

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon DONALD DANIELS 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 FLOYD MILSTID, JR.

WITNESS my hand this 26 day of June, 1972.

Eunice B. Blackmon
Clerk

FLOYD MILSTID, JR.,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
VS.	)	AT LAW
DONALD DANIELS,	)	CASE NO. <u>10,464</u>
Defendant.)	

1.

The Plaintiff claims of the Defendant the sum of TWO HUNDRED NINETY TWO DOLLARS AND FORTY CENTS (\$292.40) as damages for breach of an oral agreement entered into by and between the Plaintiff and the Defendant on the 29th day of November, 1971. He avers that, under the terms of this agreement, the Defendant agreed to purchase and install in a workman like manner a heating and cooling system in the home of Jerry Gunn in accordance with the plans and specifications of said home. Plaintiff avers that the Defendant entered into this contract, purchased a part of the material necessary for said installation and started the same. The Plaintiff avers further that he paid the Defendant in full for said purchase and installation. That the Defendant failed and refused to complete his part of said agreement within a reasonable time and the Plaintiff was required to and did employ a third party to complete the performance of said contract. That this cost the Plaintiff the sum of TWO HUNDRED NINETY TWO DOLLARS AND FORTY CENTS (\$292.40) which is a reasonable sum, all to the loss of the Plaintiff in the afore-said sum.

FILED

WILTERS & BRANTLEY

JUN 26 1972

EUNICE B. BLACKMON
CIRCUIT CLERK

6 VOL

69 PAGE 725 BY:

J M Brantley
Attorneys for Plaintiff

26: 6-29-72

Received 27 day of June 19 72
and on 29 day of June 19 72
I served a copy of the within-
on Donald Daniels

By service on Donald Daniels

TAYLOR WILKINS, Sheriff
By C.W. Walker D.S.

Sheriff District 58 miles at
Ten Cents per mile Total \$ 5.80
TAYLOR WILKINS, Sheriff
C.W. Walker
DEPUTY SHERIFF

Wickers & Brantley

64511

EUNICE B. BLACKMON CIRCUIT CLERK

FILED

JUN 26 1972

JUN 27 1972

TAYLOR WILKINS
SHERIFF

Donald Daniels
Dept.


Lloyd Milstid Jr.
Plty.

10,464

FLOYD MILSTID JR. * IN THE CIRCUIT COURT OF
Plaintiff * BALDWIN COUNTY, ALABAMA
vs * AT LAW
DONALD DANIELS * CASE NO. 10,464
Defendant *

Comes the Defendant in the above styled cause and demurs to the complaint filed in said cause and for demurrer shows as follows:


1. The allegations of said complaint fail to state a cause of action.
2. That for aught alleged no description or specification of the alleged heating and cooling system is set out in the complaint.
3. That for aught alleged plaintiff fails to allege the sum of the agreement.
4. That for aught alleged plaintiff fails to allege the cost or the purchase price of the system.
5. That for aught alleged plaintiff fails to allege the amounts paid to the defendant.


Attorney for Defendant

I hereby certify that I have this the 17 day of July, 1972 served a copy of the foregoing demurrer and interrogatories on Honorable Tolbert Brantley, Attorney at Law, Bay Minette, Alabama, Attorney for the Plaintiff, by depositing a copy of same in the United States Mail postage prepaid.

FILED

JUL 17 1972


Attorney for Defendant

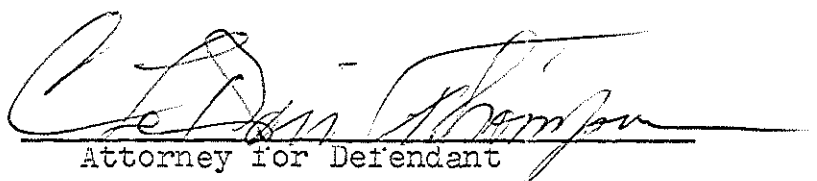
FLOYD MILSTID, JR. * IN THE CIRCUIT COURT OF
 Plaintiff * BALDWIN COUNTY, ALABAMA
 vs * AT LAW.
DONALD DANIELS * CASE NO. 10,464
 Defendant *

Comes the Defendant in the above styled cause and propounds the following interrogatories to the Plaintiff, Floyd Milstid Jr.:

1. State your name and address.
2. Are you the plaintiff in this case?
3. Describe the heating and cooling system which you allege the defendant agreed to purchase and install.
4. Attach to your answer a copy of the plans and specifications with which requirements the defendant was make his installations.
5. State the amount which you claim to have paid the defendant showing the date or dates on which such payment was made.
6. State the action of the defendant in advising you of his refusal to complete a part of the agreement and set out in detail a description of the part the defendant refused to install.
7. State the length of time you gave the defendant to complete his installation and which you describe as a reasonable time.
8. Give the name and address of the third part alleged to have completed the said contract.
9. State, if you know, the cost of the heating and cooling equipment and the dates which you paid the defendant this cost.
10. Attach hereto an itemized statement of the payments made to the defendant.

FILED

JUL 17 1972


Attorney for Defendant

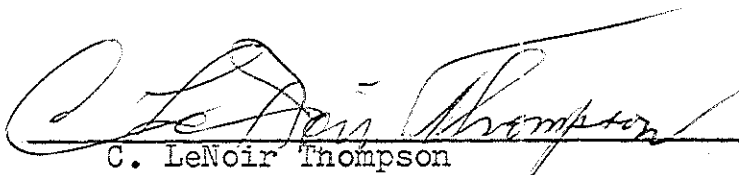
EUNICE B. BLACKMON CIRCUIT
CLERK

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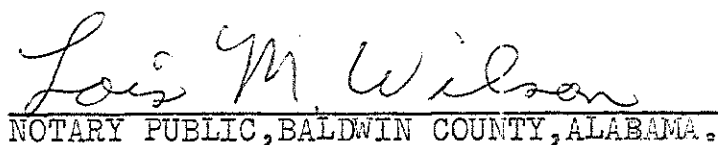
STATE OF ALABAMA
BALDWIN COUNTY

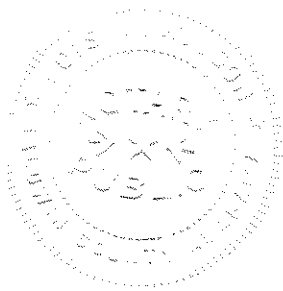
Before me, the undersigned Notary Public, in and for
said State and County, personally appeared C. LeNoir
Thompson, who being by me first duly sworn, deposes on
oath and says as follows:

My name is C. LeNoir Thompson, I am the Attorney of
Record for the Defendant in the above entitled cause
and as such, I am authorized to make this affidavit. I
further state that the answer of the Plaintiff to the
foregoing interrogatories will, if truthfully made, be
material evidence for the Defendant on the trial of said
cause.


C. LeNoir Thompson

Subscribed and sworn to before me by the said C. LeNoir
Thompson on this the 17th day of July, 1972.


NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA.



FLOYD MILSTID, JR., * IN THE CIRCUIT COURT OF
 * BALDWIN COUNTY, ALABAMA
 * AT LAW
VS *
DONALD DANIELS * CASE NO. 10,464
 *
DEFENDANT

Comes the Defendant in the above styled cause and for answer to the complaint filed in said cause shows unto this Honorable Court as follows:

1. He denies the allegations of said complaint as untrue.
2. He further shows that the plaintiff himself was responsible for the delay incurred by the defendant not completing his work in that the said plaintiff stopped payment on a check made by the plaintiff payable to the defendant which was being used in the purchase of materials thereby contributed to the delay complained of.
3. Defendant further shows that the plaintiff Milstid stopped payment on a \$753.00 check with which your said defendant needed to purchase materials and your defendant therefore was forced to stop work since he was without funds to complete his contract due to your act of the said plaintiff in stopping payment on the check delivered to the defendant by the plaintiff.


ATTORNEY FOR DEFENDANT

I hereby certify that I have this the 11th day of December, 1972, served a copy of the foregoing answer on Honorable Tolbert M. Brantley, Attorney at Law, Bay Minette, Alabama, Attorney for Plaintiff, by hand carrying a copy of same to his office in Bay Minette, Alabama.

FILED

DEC 11 1972

EUNICE B. BLACKMON CIRCUIT CLERK

VOL


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ATTORNEY FOR DEFENDANT

FLOYD MILSTID, JR.	*	IN THE CIRCUIT COURT OF
PLAINTIFF	*	BALDWIN COUNTY, ALABAMA
VS	*	AT LAW.
DONALD DANIELS	*	CASE NO. 10,464
DEFENDANT	*	

Comes the defendant in the above styled cause and respectfully moves this Honorable Court as follows:

That having filed interrogatories in the foregoing case certain of which were not answered on the 8th day of September your said defendant filed a motion to require the plaintiff to answer interrogatories number 5, 7, 8, 9 and 10 and that more than sixty days have elapsed since filing the said motion for answers to the interrogatories which were omitted in the original answer, your defendant respectfully submits he is entitled to have the court apply the penalties provided under Title 7 Section 486.


ATTORNEY FOR DEFENDANT

I hereby certify that I have this the 30 day of November, 1972, served a copy of the foregoing on Honorable Tolbert Brantley, Attorney at Law, Bay Minette, Alabama, Attorney for the Plaintiff, by depositing a copy of same in the United States Mail postage prepaid.


ATTORNEY FOR DEFENDANT

FILED

NOV 30 1972

FLOYD MILSTID, JR.,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
VS.	)	AT LAW
DONALD DANIELS,	)	CASE NO. 10,464
Defendant.)	

ANSWER TO MOTION OF DEFENDANT MADE NOVEMBER 30, 1972

In answer to the Defendant's Motion filed in this cause on the 30th day of November, 1972, the Plaintiff says that he has heretofore answered Interrogatory #5 as fully as is justifiable in this cause. The Plaintiff answers further that this information is as fully within the knowledge of the Defendant as it is the Plaintiff.

Interrogatory #7 has been answered in full. For further answer to this Interrogatory, the Plaintiff says that this information is as fully within the knowledge of the Defendant as it is the Plaintiff.

For answer to Interrogatory #8, the Plaintiff says that the Defendant is confused about what he asked. His question was: "Give the name and address of the third party alleged to have completed said contract". For answer to this, the Plaintiff gave two names and addresses. In his Motion heretofore filed for detailed answers to Interrogatories, he made reference to dates and cooling system which is in no way related to his original Interrogatory.

Interrogatory #9 has been answered completely and fully. He asked that, if we knew, to state the costs of the heating and cooling system. We have said that we do not know. It requested the dates on which the Defendants were paid. This is shown fully by reference to answer to Interrogatory #5. We still refused to furnish an itemized statement of the payments made to the Defendant. The Defendant knows when and how much he was paid.

WILTERS & BRANTLEY

CERTIFICATE OF SERVICE

I do hereby certify that I have on this Dec 4 day of Dec 1972, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mail and have by United States Mail, properly addressed, and first class postage prepaid.

WILTERS & BRANTLEY

By: SMB

BY: SMB **FILED**
Attorneys for Plaintiff

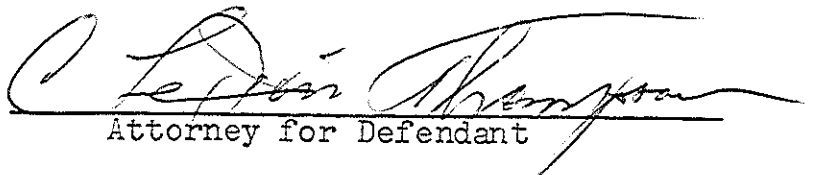
DEC 4 1972

EUNICE B. BLACKMON CIRCUIT CLERK

FLOYD MILSTID, JR.	*	IN THE CIRCUIT COURT OF
Plaintiff	*	BALDWIN COUNTY, ALABAMA.
vs	*	AT LAW.
DONALD DANIELS	*	CASE NO. 10,464
Defendant	*	

Comes now the defendant in the above styled cause and moves this Honorable Court to require the said plaintiff to answer in detail the interrogatories heretofore filed in said cause with specific answers to the following:

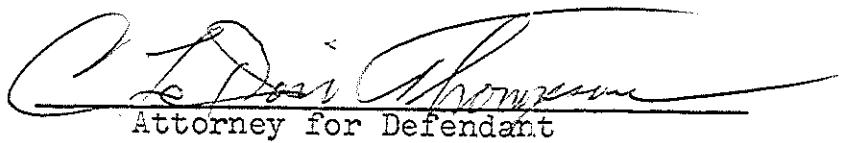
1. As to original interrogatory number five, state the day, month and year when you paid the defendant.
2. As to original interrogatory number seven, state the date defendant last worked on the heating and cooling system.
3. As to original interrogatory number eight, state the date the cooling system was completed and describe the exact work which parties alleged to have completed said contract actually did.
4. As to original interrogatory number nine, state the cost of the heating and cooling equipment and the dates which you paid the defendant this cost.
5. As to original interrogatory number ten, attach hereto an itemized statement of the payments made to the defendant.


Attorney for Defendant

I hereby certify that I have this the 20 day of September, 1972 served a copy of the foregoing on Honorable Tolbert Brantley, Attorney at Law, Bay Minette, Alabama, Attorney for the Plaintiff, by depositing a copy of same in the United States Mail postage prepaid.

FILED

SEP 20 1972


Attorney for Defendant

EUNICE B. BLACKMON CIRCUIT CLERK

FLOYD MILSTID, JR.,)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
DONALD DANIELS,	)	AT LAW
Defendant.	)	CASE NO. 10,464

Comes now the Plaintiff in the above styled cause and files the following Answers to the Interrogatories heretofore propounded to the Plaintiff by the Defendant:

1. Floyd Milstid, Jr., Rabun Route, Bay Minette, Alabama.
2. Yes.
3. A three ton Payne cooling unit and an 80,000 BTU heating unit.
4. No plans or specifications were furnished.
5. \$753.00 - Jan., 1972; \$307.00 - Jan., 1972 - Total \$1,050.00.
6. For answer to this question, the Plaintiff says that the Defendant never verbally refused to install the heating and cooling system but on many occasions he said he was coming and did not show up. The Plaintiff waited two months for the Defendant to complete his work before completing it himself.
7. No time was specified; however, the Defendant knew he was supposed to complete his work at the time the house was completed and this took approximately four months.
8. Harry Still, Jr., Bay Minette, Alabama, and Leo Trusty, Bay Minette, Alabama.
9. I do not know. See answer #5.
10. ~~xxxxxxx~~ This question is irrelevant.



 Floyd Milstid, Jr.

STATE OF ALABAMA
BALDWIN COUNTY

Before me, the undersigned authority, personally appeared Floyd Milstid, Jr. who is known to me, and who being by me first duly sworn, deposes and says: That he has read the foregoing Answers and that the same are true and correct to the best of his knowledge

and belief.

Floyd Milstid, Jr.
Floyd Milstid, Jr.

Sworn to and subscribed before me on this the 8th day of September, 1972.

Johanni L. Walter
Notary Public

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 12 day of Sept 1972 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.

WILTERS & BRANTLEY

By: S. M. Brantley

FILED

SEP 12 1972

EUNICE B. BLACKMON CIRCUIT CLERK