

1515

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 A. L. McCue 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 T. E. Malone.

Witness my hand this 16th day of June, 1950.

Alfred J. Dush
Clerk.

COMPLAINT:

T. E. MALONE,	¶	IN THE CIRCUIT COURT OF
Plaintiff,	¶	BALDWIN COUNTY, ALABAMA
vs.	¶	LAW SIDE.
A. L. McCUE,	¶	
Defendant.	¶	

COUNT ONE:

Plaintiff claims of the Defendant the sum of Four Thousand, Seven Hundred and no/100 Dollars (\$4,700.00) due by promissory note made by him on to-wit, September 19, 1942, and payable on to-wit, January 1, 1943, together with interest thereon.

The Plaintiff avers that in, by and as a part of said note the Defendant agreed to pay all costs of collecting or securing, or attempting to collect or secure said note, including a reasonable attorney's fee whether the same be collected or secured by suit or otherwise and the Plaintiff further claims of the Defendant the further and additional sum of Eleven Hundred Dollars (\$1100.00) as such reasonable attorneys fee.

The Plaintiff further avers that in, by and as a part of said note the Defendant waived as to this debt, or any renewal thereof, all rights to exemption under the constitution and laws of Alabama, or any other State, as to personal property and of this waiver, the Plaintiff now claims the benefit.

Chason & Stone

By: *W. H. Chason*
Attorneys for Plaintiff.

Received in Sheriff's Office
this 17 day of June 1950
TAYLOR WILKINS, Sheriff

RECORDED *no 1515*

SUMMONS AND COMPLAINT

T. E. MALONE,

Plaintiff,

VS.

A. L. McCUE,

Defendant.

Executed 6-19-50 19
by serving copy of within Summons and
Complaint on

in full

Taylor Wilkins Sheriff
Clayton Steadman Deputy Sheriff
By _____

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE

Filed June 16th, 1950.

W. B. Stone
Clerk.

LAW OFFICES
HYBART, CHASON & STONE
BAY MINETTE, ALABAMA

T. E. MALONE

Plaintiff

Vs

A. L. McCUE

Defendant

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IN THE CIRCUIT COURT OF

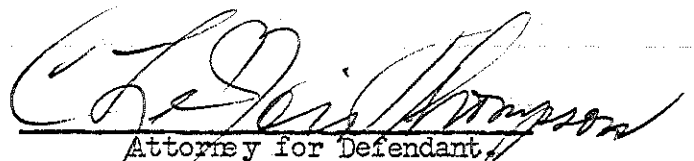
BALDWIN COUNTY, ALABAMA

AT LAW

Comes the Defendant and for demurrer to said bill of complaint
says:

1.

That said complaint does not allege the note sued on to be an
instrument under seal.


Attorney for Defendant.

RECORDED 6-15-

T. E. MALONE

Plaintiff

Vs

A. L. McCUE

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

FILED

JUL 12 1950

ALICE A. DUCK, Clerk

From the law office of
C. LeNoir Thompson
Bay Minette, Alabama

T. E. MALONE

Plaintiff

VS

A. L. McCUE

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY. NO. _____.

MOTION TO TRANSFER TO EQUITY

Now comes the defendant, A. L. McCue and shows unto the Court as follows:

1.

The Defendant's rights in this case depend upon the assertion of an equitable right or defense, the decision of which should dispose of this cause and which cannot be disposed of on the Law Side of this Court.

2.

That the plaintiff and your petitioner entered into an agreement on the 2nd day of January 1943 which agreement provided that the plaintiff place in the hands of your petitioner, A. L. McCue, the sum of \$4,700.00 to be used in connection with said business. Copy of said agreement being attached to the original complaint filed in this cause by the plaintiff. That prior to the withdrawal of the plaintiff in this cause from participation in the business known as the Baldwin County Beverage Company, that the plaintiff had withdrawn funds from said business over and above his share of the profits from said business, according to the contract alleged above, a sum of money in excess of four thousand seven hundred dollars (\$4,700.00).

3.

At or about the time of withdrawal by the plaintiff, T. E. Malone, your petitioner, A. L. McCue, arranged for the purchase of the Kaiser-Frazer business at Robertsdales, Alabama from the owner, A. G. Allegri and paid the said A. G. Allegri the sum of \$1,000.00 as a binder with an agreed purchase price of \$1,000.00 and the further agreement that the purchaser did rent from the said A. G. Allegri the building occupied by said business for the sum of \$3,600.00 per annum. That your petitioner, A. L. McCue, paid the sum of \$900.00 of said rents and placed the said plaintiff in this cause T. E. Malone in possession of the Kaiser-Frazer agency with the agreement that the said T. E. Malone would complete the contracts entered into with A. G. Allegri and the Kaiser-Frazer Corporation.

4.

That your petitioner, A. L. McCue, thereafter entered into negotiations with the Studebaker Corporation for a franchise to handle Studebaker automobiles and your petitioner, A. L. McCue, then arranged for this franchise to be handled by the plaintiff in this cause, T. E. Malone.

5.

That your petitioner, A. L. McCue, put money, business experience, time, and effort into the establishment of the automobile business aforesaid and that the plaintiff in this cause, T. E. Malone, has at no time furnished an accounting of the profits of said joint venture nor has he paid over to your petitioner, A. L. McCue, any profits accruing from said joint venture in which your petitioner, A. L. McCue, has invested money, time, experience and effort.

6.

Further your petitioner, A. L. McCue, says under oath that there was no consideration for the execution of the promissory note alleged as due in original cause #1515 and consolidated with a previous cause between these parties.

7.

The defendant, as a defense to the action of the plaintiff, saith that, at the time said action was commenced, the plaintiff was indebted to him in a sum of money, the exact amount of which is unknown but that said moneys are due as the result of the said services and payments stated in the preceding paragraph and maybe ascertained to be an exact amount upon proper determination by an accounting between said parties, all of which he hereby offers to set off against the demand of the plaintiff, and he claims judgments for the excess as maybe determined by said account petitioned supra.

8.

Prior to the institution of this suit, and on, to-wit: the date of dissolution between said parties defendant paid to the plaintiff the balance due of said moneys as final and payment in full of said moneys received from the plaintiff.

WHEREFORE, Defendant moves the Court to make and enter a proper order

or decree transferring this consolidated cause to the Equity Docket of the Circuit Court of Baldwin County, Alabama that an accounting may be had between said parties and for such other and further proceedings as may be or which may become necessary or proper. And that T. E. Malone be required by order of this court to make full disclosure of all assets of every nature and of every kind held or received by him from your Petitioner to the end that this Honorable Court may proceed to determine the rights or interest of a cestui qui trust whether express or implied, whether resulting or constructive, arising out of the actions or transactions of or between the parties hereto.

Your Petitioner prays for such other or different relief, as in equity or good conscience may be entitled to, and your petitioner ever prays, etc.

A. L. McCasie
Petitioner.

Lebanon Thompson
Attorney for the Petitioner.

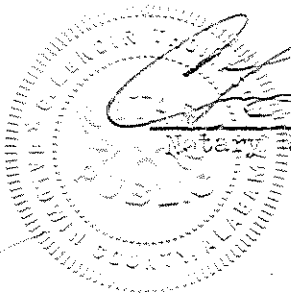
STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned authority, within and for said County in said State, personally appeared A. L. McCue, who, after being by me first duly and legally sworn, deposes and says: That he is A. L. McCue, Defendant in the causes between T. E. Malone and A. L. McCue, consolidated in the Circuit Court of Baldwin County at law and now pending suit. Affiant has read over the foregoing Amended Motion and the facts stated therein are true.

A. L. McCue (SEAL)

Sworn to and subscribed before me on this
the 26 day of Feb, 1951.



Notary Public, Baldwin County, Alabama.

RECORDED

1575

J. E. Malone
vs

A. L. McIne

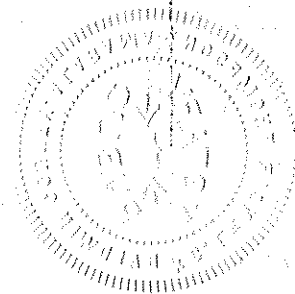
Motion to try to
Exempt

FILED

FEB 27 1951

ALICE J. DUCK, Clerk

Lane Office
C. Le Gros Thompson



1415