

THOMAS S. JONES,)

PLAINTIFF)

VS)

J. V. CUMMINGS AND
JOHN T. THOMAS, A
Co-PARTNERSHIP, D/B/A
CUMMINGS & THOMAS,)

DEFENDANTS)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 9070

D E M U R R E R

COMES THE DEFENDANTS, J. V. CUMMINGS AND JOHN T. THOMAS, SEPARATELY AND AS A CO-PARTNERSHIP, D/B/A CUMMINGS AND THOMAS, SEPARATELY AND SEVERALLY, IN THE ABOVE STYLED CAUSE AND DEMUR SEPARATELY AND SEVERALLY TO THE PLAINTIFF'S COMPLAINT AD 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 COUNT DOES NOT CLEARLY SET FORTH THE NATURE OR CHARACTER OF THE ALLEGED BREACH OF CONTRACT.
4. SAID COUNT DOES NOT SUFFICIENTLY INFORM THE DEFENDANTS AS TO HOW OR WHEREIN THEY BREACHED THE ALLEGED CONTRACT.
5. SAID COUNT DOES NOT SET FORTH THE ESSENTIAL FACTS CONSTITUTING THE OBLIGATION OF THE DEFENDANTS.
6. SAID COUNT DOES NOT SUFFICIENTLY ALLEGE WHETHER THE ACTION IS EX CONTRACTU FOR THE BREACH OF CONTRACT, OR EX DELICTO FOR THE NEGLIGENT PERFORMANCE OF A CONTRACT.
7. SAID COUNT DOES NOT SET FORTH FACTS SUFFICIENTLY CLEAR

TO APPRAISE THE DEFENDANTS IN WHAT MANNER HE FAILED TO PERFORM THE ALLEGED CONTRACT IN A GOOD AND WORKMANLIKE MANNER.

BAILEY & TAYLOR

By: Royd E. Taylor
ATTORNEYS FOR THE DEFENDANTS

THE DEFENDANTS RESPECTFULLY

DEMAND A TRIAL OF THIS CAUSE BY

A JURY.

Royd E. Taylor

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 14th day of Jan. 1970
served a copy of the foregoing on John W. Duck
By mailing the same by United States Mail, Properly addressed, and First
Class Postage Prepaid.

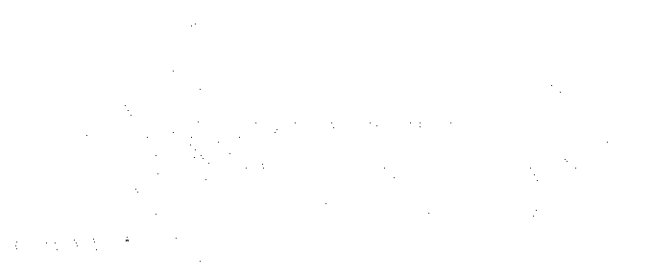
BAILEY & TAYLOR

By: Royd E. Taylor

FILED

JAN 14 1970

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Text located below the middle diagram, possibly serving as a caption or further explanation.



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9076

No. 9070

Page.....

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

THOMAS S. JONES

Plaintiffs

vs.

J. V. CUMMINGS and
JOHN T. THOMAS Defendants

SUMMONS AND COMPLAINT

FILED

Filed 19.....

JAN 7 1970 Clerk

ALICE J. DUCK CLERK REGISTER

DEPUTY SHERIFF BY

TAYLOR WILKINS, Sheriff

Ten Cents per mile Total \$ 17.20

miles at Sheriff's Office

JOHN V. DUCK

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at
405 North Section Street
Fairhope, Alabama

Received In Office

January 7 1970

Taylor Wilkins Sheriff

I have executed this summons

this 8, JAN. 1970

by leaving a copy with

J. V. Cummings and
John T. Thomas
ON BOTH PARTIES

W.C.
1/8/70

W. G. [Signature] Deputy Sheriff

Moore Printing Co. - Bay Minette, Ala.

IN Fairhope, Ala.

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

} No.....

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Comanded to SummonJ. V. CUMMINGS and JOHN T. THOMAS.....

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.....

.....J. V. CUMMINGS and JOHN T. THOMAS..... Defendant.....

by THOMAS S. JONES.....

....., Plaintiff.....

Witness my hand this..... 7..... day of.....

January 1970
Oliver J. Huck, Clerk

24 1-70

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

JANUARY 14, 1970

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

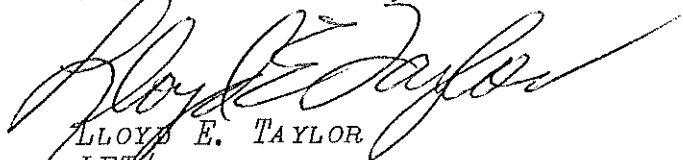
RE: JONES VS CUMMINGS-THOMAS
AT LAW CASE # 9070

DEAR MRS. DUCK:

I WILL APPRECIATE YOU FILING THE ATTACHED
DEMURRER IN THE ABOVE CAUSE.

I HAVE THIS DATE DELIVERED A COPY OF THE
SAME TO JOHN V. DUCK, THE ATTORNEY FOR THE
OTHER SIDE.

VERY TRULY YOURS,



LLOYD E. TAYLOR
LET/w

INCL: AS NOTED

JOHN V. DUCK
Attorney at Law
P. O. DRAWER Y - FAIRHOPE, ALABAMA

M E S S A G E

R E P L Y

TO Mrs. Alice J. Duck
Bay Minette, Ala.

DATE

9070

DATE January 5, 1970

Thomas S. Jones vs. J. V. Cummings and
John T. Thomas

Dear Mrs. Duck:

Enclosed please find Bill of Complaint to
be filed together with copy of same and
Summons to be served.

Sincerely,

John V. Duck
CRH

SIGNED

SIGNED

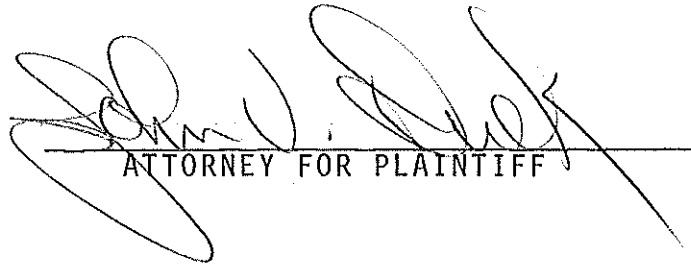
THOMAS S. JONES,)
Plaintiff,)
vs.)
J. V. CUMMINGS and)
JOHN T. THOMAS, a)
Co-Partnership, d/b/a)
CUMMINGS & THOMAS,)
Defendants.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

9070

Plaintiff claims of the Defendants the sum of THREE THOUSAND (\$3,000.00) DOLLARS as damages for the breach of a written contract, a copy of which is hereto attached and made a part hereof as though fully incorporated herein.

That in and by the terms of said contract, the Defendants agreed to construct the Plaintiff a dwelling house at 111 Ashley Drive in Fairhope, Alabama in a good and workmanlike manner, and the Plaintiff avers that the Defendants breached the said contract in that the air-conditioning system is grossly inadequate and fails and refuses to cool the said dwelling, all to the damage of the Plaintiff, hence this suit.


ATTORNEY FOR PLAINTIFF

FILED
JAN 7 1970
ALICE J. DUCK CLERK
REGISTER

CONTRACT TO BUILD

STATE OF ALABAMA

BALDWIN COUNTY

THIS AGREEMENT, made and entered into on this the 10 day of NOV, 1967, by and between CUMMINGS, WILSON & THOMAS, a Co-Partnership, hereinafter referred to as "CONTRACTOR", and THOMAS S. JONES and wife, BERTHA H. JONES, hereinafter referred to as "PURCHASERS", do and do hereby upon the WITNESSETH: personal representatives of the parties hereto, that for and in consideration of the covenants and agreements hereinafter contained, the parties hereto do hereby bind themselves as follows:

1. The Contractor shall construct a dwelling house on Lot No. _____ in 111 Ashley Drive Subdivision in Fairhope, Alabama, and the house shall be constructed according to plans agreed upon by both parties.

2. The Contractor will provide all materials and furnish all labor for the construction of the house, and that the house will be built in a good and workmanlike manner, and construction will begin as soon as possible. The Contractor agrees to have the house completed within _____ weeks, excepting therefrom any acts of God, such as fire, windstorm, hail, etc. and if such an event shall come to pass, then the Purchasers shall allow the Contractor a reasonable time to complete the said house according to the plans agreed on by the parties.

3. The Purchaser hereby agrees to pay to the Contractor the cost of all labor and materials plus 10 PER CENT.

4. The Contractor hereby agrees to carry the necessary insurances and obtain the necessary permits and sanctions for the construction of the said house.

5. The Contractor hereby agrees to render harmless all liens and judgments that may or could have been filed against the premises during construction, and upon the date of completion, if the Purchasers desire, Contractor will furnish a waiver of lien for all labor and materials.

6. The Contractor and Purchaser shall agree as to the time for the payment of the labor and materials plus 10 PER CENT during the period of construction.

7. The Contractor hereby agrees that upon the closing, that they will furnish the Purchasers a Warranty Deed, in Alabama Form, and Title Insurance for the amount of the completed purchase price, and a survey of the lot.

8. This Contract shall enure to and be binding upon the heirs, assigns and personal representatives of the parties herein, but no assignment of the Contract by the Purchasers shall be valid without the written consent of the Contractor.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on this the date and year first above written.

J. V. Cummings
J. V. CUMMINGS

Walter W. Wilson
WALTER W. WILSON

John P. Thomas
JOHN P. THOMAS

Thomas S. Jones
THOMAS S. JONES

Bertha H. Jones
BERTHA H. JONES