

SOUTHLAND RECO SALES, INC.,
a corporation,

Plaintiff,

vs.

ARTHUR A. ROWLAND, d/b/a
SPANISH FORT HARDWARE,

Defendant.

* IN THE CIRCUIT COURT OF
* BALDWIN COUNTY,
* ALABAMA
* CIVIL DIVISION
*
* CASE NO.

COUNT ONE

Plaintiff claims of the Defendant \$606.23, due from him by account, which sum of money, together with interest thereon is still due and unpaid.

An itemized statement of the account sued on, verified by the affidavit of a competent witness is attached hereto as Exhibit "A" and made a part hereof.

COUNT TWO

Plaintiff claims of the Defendant \$1,575.44, due from him by account, which sum of money, together with interest thereon is still due and unpaid.

An itemized statement of the account sued on, verified by the affidavit of a competent witness is attached hereto as Exhibit "B" and made a part hereof.

ENGEL, SMITH & TOLER
Attorneys for Plaintiff

BY: 
DESMOND B. TOLER

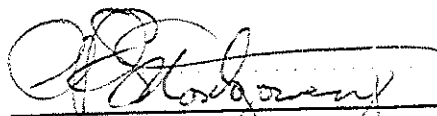
Defendant may be served at:

Spanish Fort Hardware Store
Highway 31
Spanish Fort, Alabama

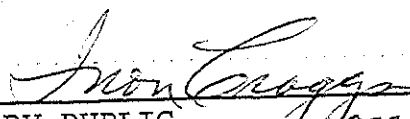
STATE OF INDIANA)

COUNTY OF MARION)

Before me, the undersigned authority in and for the State and County aforesaid, personally appeared C. R. Montgomery, who is known to me, and known to be the credit manager of Southland Reco Sales, Inc., and who, having been first duly sworn, deposes and says upon his oath that he has personal knowledge of the itemized account attached hereto, that the same is true and correct, and that no part of same has been paid.


C. R. MONTGOMERY
Credit Manager

Subscribed and sworn to before me on this the 24th
day of May, 1971.


NOTARY PUBLIC
My Commission Expires June 23, 1973

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 9918

TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Arthur A. Rowland, d/b/a Spanish Fort Hardware

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.....

Arthur A. Rowland, d/b/a Spanish Fort Hardware, Defendant.....

by Southland Reco Sales, Inc. A Corporation

Plaintiff.....

Witness my hand this 12th day of July 1971

Eunice B. Blackburn Clerk

No. 9918.....

Page.....

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

SOUTHLAND RECO SALES, INC. A CORPORATION

Plaintiffs

vs.

ARTHUR A. ROWLAND, d/b/a SPANISH FORT HARDWARE

Defendants

SUMMONS AND COMPLAINT

Filed July 12, 1971

EUNICE B. BLACKMON

Clerk

ENGEL, SMITH & TOLER

P. O. Box 1045

Mobile, Alabama 36601

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

July 13 1971

Taylor Wilkins Sheriff

I have executed this summons

this 20th day of July 1971

by leaving a copy with

CR

Arthur Rowland
Indiv. & d/b/a Spanish
Fort Hardware

44 miles at

440

Taylor Wilkins, Sheriff

BY Fred Liberty DEPUTY SHERIFF

SOUTHLAND RECO SALES, INC.,
a corporation,

Plaintiff,

vs.

ARTHUR A. ROWLAND, d/b/a
SPANISH FORT HARDWARE,

Defendant.

* IN THE CIRCUIT COURT OF

* BALDWIN COUNTY,

* ALABAMA

* AT LAW

*

* CASE NO. 9918

MOTION TO REINSTATE INTERROGATORIES

Comes now the Plaintiff in the above styled cause and moves to reinstate the interrogatories heretofore stricken by the Court in this matter and for grounds thereof states as follows:

1. The Court struck the interrogatories propounded by the Plaintiff on grounds that they were propounded to a witness and not a party to the suit.

2. The Court took the position in striking the interrogatories that the interrogatories were not properly propounded to a party to the suit and that such was the legal requirement in the case at Bar.

3. The interrogatories propounded in this case were done under the provisions of Title 7, Section 459, Code of Alabama 1940, recompiled 1958, and were done so in order that a case could be proved under the provisions of Title 7, Section 457 which provides that evidence in a civil case may be taken when the witness meets the qualifications of that particular section.

4. The witness in the case at Bar lives more than 100 miles from the place of trial and taking his testimony by deposition through written interrogatory complies with Title 7, Section 457 and 459 of the Code of Alabama 1940, recompiled 1958.

WHEREFORE, the premises considered the Plaintiff moves that the Court hereby reinstate and republish the interrogatories heretofore filed by the Plaintiff in this case and allow them to be sent to the Plaintiff's witness after giving the Defendant time by law to file cross interrogatories if he should so desire.

ENGEL AND SMITH
Attorneys for Plaintiff

BY: 

DAVID L. BARNETT

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 5
day of October, 1992 served a copy of the
foregoing plea for counsel for all parties to this
proceeding by mailing the same by United States mail,
properly addressed, and first class postage prepaid.

FILED

OCT 6 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

SOUTHLAND RECO SALES, INC.,	X	
a corporation,		
	X	IN THE CIRCUIT COURT OF
Plaintiff,		
	X	
		BALDWIN COUNTY, ALABAMA
vs.	X	
	X	AT LAW CASE NO. 9918
ARTHUR A. ROWLAND, d/b/a		
SPANISH FORT HARDWARE,	X	
Defendant.	X	

DEMURRER

Comes now the Defendant in the above styled cause, by and through his attorneys of record, and demurs to the Complaint heretofore filed against him in this cause, and to each Count thereof, separately and severally, and for grounds thereof assigns the following, separately and severally:

1. The Complaint and each Count thereof fails to state a cause of action.
2. For aught that appears from the Complaint and Exhibits thereto, the Plaintiff has not been credited with all lawful payments and off-sets.

Respectfully submitted,

CHASON, STONE & CHASON

BY: *Richard E Ball*
Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 19 day

of Aug, 19 71.

Richard E Ball

FILED

AUG 19 1971

EUNICE B. BLACKMON CIRCUIT CLERK

ENGEL AND SMITH
ATTORNEYS AT LAW
SUITE 910 VAN ANTWERP BUILDING
P. O. BOX 1045
MOBILE, ALABAMA 36601

MYLAN R. ENGEL
LEO A. SMITH, JR.
W. HOWARD DONOVAN

TELEPHONE
AREA CODE 205
438-3625

May 31, 1973

Honorable Charles C. Partin
Attorney at Law
P.O. Box 120
Bay Minette, Alabama 36507

In Re: Southland Reco Sales, Inc.
Vs: Arthur A. Rowland, d/b/a
Spanish Fort Hardware
Baldwin County Circuit Court
Case #9918

Dear Charles:

With reference to the above subject case which I note is set down on the docket for June 11, 1973. Would you please present this letter to the Court on the date the matter is called, June 11, 1973.

Please have the case dismissed on the motion of the Plaintiff and forward the cost bill to me.

I am sending a copy of this letter to the Clerk of the Baldwin County Circuit Court.

If you have any further questions please feel free to call upon me.

Sincerely yours,

ENGEL AND SMITH



Leo A. Smith, Jr.

LASjr/d

cc: Mrs. Eunice Blackmon

ENGEL AND SMITH
ATTORNEYS AT LAW
SUITE 910 VAN ANTWERP BUILDING
P. O. BOX 1045
MOBILE, ALABAMA 36601

MYLAN R. ENGEL
LEO A. SMITH, JR.

DAVID L. BARNETT

TELEPHONE
AREA CODE 205
438-3625

September 6, 1972

Honorable Telfair J. Mashburn
Judge of Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama

Re: Southland Reco Sales, Inc., a corporation
Vs: Arthur A. Rowland, d/b/a Spanish Fort Hardware
Case No. 9918, Baldwin County Circuit Court

Dear Judge Mashburn:

Enclosed please find interrogatories propounded to the complaining witness in this case. My client has instructed me to attempt to prove this matter through written interrogatories. Since this will take sometime, coupled with the fact that I have three felony cases set in the Mobile County Circuit Court on the date this trial is set (September 11, 1972) I would like at this time to request a continuance in the matter for the Attorney for the Defendant to be able to file cross interrogatories and prove this matter without the necessity of a live witness coming from Indiana.

Thank you for your cooperation in this matter.

Very truly yours,

ENGEL AND SMITH

David L. Barnett

DLB/d

Enclosures: as indicated

SOUTHLAND RECO SALES, INC.,
a corporation,

Plaintiff,

vs.

ARTHUR A. ROWLAND, d/b/a
SPANISH FORT HARDWARE,

Defendant.

* IN THE CIRCUIT COURT OF
*
* BALDWIN COUNTY,
*
* ALABAMA
*
* AT LAW
*
*
* CASE NO. 9918

INTERROGATORIES

Now comes the Plaintiff and propounds interrogatories to Mr. C. R. Montgomery, a witness whose testimony when taken will be material evidence for the Plaintiff on the trial of the above styled cause. Interrogatories to Mr. C. R. Montgomery:

1. State your name.
2. State your address.
3. By whom are you employed?
4. State how long you have been employed by said firm.
5. What is your present capacity at this firm?
6. How long have you been in that capacity?
7. Are you familiar with the books and records generally of Southland Reco Sales, Inc.?
8. Are you familiar with the books and records of Southland Reco Sales, Inc. regarding an account with Arthur A. Rowland doing business as Spanish Fort Hardware?
9. Can you identify the enclosed copy of a statement purporting to be issued from Southland Reco Sales, Inc. to Arthur A. Rowland doing business as Spanish Fort Hardware?
10. Is this photostatic copy a true and correct copy of a statement sent by you to Arthur A. Rowland doing business as Spanish Fort Hardware?
11. Was the original statement made in the regular course of business of Southland Reco Sales, Inc.?
12. Is the copy of that statement, which you have before you, a true and correct copy of the original memorandum or record made of your company's transactions with Arthur A. Rowland doing

business as Spanish Fort Hardware?

13. Could you explain in detail the circumstances surrounding the transactions which are the subject of this photostatic memorandum?

14. What are the charges in this memorandum for?

15. Were those charges made in the normal course of this business of Southland Reco Sales, Inc.?

16. Was it within the normal business operations of Southland Reco Sales, Inc. to have made a statement and issued a statement to Arthur A. Rowland doing business as Spanish Fort Hardware for the services in question?

17. For what were these charges made?

18. Were the charges in question reasonable?

19. Have any of these charges been paid?

20. When was this statement sent to Arthur A. Rowland doing business as Spanish Fort Hardware?

21. How many statements have been sent?

22. From your knowledge of the books and records of Southland Reco Sales, Inc. what is the present balance due and owing from Arthur A. Rowland doing business as Spanish Fort Hardware, if you know?

23. How long after the original statement issued from Southland Reco Sales, Inc. to Arthur A. Rowland doing business as Spanish Fort Hardware was the photostatic copy, which you have before you, made?

24. Explain in detail from your knowledge of the books and records of Southland Reco Sales, Inc. all the transactions between Arthur A. Rowland doing business as Spanish Fort Hardware, which are the subject of that certain action at law pending in the Circuit Court of Baldwin County, Alabama.

STATE OF ALABAMA)

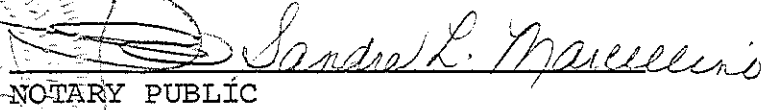
COUNTY OF MOBILE)

Before me, Sandra Marcellino, a Notary Public in and for said State and County personally appeared DAVID L. BARNETT who being by me first duly sworn deposes and says that he is agent and attorney for the Plaintiff, Southland Reco Sales, Inc., that the witness whose testimony is to be taken is a non-resident of the State of Alabama residing in Indianapolis, Indiana as a witness Mr. C. R. Montgomery is a material witness for the Plaintiff and the evidence to be secured by this deposition will be material evidence for the Plaintiff on the trial of this cause.

ENGEL AND SMITH
Attorneys for Plaintiff

BY: 
DAVID L. BARNETT

Sworn to and subscribed before me on this the 5 day of
September, 1972.


NOTARY PUBLIC

The name of Ivon Craggs, a Notary Public for the State of Indiana, 1500 Stadium Drive, Indianapolis, Indiana, is suggested as a fit and suitable person to take down the answers to the foregoing interrogatories and it is requested that a commission issue to her for that purpose.

FILED

SEP 8 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

ENGEL AND SMITH
Attorneys for Plaintiff

BY: 
DAVID L. BARNETT

CERTIFICATE OF SERVICE

I do hereby certify that I have on this _____ day of _____, 196____, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.

ENGEL & SMITH
ATTORNEYS AT LAW
SUITE 910
VAN ANTWERP BUILDING
P. O. BOX 1045
MOBILE, ALABAMA 36601
TELEPHONE
A/C 205 436-3625

COMMISSION TO TAKE DEPOSITIONS

THE STATE OF ALABAMA
Baldwin County

Circuit Court

TO IVON CRAGGS
1500 Stadium Drive
Indianapolis, Indiana

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, as such time and place as you may appoint, to call before you and examine Mr. C. R. Montgomery

a witness in behalf of Plaintiff
Circuit Court in Baldwin County, of said State, wherein

in a cause pending in our

Southland Reco Sales, Inc, a corp., Plaintiff

, ~~Complainant~~

and

ARTHUR A. ROWLAND, d/b/a SPANISH FORT HARDWARE, Defendant.

~~xxRespondentx~~

on oath, to be by you administered, upon Mr. C. R. Montgomery
to take and certify the deposition of the witness and return the same to our Court, with all convenient speed, under your hand.

Witness 8th day of September

, 19 72

Commissioner's Fee, \$

Witness' Fees, \$

Ernie B. Blackma
CIRCUIT CLERK

P. O. Box 239

Bay Minette, Alabama, 36507

SOUTHLAND RECO SALES, INC.,	X	
a corporation,		IN THE CIRCUIT COURT OF
	X	
Plaintiff,		BALDWIN COUNTY, ALABAMA
	X	
vs.		AT LAW CASE NO. 9918
	X	
ARTHUR A. ROWLAND, d/b/a		
SPANISH FORT HARDWARE	X	
Defendant.	X	

MOTION TO STRIKE

Comes now the Defendant in the above styled cause, by and through his attorneys of record, and moves to strike the interrogatories heretofore filed September 8th, 1972 in this cause, and for grounds therefor assigns the following, separately and severally:

1. Interrogatories may be propounded only to a party in a civil suit.
2. For that the Interrogatories propounded to C. R. Montgomery and filed in this cause on September 8th, 1972 do not comply with Title 7, Section 477, Code of Alabama 1940.
3. For that C. R. Montgomery is not a party to the above styled cause.
4. For that C. R. Montgomery is only a witness.

Respectfully submitted,

CHASON, STONE & CHASON

By: Charles C. Paster
Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 12th day of September, 1972

Charles C. Paster

FILED

SEP 12 1972

EUNICE B. BLACKMON CIRCUIT CLERK

ENGEL AND SMITH
ATTORNEYS AT LAW
SUITE 910 VAN ANTWERP BUILDING
P. O. BOX 1045
MOBILE, ALABAMA 36601

MYLAN R. ENGEL
LEO A. SMITH, JR.
W. HOWARD DONOVAN

TELEPHONE
AREA CODE 205
438-3625

May 31, 1973

Honorable Charles C. Partin
Attorney at Law
P.O. Box 120
Bay Minette, Alabama 36507

In Re: Southland Reco Sales, Inc.
Vs: Arthur A. Rowland, d/b/a
Spanish Fort Hardware
Baldwin County Circuit Court
Case #9918

Dear Charles:

With reference to the above subject case which I note is set down on the docket for June 11, 1973. Would you please present this letter to the Court on the date the matter is called, June 11, 1973.

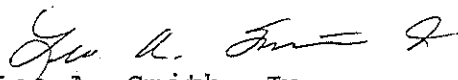
Please have the case dismissed on the motion of the Plaintiff and forward the cost bill to me.

I am sending a copy of this letter to the Clerk of the Baldwin County Circuit Court.

If you have any further questions please feel free to call upon me.

Sincerely yours,

ENGEL AND SMITH


Leo A. Smith, Jr.
LASjr/d
cc: Mrs. Eunice Blackmon

8166