

Our File No. 69-265
Your File No. -----

Law Offices
E. G. RICKARBY
25 SOUTH SECTION STREET
FAIRHOPE, ALABAMA 36532

Code 205.
Telephone: 928-9836
Mailing Address
P. O. BOX 471

October 28, 1969

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

MO. 8962

Dear Mrs. Duck:

Inre: Mobile White Autocar Company, Inc.
versus Roy Davis

Enclosed find Summons & Complaint in the above styled cause,
together with itemized and verified statement of account.
Please process and oblige, and have Sheriff advise when debtor
has been served.

Yours very truly,



jlb
Encls.
12-15-69

MOBILE WHITE AUTOCAR,
COMPANY, INC., a
Corporation,

Plaintiffs,

vs

ROY DAVIS,

Defendant.

O IN THE CIRCUIT COURT OF

O BALDWIN COUNTY, ALABAMA

O AT LAW

O

O

O CASE NO: 8962

MOTION TO SET ASIDE DEFAULT JUDGMENT

Comes now the Defendant, Roy Davis, in the above styled cause and humbly submits unto Your Honor the following motion to set aside the default judgment rendered in this case and sets down and assigns the following reasons:

I

The Defendant, Roy Davis, has a meritorious defense in this case and it would result in an injustice to refuse to allow him the right to assert his defense.

II

The attorney for the Defendant was under the impression the case would not be tried when called on the docket, and was therefore, caught by complete surprise when said case was called to be tried.

III

The attorney for the Defendant was not ready for the trial of said case due to personal reasons, therefore, at the time the case was called for trial, said attorney prayed for a continuance of the case.

IV

The trial judge in said case informed the plaintiffs' attorney, the case would only be heard if the plaintiffs presented themselves in court before the sounding of the docket was completed.

V

The plaintiffs were not in court when said case was called for trial and did not present themselves in court before the docket call had been completed.

64-266 A

VI

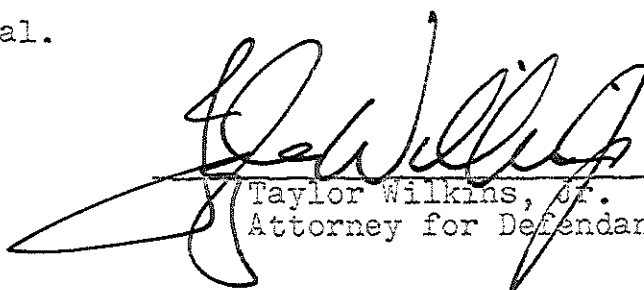
The plaintiffs' attorney on the same day of the call of the case requested the Defendant's attorney to confer with the plaintiffs and upon the Defendant's attorney conferring with the plaintiffs, the plaintiff's attorney then asked for a default judgment as a complete surprise to the Defendant's attorney.

VII

The default judgment was not rendered at the time the case was called for trial.

FILED

SEP 4 1970


Taylor Wilkins, Jr.
Attorney for Defendant

ALICE

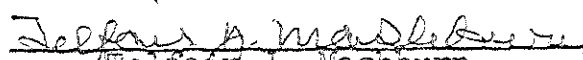
J. DUCK

CLERK
REGISTER

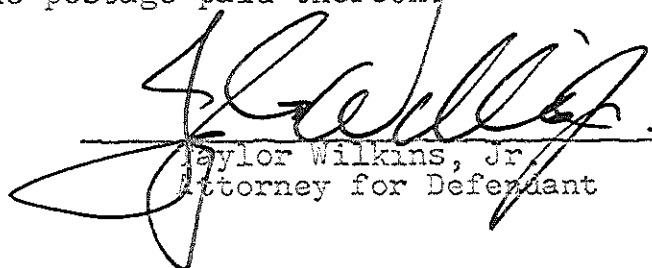
This motion having been presented to this Court on the 4th day of September, 1970, the same is continued to the 10th day of September, 1970.

Execution is stayed pending a decision on this motion.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 4th day of September, 1970.


Telfair J. Mashburn
Judge of the Circuit Court
Baldwin County, Alabama

I, the undersigned Taylor Wilkins, Jr., do hereby certify that I have on this the 4 day of September, 1970, forwarded a true and exact copy of the foregoing motion to Mr. E. G. Rickarby, P. O. Box 471, Fairhope, Alabama, attorney of record for the plaintiffs, by mailing the same in the United States Post Office, properly addressed, with the postage paid thereon.


Taylor Wilkins, Jr.
Attorney for Defendant

FILED

SEP 9 1970

ALICE J. DUCK

CLERK
REGISTER

266 B

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 ROY DAVIS 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 ROY DAVIS, Defendant, by MOBILE WHITE AUTOCAR COMPANY, INC., a Corporation, Plaintiff.

WITNESS my hand this 30 day of Oct, 1969.

Alice J. Duck (Clerk)
ALICE J. DUCK

MOBILE WHITE AUTOCAR COMPANY, INC., X
a Corporation,

Plaintiff,

VS.

ROY DAVIS,

Defendant.

X IN THE CIRCUIT COURT OF
X BALDWIN COUNTY, ALABAMA,
X AT LAW.
X No. 8962
X

C O M P L A I N T

Count I.

The Plaintiff claims of the Defendant the sum of ONE THOUSAND FOUR AND 45/100 (\$1,004.45) DOLLARS due from him by account, on, to-wit, the 7th day of December, 1968, 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 ONE THOUSAND FOUR AND 45/100 (\$1,004.45) DOLLARS due from him by account stated between the Plaintiff and the Defendant on, to-wit, the 7th day of December, 1968, which sum of money with the interest thereon is still unpaid.

(Page 1)

VOL 64 PAGE 265

FILED


OCT 30 1969

ALICE J. DUCK CLERK
REGISTER

Continued, Summons & Complaint
Page 2, Two Pages:
Mobile White Autocar vs. Roy Davis.

Count III.

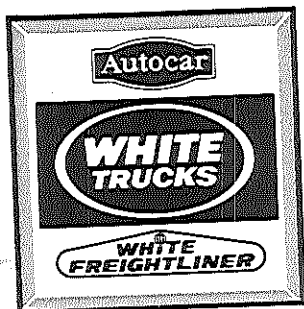
The Plaintiff claims of the Defendant the sum of ONE THOUSAND FOUR AND 45/100 (\$1,004.45) DOLLARS due from him for work, labor and materials furnished by the Plaintiff to the Defendant on, to-wit, the 7th day of December, 1968, which sum of money with the interest thereon is still unpaid.


E. G. RICKARBY,
Attorney for Plaintiff.

Debtor may be located at:

Devore Brokerage Co.
Loxley, Alabama

25.12



Mobile White Autocar Company, Inc.



SALES • SERVICE
521 BEAUREGARD STREET P. O. DRAWER 1885 PHONE 433-4966
MOBILE, ALABAMA 36601

TRUCKS • SERVICE • PARTS • ACCESSORIES

H. J. BERT TOOLE
PRESIDENT

STATEMENT OF ACCOUNT

OF

ROY DAVIS
Loxley, Alabama

Invoice #10355
December 7, 1968

PARTS:	1 Door len	\$7.75
	1 Signal light	7.95
	1 Fender	50.50
	1 Skirt Extn.	29.15
	1 Bar Support	37.45
	1 Door assembly	246.93
	1 West Coast mirror	18.79
	1 Torque leaf	15.65
	1 Curry sleeper assbly.	648.50
	1 Hub cap	8.85
	1 Oil cleaner	45.50
LABOR:		269.70
OIL & GREASE:		12.00
SALES TAX:		67.02
TOTAL INVOICE		\$1465.74
LESS CREDIT		461.29
BALANCE DUE		\$1004.45

* * * * *

WE HEREBY CERTIFY THIS TO BE, TO THE BEST OF OUR KNOWLEDGE, A TRUE AND CORRECT
STATEMENT OF THE ACCOUNT OF ROY DAVIS OF LOXLEY, ALABAMA.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 27 DAY OF October, 1968

By

[Signature]
Mobile White Autocar Company, Inc.

My Commission Expires April 9, 1973

[Signature]
NOTARY PUBLIC

WHITE

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

TERM, 19.....

To any Sheriff of the State of Alabama, Greeting:

WHEREAS, at a regular..... Term, 19.70....., of the Circuit Court of Baldwin County, to-wit: On the 3rd..... day of August....., 19.70., being a regular day of said term, Mobile White Autocar Company, Inc.

recovered judgment against Roy Davis, Jr.

is due
for the sum of Eight Hundred Forty-Four and no/100---- Dollars, and cost of suit, and affidavit having been made by E. G. Rickarby, attorney for Plaintiff that process of garnishment is believed to be necessary to obtain satisfaction of such Judgment, and that the following named persons or corporations, vis:

Devore Brokerage Company, Inc.

has or is believed to have in its..... possession, or under its..... control money or effects belonging to said defendant..... or that it..... is, or is believed to be indebted to said defendant..... or to be liable to them, or to one of them on a contract for the delivery of personal property, on a contract for the payment of money which may be discharged by the delivery of personal property, or which is payable in personal property.

You Are Therefore Hereby Commanded to Summon Devore Brokerage Company, Inc.

at Robertsdale, Alabama

to file an answer in duplicate to the Circuit Court for Baldwin County, at the Court House thereof, in the city of Bay Minette, within 30 days from the day of..... the service of the garnishment, or at the making its..... answer, or at any time intervening the time of serving the garnishment, and making the answer it..... was..... indebted to said defendant Roy Davis, Jr. and whether it..... will not be indebted in future to said defendant Roy Davis, Jr. by a contract then existing, and whether by a contract then existing it..... is, or are, liable to said defendants for the delivery of personal property, or for the payment of money which may be discharged by the delivery of personal property, or which is payable in personal property, and whether it..... has not in its..... possession or under its..... control money or effects belonging to the defendant, Roy Davis, Jr.

Herein fail not, and have you then and there this Writ.

Witness, Eunice B. Blackmon, Clerk of said Court, this 8..... day of March A. D., 19.22

Issued 8..... day of March A. D., 19.22

ATTEST:

Eunice B. Blackmon Clerk

Devore Brokerage Co., Inc. is
located in Robertsdale, Alabama.

CIRCUIT COURT, BALDWIN COUNTY

No. 8962 1/2

Mobile White Autocar Co

VS. }

GARNISHMENT ON JUDGMENT

Roy Davis, Jr.

Devere Brokerage, Inc.

Issued 8 day of March 1972

Returnable _____ day of _____ 19____

MAR 9 1972

E. L. Rickaby
Attorney

Moore Printing Co. - Bay Minette, Ala.

By service on _____

Q March 72 At 4.00
and on 11 day of March 72
I served a copy of the within Devere Brokerage
on Devere Brokerage
Dunn

14.48 paid
Home R.T.
Left

STATE OF ALABAMA

Baldwin County

TO Roy Davis, Jr. Defendant.....:

YOU ARE HEREBY NOTIFIED that a Writ of Garnishment has been issued in the case of..

Mobile White Autocar Company, Inc. Plaintiff.....versus Roy Davis, Jr. Defendant.....

now pending in the Circuit Court of Baldwin County, Alabama, Law Side, in which

Devore Brokerage Company, Inc. at Robertsdale, Alabama.....has ^S been named as Garnishee.....

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal on this the

8 day of March, 1922Ernest S. Blackman
Clerk of the Circuit Court.

DEVORE BROKERAGE CO., INC.

TRUCK BROKER

P. O. BOX 396 • LOXLEY, ALABAMA 36551 • PHONES 964-3241, 964-3251

MESSAGE

REPLY

TO

Circuit Court, Baldwin County

Bay Minette, Alabama

DATE

March 13, 1972

Dear Siss,

Mr. Roy Davis is no longer employed
by this company. He drew his last ~~pay~~
pay here November 5, 1971.

We do not owe Mr. Davis any salary.

Devore Brokerage Company, Inc.

President

Samuel Devore

DATE

FILED

MAR 15 1972

EUNICE B. BLACKMON
CIRCUIT CLERK

BY

SIGNED

Form N-R73 © The Drawing Board, Inc., Box 505, Dallas, Texas 75221

INSTRUCTIONS TO SENDER:

1. KEEP YELLOW COPY. 2. SEND WHITE AND PINK COPIES WITH CARBON INTACT.

INSTRUCTIONS TO RECEIVER:

1. WRITE REPLY. 2. DETACH STUB. KEEP PINK COPY. RETURN WHITE COPY TO SENDER.

DEVORE BROKERAGE CO., INC.

TRUCK BROKER

P. O. BOX 396 • LOXLEY, ALABAMA 36551 • PHONES 964-3241, 964-3251

M E S S A G E

R E P L Y

TO Circuit Court, Baldwin County

Bay Minette, Alabama

DATE March 13, 1972

Dear Siss,

Mr. Roy Davis is no longer employed

~~by this company. He should have been~~
pay here November 5, 1971.

We do not owe Mr. Davis any salary.

Devore Brokerage Company, Inc.

President

DATE

FILED

MAR 15 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

SIGNED

BY

E. G. RICKARBY
DANIEL A. BENTON
TELEPHONE
(205) 928-2508

LAW OFFICES
RICKARBY & BENTON
ATTORNEYS AT LAW
316 MAGNOLIA AVENUE
P. O. BOX 471
FAIRHOPE, ALABAMA 36532

DAPHNE BRANCH
EARLE REALTY BUILDING
HIGHWAY 98
TELEPHONE
(205) 626-2608

March 6, 1972

Mrs. Eunice Blackmon
Clerk of the Circuit Court
Bay Minette, Alabama 36507

Re: Mobile White Autocar Co., Inc.
v. Roy Davis, Jr. - Case No. 8962
Our File No. 69-265

Dear Mrs. Blackmon:

Enclosed is an affidavit for garnishment on judgment in the case of Mobile White Autocar Co., Inc. v. Roy Davis, Jr., Case No. 8962. Please process.

Yours very truly,


E. G. Rickarby

EGR:lp
Enclosures

cc: Associated Attorneys List

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT

the undersigned Notary Public

Personally appeared before me, ~~Alice J. Duck, Clerk of the Circuit Court~~ in and for Baldwin County and State aforesaid **E. G. Rickarby, attorney for Mobile White Autocar Company,**

who being duly sworn, on oath says, that a regular _____ Term
of the Circuit Court of Baldwin County, to-wit: on the 3rd day of August
19 70, **Mobile White Autocar Company, Inc.**

recovered a judgment against **Roy Davis, Jr. for the sum of** _____ of which
One Thousand Sixty-four and no/100 _____ ~~for the sum of~~
Eight Hundred Forty-Four and no/100 Dollars is still due _____ Dollars
besides costs of suit; that said judgment remains ~~wholly~~ unsatisfied and in full force and effect: that
Devore Brokerage, Inc.

supposed to be indebted to or have effects of the said Defendant
in its possession, or under its control, and that he believes process of
Garnishment against said **Devore Brokerage, Inc.**
is necessary to obtain satisfaction of said judgment.

Sworn to and subscribed this _____

day of _____ A. D. 19 _____

Clerk.

THE STATE OF ALABAMA,
BALDWIN COUNTY

8962 1/2
CIRCUIT COURT

the undersigned Notary Public

Personally appeared before me, ~~XXXXXX~~ in and for Baldwin County and
State aforesaid E. G. Rickarby, attorney for Mobile White Autocar Company,

who being duly sworn, on oath says, that a regular _____ Term

of the Circuit Court of Baldwin County, to-wit: on the 3rd day of August

19 70, Mobile White Autocar Company, Inc.

recovered a judgment against Roy Davis, Jr. for the sum of _____ of which

One Thousand Sixty-four and no/100 _____ ~~XXXXXX~~

Eight Hundred Forty-Four and no/100 Dollars is still due _____ ~~XXXXXX~~

besides costs of suit; that said judgment remains ~~XXXXXX~~ unsatisfied and in full force and effect: that

Devore Brokerage, Inc.

supposed to be indebted to or have effects of the said Defendant

in its possession, or under its control, and that he believes process of

Garnishment against said Devore Brokerage, Inc.

is necessary to obtain satisfaction of said judgment.

Sworn to and subscribed this 7th

day of March A. D. 1972

Frankie D. Wilson
Clerk.

E. G. Rickarby

NO. 8962

CIRCUIT COURT

Mobile White Autocar Co., Inc.,

Plaintiff

vs.

Roy Davis, Jr.,

Defendant

AFFIDAVIT
Garnishment on Judgment

Filed this _____ day of

_____, 19____

Clerk.