

State of Alabama,) In the Circuit Court. (In Equity.)
Baldwin County.)

Frank Holz,
Vs.) Bill for Injunction etc.
The Buckeye Incubator Company.)
a corporation.

TO THE HONORABLE JOHN D. WIGH, Judge of the Circuit Court,
Baldwin County, Alabama. In Equity sitting.

A resident of said State and County,
Comes Frank Holz, and humbly complaining against The Buckeye
Incubator Company respectfully shows unto Your Honor as
follows:

First: That on October 25th., 1923 complainant purchased from
the defendant herein The Buckeye Incubator Company an incubator
being an apparatus or machine for the artificial hatching of
chickens agreeing to pay therefor the total sum of \$1850.00,
of which said sum he paid in cash the sum of One Thousand
Dollars leaving a balance due as claimed by defendant herein
the sum of approximately \$850.00, for which said last named sum
the defendant herein holds a conditional bill of sale on said
property retaining title thereto until the entire purchase
price shall have been paid, *and that said incubator is now
in possession of said Frank Holz.*

Second: Your complainant further avers that acting in accordance
with its rights under said conditional bill of sale the defendant
has advertised said incubator to be sold at the time and place
shown in said advertisement, a copy of which, is hereto
attached, marked "Exhibit A" and to which reference is hereby
had for all purposes, same being made a part hereof.

Third: Your Complainant further shows that he has an equitable
defense to said foreclosure and against any other action which
can be brought for the collection of said above named
indebtedness as claimed by defendant herein by reason of the
following facts: said incubator would not hatch eggs as claimed
by the defendant and must have been defective in many respects
and was at all times valueless to your complainant not
withstanding the fact that your complainant is an experienced
operator of incubators.

Fourth: Your complainant further avers that he made repeated
complaints to defendant herein and endeavored by writing
letters to the defendant herein to have them to correct the
defects in said incubator or repair same in such a manner
as to make it comply with the representations made to
complainant by defendant at the time of purchase, namely, that
it would hatch eggs which was its sole and only use and the
sole and only use for which it was sold to complainant.

Fifth: Complainant further avers that he used all possible
diligence and effort to use said incubator in accordance with
the instructions as given him by the defendant, and otherwise,
to cause said incubator to function not withstanding all
of which said incubator would not hatch eggs as represented
to complainant by defendant, by reason of which facts, compl-
ainant lost much time and large sums of money to his great
injury and damage with his customers whom he was unable
to supply with chicks in accordance with orders for said
chicks.

Sixth: Complainant further avers that he has at all times been ready and willing to return to defendant herein the said incubator upon payment to him of the amount paid to it on the purchase price thereof together with other monies expended for freight delivery charges thereon and has made such tender to defendant herein, repeatedly. And, your Complainant now renews said tender.

Seventh: Your Complainant further avers that if said property is sold in accordance with said foreclosure notice or otherwise the injury and damage to your complainant will be irreparable, defendant being a non resident of this county and state and so far as your complainant knows owns no property in said county and state out of which a money judgement could be collected and service could not be made on said defendant which would necessitate complainant filing suit in some other jurisdiction it having no agent in Baldwin County Alabama upon whom process could be served.

Wherefore, the premises considered, your Complainant prays that said defendant its agents, attorneys, employees or representatives be enjoined and restrained from proceeding with said sale of said incubator or in any way interfering with said incubator and that such other and further relief be granted as to this Honorable Court may seem meet and proper.

MABRY & CRAVATT, atty for Complainant

Foot Note: The defendant, The Buckeye Incubator Company is required to answer every allegation of the foregoing Complaint but not under oath. Oath is hereby expressly waived.

Mabry & Cravatt

Attorneys for Complainant.

State of Alabama, |
Baldwin County. |

Before me, Galdie Smith, a Notary Public in and for said state and county, personally appeared Frank Holz who being duly sworn states that he has read the within and foregoing Bill of Complaint, and that he knows the contents thereof and the facts stated therein are true, except as to matters which are stated to be on information and belief and as to those matters he is informed and believes them to be true.

Frank Holz

Subscribed and sworn to before me this 15 day of July 1926.

Galdie Smith

Notary Public, Baldwin County,
Alabama.

NOTICE OF MORTGAGE FORECLOSURE.

Default having been made and continuing in the payment of the indebtedness secured by that certain mortgage executed by Frank Holz to the undersigned mortgagee, dated October 25, 1923, and recorded in the office of the Judge of Probate of Baldwin County Alabama, in mortgage Book 31, page 1, the undersigned mortgagee will proceed to sell at public outcry for cash to the highest bidder during the legal hours of sale, at the residence of the said mortgagor, in or near Lillian, Baldwin County, Alabama, on the 17th. day of July, 1926, the following described property situated in Baldwin County, Alabama, to wit:--

One (1) No. 7 Buckeye Mammoth Incubator.

And the proceeds to such sale to apply as specified in said mortgage.

THE BUCKEYE INCUBATOR CO.
COMPANY.

Rackarby, Beebe & Hall, Lawyers.

20-4t

THE STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT, IN EQUITY.

To any Sheriff of the State of Alabama—GREETING:

We command you that without delay you execute this Writ, and due return thereof how you have executed the same make to us immediately.

To ~~H. C. Beaber~~ Buckeye
~~Attorney for Buckeye~~ Incubator Company a Corporation,

WHEREAS, Frank Holz

has this day filed a Bill of Complaint in said Court against Buckeye Incubator Company, a Corporation praying, among other things, that the Buckeye Incubator Company a Corporation, its, agensts, attorneys, emplygees, or represenatives be enjoined and restrained, from proceeding with the sale of One No.7 Buckeye Mammoth Incubator or in anyway interfering with said incubator.

And whereas, on said Bill of Complaint being exhibited to the Hon. John D. Leigh, Judge of the Circuit Court of Baldwin County, of the State of Alabama, on the 16th day of July 1926, he did order that, upon Complainant entering into bond, with sureties, in the sum of Five hundred Dollars, payable to the Defendant and approved by the Clerk of this Court, and conditioned according to law, a Writ of Injunction issue out of said Court, according to the prayer of said Bill; and whereas, bond has been given, as required by said order.

These, therefore, are to command and strictly enjoin you from proceeding with the sale, of one No 7, Buckeye Mammoth Incubator described in the Bill of Complaint in this cause or in anyway interfering with said Incubator.

until further order of this Court. And this you will in nowise omit, under penalty.

WITNESS, T.W. Richerson, as Clerk of said Court, at office, in Bay Minette Alabama, this 17th day of July 1926

T.W. Richerson

Clerk.

3 @ original

No.

CIRCUIT COURT, IN EQUITY.

Frank Holz

vs.

The Buckeye Incubator a
a Corporation.

Received in office on this the 17th
day of July, 19

Sheriff.

Rec'd Copy
on JWC Beefe

Executed by serving a copy of the

within Writ of Injunction upon.....

W.C. Beebe Individually
as Gen Atty. for
Buckeye Incubator Co
a corporation.

on this the 17 day of

July 1926

W.R. Stuart
Sheriff.

By J.T. White D.S.

C.R. Hall

RECORDED

State of Alabama
County of Baldwin.

In the Circuit of Baldwin County, Alabama,
In Equity.

KNOW ALL MEN BY THESE PRESENTS: That we, Frank Holz
and James Foulger
and A. N. Heyselden are held and firmly bound unto the Register
of the Circuit Court in Equity for said County in the sum of
\$500⁰⁰, for the payment of which to the said
Register, or his successors, we bind ourselves, our executors
and administrators, jointly and severally.

Sealed with our seals and dated the 16th day of
July, 1926.

WHEREAS, the said Frank Holz has filed his bill of
complaint in the said Circuit Court in Equity and has obtained
an order thereon for the issuance of an injunction from the
Honorable John D. Leigh, Judge, to restrain and enjoin The
Buckeye Incubator Company, a corporation, from selling or dis-
posing of one No. 7 Buckeye Incubator, Mammoth Size.

Now therefore, the condition of the above obligation
is such that if the said Frank Holz, his heirs, executors, admin-
istrators, or any of them, shall pay or cause to be paid all
damages which any person may sustain by the suing out of said
injunction, if the same is dissolved by the Circuit Court in
Equity on the bill filed by the said Frank Holz as aforesaid,
then the above obligation to be void, otherwise to remain in
full force and effect.

Witness our hands and seals on the day and year
first above written.

James Foulger L.S. Frank Holz L.S.
A. N. Heyselden L.S.
Taken and approved, this 17 day of July, 1926.

T. W. Reimann
Register.

RECORDED

Filed July 17/92
P. O. McCann
Agent

The State of Alabama, }
Baldwin County.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To any Sheriff of the State of Alabama--GREETING :

WE COMMAND YOU, That you summon The Buckeye Incubator Company, a
Corporation.

of _____ County, to be and appear before the Judge of the Circuit Court
of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by
Frank Holz.

against said Buckeye Incubator Company, a Corporation,

and further to do and perform what said Judge shall order and direct in that behalf. And this the
said Defendant shall in no wise omit, under penalty, etc. And we further command that you return
this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 17th, day of

July, 1926.

T. W. Richerson Register.

N. B.— Any party defendant is entitled to a copy of the bill upon application to the Register.

1/2 Original

SERVE ON.....

Circuit Court of Baldwin County
In Equity.

No.

SUMMONS

Frank Holz,

vs.

The Buckeye Incubator Co.

RECORDED

Mabry & Cravatt.

Solicitor for Complainant

Recorded in Vol. Page

THE STATE OF ALABAMA,
BALDWIN COUNTY.

Received in office this 16th day of

July 1926

W. R. Stuart

Sheriff.

Executed this 16th day of

July 1926

by leaving a copy of the within Summons with

W. C. Beebe, One Atty. for
The Buckeye Incubator Co. a
Corporation Defendant.

W. R. Stuart

Sheriff.

By J. T. White

Deputy Sheriff.

To the Register of Circuit Court in Equity at Bay Minette, Alabama.

Upon the complainant entering into bond, with security, in the sum of Five hundred ⁰⁰/₁₀₀ dollars, payable to and approved by you, and conditioned according to law, let an injunction issue according to the prayer of the bill.

This 16th day of July, 1926.

John A. Leigh
Judge.

Ms

Recorded on minutes

Field July 17/98
D. V. Rice
Rice