

McPHILLIPS MFG., CO., INC.,  
A CORPORATION,

PLAINTIFF

VS

FOUR STAR BUILDERS,

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 8851

DEMURRER

COMES THE DEFENDANT, FOUR STAR BUILDERS, INCORPORATED, IN  
THE ABOVE STYLED CAUSE AND DEMURS TO THE PLAINTIFF'S COMPLAINT AND  
TO EACH COUNT THEREOF, SEPARATELY AND SEVERALLY, AND ASSIGNS THE  
FOLLOWING GROUNDS OF DEMURRER:

1. SAID COUNT IS VAGUE AND INDEFINITE.
2. SAID COUNT FAILS TO STATE A CAUSE OF ACTION.
3. SAID ITEMIZED AND VERIFIED STATEMENT WHICH IS MADE  
A PART OF SAID COUNT FAILS TO CLEARLY SET FORTH WHAT ITEMS IN SAID  
STATEMENT ARE DUE AND UNPAID.
4. SAID COUNT AND ATTACHED STATEMENT FAILS TO CLEARLY SET  
FORTH WHAT ITEMS STATED IN THE ACCOUNT ARE UNPAID.

BAILEY & TAYLOR

By: Lloyd E. Taylor  
LLOYD E. TAYLOR,  
ATTORNEYS FOR THE DEFENDANT

FOR THE TRIAL OF THIS CAUSE

THE DEFENDANT DEMANDS A TRIAL BY JURY.

Lloyd E. Taylor

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 17<sup>th</sup> DAY OF SEP, 1969  
served a copy of the foregoing on E.G. RICKARBY  
By mailing the same by United States Mail, Properly addressed, and First  
Class Postage Prepaid.

BAILEY & TAYLOR

By: Lloyd E. Taylor

FILED

SEP 17 1969

ALICE J. DUCK

CLERK  
REGISTER

VOL

64 PAGE 473

15251

July

FILED

SEP 17 1969

ALICE J. DUCK CLERK  
REGISTER

Our File No. 69-176

Your File No. \_\_\_\_\_

Law Offices

E. G. RICKARBY

35 SOUTH SECTION STREET

FAIRHOPE, ALABAMA 36532

CODE 205  
Telephone: 928-9836

Mailing Address  
P. O. BOX 471

August 18, 1969

8851  
—

Mrs. Alice J. Duck  
Clerk of the Circuit Court  
Bay Minette, Alabama 36507

Dear Mrs. Duck:

Inre: McPhillips Mfg. Co. vs. Four Star Builders

Enclosed find Summons & Complaint in the above styled cause, together with itemized and verified statement of account and check for \$25.00 costs.

Please process and oblige, and have Sheriff advise when debtor is served.

Thanks!

Yours very truly,

*E. G. Rickaby*

EGR/jlb

Encls.

cc: Forwarder

Dup.

8-27-69

BAILEY & TAYLOR  
ATTORNEYS AT LAW  
61 NORTH SECTION STREET  
P. O. BOX 361  
FAIRHOPE, ALABAMA 36532

ERNEST M. BAILEY  
LLOYD E. TAYLOR

PHONE  
FAIRHOPE 928-2393

JUNE  
15TH  
1970

MRS. ALICE J. DUCK  
CLERK OF CIRCUIT COURT  
BAY MINETTE, ALABAMA

RE: McPHILLIPS MGF. Co., Inc.  
VS. FOUR STAR BUILDERS  
CASE # 8851

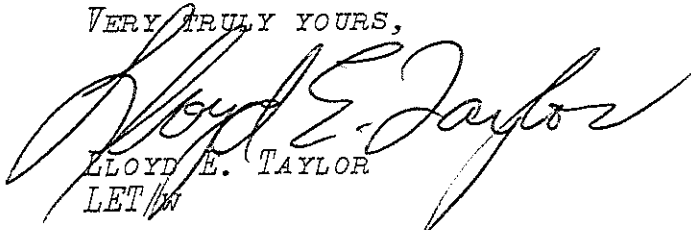
DEAR MRS. DUCK:

I AM FORWARDING HERewith ANSWER IN THE ABOVE STYLED CAUSE.  
I HAVE FORWARDING A COPY OF SAME TO MR. E. G. RICKARBY,  
THE ATTORNEY FOR THE PLAINTIFF, AND HE HAS ACCEPTED SERVICE  
OF THE PLEADING.

THIS CASE IS SET FOR THURSDAY, JUNE 18TH, AND MR. RICKARBY  
HAS NOTIFIED JUDGE MASHBURN TO REMOVE THIS CASE FROM THE  
CURRENT DOCKET.

THANKING YOU FOR YOUR ASSISTANCE IN THIS MATTER, I AM

VERY TRULY YOURS,

  
LLOYD E. TAYLOR  
LET/W

INCL: AS NOTED

McPHILLIPS MFG., CO., INC.  
A Corporation,

Plaintiff

vs

FOUR STAR BUILDERS,

Defendant

) IN THE CIRCUIT COURT OF BALDWIN

) COUNTY, ALABAMA

) AT LAW

) CASE NO. 8851

A N S W E R

Comes now the Defendant in the above styled cause and for answer to the Bill of Complaint heretofore filed in this cause and to each count thereof, separately and severally, answers as follows:

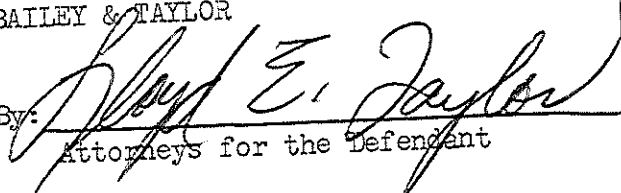
1. Not Guilty.
2. The Defendant is not indebted to the Plaintiff.
3. The items sold to the defendant for which compensation is claimed were defective in that said items did not function as they were warranted by the Plaintiff.
4. Due notice was timely given to the Plaintiff that the items not paid for were defective.
5. The items not paid for were windows or window parts purchased from the plaintiff and installed in various houses being built by the defendant. Subsequent to the installations of said parts the defendant was forced to replace said parts with new parts because of defective workmanship and malfunction of the window or window parts.
6. The items for which payment is claimed by the itemized and varified statement do not correctly set forth those items not paid for by the defendant, said items being only those consisting of the window or window parts purchased from the plaintiff which were defective.
7. The defendant is not indebted to the plaintiff because the items on account sold to the defendant were defective and did not function as warranted, either expressly or impliedly.

Having fully answered the Bill of Complaint, the Defendant claims of the Plaintiff, by way of recoupment, the sum of THREE HUNDRED FIFTY DOLLARS, (\$350.00) for damages to the defendant resulting from windows and window balances purchased by the defendant from the plaintiff, which merchandise the plaintiff

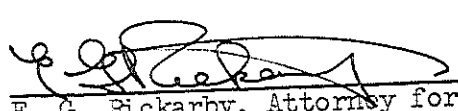
herein claims payment from the defendant, for reason that said windows or window balances did not function or work as warranted by the plaintiff. As a result of said defective merchandise the defendant incurred actual damages in the amount of THREE HUNDRED FIFTY DOLLARS (\$350.00). The defendant further claims of the plaintiff the sum of THREE THOUSAND DOLLARS (\$3,000.00) for damages to its business reputation resulting from said defective merchandise.

BAILEY & TAYLOR

By:

  
Attorneys for the Defendant

I, E. G. Rickarby, as Attorney for McPhillips Mfg., Co., Inc., the Plaintiff in the above styled cause, do hereby accept service of a copy of the above pleadings as provided for in such cases by the Laws of the State of Alabama.

  
E. G. Rickarby, Attorney for Plaintiff

FILED

JUN 16 1970

ALICE J. DUCK

CLERK  
REGISTER

1988

Our File No. .... 89-176

Your File No. ....

Law Offices

E. G. RICKARBY

35 SOUTH SECTION STREET  
FAIRHOPE, ALABAMA 36532

Code 205

Telephone: 928-9836

Mailing Address  
P.O. Box 471

2  
2  
1  
July 10, 1970

Honorable Telfair J. Mashburn  
Circuit Judge, Baldwin County  
Bay Minette, Alabama 36507

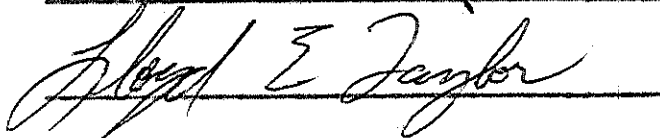
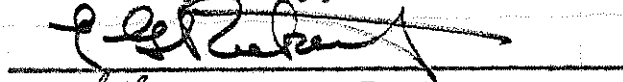
Dear Judge Mashburn:

Inre: McPhillips Mfg. Co., Inc.  
vs. Four-Star Builders, Inc.  
Case No. 8851

The attorneys for both the Plaintiff and the Defendant in the above styled cause request that the original suit, answer and recoupment bill be dismissed.

Please enter the order of dismissal and ask Mrs. Duck to send us a refund of costs deposited and unused.

Yours very truly,



EGR/jc

cc: Forwarder  
(Dup)

7-16-70



Code 305  
Telephone: 928-9836  
Mailing Address  
P.O. Box 471

Law Offices  
E. G. RICKARBY  
35 SOUTH SECTION STREET  
FAIRHOPE, ALABAMA 36525

Our File No. ....  
Your File No. ....

July 10, 1970

8551

Honorable William J. Macpherson  
Circuit Judge, Baldwin County  
Bay Minette, Alabama 36507

Dear Judge Macpherson:

Inner: McPhillips Mfg. Co., Inc.  
vs. Four-Star Builders, Inc.  
Case No. 8821

The attorneys for both the Plaintiff and the Defendant in  
the above styled cause request that the original writ,  
answer and recoupment will be dismissed.

Please enter the order of dismissal and ask Mrs. Ruth to  
send us a refund of costs deposited and earned.

Yours very truly,



ECM/jc  
cc: Forwarder  
(Dup)  
7-16-70

## STATEMENT

MOPHILLIPS

MOPHILLIPS

MANUFACTURING CO., INC.  
BOX 169, MOBILE, ALABAMA  
36601

MOPHILLIPS

• FOUR STAR BLDGS INC  
• P O BOX 8  
• SPANISH FORT ALA 36527

015892

PHONE  
AREA CODE 205  
438-1681

JOB:

INTEREST AT 6% PER ANNUM WILL BE CHARGED ON DELINQUENT ACCOUNTS

PREVIOUS BALANCE	INVOICE NO.	ORDER NO.	DATE	CHARGES	CREDIT	BALANCE
Service Charge Will Be Added To All Past Due Accounts				BALANCE FORWARD		
1085.79	19118	19515	11/28	611.94T		1697.73
1697.73	19119	51806	11/28	683.71T		2381.44
2381.44	19226	2398	12/02	25.66T		2407.10
2407.10	19339	51802	12/05	.68T		2407.78
2407.78	19340	51856	12/05	37.91T		2445.69
2445.69	19341	51830	12/05	37.12T		2482.81
2482.81	19342	20927	12/05	31.64T		2514.45
2514.45	19343	20925	12/05	37.12T		2551.57
2551.57	19344	20926	12/05	37.54T		2589.11
2589.11	19426	51881	12/09	10.40T		2599.51
2599.51	19764	19230	12/13	724.28T		3323.79
3323.79		% 12/19/68		2381.44C		942.35
942.35	20190	51929	12/20	10.64T		952.99
952.99	20191	19260	12/20	231.61T		1184.60
1184.60	20192	19261	12/20	67.04T		1251.64
1251.64	388	19118	12/23		113.90T	1137.74
1137.74	20503	21017	12/30	223.10T		1360.84
1360.84	20831		02/28	13.61T		1374.45
1374.45		%	3/11/69		1174.45C	200.00
200.00	20958		03/31	2.00T		202.00

PAY LAST AMOUNT IN THIS COLUMN

# McPHILLIPS

TELEPHONE - AREA 205 438-1681

MILLWORK AND BUILDING MATERIALS

MCPHILLIPS MANUFACTURING CO., INC.  
FOOT OF LAWRENCE STREET  
P.O. BOX 169  
MOBILE, ALABAMA 36601

SHIPPED TO (SAME AS SOLD TO UNLESS OTHERWISE SHOWN)  
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~  
SIMMS JOB-BON SECOUR, ALA

SOLD TO  
FOUR STAR BLDRS INC  
P O BOX 8  
SPANISH FORT ALA 36527

015092

INVOICE NO.	INVOICE DATE	SLM.	OUR ORDER NO.	CUSTOMER ORDER NO.	VIA: OUR TRUCK UNLESS OTHERWISE SPECIFIED
20303	12/30/68	112	SEE BELOW		
SHIPPED	UNIT PRICE	CODE	DISC.	DESCRIPTION	NET AMOUNT
1	1.65	105136		W-21017 SET DR TRIM 2068	1.65
1	1.70	150137		SET DR TRIM 3068	1.70
1	12.69	130004		INT DU 1668 RM LAUN 326C A/P	12.69
2	12.69	130008		INT DU 2068 RM LAUN 326C AP	25.38
2	13.45	130012		INT DU 2668 RM LAUN 326C A/P	26.90
2	13.45	130011		INT DU 2668 LM LAUN 326C	26.90
1	17.69	130045		HTR DU 2050 LM LUAN 326C A/P	17.69
1	.00	120529		DR LOUVER 12 X 12	.00
3	2.78	105023	420	HLF SCR ALM SH 3050	4.84
5	2.25	105019	420	HLF SCR ALM SH 3030	6.53
6	5.12	110042		BLIND 1 PAN 1461 P.C.	30.72
1	1.20	220036		THRESHD ALM VINL 2-8	1.20
1	1.25	220037		THRESHD ALM VINL 3-0	1.25
3	4.98	210054		W-21018 KEY IN KNOB A 500BAL3 KA	14.94
4	2.66	210021		BATH OR BED LOCK 300BAL3	10.64
3	1.97	210013		CLOSET LATCHSET 150B AL3	5.91
1	2.14	210004		PASSAGE SET 100 BAL3	2.14
10	.11	210131		FLEXIBLE DR STOP BRASS	1.10
1	.55	210124		SPR-CHAIN GRACH STOP	.55
300	3.99C	150049		LIN FIR SHOE126 OAK	11.97
48	15.25C	150193		FT SHLVING NO3-12 IN	7.32
20	9.25C	150010		LIN FIR ROUND 233	1.85
10	6.46C	150022		LIN FIR CASE 356V	.65

TERMS: 2% IF INVOICE PAID BY THIS DATE  
Net 28th Prox. Unless Otherwise Shown.  
INTEREST OF 8% PER ANNUM  
WILL BE CHARGED  
ON DELINQUENT ACCOUNTS.

1/10

S

4.29

YOU MAY DEDUCT FROM INVOICE TOTAL

4000 4% ALA STATE TAX

214.525  
8.58  
223.107

ALL CLAIMS MUST BE FILED WITHIN 10 DAYS AFTER RECEIPT OF MATERIALS AND BEFORE PAINTER'S FINISH IS APPLIED.

INVOICE TOTAL  
LAST AMOUNT ABOVE

# McPHILLIPS

TELEPHONE - AREA 205 438 - 1681

MILLWORK AND BUILDING MATERIALS

McPHILLIPS MANUFACTURING CO., INC.

FOOT OF LAWRENCE STREET

P.O. BOX 169

MOBILE, ALABAMA 36601

SHIPPED TO (SAME AS SOLD TO UNLESS OTHERWISE SHOWN)

SOLD TO  
FOUR STAR BLDGS INC  
P O BOX 8  
SPANISH FORT ALA 36527

015892

INVOICE NO.	INVOICE DATE	SLM.	OUR ORDER NO.	CUSTOMER ORDER NO.	VIA: OUR TRUCK UNLESS OTHERWISE SPECIFIED
20831	02/22/69	112			
SHIPPED	UNIT PRICE	CODE	DISC.	DESCRIPTION	NET AMOUNT
			60000	1% SERVICE CHARGE ON PAST DUE ACCOUNT DEC 1968--1,360.04	13.61

TERMS: 2% IF INVOICE PAID BY THIS DATE  
Net 28th Prox. Unless Otherwise Shown.  
INTEREST OF 8% PER ANNUM  
WILL BE CHARGED  
ON DELINQUENT ACCOUNTS.

3/10

YOU MAY DEDUCT  
FROM INVOICE TOTAL

13.617

ALL CLAIMS MUST BE FILED WITHIN 10 DAYS AFTER RECEIPT OF MATERIALS AND BEFORE PAINTER'S  
FINISH IS APPLIED.

INVOICE TOTAL  
LAST AMOUNT ABOVE

# McPHERILLIPS

TELEPHONE - AREA 205 438 - 1681

MILLWORK AND BUILDING MATERIALS

McPHERILLIPS MANUFACTURING CO., INC.

FOOT OF LAWRENCE STREET

P.O. BOX 169

MOBILE, ALABAMA 36601

SHIPPED TO (SAME AS SOLD TO UNLESS OTHERWISE SHOWN)

SOLD TO

FOUR STAR BLDGS INC

P O BOX 8

SPANISH FORT ALA 36527

015882

INVOICE NO. 20058 INVOICE DATE 03/31/69 SLIP 112 OUR ORDER NO. CUSTOMER ORDER NO. VIA: OUR TRUCK UNLESS OTHERWISE SPECIFIED

SHIPPED UNIT PRICE CODE DISC DESCRIPTION NET AMOUNT

20058

1% SERVICE CHARGE ON PAST  
DUE ACCOUNT  
JAN 1969 200.00

2.00

REGISTER  
CLERK

TERMS: 2% IF INVOICE PAID BY THIS DATE

Net 28th Prox. Unless Otherwise Shown.

INTEREST OF 6% PER ANNUM  
WILL BE CHARGED  
ON DELINQUENT ACCOUNTS.

YOU MAY DEDUCT  
FROM INVOICE TOTAL

2.00

ALL CLAIMS MUST BE FILED WITHIN 10 DAYS AFTER RECEIPT OF MATERIALS AND BEFORE PAINTER'S  
FINISH IS APPLIED.

INVOICE TOTAL  
LAST AMOUNT ABOVE

8851

McPhillips Mfg. Co.  
Inc. a corp.  
Plbf

vs.

Four Star Builders  
Def.

Received, 21st day of August 1969  
and on 25 day of Aug 1969

Served a copy of the within of ac  
Four Star Builders

By service on Mr. Ben Martin  
Pres.

TAYLOR WILKINS, Sheriff

By Randall D. S.

Wilson Heights 44

Sheriff claims 44 miles at

Ten Cents per mile Total \$ 4.40

TAYLOR WILKINS, Sheriff

BY Randall  
DEPUTY SHERIFF

FILED

AUG 21 1969

ALICE J. DUCK

CLERK  
REGISTER

E. G. Rickaby

STATE OF ALABAMA,  
COUNTY OF BALDWIN.

CIRCUIT COURT, BALDWIN COUNTY,  
NO. \_\_\_\_\_

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are Hereby Commanded to Summon FOUR STAR BUILDERS

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 FOUR STAR BUILDERS  
, defendant,

by McPHILLIPS MFG. CO., INC., a Corporation,  
Plaintiff.

WITNESS my hand this 21 day of August, 19 69.

Alice J. Duck  
ALICE J. DUCK, Clerk.

McPHILLIPS MFG., CO., INC.  
a Corporation,

Plaintiff,

VS.

FOUR STAR BUILDERS,

Defendant

X  
X  
X  
X  
X  
X  
X

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

8851

### C O M P L A I N T

#### Count I.

The Plaintiff claims of the Defendant TWO HUNDRED TWO AND NO/100  
(\$202.00)----- DOLLARS due from it  
by account, on, to-wit, the 31st day of March, 19 69, which  
sum of money with the interest thereon is still unpaid. The account sued  
on is evidenced by an itemized and verified statement filed herewith.

#### Count II.

The Plaintiff claims of the Defendant the sum of TWO HUNDRED TWO  
AND NO/100 (\$202.00)-----DOLLARS due from  
it by account stated between the Plaintiff and the Defendant on,  
to-wit, the 31st day of March, 19 69, which sum of money  
with the interest thereon is still unpaid.

Continued, Summons & Complaint:

McPhillips Mfg. vs. Four Star Builders.

Count III.

The Plaintiff claims of the Defendant the sum of TWO HUNDRED TWO AND NO/100 (\$202.00) -----DOLLARS due from it for merchandise, goods and chattels sold by the Plaintiff to the Defendant between the 28th day of November, 1968, and the 31st day of March, 1969, which sum of money with the interest thereon is still unpaid.

  
E. G. RICKARBY, Attorney for  
Plaintiff.

Defendant's address is:

Four Star Builders  
P. O. Box 8  
Spanish Fort, Alabama 36527

FILED

AUG 21 1969

ALICE J. DUCK

CLERK  
REGISTER



STATE OF Alabama

COUNTY OF Mobile

Before me, the undersigned authority in and for  
aforesaid county and state, as a notary public under my seal of  
office, which seal of office is hereto attached, personally appeared  
H. M. McPhillips, Jr. known to me, who being by me first duly  
sworn, deposed and upon his oath stated that he is Executive Vice President  
of McPhillips Mfg. Co., Inc., a corporation organized and doing  
business under the laws of Delaware; a partnership  
composed of \_\_\_\_\_; a sole trader  
doing business as \_\_\_\_\_; that as such he  
makes this affidavit; that he is familiar with the books and business  
of Corporation that the attached account  
against Four Star Builders is just and correct, within  
the knowledge of this affiant; that he has authority to make this  
affidavit and that he has personal knowledge of the matters contained  
herein; that the items thereon stated and composing the said account  
were sold and delivered to the said Four Star Builders at the  
special instance and request of the debtor and that credit has been  
duly given for all payments and just and lawful offsets to which  
said account is entitled as thereon stated, and that the balance  
thereof, amounting to the sum of two hundred two Dollars (\$202.00) with  
interest from \_\_\_\_\_, 19\_\_\_\_, is justly due and remains  
unpaid.

H M McPhillips Jr

Sworn to, subscribed, acknowledged, signed and sealed before  
me, as a notary public under my seal of office, with my seal hereto  
affixed on this the 12th day of August, 1969

Barbara Dean

A notary public in and for the

STATE OF Alabama

COUNTY OF Mobile

64 FEB 470