

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

DATE January 19, 1970

Re: Charles Mattingly vs. H. B. Green, III

Dear Mrs. Duck:

NO. 9088

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

Sincerely,

John V. Duck  
(X-1)

SIGNED

SIGNED

CHARLES MATTINGLY and SYLVIA S. )  
MATTINGLY, jointly and individually, )  
Plaintiffs, )  
vs. )  
H. B. GREEN, III, )  
Defendant. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW  
No. 9088

COUNT ONE

Plaintiff claims of the Defendant the sum of FOUR THOUSAND FIVE HUNDRED (\$4,500.00) DOLLARS due by promissory note made by the Defendant on, to-wit: the 20th day of May, 1969 and payable in monthly installments each in the sum of ONE HUNDRED (\$100.00), the first payment due and payable 30 days from the date of the making of the said note, and a like amount of said principal payable each succeeding month thereafter.

Plaintiff avers that the Defendant defaulted in the first month's payment and now demands the entire balance from the Defendant.

That in and by the terms of said note, the Defendant agreed to pay all costs of collection, including a reasonable attorneys fee, and the Plaintiff now claims the further and additional sum of EIGHT HUNDRED (\$800.00) DOLLARS as a reasonable attorneys fee.

That in and by the terms of said note, the Defendant waived all rights under the Constitution and Laws of the State of Alabama, and the Plaintiffs now claim the benefit of said Waiver.

  
ATTORNEY FOR PLAINTIFFS

FILED

JAN 21 1970

ALICE J. DUGG  
CLERK  
REGISTER

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 Commanded to Summon H. B. GREEN III

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.....

H. B. GREEN III ... Defendant.....

by CHARLES MATTINGLY and SYLVIA S. MATTINGLY

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

Witness my hand this 21 day of Jan 1970

*W. J. Duck*  
Clerk

Ex 1-28-70

No. 9088

Page.....

**THE STATE OF ALABAMA**  
**BALDWIN COUNTY**

**CIRCUIT COURT**

**CHARLES MATTINGLY and SYLVIA**  
**MATTINGLY**

Plaintiffs

vs.

**H. B. GREEN III**

Defendants

**SUMMONS AND COMPLAINT**

**FILED**

Filed ..... 19.....

**JAN 21 1970**

Clerk

**ALICE J. DUCK**

CLERK  
REGISTER

**JOHN V. DUCK**

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at  
Robertsdale, Alabama

Received In Office

January 21 1970

Sheriff

I have executed this summons

this Jan. 28th 1970  
by leaving a copy with

H. B. Green III

Sheriff claims 30 miles at

Ten Cents per mile Total \$ 5.00

**TAYLOR WILKINS, Sheriff**

BY Hall  
**DEPUTY SHERIFF**

Taylor Wilkins Sheriff

1st F. Hall Deputy Sheriff

Moore Printing Co. - Bay Minette, Ala.

50 miles RT  
R-Dale

CHARLES MATTINGLY and SYLVIA S.  
MATTINGLY, jointly and individually,

Plaintiffs,

VS.

H. B. GREEN, III,

Defendant.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

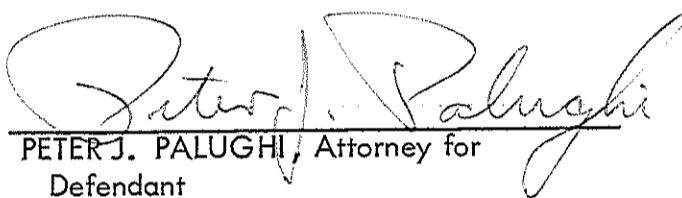
CASE NO. 9,088

ANSWER

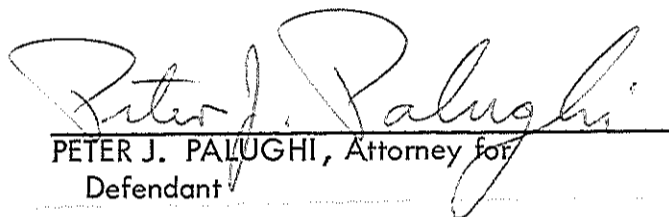
Comes now the Defendant in the above styled cause and for answer to the complaint herein, and each and every count thereof, separately and severally, says:

1. Not guilty.
2. Defendant denies each and every allegation of the Complaint.
3. That the allegations thereof are untrue.
4. The said note alleged in the complaint filed herein by the Plaintiffs has been paid and satisfied in full.
5. For a further and separate defense Defendant alleges that the note sued on was executed without any consideration whatsoever.
6. The said promissory note alleged by the Plaintiffs in the Complaint filed herein is not yet due and payable.
7. For a further and separate defense Defendant alleges that there was a failure of consideration upon which the note sued on in the above styled case was executed by the parties thereto.
8. For a further and separate defense the Defendant alleges that his signature was procured upon the said note referred to in the Complaint herein by fraud of the Plaintiffs in that the Plaintiffs failed to advise the Defendant of the material fact, which if known, the Defendant would not have executed the said Promissory Note. The fraud of the Plaintiffs consists of in that on May the 20th, 1969, the Plaintiffs sold to the Defendant numerous items of personal property and equipment to be used in a restaurant type business in Robertsedale, Alabama, Baldwin County, Alabama, for which sale the Defendant did, as part of the consideration, sign the promissory note

referred to in the Complaint of the Plaintiffs herein . The Plaintiffs willfully and maliciously failed to apprise or tell the Defendant that said personal property was legally the subject of a lease then in existence which had a term of five years and that said lease by the terms thereof would not and did not allow the removal of said personal property and equipment from the premises. Plaintiffs' silence of this material fact led the Defendant to believe that the possession of said property was his and he could move or take and use said property when and where he pleased. Relying upon the said silence of the Plaintiffs the Defendant did execute said Promissory Note but if said facts as above stated had been known to the Defendant he would not have executed said Promissory Note.

  
PETER J. PALUGHI, Attorney for  
Defendant

Defendant demands a trial by jury.

  
PETER J. PALUGHI, Attorney for  
Defendant

(2)

FILED  
FEB 2 1970  
JAMES J. DEER  
CLERK  
REGISTER