

STATE OF ALABAMA
BALDWIN COUNTY

BOOK 006 PAGE 108

1989

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon HORACE KENNEDY and JACK H. LEWIS, Individually, and JACK H. LEWIS d/b/a J. H. LEWIS ADVERTISING CO., 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 PERRY W. MADER.

WITNESS my hand, this the 9th day of May, 1953.

Avery J. Smith
CLERK

PERRY W. MADER,

PLAINTIFF,

VS

HORACE KENNEDY and
JACK H. LEWIS, Individually,
and JACK H. LEWIS d/b/a
J. H. LEWIS ADVERTISING CO.

DEFENDANT.

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

1.

Plaintiff claim of the Defendants \$25,000.00, damages for that on, to-wit, April 1, 1953, for the purpose of selling goods, to-wit Gro-Crop, a product invented and prepared by Perry W. Mader, the Defendants did by to-wit, printing, writing and figures falsely misrepresent the formula of said Gro-Crop to the damage of the said Perry W. Mader, whose product aforesaid is licensed by the Departments of Agriculture of the following states:

Alabama, Mississippi, Texas, Arkansas, Missouri, Tennessee, Kentucky, Georgia, Florida, North Carolina, South Carolina, Illinois, Indiana, Ohio, Montana and Kansas.

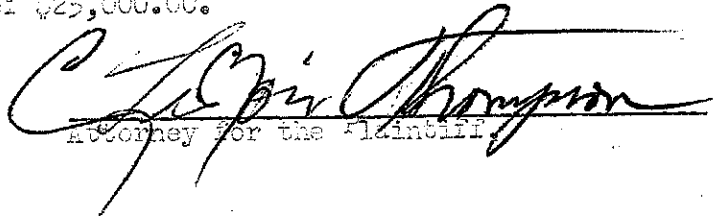
in the name of Perry W. Mader.

That the said Defendants did publish said misrepresentations in the following named publications: The Flower Grower, Progressive Farmer, Farm and Ranch, Southern Seedsman, The Florida Grower, and Texas Farming and Citriculture, with circulation in several of the States aforesaid giving in said advertisements false analysis to the damage and detriment of the Plaintiff in that said representations were false and then known to be or ought to have been known by said Defendants to have been false.

Plaintiff claims of the Defendants \$25,000.00 for that on, to-wit, the 1st day of April, 1953, for the purpose of selling goods, to-wit, Gro-Crop said Defendants represented in writing, printing or figures that said laboratory test was 9-25-6 upon authority of A. W. Williams Inspection Co., Mobile, Alabama. That the said test made by the A. W. Williams Inspection Co., was made at the instace of Perry W. Mader and that the said A. W. Williams Inspection Co., expressly denied the said Perry W. Mader permission to use the said laboratory test in advertising that demand has been made upon the said Perry W. Mader by the A. W. Williams Inspection Company to cease and desist using the name A. W. Williams aforesaid in said advertising that the said Defendants had no legal right to use the said A. W. Williams Inspection Company report in said advertising, which was fraudulently and falsely changed as to the detriment or the damages of the Plaintiff in the amount of \$25,000.00.

3.

Plaintiff Claims of the Defendants the sum of \$25,000.00 for that on, to-wit, the 1st day of April, 1953, Defendants advertised by circulars and in the following named publications: The Flower Grower, Progressive Farmer, Farm and Ranch, Southern Seedsman, The Florida Grower, and Texas Farming and Citriculture; that the Associated Seed Growers of Atlanta, Georgia did distribute Gro-Crop, a fertiliser invented and prepared by Perry W. Mader for Gro-Crop, Inc., and that said representations were false and then then known to be or ought to have been known by the Defendants to have been false, and that such misrepresentation was damaging to the Plaintiff herein in the amount of \$25,000.00.

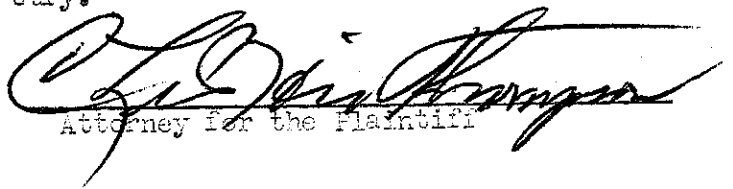

Attorney for the Plaintiff

Plaintiff demands a trial by Jury.

FILED

5-9-53

ALICE J. DUCK, Clerk


Attorney for the Plaintiff

Received in Sheriff's Office
this 11 day of May, 1953
TAYLOR WILKINS, Sheriff

Executed May 12, 1953
By Serving copy on
Horace Kennedy

Sheriff
Taylor Wilkins
By
Edleigh Steadham

June 1953

PERRY W. LADER,

PLAINTIFF,

VS

HORACE KENNEDY and
~~JACK H. LEWIS~~, Individually
And JACK H. LEWIS d/b/a
J. H. LEWIS ADVERTISING CO.

DEFENDANT

FILED

MAY 9 1953

ALICE J. DUCK, Clerk

PERRY W. MADER,

Plaintiff,

-vs-

HORACE KENNEDY and
 JACK H. LEWIS, individually,
 and JACK H. LEWIS, d/b/a
 J. H. LEWIS ADVERTISING CO.,

Defendant.

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

Comes the defendant, Horace Kennedy, acting by and through his attorney and appears specially and only for the purpose of filing this plea, says that the said Perry W. Mader, plaintiff in this cause ought not to have and maintain his said action and for ground thereof says seperately and severally the following, to-wit:-

FIRST:

That the plaintiff sues as the owner of the formula of Gro-Crop, whereby Gro-Crop, Inc., a corporation, under the laws of the State of Alabama, manufactures and sells Gro-Crop, and that the said Perry W. Mader is the owner of twenty-five (25) shares of stock in Gro-Crop, Inc., for which payment was made and discharged by the transfer of property consisting primarily of all rights to a formula for the preparation of a liquid fertilizer or plant food as shown by the Articles of Incorporation, which are of record in the office of the Judge of Probate of Baldwin County, Alabama, and therefore, that the said Perry W. Mader has no authority to maintain this action in his name, but that action, if any, should be maintained in the name of Gro-Crop, Inc., a corporation.

SECOND:

That Horace Kennedy, one of the defendants of the above styled cause, is an officer of Gro-Crop, Inc., and that no advertisement or other representations have been made by the said defendant, Horace Kennedy, concerning Gro-Crop, other than in the name of the corporation and by and through its officers and directors thereunto duly authorized, and that any action by the plaintiff herein for damage should be maintained against Gro-Crop, whose principal place

of business is Summerdale, Alabama.

THIRD:

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That any use made of any report of laboratory tests by A. W. William Inspection Company, Mobile, Alabama, which has been made, was made by Gro-Crop, Inc., an Alabama corporation, and if any damage has thereby resulted, action should be had and maintained against said corporation.

WHEREFORE, defendant, Horace Kennedy, says that this suit should be abated and should not be allowed to proceed.

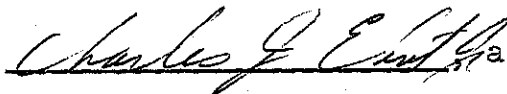
Horace Kennedy

BY:


Attorney for Defendant

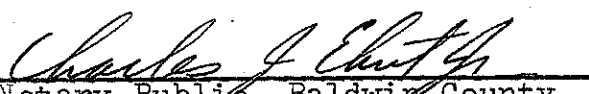
STATE OF ALABAMA

BALDWIN COUNTY

Before me,  a Notary Public in and for said County and said State, personally appeared C. G. Chason, who, being duly sworn deposes and says: That he is attorney for Horace Kennedy, one of the defendants in the above styled cause and authorized to make this affidavit; that he is cognizant of the facts set forth in the above and foregoing plea in abatement, and that said facts are true and correct.


C. G. Chason

Sworn to and subscribed before
me, a Notary Public, on this the
13th day of June, 1953.


Notary Public, Baldwin County
State of Alabama

FILED

6-15-53

no 1989

PLEA IN ABATEMENT

PERRY W. MADER,

Plaintiff,

- vs -

HORACE KENNEDY and
JACK H. LEWIS, individually,
and JACK H. LEWIS, d/b/a
J. H. LEWIS ADVERTISING CO.,

Defendant.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

(((((

FILED

JUN 13 1953

ALICE J. DUCK, Clerk

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

June 13, 1953

Mrs. Alice J. Duck, Clerk
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith is Plea in Abatement in the case of
Mader -vs- Kennedy, et al.

Yours very truly,


C. G. Chason

CGC:fm

encl. 1

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

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WITNESS my hand, this the 9th day of May, 1953.

Richard L. Smith
CLERK

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PLAINTIFF,

VS

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Alabama, Mississippi, Texas, Arkansas, Missouri, Tennessee, Kentucky, Georgia, Florida, North Carolina, South Carolina, Illinois, Indiana, Ohio, Montana and Kansas.

in the name of Perry W. Mader.

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2.

Plaintiff claims of the Defendants \$25,000.00 for that on, to-wit, the 1st day of April, 1953, for the purpose of selling goods, to-wit, Gro-Crop said Defendants represented in writing, printing or figures that said Laboratory test was 9-25-6 upon authority of A. W. William Inspection Co., Mobile, Alabama. That the said test made by the A. W. William Inspection Co., was made at the instace of Perry W. Mader and that the said A. W. Williams Inspection Co., expressly denied the said Perry W. Mader permission to use the said laboratory test in advertising that demand has been made upon the said Perry W. Mader by the A. W. Williams Inspection Company to cease and desist using the name A. W. Williams aforesaid in said advertising that the said Defendants had no legal right to use the said A. W. William Inspection Company report in said advertising, which was fraudulently and falsely changed as to the detriment or the damages of the Plaintiff in the amount of \$25,000.00.

3.

Plaintiff Claims of the Defendants the sum of \$25,000.00 for that on, to-wit, the 1st day of April, 1953, Defendants advertised by circulars and in the following named publications: The Flower Grower, Progressive Farmer, Farm and Ranch, Southern Seedman, The Florida Grower, and Texas Farming and Citriculture; that the Associated Seed Growers of Atlanta, Georgia did distribute Gro-Crop, a fertilizer invented and prepared by Perry W. Mader for Gro-Crop, Inc., and that said representations were false and then then known to be or ought to have been known by the Defendants to have been false, and that such misrepresentation was damaging to the Plaintiff herein in the amount of \$25,000.00.

C. E. Spivey Thompson
Attorney for the Plaintiff

Plaintiff demands a trial by jury.

C. E. Spivey Thompson
Attorney for the Plaintiff

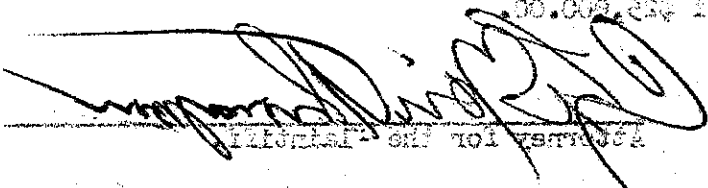
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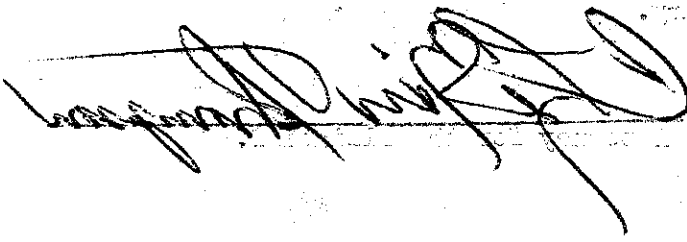
First National Bank
Building
Mobile, Ala
J. H. Lewis

Plaintiff claims of the Defendants \$25,000.00 for that on, to-wit, the last day of April, 1933, for the purpose of selling goods, to-wit, Gro-Gro said Defendants represented in writing, printed or figures that said laboratory sent was \$25.00 upon authority of A. W. William Inspection Co., Mobile, Alabama. That the said test made by the A. W. William Inspection Co., was made at the instance of Henry H. Baker and that the said A. W. William Inspection Co., erroneously denied the said Henry H. Baker permission

to use the said laboratory but in advertising that demand has been made upon the said A. W. William Inspection Company to cause and being the name W. Williams changed in said advertising that the said W. Williams had no legal right to use the said W. Williams Inspection in said advertising, which was fraudulently and maliciously done to the detriment of the Plaintiff in the amount of \$25,000.00.

Plaintiff claims of the Defendants the sum of \$25,000.00 for that on, to-wit, the last day of April, 1933, Defendants covered by airframes and in the following named publications: The Flower Grower, Progressive Farmer, Farm and Ranch, Southern Seedman, The Florida Grower, and Texas Farming and Horticulture; that the Associated Seed Growers of Alabama, Georgia and Oklahoma Gro-Gro, a fertilizer invented and prepared by Henry H. Baker for Gro-Gro, Inc., and also said representations false and then then known to be or ought to have been known by the Defendants to have been false, and that such representations were damaging to the Plaintiff herein in the amount of \$25,000.00.


Attorney for the Plaintiff


Attorney for the Defendant

FILED

MAY 9 1953

ALICE J. DICK, Clerk