

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon NEW ORLEANS FURNITURE MANUFACTURING COMPANY, a corporation, 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 CLYDE DeGRAAF.

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

W. J. Wicks
Clerk

CLYDE DEGRAAF

PLAINTIFF

VS

NEW ORLEANS FURNITURE
MANUFACTURING COMPANY,
A CORPORATION,

DEFENDANT

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

I.

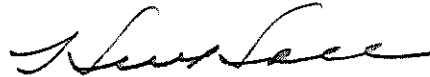
The Plaintiff claims of the Defendant as damages, the sum of TWENTY FIVE HUNDRED (\$2500.00) DOLLARS for that heretofore on to-wit: August 14, 1950, the Plaintiff was operating an automobile pick up along highway 90, a public highway in Baldwin County, Alabama, at a place about one-fourth mile West of Fish River, that at said time and place the Defendant, acting by and through its agents, servants, or employee, who was then and there acting within the line and scope of his employment negligently drove an automobile truck trailer into the said automobile pick up of the plaintiff and as a proximate result of the said negligence of the Defendant, acting by and through its agent, servant or employee, who was then and there acting within the line and scope of his employment the said Plaintiff suffered the following damages:

His automobile pick up was demolished; that he was using the said truck for commercial purposes; that he will be deprived the use of his truck some thirty days; that he lost six and one half cases of eggs; that he lost several egg cartons; that he lost a flower stand; all to the damages of the Plaintiff, hence this suit.

The Plaintiff claims of the Defendant as damages, the sum of TWENTY FIVE HUNDRED (\$2500.00) DOLLARS for that heretofore on to-wit, August 14, 1950, the Plaintiff was operating an automobile pick up along Highway 90 a public highway in Baldwin County, Alabama, at a place about one-fourth

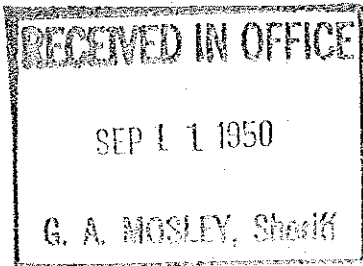
~~mile west of Fish River, that at said time and place the Defendant, acting~~
by and through its agent, servant or employee, who was then and there acting within the line and scope of his employment negligently caused an automobile truck trailer to collide with the said automobile pick up of the Plaintiff and as a proximate result of the said negligence of the Defendant, acting by and through its agent, servant or employee, who was then and there acting within the line and scope of his employment the said Plaintiff suffered the following damages:

His automobile pickup was demolished; that he was using the said truck for commercial purposes; that he will be deprived the use of his truck some thirty days; that he lost six and one-half cases of eggs; that he lost several egg cartons; that he lost a flower stand,
all to the damages of the Plaintiff, hence this suit.



Attorney for the Plaintiff

746 Received in Sheriff's Office
this 16 day of Aug 1950
TAYLOR WILKINS, Sheriff



EXECUTED BY DELIVERING

3 copy of the within

To Sibyl Pool
Secretary of State
OF THE State of Ala
AND SAID Sibyl Pool
WAS SUCH WHEN SO SERVED

This the 9-11 1950

G. A. Mosley
Sheriff Montgomery County

By Goodman
Deputy Sheriff

770 1546 RECORDED

CLYDE DEGRAAF

PLAINTYFF

VS

NEW ORLEANS FURNITURE
MANUFACTURING COMPANY,
A CORPORATION,

DEFENDANT

BILL OF COMPLAINT

FILED
AUG 16 1950
ALICE J. DUCK, Clerk

with court
Sat

JOHNSTON, McCALL & JOHNSTON
LAWYERS
EIGHTH FLOOR FIRST NATIONAL BANK ANNEX
MOBILE, ALABAMA

SAMUEL M. JOHNSTON
DAN T. McCALL, JR.
WILLIAM E. JOHNSTON
PERCY W. JOHNSTON, JR.
SAMUEL M. JOHNSTON, JR.

MAILING ADDRESS:
P. O. BOX 550
MOBILE 4, ALABAMA

October 9, 1950

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

Re: Clyde DeGraff vs. New Orleans Furniture Manufacturing
Company, a corporation.

Dear Mrs. Duck:

Enclosed you will find defendant's plea in the above
styled cause. Will you kindly file same for me and send
an acknowledgment of the receipt of these pleas in the
envelope addressed to me.

Yours very truly,

Sam. M. Johnston, Jr.
Sam M. Johnston, Jr.

SMJ, jr.
lc
encls.

CLYDE DeGRAAF,

Plaintiff,

vs.

NEW ORLEANS FURNITURE MANUFACTURING
COMPANY, a corporation,

Defendant.

IN THE CIRCUIT COURT OF

0

BALDWIN COUNTY, ALABAMA.

1

AT LAW.

No. 1546

0

INTERROGATORIES PROPOUNDED BY THE DEFENDANT TO THE PLAINTIFF:

1. (a). State your correct name and address. (b). Were you involved in an accident with a truck owned by the defendant?

2. If so, state the make and model of the motor vehicle driven by you which was involved in said accident?

3. (a). Were you driving your vehicle at the time of the accident? (b). If not, who was driving the same? (c). What was the date and the time of said accident? (d). Where did said accident occur? (e). In what direction was your truck travelling immediately prior to the accident? (f). In what direction was the defendant's truck travelling immediately prior to the accident? (g). What were the weather conditions at the time of said accident? (h). Was the visibility good at the time of the accident? (i). Of what material was the highway constructed at the place of the accident?

4. (a). What was the width of the paved portion of the highway at the place of the accident? (b). What was the width of the highway including the paved portion and dirt shoulders at the place of the accident? (c). Was the place of the accident on a curve? (d). If so, what was the length of the curve? (e). Did the point of collision occur on a hillside? (f). If so, how far from the bottom of the hill did the accident occur? (g). From the point of impact, how far can a person see down the highway in each direction?

5. Were there any persons riding in the plaintiff's vehicle at the time of the accident, other than the plaintiff?

6. (a). What part of the plaintiff's truck first struck the defendant's truck? (b). What part of the defendant's truck first

struck the plaintiff's truck? (c). Were you passing another motor vehicle at the time of the accident? (d). On what side of the center line of the highway did the initial point of impact between the two vehicles occur? (e). Describe the position of both vehicles at the time of impact with relation to the center line and both edges of the paved portion of the highway. (f). What was the position of the defendant's vehicle after it came to rest following the collision? (g). What was the position of your vehicle when it came to rest following the collision? (h). How many feet did your truck travel from the initial point of impact before stopping? (i). How many feet did defendant's truck travel from the initial point of impact before stopping?

7. (a). What was the speed of the defendant's vehicle at the time of the accident? (b). What was the speed of your truck at the time of the accident? (c). What was the speed of your truck one hundred (100') feet from the point of collision prior to the collision? (d). What was the speed of your truck two hundred (200') feet from the point of collision prior to the collision? (e). What was the speed of your truck three hundred (300') feet from the point of collision prior to the collision?

8. (a). How many feet from the point of impact did you first see the defendant's vehicle, prior to the collision? (b). How many feet separated the two trucks when you first saw the defendant's truck, prior to the accident? (c). How many feet from the point of collision did you first apply brakes? (d). Did the brakes hold? (e). What was the length of the skid marks made by your truck, if any? (f). Explain in detail all your actions after you first saw the defendant's truck up to the time of impact.

9. (a). Please state fully and in detail just how the accident occurred. (b). What did you do to avoid the accident?

10. (a). Has your truck been repaired since the accident? (b). What was the cost price of your said truck and where did you purchase same? (c). If your truck has been repaired since the accident, what was the cost of repairs and who made the same?

(d). If your truck was not repaired, then explain in detail what disposition was made of it.

Johnston, McCall & Johnston
Attorneys for the Defendant

STATE OF ALABAMA
COUNTY OF MOBILE

Before me, a Notary Public in and for said State and County, personally appeared Percy W. Johnston, Jr., who upon being first duly sworn by me, on oath, deposes and says that he is one of the attorneys for the defendant and that answers to the above interrogatories, if well and truly made by the plaintiff, will be material evidence for the defendant in this cause.

Percy W. Johnston Jr.

Subscribed and sworn to before me on
this 26 day of Oct., 1950.

Elaine A. Widener
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA.

FILED

OCT 27 1950

ELICE J. DUCK, Clerk

CLYDE DeGRAFF

PLAINTIFF

VS

NEW ORLEANS FURNITURE MANUFACTURING COMPANY, a corporation,

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW

NO. 1546

Now comes the Plaintiff and for answer to the interrogatories heretofore filed, by the Defendant in this cause, says:

1.

(a) Clyde De Graaf, Robertsedale, Baldwin County, Alabama.

(b) Yes

2.

Ford stake body pick up 1948 one half ton.

3.

(a) Yes

(b) See answer to A.

(c) August 14, 1950.

(d) On Highway 90 about 100 yards West of Fish River.

(e) East

(f) West

(g) Clear

(h) Yes

(i) Was pavement, now covered by blacktop with line in center.

4.

(a) 20 feet, I think.

(b) Approximately 26 feet.

(c) No.

(d) See answer to C

(e) Yes

(f) about 100 yards

(g) about 300 yards

5.

No.

6.

- (a) Near center and front of truck.
- (b) Right front of trailer.
- (c) No.
- (d) About the center of highway.
- (e) Plaintiff near center of highway in an effort to avoid a headon collision with the Defendant's truck
- (f) Defendant's truck was near center of highway but more on Plaintiff's side of highway.
- (g) In the ditch on the south side of highway.
- (g) In the ditch on the north side of highway.
- (h) My truck was knocked off the highway and did not travel any distance forward.
- (i) About 20 feet.

7.

- (a) Approximately 60 miles per hour.
- (b) Approximately 35 miles per hour.
- (c) 45 miles per hour
- (d) about 45 miles per hour.
- (e) About 45 miles per hour.

8.

- (a) About 100 yards
- (b) about 300 yards.
- (c) Not over 100 feet.
- (d) Yes, but did not put on full brakes.
- (e) No skid marks.
- (f) I was meeting a truck. The Defendant's truck attempted to pass the other truck which through him in my line of traffic. The Defendant's truck hit another car before reaching the point where my truck was. In order to avoid a head on collision I attempted to steer my car off the highway toward the north side of the highway but the Defendant's truck was too close on me and struck me.

9.

(a) See answer to 8-f.

(b) I did all in my power to avoid the accident. I attempted to get my truck off the highway but the Defendant's truck struck me before I had a chance. I had no opportunity to avoid the accident.

10.

(a) No.

(b) \$1385.74, St. Louis Motors, Mobile, Alabama.

(c) Had not been repaired.

(d) My truck was a total loss. The junk has not been sold.

Clyde De Graff

STATE OF ALABAMA
BALDWIN COUNTY

Before me, a Notary Public, in and for said County, in said State, personally appeared Clyde DeGraff, who is known to me, and who having been by me first duly sworn, deposes and says that the foregoing are true answers to interrogatories propounded by the Plaintiff in the foregoing cause.

Clyde De Graff

Sworn to and subscribed before me on this the 4 day of December, 1950.

[Signature]
Notary Public, Baldwin County, Alabama

1546

CIMDE DE GRAAF

PLAINTIFF

VS

NEW ORLEANS FURNITURE MANU-
FACTURING COMPANY, A CORPORATION

DEFENDANT

ANSWERS TO INTERROGATORIES

FILED

DEC 4 1950

ALICE J. DUCK, Clerk

Clyde DeGraff, Plaintiff

vs

New Orleans Furniture Manufacturing)
Company, A Corporation, Defendant

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

I, Sibyl Pool, Secretary of State, hereby certify that on September 27, 1950 I sent by registered mail in an envelope addressed as follows:

"New Orleans Furniture Manufacturing Company
A Corporation
Post Office Box No. 5168
New Orleans, Louisiana"
"Registered mail
Return Receipt requested"

bearing sufficient and proper prepaid postage, a notice bearing my signature and the Great Seal of the State of Alabama in words and figures as follows:

"New Orleans Furniture Manufacturing Company
A Corporation
Post Office Box No. 5168
New Orleans 15, Louisiana

You will take notice that on September 11, 1950 the Sheriff of Montgomery County, Alabama served upon me, in my official capacity, summons and complaint in a case entitled Clyde DeGraff, Plaintiff vs New Orleans Furniture Manufacturing Company, A Corporation, Defendant in the Circuit Court of Baldwin County, Alabama, At Law, Case No. 1546, a true copy of which summons and complaint is attached hereto and the said service upon me as Secretary of State of the State of Alabama has the force and effect of personal service upon you.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 27th day of September 1950.

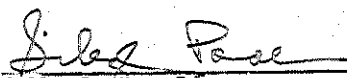
Signed) Sibyl Pool
Sibyl Pool
Secretary of State "

Enclosures - 1

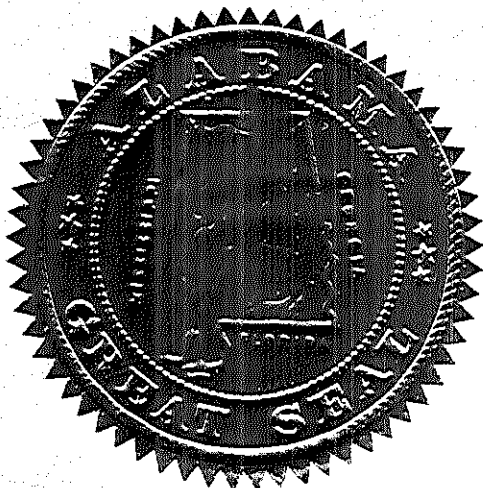
I further certify that the notice above set out which was so mailed in the envelope addressed as above set forth had attached to it a true copy of the summons and complaint in the above styled cause, there being mailed in the envelope at the time shown the notice with copy of summons and complaint attached thereto.

I further certify that on the 2nd day of October 1950 I received the return card showing Delivery to Clarence Smith, Agent, N. O. Furniture Mfg. Co., of the said notice with attached summons and complaint aforesaid, which receipt I attach hereto.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 2nd day of October 1950.


Sibyl Pool
Secretary of State

Enclosures - 2 (Receipt and copy of summons and complaint)



No. _____
 RECEIVED
 SEP 11 1950
 Time _____
 Secretary Of State

You are hereby commanded to summon NEW ORLEANS FURNITURE MANUFACTURING COMPANY, a corporation, 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 CLYDE DeGRAAF.

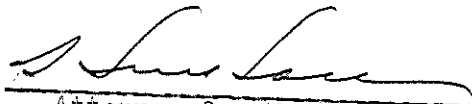
August, 1950.
Wesley L. Smith
Clerk

AT LAW

His automobile pick up was demolished; that he was using the said truck for commercial purposes; that he will be deprived the use of his truck some thirty days; that he lost six and one half cases of eggs; that he lost several egg cartons; that he lost a flower stand; all to the damages of the Plaintiff, hence this suit.

The Plaintiff claims of the Defendant as damages, the sum of TWENTY FIVE HUNDRED (\$2500.00) DOLLARS for that heretofore on to-wit, August 14, 1950, the Plaintiff was operating an automobile pick up along Highway 90 a public highway in Baldwin County, Alabama, at place about one-fourth mile West of Fish River, that at said time and place the Defendant, acting by and through its agent, servant or employee, who was then and there acting within the line and scope of his employment negligently caused an automobile truck trailer to collide with the said automobile pick up of the Plaintiff and as a proximate result of the said negligence of the Defendant, acting by and through its agent, servant or employee, who was then and there acting within the line and scope of his employment the said Plaintiff suffered the following damages:

His automobile pickup was demolished; that he was using the said truck for commercial purposes; that he will be deprived the use of his truck some thirty days; that he lost six and one-half cases of eggs; that he lost several egg cartons; that he lost a flower stand, all to the damages of the Plaintiff, hence this suit.


Attorney for the Plaintiff

NO 1546

RECEIVED

SEP 1 1950

SECRETARY OF
STATE

CLYDE DEGRAAF

PLAINTIFF

VS

NEW ORLEANS FURNITURE
MANUFACTURING COMPANY,
A CORPORATION,

DEFENDANT

SUMMONS AND COMPLAINT

Filed 8-16-50
A. J. Luck
Clerk

CLYDE DEGRAAF,

Plaintiff,

vs.

NEW ORLEANS FURNITURE MANUFACTURING
COMPANY, a corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW.

1. The defendant for answer to the complaint says
it is not guilty.

2. For further plea in its behalf to each count of the
complaint, separately and severally, the defendant says the
plaintiff himself at the time and place complained of was
guilty of negligence which proximately contributed to his
alleged damages.

Johnston, McCall & Johnston
Attorneys for the Defendant

NO 15-46

RECORDED

FILED
OCT 10 1950
ALICE J. DUCK, Clerk

STATE OF ALABAMA

BALDWIN COUNTY

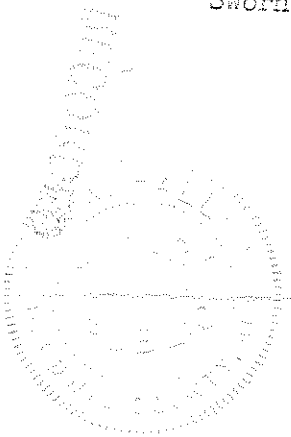
Before me the undersigned authority, in and for said County, in said State, personally appeared Clyde DeGraaf, who being duly sworn, doth depose and say, that New Orleans Furniture Manufacturing Company, is justly indebted to the said Clyde DeGraaf, in the sum of TWENTY-FIVE HUNDRED (\$2500.00) DOLLARS which said sum is justly due, and that the said New Orleans Furniture Manufacturing Company is a non-resident of the state of Alabama, and that this attachment is not sued out for the purpose of vexing or harassing the said New Orleans Furniture Manufacturing Company, the defendant.

Clyde De Graaf

Sworn to and subscribed before me on this the 15 day of August, 1950.

Notary Public

Notary Public, Baldwin County, Alabama



701546

RECORDED

CLYDE DEGRAAF

PLAINTIFF

VS

NEW ORLEANS FURNITURE
MANUFACTURING COMPANY

DEFENDANT

AFFIDAVIT

FILED

AUG 16 1950

WICE J. DUCK, Clerk

CLYDE DeGRAFF,

Plaintiff,

vs.

NEW ORLEANS FURNITURE MANUFACTUR-
ING COMPANY, a corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW. No. 1546

Comes the defendant, New Orleans Furniture Manufacturing Company, and moves the Court to transfer this cause to the non-jury docket on the following separate and several grounds:

1. Because there was no demand for a jury trial in this cause within the time required by law.
2. Because there was no proper demand for a jury trial.
3. Because the plaintiff has waived his right to a jury trial.

Johnston, McCall & Johnston
Attorneys for the defendant.

RECORDED

Filed 3-27-51
Ainsworth
clerk

ATTACHMENT.

The State of Alabama,
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA:

WHEREAS,

CLYDE DeGRAAF

hath complained on oath to me, ^{ALICE J./}~~ROBERTOS~~. DUCK, Clerk of Circuit Court of Baldwin County, Ala.,

that NEW ORLEANS FURNITURE AND MANUFACTURING COMPANY

is justly indebted to the Plaintiff CLYDE DeGRAAF

in the sum of Two thousand, five hundred no/100 Dollars, and

CLYDE DeGRAAF

having made affidavit and ^{no}~~given~~ bond

as required by law, in such cases, you are hereby commanded to attach so much of the estate of

NEW ORLEANS FURNITURE AND MANUFACTURING CO

as will be of value sufficient to satisfy said debt and costs, according to the complaint; and such estate, so attached unless replevied, so to secure, that the same may be liable to further proceedings thereon to be had by the Circuit Court of Baldwin County, Ala., at a term thereof, to be held at the Court House of said County, on _____ Monday of _____ 193_____

next; when and where you must make known to said Court how you have executed this Writ.

WITNESS. my hand, this 16th day of August A. D. 1930

Alice J. Duck Clerk.

No. 1546

ATTACHMENT

CLYDE DeGRAAF

Vs. { ATTACHMENT

NEW ORLEANS FURNITURE AND MANUFACTURING CO

Issued 8-15-50, 193

MOORE PRINTING CO.,

ATTACHMENT.

The State of Alabama,
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA:

WHEREAS, _____

CLYDE DeGRAAF

hath complained on oath to me, ALICE J. ROBERTS, Clerk of Circuit Court of Baldwin County, Ala.,

that NEW ORLEANS FURNITURE AND MANUFACTURING COMPANY

is justly indebted to the Plaintiff CLYDE DeGRAAF

in the sum of Two thousand, five hundred no/100 _____ Dollars, and

CLYDE DeGRAAF having made affidavit and ^{no}~~given~~ bond

as required by law, in such cases, you are hereby commanded to attach so much of the estate of

NEW ORLEANS FURNITURE AND MANUFACTURING CO

as will be of value sufficient to satisfy said debt and costs, according to the complaint; and such estate, so attached unless replevied, so to secure, that the same may be liable to further proceedings thereon to be had by the Circuit Court of Baldwin County, Ala., at a term thereof, to be held at the Court House of said

County, on _____ Monday of _____ 193_____

next; when and where you must make known to said Court how you have executed this Writ.

WITNESS, my hand, this 16th day of August A. D. 1930

Alice J. Roberts Clerk.

Received in Sheriff's Office
this 16 day of Aug 1950
TAYLOR WILKINS, Sheriff

Returned Sept 8th
1950 without action
as no property has
been found of the
New Orleans Furniture
Manufacturing Co
on which to levy
this attachment

Taylor Wilkins
Sheriff

RECORDED

No. 1546

ATTACHMENT

CLYDE DeGRAAF

Vs. { ATTACHMENT

NEW ORLEANS FURNITURE AND MANUFACTURING CO

Issued 8-15-50, 193

MOORE PRINTING CO.,



SIBYL POOL
SECRETARY OF STATE

STATE OF ALABAMA
OFFICE OF SECRETARY OF STATE
MONTGOMERY 4, ALABAMA

September 11, 1950

Hon. H. M. Hall
P. O. Box 60
Bay Minette, Alabama

Re: Clyde DeGraff, Plaintiff
vs
New Orleans Furniture Mfg. Co. et al

Dear Mr. Hall:

Please be referred to your file in the above-styled cause.

The Sheriff of Montgomery County has today served the copies of summons and complaint upon me in this matter but I am unable to proceed with service in the absence of an address for the defendant.

Sincerely yours,

Sibyl Pool
Secretary of State

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

CLAYDE DECRAFT vs New Orleans Furniture Mfg. Co.

FORM 3211
REV. 1-1-49

RETURN RECEIPT

Received from the Postmaster the Registered or Insured article the number of which appears on the face of this Card.

M. O. from mfg co

(Signature of name of addressee)

James Smith

(Signature of addressee's agent. Agent should enter addressee's name on line ONE above.)

Date of delivery

SEP 29 1950

19

U.S. GOVERNMENT PRINTING OFFICE 16-12421

FILED

SEP 2 1950

ALB. J. DUCK, clerk

Post Office Department
OFFICIAL BUSINESS



GIVE ENVELOPE	
PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE-100%	
THROUGH	POSTMARK OF DELIVERING OFFICE
COMMUNITY C.E. OFFICE	

Return to Secretary of State

Street and Number, or Post Office Box, Montgomery, Alabama

REGISTERED ARTICLE

No. 54831
INSURED PARCEL

MONTGOMERY,

ALABAMA

RECEIVED
OCT 2 1950
SECRETARY OF STATE