

3734

SUMMONS

BOOK 021 PAGE 270

THE STATE OF ALABAMA,)
BALDWIN COUNTY.)

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETING:

You are hereby commanded to summon JOHN D. FOX, JR. and J. C. WEBB, 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, Alabama, at Bay Minette, against JOHN D. FOX., JR. and J. C. WEBB, by REYNOLDS BROTHERS LUMBER COMPANY, a partnership composed of J. P. REYNOLDS and M. S. REYNOLDS.

Witness my hand this the 30 day of January, 1956.

Handwritten signature of Clerk

Separator line of dollar signs

COMPLAINT

REYNOLDS BROTHERS LUMBER COMPANY,)
a partnership composed of J. P.)
REYNOLDS and M. S. REYNOLDS,)
PLAINTIFF)
VS:)
JOHN D. FOX, JR. and J. C. WEBB,)
DEFENDANTS)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY.

COUNT I:

The plaintiff claims of the defendants THREE HUNDRED TWENTY SEVEN & 63/100 DOLLARS (\$327.63) for merchandise, goods and chattels sold by the plaintiff to the defendants on, to wit: the 5th day of October, 1955, which sum of money, with interest thereon, is still unpaid.

Plaintiff further avers that on the 16th day of January, they filed in the probate court of Baldwin County, Alabama, where defendants' land, on which said improvements were erected, is located, plaintiff's verified statement of account with defendants, which is in words and figures as set out in Exhibit "A" and prays that it be established.

There is attached hereto and made a part of the original hereof, an itemized statement of account, verified by the affidavit of a competent witness, sworn to before a notary public, which shows the amount due on this account as of the 28th day of January, 1956.

Handwritten signature of Attorney for Plaintiff

John D. Fox, Jr. resides at Fairhope, Alabama

J. C. Webb resides at Daphne, Ala.

STATE OF ALABAMA, BALDWIN COUNTY

Filed 1-16-56 11:A.M.
Recorded *E. R. Strait* book 5 page 181
W. R. Strait
Judge of Probate

BOOK 005 PAGE 181
BOOK 021 PAGE 274

THE STATE OF ALABAMA,)
BALDWIN COUNTY.)

Exhibit "A" NP

REYNOLDS BROTHERS LUMBER COMPANY, files this statement in writing, verified by the oath of ROY L. CLIPPER, who has personal knowledge of the facts herein set forth.

The said REYNOLDS BROTHERS LUMBER COMPANY claims a lien upon the following described property, situated in Baldwin County, Alabama, to wit:

A newly constructed house on a lot on College Street in Daphne, Alabama, more particularly described as follows:

From the NW corner Sec 20, T 5 S, R 2 E, run south on west line Sec. 20, 265.7 ft to a point; thence westward 422.4 ft to NE corner Dryer Sub.; thence westwardly on N. line said Subd. 162 ft. to a point; thence southwardly to and along west side 6th St. 1351 ft. to N. side College St; thence Westwardly along street 513.33 ft. to pt. of beginning; thence continue west along St. 94.66 ft. to east line 4th St; thence N. along 4th St. 150 ft; thence E. 94.66 ft; S. 150 ft to beginning.

This lien is claimed, separately and severally, as to both the building and improvements thereon and the said land.

The said lien is claimed to secure an indebtedness of THREE HUNDRED TWENTY SEVEN & 63/100 DOLLARS (\$327.63), with interest thereon from the 5th day of October, 1955, for lumber furnished and used in the construction of the building situated on said property.

The name of the owner or proprietor of the said property is J. C. WEBB.

REYNOLDS BROTHERS LUMBER COMPANY
BY:

Roy L. Clipper
Roy L. Clipper, Bookkeeper

THE STATE OF ALABAMA,)
BALDWIN COUNTY.)

Before me, Forest A. Christian, a Notary Public in and for said County and State, personally appeared Roy L. Clipper, who, being duly sworn, doth depose and say: That he has personal knowledge of the facts set forth in the foregoing statement of lien, and that the same are true and correct to the best of his knowledge and belief.

Sworn to and subscribed before
me on this the 12th day of January,

1956.

Forest A. Christian
Notary Public, Baldwin County, Ala.

Roy L. Clipper
Roy L. Clipper

AFFIDAVIT OF ROY CLIPPER

THE STATE OF ALABAMA,)
BALDWIN COUNTY.)

ROY CLIPPER, first being duly sworn, deposes and says as follows:

I am the office manager, credit manager and bookkeeper for REYNOLDS BROTHERS LUMBER COMPANY, a partnership composed of J. P. REYNOLDS and M. S. REYNOLDS, Foley, Alabama, and as such know that my records are correct. We have delivered to JOHN D. FOX, JR. for J. C. WEBB, at Daphne, Alabama, materials in the amount of THREE HUNDRED TWENTY SEVEN & 63/100 DOLLARS (\$327.63), as shown by the attached itemized statement.

No payments have been made on this account, and after allowing all just credits the amount remaining due on this account is THREE HUNDRED TWENTY SEVEN & 63/100 DOLLARS (\$327.63).

Roy Clipper
Affiant

Sworn to and subscribed before me,
a Notary Public in and for Baldwin
County, Alabama, this the 28th day
of January, 1956.

Mary O. ...
Notary Public

REYNOLDS BROTHERS LUMBER COMPANY
a partnership composed of J. B.
REYNOLDS AND M. S. REYNOLDS

Plaintiff

VS

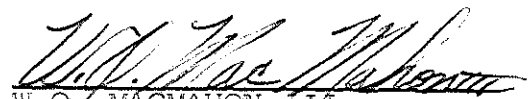
JOHN D. FOX, JR, AND J. C. WEBB

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

Comes the respondent, J. C. Webb, in said cause and demurs to the complaint's bill of complaint filed herein, and for grounds of demurrer, sets out the following, separately and severally, to-wit:

1. The bill of complaint is without equity.
2. The bill of complaint fails to state a cause of action.
3. The bill of complaint fails to state any ground for equitable relief.
4. For aught that appears in said bill of complaint, the complainant has an adequate remedy at law.
5. The bill of complaint is a misjoinder of party defendants.
6. No privity of contract existed or exists between the plaintiff and the defendant, J. C. Webb.
7. For aught that appears the plaintiff has failed to include a prayer for relief.
8. For aught that appears the court is without jurisdiction to grant any relief because plaintiff has failed to aver jurisdiction.
9. Said bill avers conclusions of the pleader and not facts.
10. For aught that appears no itemized statement of account is attached to said complaint as alleged.
11. Plaintiff fails to allege willingness to do equity.


W.O. MACMAHON II
Attorney for respondent,
J. C. WEBB.