2546

BILL PEYTON, Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
TOM HOBBS, Defendant.	)	AT LAW

NOTICE

Pursuant to the provisions of Act No. 375 enacted by the Legislature of Alabama and approved September 8, 1955, (General Acts, 1955 Session, Volume 2, Pages 901-7), notice is hereby given that the Plaintiff desires to take the testimony of the Defendant, Tom Hobbs, by deposition upon oral examination for the purpose of discovering or for the use as evidence in the action or for both purposes.

Notice is hereby given that the said testimony will be taken at the courthouse at Bay Minette, Alabama, at 10 o'clock A.M. on the 9th day of March, 1956.

Attorney for Plaintiff

NOTICE 2546

BILL PEYTON,

Plaintiff,

VS.

TOM HOBBS,

Defendant.

RECORDED

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

FILED

FEB 28 1956

ALICE J. DUCK, Clerk

BILL PEYTON	◊	
PLAINTIFF	◊	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW
VS	◊	
TOM HOBBS	◊	
DEFENDANTS	◊	

ANSWER TO INTERROGATORIES

Comes now the Defendant, Tom Hobbs, and files his answers to Interrogatories heretofore propounded to him:

1. Yes.

2. Yes.

3. No.

3A. No.

4. Unknown.

5. Lehman Teel.

6. Bill Peyton - that he knew the cows, that they were good milkers and free from disease.

7 7. No.

8. I couldn't tell.

9. Four.

10. Bangs.

11. I don't know.

12. Yes.

13. Dr. Miller, unknown, 4 had bangs disease.

14. Yes, just before I purchased them -(See 6)

15. No.

16. I cannot say definitely, I tried to milk all of them, but only one has given enough milk to use as a milker.

17. They average less than 15 gallons per month with the exception of one which gives approximately 90 gallons a month.

18. Over $2000.00.

19. No.

Thomas M. Hobbs

STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned authority, personally appeared Tom Hobbs,

who being first duly and legally sworn deposes and says:

That the answers to the above and foregoing interrogatories have been read by me and are true.

Thomas M. Hobbs.

Sworn to and subscribed before me on this the 1 day of December, 1955.

Gary J. Wilters Jr.

Notary Public, Baldwin County, Alabama

2546

BILL PEYTON

PLAINTIFF

VS

TOM HOBES

DEFENDANT

ANSWER TO INTERROGATORIES

FILED

DEC 1 1955

ALICE J. BUCK, Register

BILL PEYTON, Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
TOM HOBBS, Defendant.	)	AT LAW

AMENDED COMPLAINT

Now comes the Plaintiff and amends his complaint heretofore filed in this cause so that, as amended, the said complaint will read as follows:

COUNT ONE

The plaintiff claims of the Defendant the sum of $2100.00, the balance due on the promissory note, made by the Defendant on, to-wit, December 3, 1953, and payable to the Plaintiff in 14 installments of $150.00 each commencing on the 1st day of January, 1954, and continuing on the 1st day of each month thereafter until paid in full, last payment due February 1, 1955, which note is the property of the Plaintiff, together with the interest thereon.

The Plaintiff avers that in and by the terms and provisions of the said note the Defendant waived all rights of exemption as to this debt and agreed to pay a reasonable attorney's fee for the collection of same, which attorney's fee the Plaintiff alleges to be $315.00 and which he herewith claims.

Jere R. Ow
Attorney for Plaintiff.

We the Jury find for the plaintiff as payment in full for 13 head of cows
$650.00
$87.75 as Int's
97.50 as attorneys fees
$835.25
Frank a Zynik
(Foreman)

AMENDED COMPLAINT

BILL PEYTON,

Plaintiff,

VS.

TOM HOBBS,

Defendant.

RECORDED

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

FILED

MAR 12 1956

ALICE L. GUCK, Clerk

BILL PEYTON, Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
TOM HOBBS, Defendant.	)	AT LAW

MOTION TO STRIKE

Now comes the Plaintiff, by his Attorney, and moves the Court to strike the Defendant's Pleas 1 and 2, and as grounds for said motion assigns separately and severally the following:

1. It is prolix.
2. It is irrelevant.
3. It is frivolous.
4. It is unnecessarily repeated.

Attorney for Plaintiff

2546 MOTION TO STRIKE

BILL PEYTON,

Plaintiff,

VS.

TOM HOBBS,

Defendant.

RECORDED

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

FILED

NOV 7

ALICE L. BUCK,

BILL PEYTON	)	
PLAINTIFF	)	IN THE CIRCUIT COURT OF
VS	)	BALDWIN COUNTY, ALABAMA,
TOM HOBBS	)	AT LAW
DEFENDANT	)	

PLEAS

For answer to Count one of the Plaintiff's Complaint the Defendant says:

1.

That the consideration for the note sued on was the sale by the Plaintiff to the Defendant of 13 certain dairy cows, which cows the Plaintiff warranted as a part of the consideration to the Defendant to be sound, suitable for milk cows, and good milkers; that in fact the cows were not sound, and were not suitable for milk cows and were not good milkers and were delivered to the Defendant in this condition and as a proximate consequence of such breach of warranty the Defendant lost 6 cows, they having died, and before their death the Defendant was put to much worry, trouble, inconvenience and expense in and about treating and feeding said cows; that these cows were tested and 6 were found to have "Bang's Disease". This made them unfit for milk cows and they had to be taken out of the herd; that none of the cows were suitable for milk cows, and none were good milkers, that the Defendant was put to much worry, trouble and expense in feeding these cattle and attempting to make milkers out of them, all to the damages of the Defendant in the amount of THREE THOUSAND ($3000.00) DOLLARS, and the Defendant hereby offers to off set against the claims of the Plaintiff and claims judgment for the excess.

For answer to Count 2 of the Plaintiff's complaint the Defendant says:

2.

That the Defendant has only 3 of the cows sued for and disclaims, possession, ownership or control of the balance.

For further answer to Count 2 of the Plaintiff's complaint the Defendant says:

That the cows sued for were sold to the Defendant by the Plaintiff, which cows the Plaintiff warranted as a part of the consideration to the Defendant to be sound, suitable for milk cows, and good milkers; that in fact the cows were not sound, and were not suitable for milk cows and were not good milkers and were delivered to the Defendant in this condition and as a proximate consequence of such breach of warranty the Defendant lost 6 cows, they having died, and before their death the Defendant was put to much worry, trouble, inconvenience and expense in and about treating and feeding said cows; that these cows were tested and 6 were found to have "Bang's Disease". This made them unfit for milk cows and they had to be taken out of the herd; that none of the cows were suitable for milk cows, and none were good milkers, that the Defendant was put to much worry, trouble and expense in feeding these cattle and attempting to make milkers out of them, all to the damages of the Defendant in the amount of THREE THOUSAND ($3000.00) DOLLARS, and the Defendant hereby offers to off set against the claims of the Plaintiff and claims judgment for the excess.

Wilters & Brantley
BY: Talbert M Brantley
Attorneys for the Defendant

The Defendant demands a trial by jury.

Wilters & Brantley
BY: Talbert M Brantley
ATTORNEYS for the Defendant

Jury

2546

RECORDED

FILED

APR 19 1955

ALICE J. BUCK, Clerk

BILL PEYTON	)	
		IN THE CIRCUIT COURT OF
PLAINTIFF	)	
		BALDWIN COUNTY, ALABAMA,
VS	)	
		AT LAW
TOM HOBBS	)	
DEFENDANT	)	

For answer to the Plaintiff's Amended Complaint, the Defendant says:

1.

That the consideration for the note sued on was the sale by the Plaintiff to the Defendant of 13 certain dairy cows, which cows the Plaintiff warranted as a part of the consideration to the Defendant to be sound, suitable for milk cows, and good milkers; that in fact the cows were not sound, and were not suitable for milk cows and were not good milkers and were delivered to the Defendant in this condition and as a proximate consequence of such breach of warranty the Defendant lost two cows, they having died, and before their death the Defendant was put to much worry, trouble, inconvenience and expense in and about treating and feeding said cows; that these cows were tested and four were found to have "Bang's Disease". This made them unfit for milk cows and they had to be taken out of the herd; that none of the cows were suitable for milk cows, and none were good milkers, that the Defendant was put to much worry, trouble and expense in feeding these cattle and attempting to make milkers out of them, all to the damages of the Defendant in the amount of THREE THOUSAND ($3000.00) DOLLARS, and the Defendant hereby offers to off set against the claims of the Plaintiff and claims judgment for the excess.

Wilters & Brantley

BY: Gilbert M Brantley

Attorneys for the Defendant

2546

RECORDED

BILL PEYTON

PLAINTIFF

VS

TOM HOBBS

DEFENDANT

ANSWER

FILED
MAR 10 1956
ALICE J. DUCK, Clerk

J. R. Owen

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Tom Hobbs 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 Bill Peyton.

WITNESS my hand on this 1st day of March, 1955.

Clerk

* *

BILL PEYTON, Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
TOM HOBBS, Defendant.	)	AT LAW

C O M P L A I N T

COUNT ONE

The Plaintiff claims of the Defendant the sum of $2100.00, the balance due on the promissory note, made by the Defendant on, to-wit, December 3, 1954, and payable to the Plaintiff in 14 installments of $150.00 each commencing on the 1st day of January, 1954, and continuing on the 1st day of each month thereafter until paid in full, last payment due February 1, 1955, which note is the property of the Plaintiff, together with the interest thereon.

The Plaintiff avers that in and by the terms and provisions of the said note the Defendant waived all rights of exemption as to this debt and agreed to pay a reasonable attorney's fee for the collection of same, which attorney's fee the Plaintiff alleges to be $315.00 and which he herewith claims.

COUNT TWO

Plaintiff claims of the Defendant the following personal property, viz:

13 dairy cows, being the same cows sold by the Plaintiff to the Defendant on December 3, 1954,

with the value of the hire or use thereof during the detention, viz: from the 1st day of February, 1955.

Attorney for Plaintiff

Defendant's address is Robertsdale, Alabama.

Received 2 day of Mar 1955
and on 9 day of March 1955
I served a copy of the within Compl.
on

By service on Tom Hobbs

TAYLOR WILKINS, Sheriff
By Edburgh Steadham D. S.

COMPLAINT

BILL PEYTON,

Plaintiff,

VS.

TOM HOBBS,

Defendant.

RECORDED

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

FILED
MAR 1 1955
ALICE J. DUCK, Clerk

JAMES R. OWEN
ATTORNEY-AT-LAW
BAY MINETTE, ALABAMA

BILL PEYTON, Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
TOM HOBBS, Defendant.	)	AT LAW

INTERROGATORIES

Now comes the Plaintiff and propounds interrogatories to the Defendant, Tom Hobbs.

1. On or about December 3, 1953, did you purchase from the Plaintiff, Bill Peyton, thirteen dairy cows?

2. If you answered Interrogatory No. 1 yes, did you see the cows before you purchased them?

3. If your answer to Interrogatory No. 2 is yes, did you examine any or all of the said cows at any time before or at the time you purchased them?

3. A. If your answer to Interrogatory No. 3 is yes, give the date or dates on which you examined any or all of the said cows.

4. If your answer to Interrogatory No. 3 is yes, did any of the cows have any disease at the time you bought them, on to-wit, December 3, 1953?

5. Who was present when you agreed to buy these cows?

6. Did the Plaintiff, Bill Peyton, make any statement at the time you bought the thirteen dairy cows referred to above as to their soundness or suitability for milk cows? If you say that he did, give the substance of your conversation.

7. Did any agent, servant or employee of the Plaintiff, Bill Peyton, make any statement as to the soundness or suitability for milk cows of the said cows that you purchased? If you say that they did, give the name of the said agent, servant or employee and the substance of your conversation.

8. After you purchased the said cows did you notice that any of them were diseased in any way?

9. If your answer to Interrogatory No. 8 is yes, how many of the said cows were diseased?

10. What kind or kinds of diseases did the cows have?

11. If your answer to Interrogatory No. 8 is yes, when did you first notice that some of the cows were diseased?

12. Have you ever had a veterinarian examine any or all of the cows which purchased from the Plaintiff?

13. If your answer to Interrogatory No. 12 is yes, give the name of the veterinarian, the date or dates that he examined the cows, the number of cows he examined on each date and his opinion of what, if anything, was wrong with any of the cows?

14. Have you ever had any conversation with the Plaintiff, Bill Peyton, relative to any of the cows being diseased? If your answer is yes, give the dates and substance of the conversations which you had with the Plaintiff.

15. Have you ever advised the Plaintiff, Bill Peyton, by letter or otherwise that some of the cows were diseased? If you say that you have, attach a copy of your letter or letters to the Plaintiff to your answers to these interrogatories and give the substance of any conversation which you have had with him and the dates thereof.

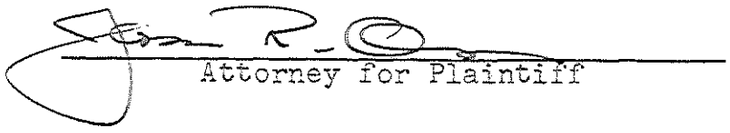
16. How much milk did the thirteen cows which you purchased from the Plaintiff, Bill Peyton, produce in the period of time from December 3, 1953, to the date of your answers of these interrogatories?

17. What was the average monthly milk production of each of these cows which you purchased from the Plaintiff, Bill Peyton, from December 3, 1953, to the date of your answers to these interrogatories?

18. What was the value of the feed which you gave these cows which you purchased from Plaintiff from December 3, 1953, to the date of your answers to these interrogatories?

19. Did you receive a bill of sale from the Plaintiff, Bill Peyton, when you bought these cows? If you say that you did

attach a copy of your said bill of sale to your answers to these interrogatories?

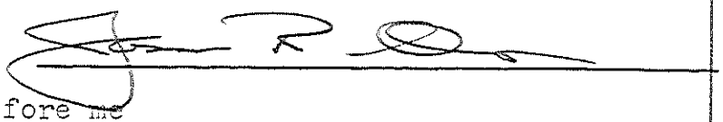


Attorney for Plaintiff

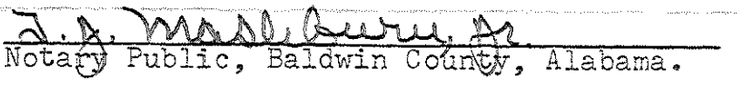
STATE OF ALABAMA)
*
BALDWIN COUNTY)

Before me, the undersigned authority, personally appeared James R. Owen, who first being duly and legally sworn deposes and says:

That he is the attorney for the Plaintiff in the above styled cause and that the answers to the above and foregoing interrogatories, if well and truly made, will be material evidence in the trial of this cause.



Sworn to and subscribed before me
on this the 1st day of November, 1955.



Notary Public, Baldwin County, Alabama.

INTERROGATORIES 2546

BILL PEYTON,

Plaintiff,

VS.

TOM HOBBS,

Defendant.

FILED

NOV 7 1955

ALICE J. DUSK, Clerk

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

JAMES R. OWEN
ATTORNEY-AT-LAW
BAY MINETTE, ALABAMA

Received 7 day of Nov 1955
and on 17 day of Nov. 1955
served a copy of the within Interrog
Walter & Brantley
service on Joubert Brantley
TAGER WILKINS, Sheriff
By J Watson D. S.