

1212

STATE OF ALABAMA  
BALDWIN COUNTY

IN THE CIRCUIT COURT  
LAW SIDE

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Charles F. Davis, 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 Airbank of America, Inc., a Corporation.

Witness my hand this 23rd. day of July, 1948.

*Alice J. Luck*  
Clerk.

COMPLAINT

AIRBANK OF AMERICA, INC.,  
A Corporation,

Plaintiff,

vs.

CHARLES F. DAVIS,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
LAW SIDE.

COUNT ONE:

The Plaintiff claims of the Defendant the following described personal property, to-wit:-

One (1) 1940 Boeing Aircraft Model A-75-N1,  
Serial Number 75-939, C. A. A. Certificate  
Number NR 54561,

with the value of the hire or use thereof during the detention, since to-wit, April 1, 1948.

COUNT TWO:

The Plaintiff claims of the Defendant One Thousand Five Hundred Twelve and 60/100 Dollars (\$1,512.60), together with interest thereon, due by Promissory Note made by him on to-wit, January 30, 1948, and payable in installments of One Hundred Twenty-six and .05/100 Dollars (\$126.05) each, the first of said installments being due and payable on March 1, 1948, which said

installment is due and unpaid; which said Note provided that the failure to pay any installment makes all amounts due thereunder due and payable.

The Plaintiff avers that in, by and as a part of said Note the Defendant agreed to pay all costs of collecting said Note, including a reasonable attorneys fee and the Plaintiff further claims of the Defendant, the further and additional sum of Three Hundred Dollars (\$300.00) as such reasonable attorneys fee.

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Attorneys for Plaintiff.

TAYLOR WILKINS, Sheriff  
to the Sheriff of said County:

... eas, the Plaintiff in  
... in stated cause has  
made affidavit and given bond  
as required by law you are  
hereby required to take the  
property mentioned in Com-  
plaint into your possession  
unless the Defendant gives  
bond payable to the Plaintiff  
with sufficient surety in  
double the amount of the value  
of the property, with condition  
that if the Defendant is cast  
in the suit he will within  
thirty days thereafter, de-  
liver the property to the  
Plaintiff, and pay all damages  
and costs which may accrue  
from the detention thereof.

Alice J. Leuch  
Clerk

Executed this July 24-1948  
By serving a copy of  
the within writ on  
Charles F. Davis and  
taking into my possession one  
1940 Boeing aircraft model A-75-11  
Serial no. 75-939 - C.A.A. Cert no  
NR 54561 - and on August  
2nd 1948 the Plaintiff made  
bond for same.  
Taylor Wilkins  
Sheriff

RECORDED

SUMMONS & COMPLAINT

AIRBANK OF AMERICA, INC.,  
A Corporation,

Plaintiff,

vs.

CHARLES F. DAVIS,

Defendant,

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Filed this 23<sup>rd</sup> day of July,  
1948.

Alice J. Leuch  
Clerk.

LAW OFFICES  
HYBART & CHASON  
BAY MINETTE, ALABAMA

AIRBANK OF AMERICA, INC.,  
A Corporation,

Plaintiff,

vs.

CHARLES F. DAVIS,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Marlowe P. Stone Jr., a Notary  
Public, in and for said County in said State personally appeared  
John Chason, who is known to me and who after being by me first  
duly and legally sworn, doth depose and say under oath as follows:-

That his name is John Chason; that he is one of the  
attorneys for the Plaintiff in the above styled cause and as such  
is duly authorized to make this affidavit; that the property sued  
for in the Complaint filed in the above styled cause, to-wit:-  
One (1) 1940 Boeing Aircraft Model A-75-N1, Serial Number 75-939,  
C. A. A. Certificate Number NR 54561, is the property of the said  
Plaintiff.

Sworn to and subscribed before  
me this 23<sup>rd</sup> day of July, 1948.

Marlowe P. Stone Jr.  
Notary Public, Baldwin County,  
Alabama.

AIRBANK OF AMERICA, INC.,  
A Corporation,

Plaintiff,

vs.

CHARLES F. DAVIS,

Defendant,

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

KNOW ALL MEN BY THESE PRESENTS, that we, Airbank of America, Inc., a corporation, as principal, and the undersigned as surety, are held and firmly bound unto Charles F. Davis, his heirs executors and administrators in the sum of Twenty-five Dollars (\$25.00), for the payment of which we bind ourselves, our successors and assigns, forever, firmly by these presents.

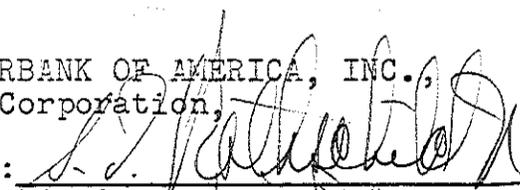
Sealed with our seals and dated this 23rd day of July, 1948.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH: That whereas, the above bound Airbank of America, Inc., a corporation, has on the 22 day of July, 1948, sued out from the Office of the Clerk of the Circuit Court of Baldwin County, Alabama, a Writ of Detinue, returnable at the next term of said Court against the said Charles F. Davis for the recovery of the following described property, to-wit:-

One (1) 1940 Boeing Aircraft Model A-75-N1,  
Serial Number 75-939, C. A. A. Certificate  
Number NR 54561

NOW THEREFORE, if the said Airbank of America, Inc., a corporation shall fail in said suit and shall pay the said Charles F. Davis, the Defendant in said writ, all such costs and damages as he may sustain by the wrongful suing out of said Writ of Detinue, then this obligation to be void, otherwise to remain in full force and effect.

AIRBANK OF AMERICA, INC.,  
A Corporation,

BY: 

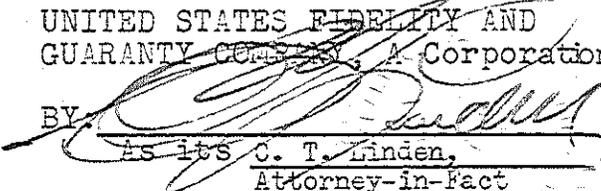
As its S. J. [unclear]

Taken and approved

this 23 day of July, 1948.

  
Clerk.

UNITED STATES FIDELITY AND  
GUARANTY COMPANY, A Corporation

BY: 

As its C. T. Linden,  
Attorney-in-Fact

RECORDED

AFFIDAVIT AND BOND

AIRBANK OF AMERICA, INC.,  
A Corporation,

Plaintiff,

vs.

CHARLES F. DAVIS,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Filed this 23rd. day of July,  
1948.

*Alicia J. Leuch*  
Clerk.

LAW OFFICES  
HYBART & CHASON  
BAY MINETTE, ALABAMA

AIR BANK OF AMERICA,  
INC., A CORPORATION,

PLAINTIFF

VS

CHARLES F. DAVIS

COMPLAINANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

Now comes the Defendant and for answer to the Plaintiff's complaint, says:

1.

As to count 1 he pleads the general issue.

2.

As to count 2 he pleads;

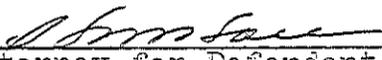
(a) That the facts therein alleged are untrue;

(b) That the note upon which this suit is brought has failed, in part, as to the consideration paid for the same in this: the consideration of the note was the purchase by the Defendant from the Plaintiff of one 1940 Boeing Aircraft-Model A-75-W1, Serial number 75-959, C. A. A. certificate number NR 54561, and in the sale of said aircraft by the Plaintiff, the said aircraft was <sup>supplied</sup> warranted to be in good mechanical and flying condition. And Defendant says that said aircraft was not as warranted, in that the center section was damaged beyond repair; that wheels were out of order; the tail wheel needed repair; the ribs in the wing were rotten; the fabric was bad; and the motor needed an overhauling.

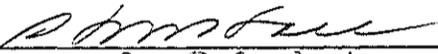
(c) That the consideration for said note has failed in that it was given in payment of the aircraft described in the bill of complaint, and that said aircraft was in bad mechanical order and condition, in that the center section was damaged beyond repair; the wheels were in bad shape; the tail wheel was in bad shape; the fabric was bad; the wing ribs were rotten; the motor needed

over hauling; that said defects could not be ascertained by a casual examination of said aircraft.

(d) That the indebtedness for which said note was given, was paid before this action was commenced.

  
\_\_\_\_\_  
Attorney for Defendant

The Defendant demands a trial by Jury.

  
\_\_\_\_\_  
Attorney for Defendant

RECORDED

AIR BANK OF AMERICA  
INC., A CORPORATION

PLAINTIFF

VS

CHARLES F. DAVIS

COMPLAINANT

FILED

AUG 19 1948

ALICE J. DUCK, ~~Register~~ *clerk*

AIRBANK OF AMERICA, INC.,  
A Corporation,

Plaintiff,

vs.

CHARLES F. DAVIS,

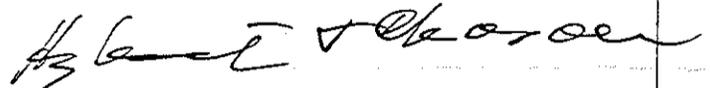
Complainant

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

The Plaintiff files this demurrer separately and severally to please "B" and "C" of the Defendant and as grounds therefor says:

1. That said plea presents no defense to this cause of action.
2. That said plea fails to state as to whether the warranty mentioned therein is expressed or implied.
3. That the matters complained of therein should be interposed by recoupment.
4. That for aught appearing the Defendant is still in the possession of the aircraft.
5. That the Defendant fails to allege that he has offered to rescind <sup>the</sup> said contract and to restore the ~~same~~ <sup>property</sup> to Plaintiff.
6. That for aught appearing said aircraft is of some value and the possession of the same is in the Defendant.

  
Attorneys for Plaintiff.

RECORDED

DEMURRER

AIRBANK OF AMERICA, INC.,  
A Corporation,

Plaintiff,

vs.

CHARLES F. DAVIS,

Complainant

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
LAW SIDE.

*Filed 9-27-48  
Alice J. Smith  
Clerk*

AIRBANK OF AMERICA  
INC., A CORPORATION.

PLAINTIFF

VS

CHARLES F. DAVIS

DEFENDANT

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

NO 1212

Now comes the Defendant and amends his answer heretofore filed in this cause by adding thereto pleas (E);

E. Comes the Defendant and for answer to Plaintiff's complaint and to each count thereof separately and severally says; that the note upon which this suit is brought has failed as to the consideration paid for the same in this, the consideration of the note was the purchase of 1-1940 Boeing Aircraft-Model A-75-N1, Serial number 75-939, C. A. A. certificate number NR 54561, and in the sale of said aircraft by the Plaintiff, the aircraft was warranted to be in good mechanical and flying condition. And Defendant says that said aircraft was not suited for the purposes for which it was purchased in that the center section was damaged; the wheels were out of order; the tail wheel needed repair; the ribs in the wing were rotten; the fabric was bad; the motor needed overhauling. Defendant further says that on July 24, 1948, the said aircraft was taken from his possession, by and under a writ issued out of the Circuit Court of Baldwin County, Alabama, and that the said aircraft is now in the possession of the Plaintiff under bond, executed by it, and approved by the Sheriff of Baldwin County, Alabama, on August 2, 1948.

  
Attorney for Defendant

~~1133~~

1212

RECORDED

Amended Answer

AIRBANK  
PLAINTIFF

VS

CHARLES F. DAVIS

DEFENDANT

FILED

OCT 6 1948

ALICE J. DUCK, Clerk

AIRBANK OF AMERICA, INC.,  
A Corporation,

Plaintiff,

vs.

CHARLES F. DAVIS,

Defendant,

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

REPLEVIN BOND OF PLAINTIFF IN DETINUE

KNOW ALL MEN BY THESE PRESENTS, that Airbank of America, Inc., a corporation, as principal, and the undersigned as surety, are held and firmly bound unto Charles F. Davis, the Defendant in the above styled cause, which is now pending in the Circuit Court of Baldwin County, Alabama, in the sum of Two Thousand Dollars (\$2,000.00) for the payment of which, well and truly to be made, we bind ourselves, our successors and assigns jointly and severally firmly by these presents.

Sealed with our seals and dated this 2 day of August, 1948.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH: That whereas, the above named Airbank of America, Inc., a corporation, commenced an action in detinue against Charles F. Davis, as Defendant, by having a Writ of Detinue issued out of the Circuit Court of Baldwin County, Alabama, on the 23 day of July, 1948, by which, together with the endorsement thereon, any Sheriff of the State of Alabama was commanded to take into his possession the following described property, viz:-

One(1) 1940 Boeing Aircraft Model A-75-N1,  
Serial Number 75-939, C. A. A. Certificate  
Number NR 54561

which said writ was placed in the hands of Taylor Wilkins, as Sheriff of Baldwin County, Alabama, on the 23 day of July, 1948, and which said writ the said Taylor Wilkins, as Sheriff, executed according to its mandates, by taking into his possession on the 24 day of July, 1948, the following described property, viz:-

One (1) 1940 Boeing Aircraft Model A-75-N1,  
Serial Number 75-939, C. A. A. Certificate  
Number NR 54561

And whereas the said Charles F. Davis, the Defendant in said suit, has failed and neglected for a period of five (5) days from the date the Sheriff took said property into his possession, to give bond and take possession of said property as allowed by law.

NOW THEREFORE, if the said Airbank of America, Inc., shall deliver said property to Charles F. Davis, the Defendant in said suit, within thirty (30) days after judgment therefor, together with damages for the detention of said property and costs of court, provided it shall fail to recover the same in said suit then this obligation to be void, otherwise to remain in full force and effect.

AIRBANK OF AMERICA, INC.,  
A Corporation,

BY: [Signature]

As its Vice Pres.

Taken and approved  
this 2 day of August,  
1948.

[Signature]  
Sheriff of Baldwin County,  
Alabama.

UNITED STATES FIDELITY AND  
GUARANTY COMPANY, a Corporation

BY: [Signature]

As its C.T. Linden, Attorney-

in-Fact