

(5)

J. B. Colt Co., a Corporation,

Plaintiff.

In Circuit Court of Baldwin County.

vs.

S. Stewart, Defendant,

Comes the plaintiff in the above stated cause and demurs to plea three filed by the defendant in the above cause on the following grounds to-wit:

1st- Because it is not shown in said plea in what respects said light plant was worthless and of no value.

~~2nd.- Because no facts are shown upon which to base the allegations of said plea that the light plant was worthless and of no value~~

3rd.- Because no facts are shown constituting in what respects said plant was defective.

Plaintiff demurs to plea four on the following grounds, to-wit.\*

4th.- Said plea fails to allege the name of said alleged agent of plaintiff or that said agent was acting within the line and scope of his authority.

5th.- Said plea fails to allege that said agent had the authority to make said representations or that said representations were communicated to plaintiff and ratified by plaintiff before the execution of the contract by defendant and acceptance by plaintiff.

6th.- Because it contains matters which seek to vary, add to, or contradict the written contract upon which the notes sued on in this cause, are based.

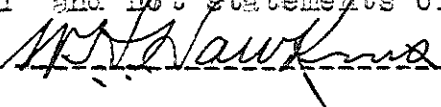
7th.- Because said plea tenders an immaterial issue.

8th.- Because said plea does not show the date when it is alleged defendant notified plaintiff to take back said plant.

9th.- Because the statements set up in said plea do not constitute a defense to this action.

10.- Because it is not shown how long defendant used said plant before he discovered the excessive cost of same and notified plaintiff of his desire to rescind the contract.

11.- Said plea shows on its face that the alleged representations were mere expressions of opinion and not statements of fact.

  
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Attorney for Plaintiff.

RECORDED  
J. B. Olt Truck  
A Corporation 7-455  
Plaintiff  
vs

S. Stewart  
Defendant  

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Demurrer to  
Pleas

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Filed Aug 22, 1934  
M. A. Stone  
Clerk

RECORDED  
INDEXED  
AUG 22 1934  
CLERK

RECORDED  
INDEXED  
AUG 22 1934  
CLERK

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon

S. Stewart

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

J. B. Colt Company, a New Jersey Corporation, Plaintiff

Witness my hand, this 13 day of November 19 33.

*Wm. A. Stone*  
Clerk.

COMPLAINT

J. B. Colt Company, a New Jersey Corporation, Plaintiff Vs. S. Stewart.

Count One.

Plaintiff claims of the defendants, the sum of Two Hundred Eighty Five (\$285.50) and 50/100 Dollars due by promissory note executed by the defendant on to-wit:- 9/12/30 made payable to plaintiff on to-wit:- 11/1/31, with interest from maturity.

Count Two.

Plaintiff claims of the defendant, the further and additional sum of Ninety Four (\$94.00) Dollars due by promissory note made by defendant on to-wit:- 9/12/30, payable to plaintiff on to-wit:- 11/1/32 with interest thereon from maturity.

Count Three.

Plaintiff claims of the defendant the further and additional sum of \$65.00, as a reasonable attorney's fee for suit on these notes, and plaintiff avers that in said notes herein sued on, defendants agreed to pay a reasonable attorney's fee, and that the said \$65.00 is a reasonable attorney's fee.

Plaintiff further avers that in said notes sued on in this cause, defendant waived all his rights to claim any exemption as to personalty under the Constitution and laws of the State of Alabama.

*M. H. Hawkins*  
Attorney for Plaintiff.

Original

RECORDED

No. *5*

Received in office \_\_\_\_\_ day of \_\_\_\_\_

19

Sheriff of \_\_\_\_\_ County, Ala.

Executed by serving *copy* of the within Summons and Complaint on

*S Stewart*  
Defendant

*W R Stewart*  
Sheriff

Defendant

This the *Dec* day of *1933*

Sheriff of *Baldwin* County, Ala.

By *A. A. ...*  
Deputy Sheriff.

J. B. Colt Co. a New Jersey Corporation, Plaintiff

VS.

S. Stewart, Defendant.

*Sherman Stewart*  
*Birmingham*  
*Ala*

IN CIRCUIT COURT OF BALDWIN COUNTY

Term 19

SUMMONS AND COMPLAINT

Filed in office this *13* day of

November 1933. A. D. 19

*W. A. Stone* Clerk.

W. H. Hawkins. Plaintiff's Attorney.

Moore Printing Co. Bay Minette, Ala.

\$12.00 deposited for costs

11/13/33.

THE STATE OF ALABAMA, }  
Baldwin County.

No. 5

CIRCUIT COURT

Term, 193 <sup>6</sup>

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETING :

You are hereby commanded, That of the goods and chattels, lands and tenements of J. B. Holt Company Plaintiff in the suit, you cause to be made the sum of \_\_\_\_\_ Dollars, costs of suit, created by said Plaintiff, for that, whereas, on the 30 day of March 1936, the said Plaintiff recovered by the Judgment of the said Circuit Court of said County, against L. Street Defendant to the suit, the sum of \_\_\_\_\_ Dollars, besides Thirteen and 60/100 Dollars, cost of suit; upon which Judgment an Execution has been issued and returned by the Sheriff, 'No Property Found.'

AND HAVE YOU THAT MONEY ready to render to Retha Jones Clerk of said Court, and make return of this Writ and the execution thereof, according to law.

Witness my hand, this 30 day of June 1936 Retha Jones Clerk.

CLERK'S FEES	Dollars		SHERIFF'S FEES	Dollars	
	Dollars	Cts.		Dollars	Cts.
For every Summons and Complaint	\$1	25	For Levying an Attachment	\$3	00
Each copy thereof	30		Entering and Returning Attachment		25
Entering a Sheriff's Return	20		Summoning Garnishee	1	50
Docketing	25		Serving Summons on Writ	1	50
Entering Appearance	20		Serving Notice Sci. Fa. Notice, etc.	65	
Filing	10		Serving Subpoenas	65	
Every Order made in Court	30		Empanelling Jury	75	
Copy thereof	25		Entering and Returning Execution	25	
Every Trial with or without Jury	75		Collecting costs Execution	1	50
Entering up Judgment or copy thereof	30		Executing a Writ of Possession	2	50
Issuing Execution	50		Taking and Approving Bonds	1	00
Docketing Execution	25		Commissions		
Entering Return on Execution	20		Sheriff's Commission for Property Sold Under Attachment		
Issuing Subpoenas	30		Seizing Personal Property on Writ of Detinue	3	00
Administering Oath	25				
Issuing Each Attachment Taking Bond	\$1	00	RECAPITULATION		
Filing Attachment	10		Clerk's Fees		6 35
Each Summons for Garnishee	50		Sheriff's Fees		3 25
Each copy	50		Justice's Fees		
Notice to Deft. in Garnishee on Summons and copy, per hundred words	20		Witness Fees in Justice of Peace Court		
Commissions to take Depositions or copy	75		Constable's Fees		
Order to Execute Writ of Inquiry	30		Commissioner's Fees		
Copy of Interrogators, 15c per hundred words, or	50		Printer's Fees		
Filing each Deposition and Endorsing same	20		Witness Fees in Circuit Court		
Final Record, per hundred words	15		Former Clerk's Fee		
Every Certificate	50		Stenographer's Fees	5	00
Taking Bond not Otherwise Provided for	75		Trial Tax	3	00
Witness Certificates	25				
Continuance	10				
Certificate of Judgment	50				
Order of Publication	1	00			

J. B. COLT COMPANY, a New  
Jersey Corporation,

Plaintiff,

-vs-

S. STEWART,

Defendant.

IN THE CIRCUIT COURT-LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

Now comes the Defendant and for plea to the Complaint,  
and each count thereof, separately and severally, says:-

FIRST:

That the allegations contained therein are untrue.

SECOND:

That there was no consideration in and for said demands  
mentioned therein.

THIRD:

That the basis of the Notes mentioned in the Complaint  
was for a light plant which was absolutely worthless and of no  
value.

FOURTH:

That the Notes sued on in said Complaint were given by  
the Defendant to the J. B. Colt Company for a light plant which  
was to be used by the Defendant in his home in Baldwin County,  
Alabama, which fact was made known to the agent of the J. B. Colt  
Company, and that said agent falsely represented to him that said  
light plant which he was then and there offering to sell him  
would furnish sufficient lights and fuel in said home at a cost  
not to exceed the sum of Seventy-five Cents (\$.75) per month;  
that said agent in representing said cost of the operation of said  
plant falsely and fraudulently represented said facts as to the  
consumption of said fuel, and by said false misrepresentations in-  
duced Defendant to execute his said Notes for said light plant;  
that instead of said plant's cost in operating the same being at  
not more than Seventy-five Cents (\$.75) per month, the same was in  
excess of Five Dollars (\$5.00) per month, and the use of said  
plant was rendered prohibitive, and had the said agent truly re-  
presented the cost of its operation that Defendant would not have  
executed said notes or entered into the contract of purchase of

(page two)

the same with the Plaintiff through its said agent; that as soon as the Defendant ascertained by reasonable trial of said plant that said agent had falsely and fraudulently represented the cost of operation of the same, he immediately notified the Plaintiff of these facts and requested the Plaintiff to take said plant back and surrender to him his said notes, or to give him shipping directions as to where said plant was to be delivered and shipped.

*Hyatt, Head & Casar*  
Attorneys for Defendant.

Defendant demands a trial  
by Jury.

*Hyatt, Head & Casar*  
Attorneys for Defendant.

*Case No 5*  
*July*  
P L E A.

**RECORDED**

J. B. COLT COMPANY, a New  
Jersey Corporation,

Plaintiff,

-VS-

S. STEWART,

Defendant.

IN THE CIRCUIT COURT-LAW SIDE  
STATE OF ALABAMA  
BALDWIN COUNTY.

Filed February 8<sup>th</sup>, 1934

*M. A. Stone*  
Clerk.

(16)

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