

Amended Complaint.

The W. T. Rawleigh Company,
a Corporation. Plaintiff.

vs.

Howard L. McVay, M. J. Jansen
and Charlie Head, Defendants.

In Circuit Court of Baldwin
County, Alabama.

Comes the plaintiff and amends its complaint heretofore filed in this cause to read as follows:

Count One.

The Plaintiff claims of the defendants the sum of Eight Hundred Forty Three and 88/100 (\$843.88) Dollars due from defendants to plaintiff by account, on to-wit:- December 28, 1933, which sum of money with the interest thereon from said December 28, 1933 is now due and unpaid.

Count Two.

The plaintiff claims of the defendants the sum of Eight Hundred forty Three and 88/100 (843.88) Dollars ^{due by} account stated made by C. R. McVay, the principal in the ^{written} contract, dated Jan. 16, 1933, and the plaintiff avers that in said contract entered into by defendants and C. R. McVay the principal, defendants agreed to assume and pay all previous indebtedness of the principal C. R. McVay and also agreed that any statement made by the buyer C. R. McVay as to the amount of the indebtedness due at any time shall be binding on them.

Plaintiff avers that since the making of this stated account by C. R. McVay, the principal, more goods were bought by C. R. McVay from plaintiff and that on to-wit:- December 28, 1933 there was a balance due plaintiff under the contract of \$843.88, which sum of money with the interest thereon from said December 28, 1933 is still due and unpaid.

Count Three.

The plaintiff claims of the defendants the sum of Eight Hundred forty Three & 88/100(\$843.88) Dollars for that heretofore, on to-wit:- March 10, 1933, defendants entered into a ^{written} contract with plaintiff and plaintiff agreed to sell and deliver to C. R. McVay, the principal in said contract such reasonable quantities of plaintiff's products as the said C. R. McVay might order, and the said C. R. McVay agreed to pay for said merchandise when said merchandise or

products were sold and delivered by plaintiff, by cash or by installment payments satisfactory to seller, at invoice prices, and the defendants Howard L. McVay, M. J. Jansen and Charlie Head in consideration of the plaintiff extending credit to the said C. R. McVay as aforesaid and extending time of payment of all past indebtedness did join in said contract and did unconditionally promise, guarantee and agree to pay the plaintiff for all products sold and delivered to the said C. R. McVay under this ^{written} contract or former contracts, and assuming the payment of all amounts due by the said C. R. McVay to plaintiff under the present and past contracts made by C. R. McVay with the plaintiff, and the said defendants expressly consenting and agreeing to all of the terms and conditions thereof.

The plaintiff avers that under and by virtue of said ^{written} contract the plaintiff did sell and deliver to the said C. R. McVay a large amount of merchandise from time to time, the invoice price of which was was the total sum of Twelve Hundred Fifty Five and 88/100 (1255.88) Dollars, but neither the principal, C. R. McVay nor the defendants, though requested so to do, have paid to the plaintiff more than the sum of Four Hundred and twelve (\$412) Dollars, so that there is a balance due Eight Hundred Forty Three & 88/100 (\$843.88) Dollars, which amount with the interest thereon from December 28, 1933 is still due and unpaid.

W. H. Hawkins
Attorney for plaintiff.

Plaintiff amends Count three of the Amended Complaint to read "The plaintiff heretofore attached to the original Complaint a copy of the aforesaid Contract and copy of a Count stated as exhibits thereto and hereby adopts the same as parts of this Count three of this Amended Complaint—"

W. H. Hawkins
M. J. Miller, Coffey & M. J. Miller
Attorneys for Plaintiff

RECORDED ^{Quel} 8-226

W. F. Rawls & Co.
Plaintiff
Vs

Chas Head & Co
Defts

Amended Complaint

Filed this the
11th day of May 1938

Clerk-

Filed May 11, 1938
R. S. Duck, Clerk

(268)
W. F. Rawls
Atty for Pltff

Complaint.

The W. T. Rawleigh Company,
an Illinois Corporation,
Plaintiff.

Vs.

Howard L. McVay, Jackson, Ala., ;
M. J. Jansen, Fairhope, Ala., and Charlie
Head, Stapleton, Ala., Defendants.

Count One.

The Plaintiff claims of the defendants, Howard L. McVay, M. J. Jansen and Charlie Head, the sum of Eight Hundred Forty Three and 88/100 (\$843.88) Dollars balance due on that certain contract between plaintiff and C. R. McVay on to-wit:- March 10, 1933, and signed as sureties on the same date by defendants, Howard L. McVay, M. J. Jansen and Charlie Head.

That the said C. R. McVay, the principal, did not ~~xxx~~ pay all he owed plaintiff, and on to-wit:- Jan. 16, 1933, the said C. R. McVay made a stated account, stating that he owed on the 31st. day of December 1932 the sum of \$883.62. That since said time on to-wit:- March 10, 1933, this contract was made, and more goods were bought by C. R. McVay from plaintiff, and that on to-wit:- December 28, 1933, there was a balance due plaintiff of \$843.88, which sum with the interest thereon from December 28, 1933, is still due and unpaid.

Plaintiff further avers that in said contract, defendants agreed to pay plaintiff for any and all goods, wares and merchandise sold said McVay under the above and foregoing contract, and to pay any and all prior indebtedness of the said C. R. McVay to plaintiff by virtue of any prior contract as shown by the books of plaintiff, at the time of the acceptance of this contract. That the above defendants jointly and severally agreed that any statements made by the buyer as to the amount of the indebtedness due at any time shall be binding upon us.

Plaintiff further avers that the said amount of \$843.88, with interest from December 28, 1933, is still due and unpaid, which said amount the defendants agreed to pay in said contract signed by them as sureties. Plaintiff herewith attaches a copy of the contract and copy of the account stated and makes same a part of this complaint.


Attorney for Plaintiff.

CONTRACT

(1) IN CONSIDERATION of the promises of the undersigned Buyer, ~~THE W. T. RAWLEIGH COMPANY, an Illinois Corporation~~, agrees to sell and deliver f. o. b. ~~Albany, New York~~, or at any other point or in any other manner agreed upon, such reasonable quantities of its Products as the Buyer may order at current wholesale prices, and on time, and if desired will sell Buyer an Auto Body and/or Equipment, or sample cases, for cash or on time; and the Buyer in consideration of the above agreements hereby promises to pay Seller in full for all such Products so sold and delivered under this Contract, also agrees to pay any balance due Seller at the date of the acceptance of this Renewal Contract for Products previously sold Buyer under any and all former Contracts, by cash or by installment payments satisfactory to Seller at Invoice prices and according to the terms and conditions thereof, including any transportation charges incurred, paid or furnished by Seller, and subject to such cash discounts as may be shown in current discount sheets.

(2) It is mutually agreed that either party may terminate this Contract by written notice at any time, and when so terminated, all accounts incurred hereunder shall become due and payable immediately. If this Contract is not so terminated it shall expire on the 31st day of December, 1933; it being agreed that another Renewal Contract may be entered into provided business relations are mutually satisfactory and Buyer furnishes an acceptable Renewal Contract.

(3) If the business relations be terminated for any reason, the Seller reserves the option to purchase within 30 days after such termination any or all of the merchantable Products Buyer may have on hand at current wholesale prices; and Buyer agrees to sell said Products to Seller upon Seller's request, and to return same promptly by prepaid freight or express to point designated by Seller; Buyer hereby agreeing to pay Seller the actual cost of receiving, overhauling and inspecting same.

(4) It is mutually understood and agreed that this is a Contract of Buyer and Seller, and not of Agency; and that any Sales Promotion or Service Letters or Bulletins, Advertising matter or other literature that Seller may send Buyer shall not change this relationship, nor be considered as orders, instructions or directions, but only as suggestive, educational and advisory (which the Buyer may or may not follow as he may choose) and shall not alter, change or modify this Contract in any way; it being agreed that it can only be changed by consent of both parties in writing.


(For Company Use Only)

Accepted:
THE W. T. RAWLEIGH COMPANY,

BY J. E. Stewart

Manager.

Date of Acceptance MAR 10 1933

Buyer Sign Here 

C. R. McVay (Seal)

P. O. Address Loxley

For and in consideration of The W. T. Rawleigh Company accepting the above Contract, or in consideration of the above named Seller extending further credit to the said Buyer, we, the undersigned, do hereby jointly and severally enter ourselves as sureties, and unconditionally promise, guarantee and agree to pay said Seller for any and all goods, wares and merchandise sold said Buyer under the above and foregoing Contract, hereby expressly consenting and agreeing to all the terms, conditions, and provisions thereof; and we also specifically promise and agree to assume and pay any and all prior indebtedness that may be due and owing said Seller on the date of the acceptance of this Contract, as shown by Seller's books, for any and all goods, wares and merchandise previously sold to said Buyer under and by virtue of any and all prior Contracts or agreements; hereby binding our heirs, executors, administrators or assigns. We hereby expressly waive notice of the acceptance of this Contract, and of the shipment of goods to the Buyer, and of extension of credit to the Buyer, and of the extension of time in which to pay for the goods so purchased, and waive all notice of any nature whatsoever. We also agree that any statement made by the Buyer as to the amount of indebtedness due at any time shall be binding upon us. We also agree that it shall not be necessary for the Seller to first exhaust its remedies against the Buyer before proceeding to collect from us. This undertaking is to be an open one and shall continue without regard to the residence of the Buyer, or the location or manner of conducting his business until the account is fully paid. It is mutually agreed that this Contract is conclusive and binding upon the party or parties who sign it, whether it is signed by any other party or parties or not, and that any statement or representations made to any of the undersigned sureties by any persons either as to who or how many parties will sign this surety agreement or as to any other matters not fully expressed herein shall not affect the rights of the Seller. It is further understood that there are no conditions or limitations to this undertaking except those written or printed herein at the time of signing hereof, and that after execution no alteration, change or modification shall be made except as provided for in the terms of the foregoing Contract between the Buyer and Seller, and that any notice in any way affecting the rights of the Seller must be delivered by registered mail to the Seller at its office at ~~Albany, New York~~

Memphis, Tennessee.

IN WITNESS WHEREOF we have set our hands and seal in testimony hereof.

(Sureties' Names)

(Occupations)



(P. O. Addresses)

Howard L. McVay (Seal) Farming Jackson, Ala.

M. J. Jansen (Seal) Farmer & Lumberman Fair Hope, Ala.

Charlie Head (Seal) Farmer Stapleton, Ala.

(Seal)

 SURETIES MUST SIGN IN PERSON, GIVING OCCUPATION AND P. O. ADDRESS. PLEASE WRITE PLAINLY.
 The Sureties are Entitled upon Request at any Time to a Statement of Buyer's Account.

THE STATE OF ALABAMA, }
Baldwin County.

No. _____ CIRCUIT COURT

June 18, 1936. 193 _____

To Any Sheriff of the State of Alabama :

You are hereby commanded to summon Howard L. McVay, Jackson, Ala.,
M. J. Jansen, Fairhope, Ala., and Charlie Head, Stapleton, Ala.

to appear and plead, answer or demur, within thirty day from the service hereof, to the Complaint filed in
the Circuit Court of Baldwin County, State of Alabama at Bay Minette, Ala., against them

Defendant § by _____

The W. T. Rowlesigh Company, an Illinois Corporation

Plaintiff _____

Witness my hand this 18th day of June 193 6

R. L. Lusk Clerk.

COMPLAINT

R. L. Lusk

Plaintiff versus _____

The Plaintiff claims of the Defendant _____

_____ Dollars, due by

Plaintiff's Attorney.

C-O-P-Y

1933 Renewal Contract

Contract With

Name C. R. McV^{er}y, Ala.

Received 3-10-33

Investigated 3-10-33

Approved by L.R.B.

Copy mailed MAR 10 1933

Original

No. 7-499

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

The W. T. Rawleigh Co.

an Ill. Corporation

vs. PLAINTIFF

Howard L. McVay, M. J. Jansen

Charlie Head.

DEFENDANT

Summons and Complaint

Filed, June 18, 1936

Robert S. Duff Clerk.

Defendant Lives at

Plaintiff's Attorney.

Defendant's Attorney

MOORE PRINTING CO., BAY MINETTE, ALA.

RECORDED
Duck
7-499

RECEIVED IN OFFICE

, 1936

, Sheriff

I have executed this Writ

this 24th June, 1936

by leaving a copy of the within Summons and
Complaint with

M. J. Jansen

Executed service on
Charlie Head July
1st 1936

M. H. Wilkins, Sheriff.

C. N. Anderson, Deputy Sheriff.

HEADQUARTERS
MOBILE AIR SERVICE COMMAND

BROOKLEY FIELD, MOBILE, ALA

April 5, 1944

Circuit Court
State of Alabama
Baldwin County

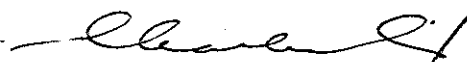
Dear Sir:

Acknowledge receipt of command and summons for Juror
in Circuit Court of Baldwin County, Alabama.

Mr. Howard Davis is employed by this section in the
capacity of Junior Aircraft Engine Inspector and is assigned to
the Disassembly Unit. In view of the shortage of inspection
personnel that we have in this particular unit, it is res-
pectfully requested that above named employee be relieved from
appearing as Juror of your Court.

Thanking you in advance for any attention you may
give this matter, I remain

Very truly yours,



CHARLES C. D.
Asst General Aircraft Inspector
Engine Repair Inspection Section

"KEEPING 'EM ROLLING, KEEPS 'EM FLYING"

CONTRACT

(1) IN CONSIDERATION of the promises of the undersigned Buyer, ~~THE W. T. RAWLEIGH COMPANY, an Illinois Corporation~~, agrees to sell and deliver f. o. b. ~~Minneapolis, Minnesota~~ or at any other point or in any other manner agreed upon, such reasonable quantities of its Products as the Buyer may order at current wholesale prices, and on time, and if desired will sell Buyer an Auto Body and/or Equipment, or sample cases, for cash or on time; and the Buyer in consideration of the above agreements hereby promises to pay Seller in full for all such Products so sold and delivered under this Contract, also agrees to pay any balance due Seller at the date of the acceptance of this Renewal Contract for Products previously sold Buyer under any and all former Contracts, by cash or by installment payments satisfactory to Seller at Invoice prices and according to the terms and conditions thereof, including any transportation charges incurred, paid or furnished by Seller, and subject to such cash discounts as may be shown in current discount sheets.

(2) It is mutually agreed that either party may terminate this Contract by written notice at any time, and when so terminated, all accounts incurred hereunder shall become due and payable immediately. If this Contract is not so terminated it shall expire on the 31st day of December, 1933; it being agreed that another Renewal Contract may be entered into provided business relations are mutually satisfactory and Buyer furnishes an acceptable Renewal Contract.

(3) If the business relations be terminated for any reason, the Seller reserves the option to purchase within 30 days after such termination any or all of the merchantable Products Buyer may have on hand at current wholesale prices; and Buyer agrees to sell said Products to Seller upon Seller's request, and to return same promptly by prepaid freight or express to point designated by Seller; Buyer hereby agreeing to pay Seller the actual cost of receiving, overhauling and inspecting same.

(4) It is mutually understood and agreed that this is a Contract of Buyer and Seller, and not of Agency; and that any Sales Promotion or Service Letters or Bulletins, Advertising matter or other literature that Seller may send Buyer shall not change this relationship, nor be considered as orders, instructions or directions, but only as suggestive, educational and advisory (which the Buyer may or may not follow as he may choose) and shall not alter, change or modify this Contract in any way; it being agreed that it can only be changed by consent of both parties in writing.


(For Company Use Only)

Accepted:

THE W. T. RAWLEIGH COMPANY,

BY J. E. Stewart
Manager.

Date of Acceptance MAR 10 1933

Buyer Sign Here 

C. R. McVay (Seal)

P. O. Address Loxley

For and in consideration of The W. T. Rawleigh Company accepting the above Contract, or in consideration of the above named Seller extending further credit to the said Buyer, we, the undersigned, do hereby jointly and severally enter ourselves as sureties, and unconditionally promise, guarantee and agree to pay said Seller for any and all goods, wares and merchandise sold said Buyer under the above and foregoing Contract, hereby expressly consenting and agreeing to all the terms, conditions, and provisions thereof; and we also specifically promise and agree to assume and pay any and all prior indebtedness that may be due and owing said Seller on the date of the acceptance of this Contract, as shown by Seller's books, for any and all goods, wares and merchandise previously sold to said Buyer under and by virtue of any and all prior Contracts or agreements; hereby binding our heirs, executors, administrators or assigns. We hereby expressly waive notice of the acceptance of this Contract, and of the shipment of goods to the Buyer, and of extension of credit to the Buyer, and of the extension of time in which to pay for the goods so purchased, and waive all notice of any nature whatsoever. We also agree that any statement made by the Buyer as to the amount of indebtedness due at any time shall be binding upon us. We also agree that it shall not be necessary for the Seller to first exhaust its remedies against the Buyer before proceeding to collect from us. This undertaking is to be an open one and shall continue without regard to the residence of the Buyer, or the location or manner of conducting his business until the account is fully paid. It is mutually agreed that this Contract is conclusive and binding upon the party or parties who sign it, whether it is signed by any other party or parties or not, and that any statement or representations made to any of the undersigned sureties by any persons either as to who or how many parties will sign this surety agreement or as to any other matters not fully expressed herein shall not affect the rights of the Seller. It is further understood that there are no conditions or limitations to this undertaking except those written or printed herein at the time of signing hereof, and that after execution no alteration, change or modification shall be made except as provided for in the terms of the foregoing Contract between the Buyer and Seller, and that any notice in any way affecting the rights of the Seller must be delivered by registered mail to the Seller at its office at ~~Minneapolis, Minnesota~~

Memphis, Tennessee.

IN WITNESS WHEREOF we have set our hands and seal in testimony hereof.

(Sureties' Names)

(Occupations)



(P. O. Addresses)

Howard L. McVay (Seal) Farming Jackson, Ala.

M. J. Jansen (Seal) Farmer & Lumberman Fair Hope, Ala.

Charlie Head (Seal) Farmer Stapleton, Ala.

(Seal) _____

 SURETIES MUST SIGN IN PERSON, GIVING OCCUPATION AND P. O. ADDRESS. PLEASE WRITE PLAINLY.
 The Sureties are Entitled upon Request at any Time to a Statement of Buyer's Account.

1933 Renewal Contract

Contract With

Name C. R. McVay, Ala.

Received 3-10-33

Investigated 3-10-33

Approved by L.R.B.

Copy mailed MAR 10 1933

THE STATE OF ALABAMA,
Baldwin County.

No. _____ CIRCUIT COURT

June 18th 1936

To Any Sheriff of the State of Alabama :

You are hereby commanded to summon Howard L. McVay, Jackson, Ala.
M J Jenson xx Fairhope Ala and Charlie Head Stapleton, Ala.

to appear and plead, answer or demur, within thirty day from the service hereof, to the Complaint filed in
the Circuit Court of Baldwin County, State of Alabama at Bay Minette, Ala., against them

as Defendant by The W. T. Rawleigh Co
an Illinois. Corporation.

Plaintiff

Witness my hand this 18th day of June 1936

Robert D. Smith Clerk.

COMPLAINT

Plaintiff versus

The Plaintiff claims of the Defendant

Dollars, due by

Plaintiff's Attorney.

No. _____

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

The W T Rawleigh Co

PLAINTIFF

VS.

Howard L McVay. et al.

DEFENDANT

Summons and Complaint

Filed, June 18th 1936

Rubel Duck, Clerk.

Defendant Lives at

Jackson Ala

Plaintiff's Attorney.

Defendant's Attorney

MOORE PRINTING CO., BAY MINETTE, ALA.

RECORDED

Duck

7-400

RECEIVED IN OFFICE

, 1936

, Sheriff

I have executed this Writ

this *June 23*, 1936

by leaving a copy of the within Summons and Complaint with

Howard L. McVay,
Dept.

J. Sam Cleland, Sheriff.
J. B. Cleland, Deputy Sheriff.

W. T. RAWLEIGH COMPANY, INC.,
A CORPORATION,

PLAINTIFF,

VS.

H. L. McVAY, ET AL,

DEFENDANTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. No. 268.

Comes the Plaintiff in the above entitled cause and joins issue on the pleas filed by the defendant Charles Head.

For special replication to pleas 5, 7 and 8 of the defendant Charles Head, separately and severally, the plaintiff says:

1. That the contract sued upon was transmitted to this plaintiff by C. R. McVay through the United States mail and received and accepted by the plaintiff at its branch office in Memphis, Tennessee, and did not become a fully executed or binding contract in the State of Alabama; that the goods, wares and merchandise sold to the said C. R. McVay under the aforesaid contract were shipped to him f.o.b. Memphis, Tennessee, upon receipt of written orders from the said C. R. McVay transmitted to the plaintiff by United States mail; that neither at the time of entering into said contract nor at the time the merchandise sued for was delivered to C. R. McVay was the plaintiff engaged in doing business within the State of Alabama and the delivery of said merchandise was a part of interstate commerce.

For special replication, separately and severally, to pleas 6, 9, 10 and 11 filed by the defendant Charles Head, the plaintiff files the following replications, separately and severally:

2. That the contract or bond sued on, copy of which is attached to the complaint as an exhibit, was transmitted by United States mail by the said C. R. McVay to the plaintiff's branch office at Memphis, Tennessee, and after investigation made by the plaintiff from its said office was accepted and acted upon

as a binding contract by the plaintiff, and is a contract governed by the laws of the State of Tennessee; that all orders for merchandise made by the said C. R. McVay under said contract were transmitted by United States mail by the said C. R. McVay to the plaintiff's branch office in Memphis Tennessee, and all merchandise, drugs, medicines, chemicals or poisons which the said C. R. McVay ordered were shipped to him f.o.b. Memphis, Tennessee, and were a part of interstate commerce; that under the common law of Tennessee as declared by its highest judicial tribunals this plaintiff had the legal right to so sell to the said C. R. McVay such drugs, medicines, chemicals or poisons as it did sell to him upon his orders, and there is no statute of Tennessee changing the common law rule in this regard.

3. The plaintiff further says that all drugs, medicines or poisons sold by it to the said C. R. McVay were sold as a part of interstate commerce upon orders sent to it through the United States mail by C. R. McVay and received by the plaintiff at its branch office in Memphis, Tennessee, and that all such goods as were ordered were delivered to the said C. R. McVay f.o.b. Memphis, Tennessee, and if the said C. R. McVay sold or disposed of same in violation of any law of the State of Alabama this was done without the knowledge or consent of this plaintiff.

W. H. HAWKINS,

McMILLAN, CAFFEY & McMILLAN,

Attorneys for Plaintiff.

W. T. RAWLEIGH COMPANY, INC.,
A CORPORATION,
PLAINTIFF,

VS.

H. L. McVAY, ET AL,
DEFENDANTS.

PLAINTIFF'S REPLICATIONS
TO DEFENDANTS' PLEAS

Filed August 23, 1939.

R. S. Duch
Clerk.

By Pauline Thompson,
Deputy Clerk

McMILLAN, CAFFEY & McMILLAN
ATTORNEYS AT LAW
BREWTON, ALA.

THE W. T. RAWLEIGH COMPANY,
A CORPORATION,

PLAINTIFF,

VS.

H. L. McVAY, ET ALS,

DEFENDANTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

TO: HOWARD L. McVAY, JACKSON, ALABAMA.

You will take notice that on this 28th day of August, 1939, the plaintiff in the above entitled cause by its Attorneys of record filed in this Court interrogatories to be propounded its witnesses H. P. Ousley and J. D. Gilbert, who are alleged to be non-residents of the State of Alabama residing at Freeport, Illinois and suggesting as a suitable person to act as Commissioner to take the said depositions the name of B. K. Decklar, whose address is 121 South Liberty Avenue, Freeport, Illinois.

WITNESS this 28th day of August, 1939.

R. S. Dorch
Clerk Circuit Court of Baldwin
County, Alabama.

By - Haulie Thompson, Deputy Clerk

STATE OF ALABAMA)

ESCAMBIA COUNTY)

I hereby certify that on August 28th, 1939, I gave notice to Howard L. McVay, who is a non-resident of Baldwin County, Alabama, and lives at Jackson in Clarke County, Alabama, of the filing of the foregoing interrogatories and of the name and address of the witnesses and of the person suggested as commissioner, by mailing a copy of said notice to him, postage prepaid, at his place of residence, as required by Section 7748 of the Code of Alabama of 1923.

R. S. Dorch
Clerk Circuit Court of Baldwin
County, Alabama.

By - Haulie Thompson, Deputy Clerk

STATE OF ALABAMA,)
BALDWIN COUNTY.)

I, R. S. DUCK, Clerk of the Circuit Court of Baldwin County, Alabama, do hereby certify that I have, on the date stated below, mailed a copy of the within Notice, to the Defendant, Howard L. McVay, at Jackson, Alabama, by registered mail, with return receipt requested, and postage prepaid.

DATED this the 28th day of August, 1939.

R. S. DUCK, Clerk.

By: Shullie Thompson
Deputy Clerk.

CIRCUIT COURT BALDWIN
COUNTY, ALA.

W. T. RAWLEIGH CO., A CORP.,
PLAINTIFF,

VS.

H. L. McVAY, ET ALS,
DEFENDANTS.

NOTICE OF FILING OF
INTERROGATORIES TO
DEFENDANT HOWARD L.
McVAY.

Filed August 28, 1939.

R. S. Duck
Clerk.
Shullie Thompson
Deputy Clerk

W. T. RAWLEIGH COMPANY, INC.,
a Corporation,

Plaintiff,

VS.

H. L. McVAY, et al,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 268.

DEMURRER.

Now comes Charles Head, one of the Defendants in the above entitled cause, and for demurrer to the Complaint filed in said cause, sets down and assigns the following separate and several grounds to-wit:

1. The said Complaint does not state a cause of action.
2. It affirmatively appears from said Complaint that the cause of action on said contract is based on a past consideration and not on any new consideration.
3. It affirmatively appears that the contract made the basis of this suit is without consideration.
4. It does not appear that the contract sued on was executed or accepted by the Plaintiff by or through a duly authorized officer or agent, so as to bind these defendants.
5. The said statement of account, as affirmatively appears from said complaint as exhibit thereto, is res inter alios acta and is not binding on these defendants.
6. It does not appear from said complaint that demand was ever made on defendant for payment of said account.

J. T. Blackburn
Attorney for Charles Head.

268
RECORDED
8-191
DUE
DEMURRER.

W. T. RAWLEIGH COMPANY, INC.,
a Corporation,

Plaintiff,

VS.

H. L. McVAY, et al,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 268.

Filed May 31 1935
R. S. [Signature]
Clerk

W. T. RAWLEIGH COMPANY, INC.,

Plaintiff,

VS.

H. L. McVAY, et al,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 268.

MOTION TO REQUIRE ADDITIONAL SECURITY FOR COSTS.

Now comes Charles Head, one of the Defendants in the above entitled cause by his Attorney, and respectfully represents that the Plaintiff in the said cause is a non-resident corporation and that the costs deposited by it in this cause is wholly insufficient to cover the amount that will be due in this case if litigated and further represents that this case will be litigated.

WHEREFORE, this Defendant moves the Court to require the said Plaintiff to deposit additional costs, give security therefor or dismiss this proceeding out of this Court.

J. T. T. Blackburn
Attorney for Charles Head.

The Defendant, Charles Head, demands a trial of this cause by jury.

J. T. T. Blackburn
Attorney for Defendant, Charles Head.

11/29/37

\$1500 aduual for case deposited
This Date Paid

RECORDED

Duch
8-15-6

MOTION TO REQUIRE ADDITIONAL
SECURITY FOR COSTS.

W. T. RAWLEIGH, COMPANY, INC.,

Plaintiff,

VS.

H. L. McVAY, et al,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 268.

Res
Filed this *13* day *Nov* 193*7*
R. S. Duch
Clerk-Register

THE W. T. RAWLEIGH COMPANY,
an Illinois Corporation,

Plaintiff,

VS.

HOWARD L. McVAY, M. J. JANSEN,
and CHARLIE HEAD,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO.

Comes the Defendant, Howard L. McVay, in
the above styled cause, and for answer to each and every
count thereof, denies all the allegations therein con-
tained.

Howard L. McVay

Defendant.

RECORDED
Duck
Rainey 7-500

McVay & Co.

Assn at
McVay

Filed July 21
R. S. Shultz
Chy

W. T. RAWLEIGH COMPANY, INC.,)	
A CORPORATION,)	
)	IN THE CIRCUIT COURT OF
PLAINTIFF,)	BALDWIN COUNTY, ALABAMA.
)	
VS.)	AT LAW
)	NO. 268.
H. L. McVAY, ET AL,)	
)	
DEFENDANT.)	

Comes the Plaintiff in the above entitled cause and demurs to the second plea of the defendant Charles Head, and for grounds of demurrer assigns the following, separately and severally:

1. Because it affirmatively appears from the contract sued on, copy of which is attached as an exhibit and made a part of the complaint, that the same was supported by an adequate consideration.

2. Because it affirmatively appears from the contract sued on that there was adequate consideration in that plaintiff accepted the contract of C. R. McVay.

3. Because it appears from the contract sued on that the plaintiff extended further credit to C. R. McVay in consideration of this defendant executing the agreement sued on.

The plaintiff demurs to Pleas 5, 7, and 8, separately and severally, as pleaded by the defendant Charles Head, and for grounds of demurrer assigns the following, separately and severally:

4. Said plea states the mere legal conclusion of the pleader.

5. Said plea fails to allege that the demand sued upon arose in Alabama.

6. Because said plea fails to allege that the contract for the sale of goods upon which suit is brought was made in Alabama.

7. Because said plea fails to aver that the matters and facts upon which this suit is based arose out of a transaction made in Alabama.

8. Because said plea is insufficient in failing to allege that the demand sued upon arose in Alabama or the contract for the sale of the goods was made in Alabama, or that it arose out of a transaction made in Alabama.

9. Because from aught appearing the debt upon which this suit is brought may have been contracted outside the State of Alabama.

10. Because from aught appearing the debt sued on is the result of an interstate transaction.

11. Because said plea does not set out where the debt was contracted or where the agreement was consummated.

12. Because it is not made to appear that the contract sued on constituted the doing of business in this state or that the contract arose out of a transaction in this state.

13. Because it affirmatively appears from the contract sued on, copy of which is attached as an exhibit to and made a part of the complaint, that the plaintiff was to ship goods to C. R. McVay f.o.b. Memphis, Tennessee, upon orders therefor by him, and was therefore engaged in interstate commerce.

The plaintiff demurs to pleas numbered 6, 9, 10 and 11, separately and severally, as pleaded by the defendant Charles Head, and for grounds of demurrer assigns the following, separately and severally:

14. Because said plea is vague, indefinite and uncertain.

15. Because said plea while confessing the plaintiff's cause of action sets up no matter in avoidance thereof.

16. Because said plea states the mere legal conclusions of the pleader.

17. Because said plea purports to be in bar of the plaintiff's cause of action, but sets out facts which at most show only a partial defense thereto.

18. Because said plea does not set out what drugs or medicines or chemicals or poisons were furnished by the plaintiff to C. R. McVay.

19. Because it is not averred what other products than drugs or medicines or chemicals or poisons were sold and delivered by the plaintiff to the said C. R. McVay.

20. Because from aught appearing the drugs, medicines, chemicals or poisons were shipped to the said C. R. McVay in interstate commerce.

21. Because it is not averred that any of the drugs, medicines, chemicals or poisons were sold and delivered to the said C. R. McVay in Alabama contrary to any law of the State of Alabama.

22. Because it is not averred that this plaintiff in any manner aided or assisted the said C. R. McVay in retailing any drugs, medicines, chemicals or poisons in Alabama.

23. Because from aught appearing the said C. R. McVay was duly authorized to sell such drugs, medicines, chemicals or poisons as were sold to him by this plaintiff.

24. Because from aught appearing the said C. R. McVay was duly licensed as an itinerant vendor to sell such products as the plaintiff delivered to him.

W. H. HAWKINS,

McMILLAN, CAFFEY & McMILLAN,
Attorneys for Plaintiff.

BALDWIN COUNTY, ALABAMA.
NO. 268.

W. T. RAWLEIGH COMPANY, INC.,
A CORPORATION,

PLAINTIFF,

VS.

H. L. McVAY, ET AL.

DEFENDANTS.

PLAINTIFF'S DEMURRERS TO
DEFENDANTS' PLEAS

Filed August 21, 1939.

R. S. Luck.

Clerk.

McMILLAN, CAFFEY & McMILLAN
ATTORNEYS AT LAW
BREWTON, ALA.

W. T. RAWLEIGH COMPANY, INC.,
a Corporation,

Plaintiff,

VS.

H. L. McVAY, et al,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 268.

DEMURRER.

Now comes Charles Head, one of the Defendants in the above entitled cause and for demurrer to the Complaint filed in said cause and to each count thereof separately and severally and sets down and assigns the following separate and several grounds to-wit:

1. The said Complaint does not state a cause of action.
2. It affirmatively appears from said Complaint that the cause of action on said contract is based on a past consideration and not on any new consideration.
3. It affirmatively appears that the contract made the basis of this suit is without consideration.
4. The said statement of account, as affirmatively appears from said complaint as exhibit thereto, is res inter alios acta and is not binding on these defendants.
5. It does not appear from said complaint that demand was ever made on defendant for payment of said account.
6. Because sufficient facts are not alleged to show any obligation or duty on the defendant to pay the plaintiff any amount of money.
7. Because it is not alleged that the said contract is in writing.
8. Because it affirmatively appears from the said count that the account sued on was stated between Plaintiff and one, C. R. McVay, and not between Plaintiff and this Defendant.

9. Because it affirmatively appears from the said count that the Plaintiff sues on a promise of this defendant to answer for the debt, default or miscarriage of another and it is not alleged that the said promise is in writing.

J. F. T. Blachman
Attorney for Charles Head.

RECORDED *Duch*
8-346

DEMURRER.

W. T. RAWLEIGH COMPANY, INC.,
a Corporation,

Plaintiff,

VS.

H. L. McVAY, et al,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 268.

Filed this *29* day *June* 19*35*

R. S. Duch
Clerk-Register

W. T. RALEIGH COMPANY, INC.,
a Corporation,

Plaintiff,

VS.

H. L. McVAY, et al,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 268.

PLEAS.

Now comes the Defendant, Charles Head, and for answer to the Plaintiff's Amended Complaint, and to each count thereof, separately and severally says, separately and severally, as follows:

1. This Defendant, Charles Head, is not guilty of the matters and things therein alleged.
2. There was no consideration for the execution by this Defendant, of the alleged agreement.
3. The account sued on by Plaintiff herein against this Defendant was paid in full before the commencement of this suit.
4. The account sued on by Plaintiff against this Defendant and covered by the said agreement was paid in full before the commencement of this suit.
5. The Plaintiff ought not to recover of this Defendant because at the time the contract was entered into and while in force, the Plaintiff was a corporation not organized under the laws of the State of Alabama and before engaging in or transacting business in this State did not file with the Secretary of State a certified copy of its Articles of Incorporation and an instrument of writing under the seal of the corporation and signed officially by the President and Secretary thereof, designating at lease one known place of business in this State.
6. The Plaintiff ought not to recover of this Defendant because it was contemplated by the alleged contract that the Plaintiff would and did furnish to the said C. R. McVay, to be retailed by him, contrary to law, drugs or medicines or chemicals or poison.
7. The Plaintiff ought not to recover of this Defendant, because at the time the contract was entered into and while in force,

the Plaintiff was a corporation not organized under the laws of the State of Alabama and before engaging in or transacting business in this State did not file with the Secretary of State a certified copy of its Articles of Incorporation and an instrument of writing under the seal of the corporation and signed officially by the President and Secretary thereof, designating at least one known place of business in this State, and an authorized agent or agents residing thereat.

8. The Plaintiff ought not to recover of this Defendant, because at the time the contract was entered into and in force and while the Plaintiff was doing business in this State it was a foreign corporation and had not qualified to do business in this State as required by law.

9. The Plaintiff ought not to recover of this Defendant, because the Plaintiff, under and by and as a part of the said contract, was to and did furnish to the said C. R. McVay, an itinerant vendor, to be exposed or offered for sale, at retail, drugs or medicines or chemicals or poisons, contrary to law.

10. The Plaintiff ought not to recover of this Defendant, because under and by the terms thereof, the Plaintiff was to and did furnish the said C. R. McVay drugs or medicines or chemicals or poisons to be sold by him at retail, contrary to law.

11. The Plaintiff ought not to recover of this Defendant, because the contract sued on is void for that under the contract thereof the Plaintiff was to and did furnish, to be sold at retail, by the said C. R. McVay, drugs or medicines or chemicals or poisons, contrary to law.



Attorney for the Defendant, Charles Head.

PLEAS.

W. T. RAWLEIGH COMPANY, INC.,
a Corporation,

Plaintiff,

VS.

H. L. McVAY, et al,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 268.

Filed August 23, 1939
R. S. Durr, Clerk
By: Franklin Thompson, Deputy

UNITED STATES DEPARTMENT OF COMMERCE
OFFICIAL BUSINESS
REGISTERED ARTICLE
No. 112
INSURED PARCEL
No. _____
Return to R. E. Duck, Crescent Club
Street and number (or Post Office Box) Box 239
Post Office at Bay Bridge, Ala.
Rev. 2-24 05-046 State Alabama

NOTICE: If the above balance is correct, please sign the following account stated and return immediately. If not correct furnish us a statement of your debits and credits and point out claimed errors if any.

C-O-P-Y

ACCOUNT STATED

The W. T. Rawleigh Company

DATE January Jan 16 19 33

Dear Sirs:

I have examined the December Statement of Account and find the balance of \$ 883 62 to be the correct balance due the Company at the close of business Dec. 31, 19 32, which balance I agree to pay according to the terms of my Contract.

Customer Sign Here ☒ (SIGNED) C. R. McVay
and Return to Company

P. O. Loxley

County _____ State Ala.



RECEIPT FOR REGISTERED ARTICLE No. 112
Declared value, \$ _____
From _____
Addressed to _____
121
Accepting employee will place initials in space below, indicating restricted delivery
(Post office and State)
Special delivery fee _____
Postmaster, per _____
Fee paid _____
Delivery restricted to addressee _____
in person _____
or order _____
5-6869

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article
marked with the number on the top of this Card.

(Signature of Postmaster or Agent)

(Signature of Addressee's Agent)

Post Office No. 100
Date 1904

Hand Delivered 30/1/04
R. S. [Signature]
[Signature]
[Signature]