

1604

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon CLAUDE PETRET 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 Dean G. Almon.

WITNESS MY hand this the 19th day of January, 1951.

Reice J. Leuck
Register

DEAN G. ALMON
PLAINTIFF
VS
CLAUDE PETRET
DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
AT LAW

1.

The Plaintiff claims of the Defendant FIVE HUNDRED (\$500.00) DOLLARS due by promissory note, made by H. E. Boyd and Bernice E. Boyd payable to the Plaintiff dated March 28, 1949, and payable July 26, 1949 with interest at the rate of 5% per annum from date, and which was endorsed by the Defendant, which amount together with interest thereon is due and unpaid.

2.

The Plaintiff claims of the Defendant TWO THOUSAND (\$2000.00) DOLLARS due by promissory note made by H. E. Boyd and Bernice E. Boyd payable to the Plaintiff dated March 28, 1949, and due November 5, 1949, together with interest at 5% per annum from date, and endorsed by the Defendant which amount together with the interest thereon is due and unpaid.

3.

The Plaintiff alleges that the Defendant, as endorsee in, by and as a part of said notes, herein described in count one and two waived all exemption as to personal property under the laws of the State of Alabama, and agreed to pay all cost of collecting or securing or attempting to collect or secure said notes including a reasonable attorney's fee; that SEVEN HUNDRED FIFTY (\$750.00) DOLLARS is a reasonable attorney's fee, which amount the Plaintiff claims of the Defendant.

Robert S. Law
Attorney for the Plaintiff

Received in Sheriff's Office
this 19 day of Jan, 1951
TAYLOR WILKINS, Sheriff

vy m160 **RECORDED**

1-24 1951
Serving copy of within Summons and
Complaint on

Claude Petest

DERM G. ALLEN

PLAINTIFF

VS

CLAUDE PETEST

DEFENDANT

Taylor Wilkins
Sheriff
Edleigh Steadham P.S.

SUMMONS AND COMPLAINT

FILED
JAN 19 1951
ALICE J. BUCK, Clerk

DEAN G. ALMON

PLAINTIFF

VS

CLAUDE PETEET

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

Comes the defendant in the above styled cause and for answer to plaintiff's complaint and to each count thereof separately and severally, ~~and~~ says.

1. That there was no consideration for the defendant's endorsement of the said notes.

2. That the notes declared on have been paid.

3. That the note declared on in count one was due July 28, 1949, and the note declared on in count two was due November 5, 1949, and that at the time that each of the said notes became due and payable the same could have been and ought to have been collected out of and from the makers thereof namely, H. E. Boyd and Bernice E. Boyd, that the plaintiff wrongfully neglected and failed to collect or to attempt to collect the said notes from the said makers within a reasonable time after the same became due and by such failure and neglect the said Bernice E. Boyd and H. E. Boyd disposed of their properties and left the state of Alabama, and as a result of such neglect and failure on the part of the plaintiff he ought not to further prosecute this suit.

4. That the defendant signed the said notes as accommodation endorser thereof and without consideration and that the plaintiff is not the holder of the said notes in due course for value.

5. That the defendant is accommodation endorser of the said notes that the same were not presented for payment at the time and place provided therein for payment within the time

and in the manner provided by law.

6. That the defendant is accommodation endorser of the said notes without consideration to him, that no notice of dishonor by the makers thereof was ever given to him and that he was thereby and is discharged from liabilities thereon.

7. That the said notes were given by the makers thereof, H. E. Boyd and Bernice E. Boyd, and were endorsed by this defendant in connection with and as a part of the cash payment under a contract between the plaintiff in this suit and the said Bernice E. Boyd for the purchase of certain properties in Baldwin County, Alabama, that under and by virtue of the terms of said contract it was provided that if she should fail to pay the said purchase money, the contract should be null and void and the plaintiff should retake the possession of said property and retain all payments thereunder as liquidated damages; that the plaintiff cancelled the said contract, retook possession of the said properties and retained the payments thereunder as liquidated damages, and thus discharges the makers of the said note namely, Bernice E. Boyd and H. E. Boyd, and therein and thereby discharged this defendant from liabilities thereon.

8. That the said notes were not presented for payment at the time and in the manner required by law and this defendant who endorsed the same as an accommodation endorser was thereby discharged from liabilities thereon.

9. That the said notes were not protested at the time ~~and in the manner required by law when payment thereof by the~~ makers was not made and notice of protest of non-payment was not given this defendant, as required by law, hence this defendant, who endorsed the same as accommodation endorser, is discharged from liability thereon.

10. That the said notes were given by the makers thereof, H. E. Boyd and Bernice E. Boyd, and were endorsed by this defendant, in connection with and as a part of the cash payment under a contract between the plaintiff in this suit and the said Bernice E. Boyd for the purchase of certain properties in Baldwin County, Alabama, that under and by virtue of the terms of said contract, it was provided that upon the failure to pay the said purchase money, the contract should be null and void and the plaintiff should retake the possession of said property and hold all payments made thereunder as liquidated damages; that upon such failure the plaintiff waived the collection of said notes and cancelled the said contract and retook possession of the said properties and retained the payments thereunder as liquidated damages and thus discharges the makers of the said note, namely, Bernice E. Boyd and H. E. Boyd, and therein and thereby discharged this defendant from liabilities thereon.


Attorney for defendant.

RECORDED

Alman
No
Patent -
#1604

Please

FILED

FEB 27 1952

ALICE J. DUCK, Clerk

Filed Feb 27, 1952

Alice J. Duck
Clerk

1604