

HENRY O. CARPENTER,

Plaintiff,

-vs-

SERVICE FIRE INSURANCE
COMPANY OF NEW YORK,

Defendant.

) IN THE CIRCUIT COURT OF
)
) BALDWIN COUNTY, ALABAMA.
)
) AT LAW. NO. 1267
)
)
)
)
)

Comes the defendant and propounds the following interrogatories to the plaintiff:

1. What is your correct name, age and residence?
2. Who owned the automobile involved in this case?
3. Did any company or person own a lien or other encumbrance against the automobile? If your answer to this question is in the affirmative, please give the name and address of such lien holder and the amount due to him thereon.
4. When and from whom did you purchase the automobile which is the subject of this suit? How much did you pay for it? Please state if the automobile was new or used at the time you purchased the same. Please attach a copy of the bill of sale to you and a copy of any conditional sales contract entered into by you when you purchased the car.
5. In your suit you contend that this automobile was destroyed by fire; please state when and where the same was so destroyed.
6. Do you know how the fire started? If so, please describe.
7. Which part of the automobile caught fire first?
8. Were the tires on the automobile burned?
9. How much gasoline was in the automobile at the time same burned?
10. Was the car completely destroyed? How much of the car remained after the purported fire?
11. Where had you been just before the fire? Where were you at the time the automobile burned?

12. Was any one with you at the time the automobile burned? If so, please state his or her name.

13. Had you changed the tires on the automobile just before the same was burned?

14. Did you see the automobile while the same was burning?

15. Did you have any items of personal property in the automobile at the time the same burned? Were these items destroyed by fire?

16. Did you file a written proof of loss with the defendant company after the automobile burned? If your answer is yes, please state when the same was filed and attach a copy hereto of the said proof of loss.

17. Please attach hereto a true copy of the insurance policy under which you claim damages for the loss of your automobile.

18. After the loss did you make a written demand for appraisal on the Service Fire Insurance Company of New York and select a competent and disinterested appraiser and have an appraisal made on the damage to the automobile?

19. Was an appraisal made in accordance with the terms of the policy.



HOWELL & JOHNSTON,
ATTORNEYS FOR DEFENDANT. OF COUNSEL

STATE OF ALABAMA)
)
COUNTY OF MOBILE)

Personally appeared before me, the undersigned
Notary Public in and for said County and State, Robert E.
Hodnette, Jr. who after being by me first duly and legally
sworn and who deposes and says that he is one of the attorneys
for the defendant in the above entitled cause, and if the

foregoing interrogatories are truthfully and correctly
answered, that they will be material evidence for the
defendant in the trial of said cause.

Robert E. Horton

Subscribed and sworn to before me on
this 17 day of December, 1948.

Merlene Schultz
Notary Public, State of Alabama at Large

Filed 12-8-48
Alice L. Luck
Clerk

HENRY O. CARPENTER,

Plaintiff,

-vs-

SERVICE FIRE INSURANCE
COMPANY OF NEW YORK,

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PLEA IN ABATEMENT

Comes now the defendant herein, SERVICE FIRE INSURANCE COMPANY OF NEW YORK, and prays that this suit should not be further maintained, and should be abated, in that in and by the terms of the policy executed by the defendant to the plaintiff, and which contains a contract of insurance, it was provided that "payment for loss may not be required nor shall action lie against the company unless, as a condition precedent thereto, the insured shall have fully complied with all the terms of this policy, nor until thirty days after proof of loss is filed and the amount of loss determined as provided in this policy". And it is further provided therein "when loss occurs, the insured shall: (c) File proof of loss with the company within sixty days after the occurrence of loss, unless such time is extended in writing by the company, in the form of a sworn statement of the insured, setting forth the interest of the insured, and of all others in the property affected, any encumbrances thereon, the actual cash value thereof at the time of loss, the amount, place, time, and cause of such loss, the amount of rental or other expense for which reimbursement is provided under this policy, together with original receipt therefor, and a description and amounts of all other insurance covering such property". And it is averred that plaintiff has not filed such proof of loss, as provided for.

2. For that in and by the terms of the policy and certificate executed by defendant to the plaintiff, and which contains a contract of insurance, it is provided that "payment of loss may not be required nor shall action lie against the company, unless, as a condition precedent thereto, the insured shall have fully complied with all the terms of this policy, nor until thirty days after proof of loss is filed and the amount of loss determined as provided in this policy". And it is further provided therein "if the insured and the company fail to agree as to the amount of loss, each shall, on the written demand of either, made within sixty days after receipt of proof of loss by the company, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraiser shall first select a competent and disinterested umpire, and failing for fifteen days to agree upon such umpire, then, on the request of the insured or the company, such umpire shall be selected by a judge of a court of record in the County and State in which such appraisal is pending. The appraiser shall then appraise the loss, stating separately the actual cash value at the time of loss, and the amount of loss, and failing to agree, shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The insured and the company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraiser and umpire. The company shall not be held to have waived any of its rights by any act relating to appraiser". It is averred that this provision of said policy of insurance has not been complied with, and it avers that it has not received a proof of loss from the plaintiff herein.

SERVICE FIRE INSURANCE COMPANY
OF NEW YORK

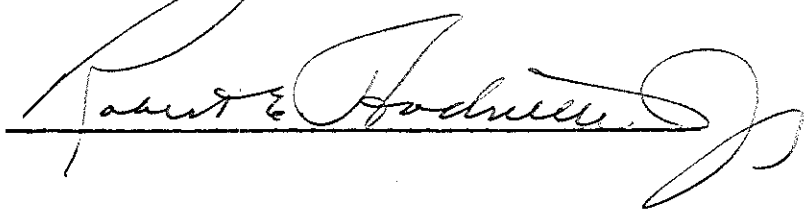
BY

Robert E. Hadwitt
Attorney.
of Counsel
Howell & Johnston, Attys.

STATE OF ALABAMA)

COUNTY OF MOBILE)

Personally appeared before me, the undersigned authority in and for said State and County, Robert E. Hodnette, Jr., whose signature, as attorney for Service Fire Insurance Company of New York, is hereinabove affixed, who is known to me and who has been by me first duly sworn, deposes and says that the statements of fact contained in the foregoing pleas are true and correct to the best of his knowledge, information and belief.



Subscribed and sworn to before me on
this 6th day of December, 1948.


Notary Public, State of Alabama at Large

129

Filed

12-7-48

Alice J. Leuch
clerk

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA, }
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 1267

TERM, 1948

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon

SERVICE FIRE INSURANCE COMPANY

to appear and plead, answer or demur, within thirty days from the service hereof, to the Complaint filed in

the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

SERVICE FIRE INSURANCE COMPANY

, Defendant.

by HENRY O. CARPENTER

, Plaintiff.

Witness my hand this 12th day of November 1948

W. J. Smith

, Clerk.

No. 1267

Page _____

THE STATE of ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT

HENRY O. CARPENTER

Plaintiffs

vs.

SERVICE FIRE INSURANCE COMPANY

OF NEW YORK

Defendants

SUMMONS and COMPLAINT

Filed Nov. 12, 1948

W. J. W. W. W. Clerk

R. M. M. M. M.
Plaintiff's Attorney

Defendant's Attorney

Sept 3rd Monty 1032

RECEIVED IN OFFICE

Defendant lives at

NOV 13 1948

RECEIVED IN OFFICE

G. A. MOSLEY, Sheriff, 1948

Jayce Wilkins, Sheriff

I have executed this summons

this _____, 194____
by leaving a copy with

EXECUTED BY DELIVERING

a copy of the within

To L. L. Gualtney

Sup. of Dist.

OF THE State of Ala

AND SAID L. L. Gualtney

WAS SUCH WHEN SO SERVED

This the 11-15, 1948

G. A. Mosley

Sheriff Montgomery County

By G. A. M. Deputy Sheriff

Deputy Sheriff