968, which sum of money with the interest thereon is still unpaid.

2.

The Plaintiff claims of the Defendant the sum of SIX THOUSAND FIVE HUNDRED SEVENTY and 98/100 DOLLARS (\$6,570.98) due on account stated between the Plaintiff and Defendant on the 1st day of July, 1969, which sum of money with the interest thereon, is still unpaid.

3.

To these two counts, the Defendant, W. M. Campbell, filed a Plea of Recoupment which is in word as follows: The Defendant, W. M. Campbell, claims of the Plaintiff, Baldwin County Oliver Tractor Company, Inc., the sum of TEN THOUSAND DOLLARS (\$10,000.00)

as damages for breach of an implied warranty in the sale of the following described property, viz:

One (1) Oliver Combine, Model #431, Serial #55597 on October 5, 1964, in which the Plaintiff warranted that the property described above was reasonably fit for the purposes for which it was sold, when in fact, said property was not reasonably fit for the purposes for which it was sold and for which it was purchased in that said combine and attachments thereto were defective in workmanship and could not be used for the purposes for which it was intended, hence this Plea of Recoupment.

4.

The Plaintiff says that it is not liable for damages for breach of implied warranty alleged in said Plea of Recoupment. That it made no warranty to the Defendant relative to said equipment and says further that if there is any liability on warranty, either implied or in writing, the same was made by the third party Defendant, Oliver Corporation, a Tennessee Corporation and your Plaintiff now calls on said Defendant to come in and defend against said Plea of Recoupment.

WILTERS, BRANTLEY & NESBIT

BY: Thyllis S. Nesbit

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 18 day of December 1969 served a copy of the foregoing pleading on counsel for W. M. Campbell, a 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

DEC 18 1969

ALICE J. DUCK CLERK  
REGISTER

VOL

65 PAGE 269

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA  
BALDWIN COUNTY

Circuit Court, Baldwin County

No. ....

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon THE OLIVER CORPORATION, A TENNESSEE  
CORPORATION

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.....

THE OLIVER CORPORATION, A TENNESSEE CORPORATION ... Defendant.....

by BALDWIN COUNTY OLIVER TRACTOR COMPANY, Inc.

..... Plaintiff.....

Witness my hand this 18 day of Dec. 1969

Oliver J. Smith, Clerk



No. 8782

Page.....

**THE STATE OF ALABAMA**  
**BALDWIN COUNTY**

**CIRCUIT COURT**

Baldwin County Oliver Tractor

a Corporation

Plaintiffs

vs.

Oliver Corporation, a  
Tennessee Corp. Defendants

**SUMMONS AND COMPLAINT**

Filed ..... 19.....

Clerk

WILTERS, BRANTLEY & NESBIT

BY:

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

P. O. Box 6005  
Memphis, Tennessee

Recieved In Office

19.....

Sheriff

I have executed this summons

this ..... 19.....

by leaving a copy with

Sheriff

Deputy Sheriff

BALDWIN COUNTY OLIVER TRACTOR  
COMPANY, Inc.

Plaintiff

VS.

W. M. CAMPBELL

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 8782

VERIFIED MOTION

Comes now the Plaintiff in the above styled cause and shows unto the Court that the Plaintiff filed a suit against the Defendant in this cause for an account due the Plaintiff from the Defendant.

1.

The Defendant, by his Attorney, filed a Plea of Recoupment against the Plaintiff claiming damages for the breach of an implied warranty for the sale of certain personal property described therein.

2.

Your Plaintiff avers that it did make a warranty of any sort to the Defendant relative to the property described in the Plea of Recoupment, but that the Oliver Corporation, a Tennessee Corporation, was the maker, distributor and wholesaler of this property and if a warranty was given, it was given by the Oliver Corporation, a Tennessee Corporation. Your Plaintiff is of the opinion that the Oliver Corporation should be brought in as a third party Defendant in this cause and be required to defend this Plea of Recoupment.

PREMISES CONSIDERED, your Petitioner prays that your Honor will enter an order permitting the Plaintiff to amend his original Bill of Complaint so as to make the Oliver Corporation, a Tennessee Corporation a third party Defendant and that they be required to defend the Defendant's, William M. Campbell's, Plea of Recoupment or show reason that they are not required to do so.

WILTERS, BRANTLEY & NESBIT

BY:

*Theresa S. Nesbit*  
Attorneys for Plaintiff

**FILED**

DEC 11 1969

**ALICE J. DUCK** CLERK  
REGISTER

266

ORDER

Having read the foregoing Verified Motion, the Court is of the opinion that the Plaintiff is entitled to the relief sought therein.

The Plaintiff is hereby granted authority to make the Oliver Corporation, a Tennessee Corporation, a third party Defendant to this cause of action.

Julius J. Mosher  
Judge of the Circuit Court

FILED

DEC 12 1969

ALICE J. DICK CLERK  
REGISTER

BALDWIN COUNTY OLIVER TRACTOR  
COMPANY, INC.,

Plaintiff,

vs.

W. M. CAMPBELL,

Defendant.

)  
) IN THE CIRCUIT COURT OF

)  
) BALDWIN COUNTY, ALABAMA

)  
) AT LAW. NO. 8782

PLEA OF RECOUPMENT

Now comes the Defendant, W. M. Campbell, and amends his answer heretofore filed, by adding this, his plea of recoupment as follows:

The Defendant, W. M. Campbell, claims of the Plaintiff, Baldwin County Oliver Tractor Company, Inc., the sum of TEN THOUSAND DOLLARS (\$10,000.00) as damages for breach of an implied warranty in the sale of the following described property, viz:

One (1) Oliver Combine, Model #431, Serial #55597 on October 5, 1964, in which the Plaintiff warranted that the property described above was reasonably fit for the purposes for which it was sold, when in fact, said property was not reasonably fit for the purposes for which it was sold and for which it was purchased in that said combine and attachments thereto were defective in workmanship and could not be used for the purposes for which it was intended, hence this plea of recoupment.

  
Attorney for Defendant.

I, the undersigned Attorney of Record for the Defendant in the foregoing cause, do hereby certify that I have caused a copy of the foregoing plea of recoupment to be forwarded to Phyllis S. Nesbit, the Attorney of Record for the Plaintiff, by placing the same in the United States Mail, properly addressed, with postage prepaid, this 18th day of November, 1969.

**FILED**

NOV 18 1969

**ALICE J. DUCK**

CLERK  
REGISTER

3 VOL

65 PAGE 265

BALDWIN COUNTY OLIVER TRACTOR  
COMPANY, INC.,

Plaintiff,

vs.

W. M. CAMPBELL,

Defendant.

)  
) IN THE CIRCUIT COURT OF

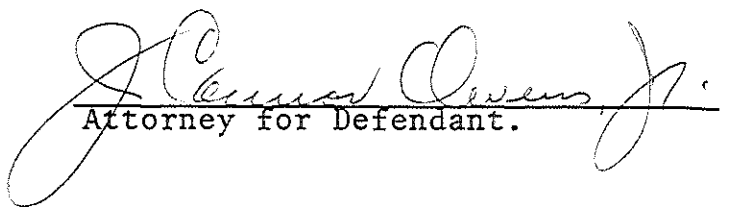
)  
) BALDWIN COUNTY, ALABAMA

)  
) AT LAW.

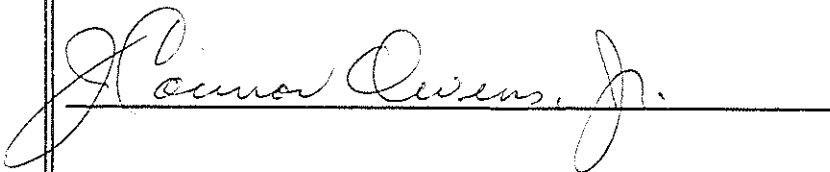
)  
) 8782  
)

Now comes the Defendant in the above styled cause, by and through his attorney, and for answer to the complaint heretofore filed against him and to each count thereof, separately and severally, says as follows:

1. Notguilty.

  
Attorney for Defendant.

Defendant demands a trial of  
this cause by a Jury.



I, the undersigned attorney of record for the defendant in the above styled cause, do hereby certify that I have this day caused a copy of the foregoing answer to be forwarded to Phyllis S. Nesbit, the attorney of record for the plaintiff, by placing the same in the United States Mail, properly addressed, with postage prepaid, this 21st day of July, 1969.

**FILED**

JUL 24 1969

**ALICE J. DUCK** CLERK  
REGISTER

BALDWIN COUNTY OLIVER TRACTOR  
COMPANY, INC.

Plaintiff

VS.

W. M. CAMPBELL

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO.

8782

1.

The Plaintiff claims of the Defendant the sum of SIX THOUSAND FIVE  
HUNDRED SEVENTY and 98/100 DOLLARS (~~\$6,570.00~~ <sup>\$5953.61</sup>) due from him by account on  
the 16th day of October, 1968, which sum of money with the interest thereon  
is still unpaid.

2.

The Plaintiff claims of the Defendant the sum of SIX THOUSAND FIVE  
HUNDRED SEVENTY and 98/100 DOLLARS (~~\$6,570.00~~ <sup>\$5953.61</sup>) due on account stated between the  
Plaintiff and Defendant on the 1st day of July, 1969, which sum of money with  
the interest thereon, is still unpaid.

WILTERS, BRANTLEY & NESBIT

BY:

Thyler S. Nesbit  
Attorney for Plaintiff

FILED

JUL 2 1969

ALICE J. DUCK

CLERK  
REGISTER

We, the jury, find in favor of the  
plaintiff in the amount of \$5,953.61  
with no interest on this amount to  
be paid.

W. H. Lewis  
foreman

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No.....

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon ..... W. M. Campbell

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.....

W. M. Campbell  
....., Defendant.....

by Baldwin County Oliver Tractor Company, Inc.  
.....

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

Witness my hand this..... 2nd..... day of..... July..... 19..... 69

Miss J. Blue Clerk



No. 8782

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

Baldwin County Oliver Tractor

Company, Inc.

Plaintiffs

vs.

W. M. Campbell

Defendants

SUMMONS AND COMPLAINT

Filed ..... 19.....

JUL 2 1969

Clerk

ALICE J. DICK CLERK  
REGISTER

WILTERS, BRANTLEY & NESBIT

BY:

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Robert Daley, Jr. Ma

Received In Office

JUL 3 1969

19.....

W. M. Campbell

Sheriff

I have executed this summons

this 10 - July 1969

by leaving a copy with

W. M. Campbell

Sheriff claims 50 miles at

Ten Cents per mile Total \$ 5.00

TAYLOR WILKINS, Sheriff

BY Brown  
DEPUTY SHERIFF

Taylor Wilkins Sheriff

H. Brown Deputy Sheriff

R. Daley  
50 miles RT