

The State of Alabama, }
BALDWIN COUNTY

CIRCUIT COURT. (LAW)

12

Term, 1943

No. 770 VS.

1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100 2101 2102 2103 2104 2105 2106 2107 2108 2109 2110 2111 2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123 2124 2125 2126 2127 2128 2129 2130 2131 2132 2133 2134 2135 2136 2137 2138 2139 2140 2141 2142 2143 2144 2145 2146 2147 2148 2149 2150 2151 2152 2153 2154 2155 2156 2157 2158 2159 2160 2161 2162 2163 2164 2165 2166 2167 2168 2169 2170 2171 2172 2173 2174 2175 2176 2177 2178 2179 2180 2181 2182 2183 2184 2185 2186 2187 2188 2189 2190 2191 2192 2193 2194 2195 2196 2197 2198 2199 2200 2201 2202 2203 2204 2205 2206 2207 2208 2209 2210 2211 2212 2213 2214 2215 2216 2217 2218 2219 2220 2221 2222 2223 2224 2225 2226 2227 2228 2229 2230 2231 2232 2233 2234 2235 2236 2237 2238 2239 2240 2241 2242 2243 2244 2245 2246 2247 2248 2249 2250 2251 2252 2253 2254 2255 2256 2257 2258 2259 2260 2261 2262 2263 2264 2265 2266 2267 2268 2269 2270 2271 2272 2273 2274 2275 2276 2277 2278 2279 2280 2281 2282 2283 2284 2285 2286 2287 2288 2289 2290 2291 2292 2293 2294 2295 2296 2297 2298 2299 2300 2301 2302 2303 2304 2305 2306 2307 2308 2309 2310 2311 2312 2313 2314 2315 2316 2317 2318 2319 2320 2321 2322 2323 2324 2325 2326 2327 2328 2329 2330 2331 2332 2333 2334 2335 2336 2337 2338 2339 2340 2341 2342 2343 2344 2345 2346 2347 2348 2349 2350 2351 2352 2353 2354 2355 2356 2357 2358 2359 2360 2361 2362 2363 2364 2365 2366 2367 2368 2369 2370 2371 2372 2373 2374 2375 2376 2377 2378 2379 2380 2381 2382 2383 2384 2385 2386 2387 2388 2389 2390 2391 2392 2393 2394 2395 2396 2397 2398 2399 2400 2401 2402 2403 2404 2405 2406 2407 2408 2409 2410 2411 2412 2413 2414 2415 2416 2417 2418 2419 2420 2421 2422 2423 2424 2425 2426 2427 2428 2429 2430 2431 2432 2433 2434 2435 2436 2437 2438 2439 2440 2441 2442 2443 2444 2445 2446 2447 2448 2449 2450 2451 2452 2453 2454 2455 2456 2457 2458 2459 2460 2461 2462 2463 2464 2465 2466 2467 2468 2469 2470 2471 2472 2473 2474 2475 2476 2477 2478 2479 2480 2481 2482 2483 2484 2485 2486 2487 2488 2489 2490 2491 2492 2493 2494 2495 2496 2497 2498 2499 2500 2501 2502 2503 2504 2505 2506 2507 2508 2509 2510 2511 2512 2513 2514 2515 2516 2517 2518 2519 2520 2521 2522 2523 2524 2525 2526 2527 2528 2529 2530 2531 2532 2533 2534 2535 2536 2537 2538 2539 2540 2541 2542 2543 2544 2545 2546 2547 2548 2549 2550 2551 2552 2553 2554 2555 2556 2557 2558 2559 2560 2561 2562 2563 2564 2565 2566 2567 2568 2569 2570 2571 2572 2573 2574 2575 2576 2577 2578 2579 2580 2581 2582 2583 2584 2585 2586 2587 2588 2589 2590 2591 2592 2593 2594 2595 2596 2597 2598 2599 2600 2601 2602 2603 2604 2605 2606 2607 2608 2609 2610 2611 2612 2613 2614 2615 2616 2617 2618 2619 2620 2621 2622 2623 2624 2625 2626 2627 2628 2629 2630 2631 2632 2633 2634 2635 2636 2637 2638 2639 2640 2641 2642 2643 2644 2645 2646 2647 2648 2649 2650 2651 2652 2653 2654 2655 2656 2657 2658 2659 2660 2661 2662 2663 2664 2665 2666 2667 2668 2669 2670 2671 2672 2673 2674 2675 2676 2677 2678 2679 2680 2681 2682 2683 2684 2685 2686 2687 2688 2689 2690 2691 2692 2693 2694 2695 2696 2697 2698 2699 2700 2701 2702 2703 2704 2705 2706 2707 2708 2709 2710 2711 2712 2713 2714 2715 2716 2717 2718 2719 2720 2721 2722 2723 2724 2725 2726 2727 2728 2729 2730 2731 2732 2733 2734 2735 2736 2737 2738 2739 2740 2741 2742 2743 2744 2745 2746 2747 2748 2749 2750 2751 2752 2753 2754 2755 2756 2757 2758 2759 2760 2761 2762 2763 2764 2765 2766 2767 2768 2769 2770 2771 2772 2773 2774 2775 2776 2777 2778 2779 2780 2781 2782

BILL OF COSTS

CLERK'S FEES:	AMOUNT	SUMMARY OF FEES, COSTS, AND JUDGMENT	AMOUNT
Fees in Circuit Court—		Fees and Costs in Circuit Court:	
Docketing Cause, One Fee only of.....	25	Clerk's Fees	5 75
Issuing Summ. and Complt., each.....	1 25	Ex-Clerk's Fees	
Issuing Alias or Branch Summons & Complaint, each.....	30	Sheriff's Fees	
Making Copies Thereof, Minimum, each	30	Ex-Sheriff's Fees	
Making Copies Thereof, over 200 Words, per 100 words.....	15	Witness Fees	
Entering Sheriff's Returns, each	20	Commissioner's Fees	
Entering Appearances, each	40	.....
Certifying Affidavits, each	25	Garnishee's Fees	
Issuing Attachments with Bond, each	1.00	Publisher's Fees	
Orders of Publication, each	50	.....
Copy of Same, each	50	Court Reporter's Fees, Per Day or fraction thereof	5.00
Issuing Summ. to Garnishee, each	50	Trial Tax	3.00
Copy of Same, Per 100 Words	15	.....	3 00
Swearing Garnishee, Etc., Per 100 words, .15, Minimum	50	.....
Release of Garnishee, each	25	.....
Issuing Scire Facias or Similar Notice, each	75	.....
Copies of Same, Per 100 Words.....	15	.....
Making Copy of Interrogatories, Per 100 Words, .15; Minimum	50	Fees and Costs in Inferior Court:	
Commission to Take Depositions, each	75	Clerk of Inferior Court Fees	
Filing Depositions, Each Pkg.,	10	Sheriff's Fees	
Endorsing Each Package of Depositions Opened	10	Justice of Peace Fees	
Issuing Subpoenas, Each	30	Constable's Fees	
Issuing Witness Certificates, each.....	25	.....
Entering Continuances, each	10	.....
Filing Papers, each	10	Fees and Costs in Inferior Court	
Other Orders of Court, each	30	Total Fees and Costs	6 75
Trial and Incidents	75	Judgment	
Entering Judgment, each	30	10 Per Cent Damages	
Complete Record, Per 100 Words	15	Interest	
Taking Bonds, each	75	.....
Certificate of Appeal	25	Total Judgment	
Transcript to Supreme Court, Per 100 Words	15	Total Fees, Costs and Judgment	
Additional Copies of Same, Per 100 Words	65	.....
Issuing Executions or Copy Thereof, each	50	.....
Entering Sheriff's Return, Per 100 Words, .15; Minimum	20	.....
.....		Total	8 75
Total Clerk's Fees	5 75		
SHERIFF'S FEES:			
Serving and Returning Summons or Writ, each	1.50		
Levy on Attachment, each	3.00		
Entering and Returning Same, each	25		
Seizing Personal Property Under Writ of Detinue	3.00		
Taking and Approving Bonds, each.....	1.00		
Summoning Garnishee and Return, each	1.50		
Serving and Returning Sci. Fa. or Notice, Each	1.50		
Serving and Returning Subpoenas, each .....	.65		
Serving Contempt Attachment, each	1.50		
Impanelling Jury.....	.75		
Collecting Execution for Costs Only, each.....	1.50		
Coms. for Collecting Money on Executions			
Executing Writs of Possession, each.....	5.00		
Making Deed to Real Estate Sold, each.....	2.50		
.....			
Total Sheriff's Fees			

Service by reg, mail.

The State of Alabama }
Baldwin County

CIRCUIT COURT--LAW SIDE

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon

THE TROPICAL PAINT & OIL CO.,

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. L. PITMAN

Witness my hand, this 26th day of November

1941

R. S. Duck Clerk.

COMPLAINT

J. I. PITMAN, Plaintiff ! IN THE CIRCUIT COURT OF
vs. ! BALDWIN COUNTY, ALABAMA,
THE TROPICAL PAINT & OIL CO., ! AT LAW
Defendant

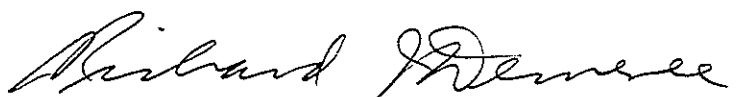
TO THE HONORABLE F. W. HARE, JUDGE OF SAID COURT

COUNT ONE

The Plaintiff claims of the Defendant Two Thousand Five Hundred (\$2,500.00) Dollars damages for a breach of warranty in the sale of certain water-proof roofing material known as Roofkoter, Erielastic, Tocoseal and Tropitex, sold by the Defendant to the Plaintiff on or about dates ranging from December 16, 1938, to April 6, 1939, which the Defendant warranted, "When applied according to our printed specifications, we guarantee Roofkoter will remain water-proof for a period of five (5) years," when, in fact, said roofing material did not and would not remain water-proof although same was applied according to the specifications by an agent of the aforesaid Defendant.


Attorney for the Plaintiff

The Plaintiff demands a trial by jury.


Richard J. Demeree, Attorney for
the Plaintiff

NOTE: Defendant is a non-resident and service can be completed by registered mail, return receipt requested, addressed to The Tropical Paint & Oil Co., Cleveland, Ohio.

718

RECORDED

*Filed for 26 1941
R. S. Duct,
Chick*

J. I. PITMAN,

Plaintiff

versus

THE TROPICAL PAINT & OIL
COMPANY,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

Comes The Tropical Paint & Oil Company, named as the defendant in the above styled cause, by its attorneys, Smith, Hand & Arendall, and appearing solely and specially for the purpose of this motion, and without making a general appearance, and expressly limiting this, its special appearance, to the purpose of quashing the attempted service of process in this case on it, hereby moves the court to quash the service or attempted service of process upon it in said cause, and for separate and several grounds of such motion assigns the following, viz:

1. This court has no jurisdiction over the said The Tropical Paint & Oil Company.

2. The plaintiff in said cause seeks to obtain a personal judgment for the payment of money against the said The Tropical Paint & Oil Company.

3. The plaintiff in said cause seeks to obtain a personal judgment for the payment of money against the said The Tropical Paint & Oil Company, and the only purported service of process upon said named defendant has been by registered mail.

4. The said named defendant is a non-resident of the state of Alabama, being a corporation duly incorporated and existing under the laws of the state of Ohio, and no personal judgment for the payment of money can

be entered against it in this cause, the only service or attempted service of process upon it having been made by registered mail.

5. Said named defendant is a non-resident of the state of Alabama, is a corporation duly incorporated and existing under the laws of the state of Ohio, has not qualified to do business in the state of Alabama, and the only service or attempted service of process upon it has been by registered mail, and this court has no jurisdiction to render a personal judgment for the payment of money against it, as sought by the complaint filed in said cause.

6. Said named defendant is a non-resident of the state of Alabama, is a corporation duly incorporated and existing under the laws of the state of Ohio, has not qualified to do business in the state of Alabama, has not carried on or transacted business in this state, and the only service or attempted service of process upon it has been by registered mail, and this court has no jurisdiction to render a personal judgment for the payment of money against it, as sought by the complaint filed in said cause.

7. Neither said named defendant nor any of its servants, agents or employees has been served with process by personal service within the state of Alabama, nor has any property of said named defendant been attached, and said named defendant, being a non-resident of the state of Alabama and a corporation duly incorporated and existing under the laws of the state of Ohio, cannot be brought under the jurisdiction of this court by service or attempted

3.

service of process upon it by registered mail, as attempted by the plaintiff in said cause.

8. No affidavit has been filed in said cause by a petitioner, the plaintiff or his agent or attorney, as required by code 1940, tit. 7, section 201.

9. The only service or attempted service of process in said cause has been by registered mail sent by R. S. Duck, clerk of this court, to said named defendant, and said service or attempted service of process does not bring said named defendant under the jurisdiction of this court.

10. The only service or attempted service of process in said cause on said named defendant has been by registered mail, issued by R. S. Duck, clerk of this court, and to bring said named defendant under the jurisdiction of this court, by such service, would be in violation of the 14th amendment to the constitution of the United States.

11. The only service or attempted service of process in said cause on said named defendant has been by registered mail, issued by R. S. Duck, clerk of this court, and to bring said named defendant under the jurisdiction of this court, by such service, would deprive the said named defendant of the due process of law, as guaranteed by the 14th amendment to the constitution of the United States.

12. The said named defendant is a foreign corporation organized and existing under the laws of the state of Ohio, has never qualified to do business in the state of Alabama, and has never carried on or transacted business in the state of Alabama, and this court cannot acquire

jurisdiction over the person of said named defendant by service or attempted service of process upon it as attempted in this cause.

13. The only service or attempted service of process in said cause on said named defendant has been by registered mail, issued by R. S. Duck, clerk of this court, and to bring said named defendant under the jurisdiction of this court, by such service, would deprive the said named defendant of the equal protection of the law, as guaranteed by the 14th amendment to the constitution of the United States.

14. The plaintiff in said cause seeks to recover a personal judgment for the payment of money against the said named defendant, and if the code of Alabama of 1940, tit. 7, sections 201 and 202, under which the plaintiff has sought to proceed, were to be construed to give this court jurisdiction to render such a judgment against said named defendant upon service or attempted service of process upon it by registered mail, said statutes would be unconstitutional as so construed in that they would deprive the said named defendant of due process of the law as guaranteed to it by the 14th amendment to the constitution of the United States, and said service or attempted service of process by registered mail is the only type of service of process which has been had against said named defendant.

15. The plaintiff in said cause has sought to secure service of process on said named defendant under code of Alabama of 1940, tit. 7, sections 201 and 202, providing for the service of process on a non-resident by registered mail, and if said statutes were construed to make said named

defendant subject to the jurisdiction of this court for the rendering of a personal judgment for the payment of money, as sought by the plaintiff in said cause, said statutes would deprive the said named defendant, a corporation duly incorporated and existing under the laws of the state of Ohio, of due process of the law as guaranteed by the 14th amendment of the constitution of the United States.

16. Section 209 of tit. 7, Code of Alabama of 1940, expressly forbids the rendering of a personal judgment for the payment of money against the said named defendant, a non-resident of the state of Alabama, upon service or attempted service of process against it in the manner provided by sections 201 and 202 of said title of said code, the statutes under which the plaintiff in said cause has sought to proceed in securing service of process on said named defendant.

Smith, Hand & Aundall

Attorneys for The Tropical Paint &
Oil Company

718

and not have time to re-organize, and of course the...
...to arrange and not through...
...also secure also, some also of...
...general and...
...also...
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Line
718
Melba Dietrich

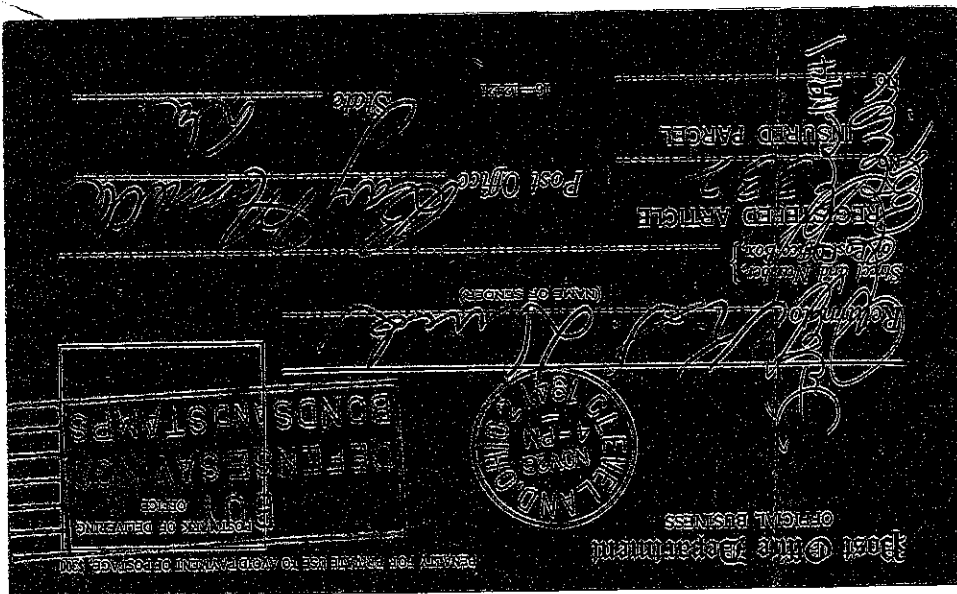
RECORDED

Filed Dec 27 1941
Dietrich
Cluck

1941 Dec 27

Approved for the...
City Council

Filed Dec 27 1941
Dietrich
Reg



RECEIPT FOR REGISTERED ARTICLE No.

15 fee paid. class postage paid. 11-21, 1941

Declared value \$100.00
From M. S. Duncanson
Addressed to Cleveland, Ohio



Accepting employee will place initials in space below, indicating restricted delivery
Return receipt fee 03
Delivery restricted to addressee
Special delivery fee
Postmaster, per B

Form 3514
Rev. 1-1-40

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

RETURN TO POSTAL OFFICE

1

(Signature or name of addressee)

2

Deliver to Addressee

(Signature of addressee or agent. Agents should enter addressee's name on line 1 of card.)

Date of delivery

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16-11241