

ARMBRECHT, INGE, TWITTY & JACKSON  
LAWYERS

WM. H. ARMBRECHT (1874-1941)  
THOS. E. TWITTY  
FRANCIS H. INGE  
WM. H. ARMBRECHT, JR.  
THEO. K. JACKSON, JR.  
RICHARD H. INGE  
NICHOLAS S. McGOWIN

SUITE 403 MERCHANTS NATIONAL BANK BLDG.

MOBILE 6, ALA.  
April 7, 1947

1036

Mrs. Alice J. Duck,  
Clerk of the Circuit Court  
of Baldwin County,  
Bay Minette, Alabama.

In re: State of Alabama  
vs  
Sternberg Dredging Co., Inc. - #1036

Dear Mrs. Duck:

Enclosed herewith is the original and one copy of Demurrer to the complaint in the above styled cause and which we will thank you to file on behalf of the Defendant. Please also note that the Defendant has demanded a trial by jury.

An acknowledgment of this letter will be appreciated.

Yours very truly,

ARMBRECHT, INGE, TWITTY & JACKSON

By:

*T. K. Jackson Jr.*

TKJjr/ke  
Enc.



H. G. DOWLING  
COMMISSIONER OF REVENUE

JULIA KLINGE  
SECRETARY

STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
LEGAL DIVISION  
MONTGOMERY 2, ALABAMA

JOHN W. RISH  
COUNSEL  
H. GRADY TILLER  
ASSISTANT COUNSEL

February 21, 1947

Honorable R. S. Duck  
Circuit Clerk, Baldwin County  
Bay Minette, Alabama

Re: State of Alabama, Plaintiff, v. Sternberg Dredging  
Company, Inc., A Corporation, Defendant, In the  
Circuit Court of Baldwin County, Alabama, At Law

Dear Mr. Duck:

I enclose herewith a summons and complaint against Sternberg  
Dredging Company, Inc., a corporation.

I will appreciate it if you will see to it that same is  
properly issued and placed in the hands of the sheriff for execution.

Yours very truly,

*Gardner F. Goodwyn, Jr.*  
GARDNER F. GOODWYN, JR.  
Senior Attorney  
Department of Revenue

/wmk

Enclosures

P.S. Will you be so kind as to let us know when service is perfected  
and when pleadings are filed in this case. We would appreciate  
your sending us copy of pleadings when they are filed.

*G.F.G.*

1036

State of Alabama  
Comptroller

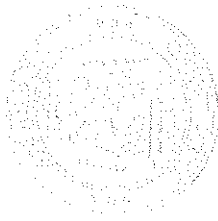
vs

Sternberg Manufacturing Company  
a corporation,  
Defendants.

Sum. & Compst

Filed 2-25-47

A.A. Carmichael  
Atty General



OFFICE OF THE  
COMPTROLLER  
STATE OF ALABAMA  
MONTGOMERY, ALA.

RECEIVED  
FEBRUARY 25 1947  
STATE OF ALABAMA  
COMPTROLLER

STATE OF ALABAMA  
COMPTROLLER  
MONTGOMERY, ALA.

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

YOU ARE HEREBY COMMANDED to summon Sternberg Dredging Company, Incorporated, a corporation, to appear before the Circuit Court in and for said County, at the regular place of holding same, within thirty (30) days from the service of this writ, to then and there demur, answer or plead to the complaint of the State of Alabama hereto attached.

WITNESS my hand this the 22 day of February, 1947.

Alvin J. Much  
CLERK OF THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

\* \* \* \* \*

STATE OF ALABAMA,

Plaintiff

vs.

STERNBERG DREDGING COMPANY, Inc.,  
A Corporation,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

AT LAW

No. 1036

COUNT ONE

The plaintiff, State of Alabama, claims of the defendant, Sternberg Dredging Company, Inc., a corporation, the sum of \$260.75, together with interest upon the sum of \$225.00 from, to-wit, November 1, 1946, due from it as and for a license or privilege tax for the privilege of engaging in business as a contractor under the provisions of Section 496, Title 51, Code of Alabama 1940, for the tax year commencing October 1, 1946, and ending September 30, 1947, within the State of Alabama.

The plaintiff avers that the defendant during said tax year within the State of Alabama did engage in the business of accepting an order or contract or orders or contracts for doing work within the State of Alabama on or in a building or structure requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, electric wiring, or other steel, or <sup>any</sup> other building material or did engage within the State of Alabama in the business of accepting an order or contract or orders or contracts to excavate within the State of Alabama earth, rock, or other material for foundations or any other purpose.

The plaintiff further avers that the defendant during the said tax year and within the State of Alabama, to-wit, the County of Baldwin did engage in the business of performing said order or contract or orders or contracts and did engage in the work on or in said buildings or structures and did use building material in the performance of said work; or during said tax year and within the State of Alabama, to-wit, the County of Baldwin, did engage in the business of performing said order or contract or orders or contracts to excavate earth, rock, or other material for foundations, or any other purpose, and did engage in the work of excavating earth or rock for a canal or canals or for the channel of a canal or canals.

The plaintiff further avers that during said tax year the gross amount of said order or contract or orders or contracts accepted by defendant aggregated in excess of \$100,000.00 but not in excess of \$150,000.00.

The plaintiff further avers that during said tax year the defendant engaged in business as a contractor within the State of Alabama without the payment of said license or privilege tax, and that said sum claimed is due and payable and unpaid; said sum being \$150.00 for the State, \$75.00 for the County of Baldwin, \$33.75 as penalty, \$1.50 as citation fee, and 50¢ as issuance fee, totalling the sum of \$260.75, together with the interest on the sum of \$225.00 from, to-wit, November 1, 1946. The plaintiff further avers that the defendant was duly and properly cited on, to-wit, December 13, 1946, for said license or privilege tax.

The plaintiff avers that the principal office of the defendant is without the State of Alabama, and that said order or contract or orders or

contracts were accepted by the defendant to be performed within the County of Baldwin, State of Alabama.

COUNT TWO

The plaintiff, State of Alabama, claims of the defendant, Sternberg Dredging Company, Inc., a corporation, the sum of \$260.75, together with interest upon the sum of \$225.00 from, to-wit, November 1, 1946, due from it as and for a license or privilege tax for the privilege of engaging in business as a contractor under the provisions of Section 496, Title 51, Code of Alabama 1940, for the tax year commencing October 1, 1946, and ending September 30, 1947, within the State of Alabama.

The plaintiff avers that the defendant during said tax year did the engage in/business of accepting an order or contract or orders or contracts for doing work within the State of Alabama on or in a building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, electric wiring, or other steel, or any other building material, or did engage in the business of accepting an order or contract or orders or contracts to excavate within the State of Alabama earth, rock, or other material for foundations or any other purpose.

The plaintiff further avers that the defendant during the said tax year and within the State of Alabama, to-wit, the County of Baldwin, did engage in the business of performing said order or contract or orders or contracts and did engage in the work on or in said buildings or structures and did use building material in the performance of said work; or during said tax year and within the State of Alabama, to-wit, the County of Baldwin, did engage in the business of performing said order or contract or orders or contracts to excavate earth, rock, or other material for foundations, or any other purpose, and did engage in the work of excavating earth or rock for a canal or canals or for the channel of a canal or canals.

The plaintiff further avers that during said tax year the gross amount of said order or contract or orders or contract accepted by defendant aggregated in excess of \$100,000.00 but not in excess of \$150,000.00.

The plaintiff further avers that during said tax year the defendant engaged in business as a contractor within the State of Alabama without the payment of said license or privilege tax, and that said sum claimed is due and payable and unpaid; said sum being \$150.00 for the State, \$75.00 for the County of Baldwin, \$33.75 as penalty, \$1.50 as citation fee, and 50¢ as issuance fee, totalling the sum of \$260.75, together with interest on the sum of \$225.00 from, to-wit, November 1, 1946. The plaintiff further avers that the defendant was duly and properly cited on, to-wit, December 13, 1946, for said license or privilege tax.

The plaintiff avers that the principal office of the defendant is without the State of Alabama, and that said order or contract or orders or contracts were accepted by the defendant to be performed within the County of Baldwin, State of Alabama.

A A Carmichael  
ATTORNEY GENERAL

H Grady Tiller  
ASSISTANT ATTORNEY GENERAL

Gardner F. Goodwyn, Jr.  
ASSISTANT ATTORNEY GENERAL

Rec'd in Office  
2-25-47  
Taylor Wilkins  
Sheriff

3-5-47  
Returned 3-8-47  
Not found in my County after diligent search  
and inquiry.

W. H. HOLCOMBE, Sheriff

*W. H. Holcombe*

Executed - 3-11-47  
by serving copy of the  
within summons on  
Ray Tombridge agent  
for Sternberg Dredging  
Co inc.

Taylor Wilkins Sheriff  
H. F. Hall D. S.

814 766  
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY,  
ALABAMA  
AT LAW  
No. 1036

STATE OF ALABAMA,  
Plaintiff  
vs.

STERNBERG DREDGING COMPANY, INC.,  
A Corporation,  
Defendant

*Federal Bldg.*

Filed this the 25 day of  
February, 1947.

*Alvin J. Luck*  
CLERK



STATE OF ALABAMA,

Plaintiff

vs.

STERNBERG DREDGING COMPANY, Inc.,  
A Corporation,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

AT LAW

No. 1036

Comes now the defendant and demurs to the complaint in the above styled cause and each and every count thereof, separately and severally, and as grounds therefor, sets down and assigns, separately and severally the following:

1. The defendant says that for aught that appears in said count said defendant at the time and place complained of was engaged in interstate commerce.

2. For that it affirmatively appears from said count that the defendant was engaged in interstate commerce.

3. For aught appearing in said count said privilege or license tax sought to be imposed upon the defendant constitutes a burden, limitation or restriction on interstate commerce and is repugnant to the laws of the government of the United States of America.

4. For that it affirmatively appears in said count said privilege or license tax sought to be imposed upon the defendant constitutes a burden, limitation or restriction on interstate commerce and is repugnant to the laws of the government of the United States of America.

5. For aught appearing in said count said defendant is a foreign corporation engaged exclusively in carrying on and operating a business between the various states of the United States.

6. For aught appearing in said count said license or privilege tax sought to be imposed on said defendant constitutes a direct tax on interstate commerce.

7. For aught appearing in said count said license or privilege tax sought to be imposed on said defendant constitutes an indirect tax on interstate commerce.

8. For that the tax sought to be imposed in said count upon said defendant is unconstitutional, unlawful and invalid in that it attempts or permits the levying indirectly of a tax on interstate commerce; and that such taxation is a burden on interstate commerce, and amounts to a regulation of interstate commerce, which said regulation is exclusively within the jurisdiction of the Congress of the United States.

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*Armbricht Inge Twitty & Jackson*  
ARMBRECHT, INGE, TWITTY & JACKSON,  
Attorneys for Defendant

Defendant demands a trial by jury.

*Armbricht Inge Twitty & Jackson*  
ARMBRECHT, INGE, TWITTY & JACKSON,  
Attorneys for Defendant

Filed  
H-8-47  
Alice Duck  
Clerk



STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
LEGAL DIVISION  
MONTGOMERY 2, ALABAMA

H. GRADY TILLER  
CHIEF COUNSEL

GARDNER F. GOODWYN, JR.  
PRINCIPAL ATTORNEY

PHILLIP J. HAMM  
COMMISSIONER OF REVENUE

JAMES A. STEPHENS  
ASSISTANT COMMISSIONER

JULIA KLINGE  
SECRETARY

March 1, 1948

Mrs. Alice J. Duck  
Clerk, Circuit Court  
Baldwin County  
Bay Minette, Alabama

Re: State of Alabama v. Sternberg Dredging Company,  
Circuit Court of Baldwin County, No. 1036.

Dear Mrs. Duck:

This is to advise that the defendant, Sternberg Dredging Co., has paid to the State the amount sued for in this cause, and we have agreed to dismiss the suit and to pay the costs incurred. If you will, therefore, let us have the Court cost bill, in duplicate, certified to by you as correct, we shall be glad to put same in line for payment. In this connection please be advised that there will be no trial tax assessed as part of the costs.

We are also enclosing herewith motion to dismiss the suit, and we shall thank you to call same to the attention of the Court when he next holds Court in Baldwin County.

Thanking you and with regards, we are

Yours very truly,

H. GRADY TILLER  
Chief Counsel

HGT:wmk

cc: Armbrecht, Inge, Twitty,  
& Jackson  
Mobile, Alabama

STATE OF ALABAMA,

Plaintiff

vs.

STERNBERG DREDGING COMPANY, INC.,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA,

AT LAW

No. 1036

Now comes the State of Alabama by its attorneys and moves the Court to dismiss this cause out of Court, the amount sued for having been paid by the defendant to the State of Alabama.

The State of Alabama hereby agrees and consents that the costs of Court be taxed against it.

*A. A. Barnum*

ATTORNEY GENERAL OF ALABAMA

*H. Grady Tiller*

ASSISTANT ATTORNEY GENERAL OF ALABAMA

Attorneys for Plaintiff

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STATE OF ALABAMA

MONTGOMERY COUNTY

I, H. Grady Tiller, of counsel for plaintiff, hereby certify that I have this day mailed a copy of the above and foregoing motion to Messrs. Ambrecht, Inge, Twitty, & Jackson, counsel of record for defendant, Mobile, Alabama, with postage prepaid.

DONE this the 1st day of March, 1948.

*H. Grady Tiller*

OF COUNSEL FOR PLAINTIFF

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY,  
ALABAMA,  
AT LAW  
No. 1036

STATE OF ALABAMA,  
Plaintiff

vs.

STERNBERG DREDGING COMPANY, INC.,  
Defendant

MOTION TO DISMISS

Filed this the 3 day of  
March, 1948.

*W. J. Duck*  
CLERK

1036