

McDERMOTT & PFLEGER

ATTORNEYS AT LAW

304-306 STAPLES-PAKE BUILDING

MOBILE, ALABAMA

April 26, 1955

WM. V. McDERMOTT
SYDNEY S. PFLEGER

Honorable Alice J. Duck
Clerk of Circuit Court
Bay Minette, Alabama

Dear Miss Duck:

I am enclosing herewith an amended complaint in the case of Ray Brooks Machinery Co. against C. M. Coghlan, Sr., No. 2568. I would appreciate your filing this and I believe the amendment will eliminate the demurrers as filed.

Very truly yours,

McDERMOTT & PFLEGER

BY: 

SSP:ec
enc:

McDERMOTT & PFLEGER
ATTORNEYS AT LAW
304-306 STAPLES-PAKE BUILDING
MOBILE, ALABAMA

WM. V. McDERMOTT
SYDNEY S. PFLEGER

March 16, 1955

Mrs. Alice J. Duck
Clerk, Circuit Court
Baldwin County
Bay Minette, Alabama

in Equity

Dear Mrs. Duck:

Would you please file the enclosed suit of the Ray-Brooks Machinery Company, Inc., against C. M. Coghlan, Sr. The defendant resides at Latham, Alabama.

Your courtesy in the matter is more than appreciated.

Yours very truly,

McDERMOTT & PFLEGER

BY:



SSP/ng

Encl:

*ack
2568*

RAY BROOKS MACHINERY COMPANY, INC., A Corporation,)	IN THE CIRCUIT COURT OF
)	BALDWIN COUNTY, ALABAMA,
Plaintiff,)	CIVIL SIDE.
Versus)	
)	NO. 7568
C. M. COGHLAN, SR.)	
)	
Defendant.)	

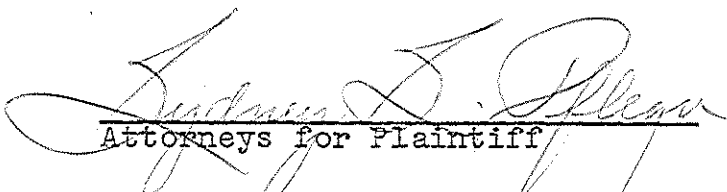
COUNT ONE

Plaintiff claims of the defendant the sum of One Thousand Twenty-One and 70/100 Dollars (\$1,021.70) due the plaintiff by promissory note dated August 23, 1954, which said note was payable in installments of Two Hundred Four and No/100 Dollars (\$204.00) per month on the first day of October, November, December, January and February and the sum of Two Hundred Five and 70/100 Dollars (\$205.70) due and payable on the first day of March, 1955, with interest at the rate of Eight percent (8%) from maturity; and plaintiff alleges that the installments for November, December, January, February, and March are now due and payable with interest as aforesaid and plaintiff further claims that in said note the defendant did agree to pay a reasonable attorneys fee together with all costs of collection and plaintiff further avers that the defendant did waive any right to claim exemptions under the Laws of the State of Alabama in said note.

COUNT TWO

The plaintiff claims of the defendant the sum of Eighty-Four and 37/100 Dollars (\$84.37) with interest thereon from to-wit the 19th day of February by account between the defendant and the plaintiff for merchandise and labor furnished the defendant by the plaintiff which sum of money is still due and unpaid.

McDERMOTT & PFLEGER


Attorneys for Plaintiff

Defendant's address is
Latham, Alabama

RAY BROOKS MACHINERY COMPANY,
INC., A CORPORATION,

PLAINTIFF

VS

G. M. COGHLAN, SR.,

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
CIVIL SIDE

Comes now the Defendant in the above styled cause and files the following demurrers to Count One.

1.

The Complaint fails to show that the note sued on is the property of the Plaintiff.

2.

For aught appearing the installment payments on the note are not due and payable.

The Defendant files the following demurrers to Count 2 of the Complaint:

3.

For aught appearing the Plaintiff's claim has been barred by the Statutes of Limitation.

Wilters & Brantley

BY: 

Attorneys for the Defendant

The Defendant demands a trial by jury.

Wilters & Brantley

BY: 

Attorneys for the Defendant

RAY BROOKS MACHINERY COMPANY,)	IN THE CIRCUIT COURT OF
INC., A Corporation,)	BALDWIN COUNTY, ALABAMA,
Plaintiff,)	CIVIL SIDE.
Versus)	NO.
C. M. COGHLAN, SR.)	
Defendant.)	
)	

Comes the plaintiff in the above styled cause and amends the complaint as filed herein as follows:

To amend Count One to read as follows:

COUNT ONE

Plaintiff claims of the defendant the Sum of One Thousand Twenty-One and 70/100 Dollars (\$1,021.70) due the plaintiff by promissory note dated August 23, 1954, which said note was payable to the plaintiff in installments of Two Hundred Four and NO/100 Dollars (\$204.00) per month on the first day of October 1954, November 1954, December 1954, January 1955, and February 1955, and the Sum of Two Hundred Five and 70/100 Dollars (\$205.70) due and payable on the first day of March 1955, with interest at the rate of Eight percent (8%) from maturity; and plaintiff alleges that the installments for November, December, January, February, and March as aforesaid are now due and payable with interest as aforesaid and plaintiff further claims that in said note the defendant did agree to pay a reasonable attorney's fee together with all costs of collection and plaintiff further avers that the defendant did waive any right to claim exemptions under the Laws of the State of Alabama in said note.

To amend Count Two in order that Count Two will read as follows:

COUNT TWO

The plaintiff claims of the defendant the Sum of Eighty-Four and 37/100 Dollars (\$84.37) with interest thereon from to-wit the 19th day of November 1954, by account between the defendant

and the plaintiff for merchandise and labor, furnished the
defendant by the plaintiff ^{at defendant's request} which sum of money is still due and
unpaid.

McDERMOTT & PFLEGER

BY:


Attorneys for Plaintiff

Defendant's address is
Latham, Alabama

RAY BROOKS MACHINERY COMPANY,
INC., A CORPORATION,

PLAINTIFF

VS

C. M. COGHLAN, SR.

~~DEFENDANT~~

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW

Comes now the Defendant in the above styled cause and files the following demurrers to Counts 1 and 2, separately and severally, as amended, and for grounds therefor says:

1.

For aught appearing the Complaint does not state a cause of action.

2.

There is a misjoinder of causes of action.

3.

The Complaint fails to show that the labor was furnished at the Defendant's request.

4.

The Complaint fails to show that the merchandise was furnished at the Defendant's request.

5.

The Complaint fails to show that the merchandise was had and received by the Defendant.

6.

The Complaint fails to show that the merchandise was received by the Defendant.

Wilters & Brantley

By: E. J. Wilters

Attorney for the Defendant

RAY BROOKS MACHINERY COMPANY,
INC., a corporation,

PLAINTIFF

VS

C. M. COCHLAN, SR.,

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW

NO. 2568

Comes now the Defendant in the above styled cause and files the following
Plea to the Plaintiff's Complaint:

1.

For plea and answer to Count One thereof the Defendant says, that the
note upon which this count is based has wholly failed as to the consideration
paid for the same in this; the consideration for the note was the purchase
of a tractor and in the sale of said tractor by the payee, the tractor was
warranted by the agent, servant or employee of the Plaintiff, who was then
and there acting within the line and scope of his authority, to be mechanically
sound and in operating condition. The Defendant says that the tractor was
~~not mechanically sound and was not in operating condition and as a proximate~~
consequence of said breach of warranty the Defendant was put to much trouble,
inconvenience, worry and expense in repairing and replacing parts for the
said tractor, all to the damages of the Defendant in the sum of SEVEN
HUNDRED FIFTY (\$750.00) DOLLARS, the Defendant hereby offers to off set
this against the claim of the Plaintiff.

2.

For Plea and answer to Count Two of the Plaintiff's Complaint the
Defendant says that he does not owe the Plaintiff the amount sued for.

Walters & Brantley

BY:

Salmon M Brantley
Attorneys for the Defendant

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To count one and two the defendant
pleads not guilty.

Salmon Brantley,