

J. L. BELL, d/b/a
Sharpless Furniture Store

PLAINTIFF

VS

J. A. MOORE

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

NO. 2676

~~Comes the Defendant and amends his answer heretofore filed in said cause~~
to read as follows:

1.

As to Count one of said complaint he denies the allegations therein.

2.

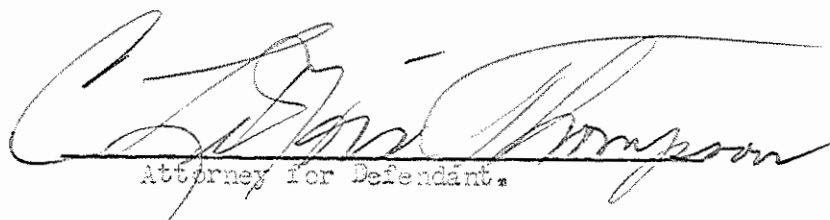
As to Count two of said complaint he denies the allegations therein.

3.

Comes the Defendant and for answer to Count two of Plaintiff's complaint says: That the conditional sales contract upon which this suit is brought provided for the sale of a new electric refrigerator and warranted same to be a new electric refrigerator, whereupon your Defendant executed a promise to pay for the said new electric refrigerator. The Defendant says that after delivery of said electric refrigerator that same was discovered to be a used, second-hand, reconditioned, repainted, or repaired electric refrigerator and that said discovery was made prior to the filing of this action and demand being made by the Defendant herein for compliance by the Plaintiff with the conditional sales contract herein sued upon the said Plaintiff responded by suing out this action.

4.

The Defendant as a defense to the action of the Plaintiff, saith, that at the time said action was commenced the Plaintiff was indebted to him in the ~~amount of Two Hundred Eighty-three & 65/100 (\$283.65)~~ Dollars, by unliquidated demand wherein the said Plaintiff agreed to deliver to the Defendant by written contract a new Frigadaire Refrigerator, Model STD-110 and instead delivered to the said Defendant a second-hand, reconditioned, repainted, or repaired electric Refrigerator which, sum of money the Defendant hereby offers to setoff against the demand of the Plaintiff and he claims judgment of the Plaintiff for the excess.


Attorney for Defendant.

J. L. BELL &/o/a
SHARPLESS FURNITURE STORE,

PLAINTIFF

VS

J. A. BOONE

DEFENDANT

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW

CASE NO. 2376

Comes now the Plaintiff in the above styled cause and files the following demurrers to Sections three and four of the Defendant's answer and to each separately and severally:

1.

The answers are frivolous.

2.

They fail to state a valid defense to this suit.

3.

They are vague and indefinite.

4.

The defendant attempts to set up pleas of fraud but fails wholly to do so by these pleas.

Wilcox & Brantley

BY:

Robert M. Brantley
Attorneys for the Plaintiff

J. L. BELL, d/b/a
Sharpless Furniture Store,

PLAINTIFF

VS

J. A. MOONE

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

NO. 2676

Comes the Defendant in said cause and for answer to the Complaint filed therein and each phase separately and severally of said complaint shows unto this Honorable Court as follows:

1.

As to Count one of said complaint he denies the allegations therein.

2.

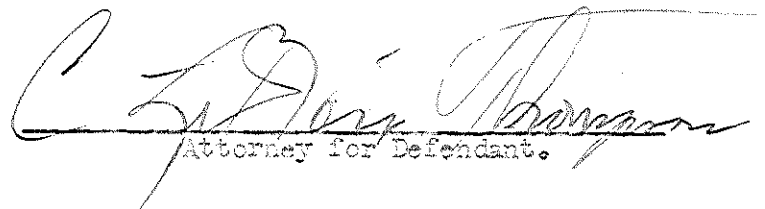
As to Count two of said complaint he denies the allegations therein.

3.

Comes the Defendant and for answer to count two of plaintiff's complaint says that the conditional sales contract upon which this suit is brought has wholly failed as to the consideration paid for the same in this, the consideration of the said contract was the purchase by Defendant from the Plaintiff of a New Electric Refrigerator and that the Plaintiff delivered to the Defendant a reconditioned, repainted or repaired Electric Refrigerator and that same constituted a failure of consideration of said contract.

4.

Comes the Defendant and for further answer to Plaintiff's complaint says that when the repairs, or used condition of the said Electric box sold by the Plaintiff to the Defendant as a new box, was discovered by the Defendant and demand made by the said Defendant for compliance with the contract on the part of the Plaintiff said plaintiff responded by suing for the said box instead of replacing it with a new box which the contract calls for.


Attorney for Defendant.

J. L. BELL, d/b/a
Sharpless Furniture Store

PLAINTIFF

VS

J. A. BOONE

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

DEMURRERS TO MOTION TO TRANSFER

Comes J. L. Bell, d/b/a Sharpless Furniture Store, the Plaintiff in the above entitled action at law, and demurs to the motion of Defendant to have said case transferred to the Equity docket of this Court, and assigns the following grounds, separately and severally:

1.

It does not present any equitable question.

2.

It does not show that defendant has not a complete and adequate remedy at law.

3.

Said motion does not state the substance of the equitable right or defense relied upon by defendant.

4.

Said motion does not state the equitable right or defense asserted with the same precision and certainty as is required to state such right.

5.

The substance of the defendants equitable defense as alleged is vague and indefinite.

6.

The affidavit contained in the motion by the applicant's attorney is insufficient under Title 13, Section 153, Code of Alabama, 1940, because it fails to state that the affiant had knowledge of the facts alleged in the motion.

7.

All the facts alleged in the defense motion may be pleaded at law.

8.

The motion fails to set out facts sufficient to bring an original bill in equity.

Wilters & Brantley

BY: Larry Wilters
Attorneys for the Plaintiff

J. L. BELL d/b/a
Sharpless Furniture Store

Plaintiff

VS

J. A. BOONE

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

NO. _____

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA IN EQUITY SITTING:

Now comes J. A. Boone, the defendant in the above named cause, and respectfully shows to Your Honor by this his written and verified motion filed this day:

1. That he claims and asserts an equitable defense to said action at law, the decision of which should dispose of the cause and which cannot be disposed of on the law side,

2. That the equitable right or defense which he claims is as follows:

That on to-wit August 16, 1954 the said J. A. Boone entered into a purchase agreement with the Plaintiff herein d/b/a Sharpless Furniture Store for the purchase of one new Frigadaire Refrigerator Model STD-110 for a price of Three Hundred Twenty-four & 44/100 (\$324.44) and made a down payment of Eighty-five & 20/100 (\$85.20) which down payment was made by a trade-in and credit given accordingly.

That the said plaintiff delivered to your defendant, petitioner in this motion, a used Frigadaire Refrigerator, Serial No. 13A9958, instead of the new model which your petitioner herein agreed to purchase and which the conditional sales contract called for.

That your Petitioner herein made certain payments on said Frigadaire Refrigerator until he learned that it was a used box and not a new one as his purchase contract called for.

That your Petitioner herein made demand upon the J. L. Bell plaintiff in said cause for the fulfilment of the purchase contract between the parties and the said J. L. Bell instituted a detinue suit in said cause together with a demand for damages and attorney fees.

That your Petitioner in this motion is unable to assert an equitable defense in the detinue action pending in this matter.

3. WHEREFORE, your said defendant and petitioner respectfully prays that upon the hearing of this motion Your Honor will adjudge and decree that this action be transferred from the law side of the court to the equity side of the court and that same shall thereupon be docketed and proceeded on the equity side of the court in manner and form as provided by law and according to the rules of equity.

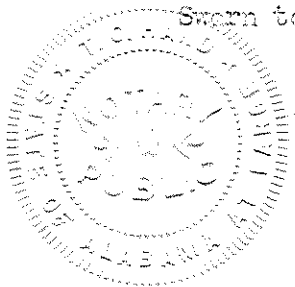
C. L. Davis Thompson
Attorney for Defendant.

STATE OF ALABAMA
BALDWIN COUNTY

Before me, T. C. Hand, a Notary Public in and for said County, in said State, personally appeared C. L. Davis Thompson, who has knowledge of the facts set forth in the foregoing claim, who, being by me first duly sworn, says on oath that the facts hereinabove set forth are true and correct, according to the best of his information, knowledge and belief.

C. L. Davis Thompson

Sworn to and subscribed before me this 15 day of November, 1955.



T. C. Hand

Notary Public, Baldwin County, Alabama.

MY COMMISSION AS A NOTARY PUBLIC
EXPIRES 24 OF Jan 1956.

J. L. BELL, d/b/a
Sharpless Furniture Store,

Plaintiff

vs

J. A. BOONE

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

NO. _____

Comes C. LeNoir Thompson as attorney for J. A. Boone, defendant in
the above styled cause and appears for the said defendant, reserving the
right to file proper pleading in said cause.

C. LeNoir Thompson (By: L.H.)
Attorney for Defendant. sec.

Defendant demands trial by jury.

C. LeNoir Thompson (By: L.H.)
sec.

THE STATE OF ALABAMA, }
Baldwin COUNTY. }

CIRCUIT COURT.

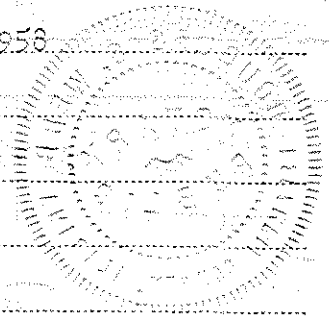
KNOW ALL MEN BY THESE PRESENTS, That we, J. M. Bell and Claude
Bristow & W W Dees
are held and firmly bound unto J. A. Boone

his heirs, executors, and administrators, in the sum of Two Hundred and 00/100 -----
----- DOLLARS, for the payment of which we jointly and
severally bind ourselves, our heirs, executors, and administrators, firmly by these presents. And in favor of said
undertaking, we and each of us waive our right of exemptions under the Constitution and Laws of Alabama.

Sealed with our seals and dated, this 21st day of July, 1955.

THE CONDITION OF THIS OBLIGATION is such that, whereas the above bounden ha... on the 25th
day of July, 1955, sued out from the office of the Clerk of the Circuit Court of
Baldwin County, in said State, a Writ of Detinue, returnable to the present
Term, 1955, of said Court against the said J. A. Boone
for the recovery of the following property—to-wit:

One Model STD-110 Frigadaire Refrigerator, Serial No. 13A9956



Now, if the said J. M. Bell, d/b/a Sharpless Furniture Store
shall fail in said suit, and shall pay to the said J. A. Boone
-----, the Defendant, in said Writ, all such costs and dam-
ages as he may sustain by the wrongful suing out thereof, then this obligation to be void; other-
wise to remain in full force and effect.

Approved this 25th

day of

1955

Clerk.

(L.S.)

(L.S.)

(L.S.)

(L.S.)

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon J. A. BOONE 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 J. A. Boone, Defendant by J. L. Bell, d/b/a Sharpless Furniture Store, Plaintiff.

Witness my hand this 25 day of July, 1955.

Walter M. Brantley
Clerk

J. L. BELL, d/b/a
Sharpless Furniture Store,

PLAINTIFF

VS

J. A. BOONE

DEFENDANT

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1.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

NO. 2676

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

One Model STD-110 Frigadaire Refrigerator, Serial No. 13A9958,
with value of hire and use thereof during the detention viz, from August
16, 1954.

2.

Plaintiff avers that the above described property was purchased by
the defendant by virtue of conditional sales contract. Wherein they
agreed to pay a reasonable attorney's fee; and the Plaintiff avers that
it should be awarded a reasonable attorney's fee in the sum of \$26.61.

Wiltors & Brantley

BY: Walter M. Brantley
Attorneys for the Plaintiff

The Defendants address is Little River, Ala.

The State of Alabama, {

Baldwin County

KNOW ALL MEN BY THESE PRESENTS, That we, _____

J. A. Boone

and _____

are held and firmly bound unto J. L. Bell d/b/a Sharpless Furniture Storein the sum of Four Hundred - - - - - Dollars, for the payment of which, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors and administrators.

Sealed with our seals and dated this _____ day of _____ 19____

The condition of the above obligation is such that whereas the said _____

J. L. Belldid, on the 25th dayof July 19 55 sue out of the Circuit Court of Baldwin County
a writ of detinue directed to any Sheriff of said State and commanding him to take into his possession the following property, to-wit: _____One Model STD-110 Frigadaire Refrigerator,Serial No. 13A9958which said writ was placed in the hands of Taylor Wilkins,
Sheriff of Baldwin County, Alabama, on the 2nd day of August, 19 55,
and executed by him on the 2nd day of August, 19 55 by taking into his possession the following property, to-wit: _____One Model STD-110 Frigadaire RefrigeratorSerial No. 13A9958And whereas the above bound J. A. Boone,

Defendant in said suit, has, within five days from the execution of said writ, entered into and executed this bond as required by law and thereby obtained possession of said property seized under this writ.

Now if the said J. A. Boone is cast in said suit and within thirty days after judgment deliver the property aforesaid to the Plaintiff and pay all costs and damages which may accrue from the detention thereof, then this obligation to be void, otherwise to remain in full force and effect.J. A. Boone (SEAL)Bernard Boone (SEAL)_____
(SEAL)Taken and approved this 6th day of Aug 19 55Taylor Wilkins
Sheriff, Baldwin County, Ala.

The Plaintiff, J. L. Bell, d/b/a/ Sharpless Furniture Store having made affidavit and given bond as required by Title 7, Section 918, of the Code of Alabama, the Sheriff is required to take the property mentioned in the within complaint into his possession unless the Defendant gives bond, payable to the Plaintiff, with sufficient security in double the amount of the value of the property, with conditions that if the Defendant is cast into suit, will, within thirty days thereafter deliver the property to the Plaintiff and pay all costs and damages which may accrue for the detention thereof.

Alice J. Sharpless
Clerk.

CIVIL SUBPOENA — ORIGINAL — In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he shall be barred.

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Case No 2676 March TERM, 1956

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETINGS:

You Are Hereby Commanded to Summon 1- Mr. Bill Russell, Ford
Place, Bay Minette 2- Mr. Candy Owens, Pontiac Place
Bay Minette, Ala.

if to be found in your County, at the instance of the Dep't.

to be and appear before the Honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof, by 9:00 o'clock of the forenoon, on the 15th day of March, 1956, and from day to day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain cause pending, wherein J. L. Bell d/t/a Sharpes ^{Furn. Store} Plaintiff and J. A. Boone Defendant.

Herein Fail Not, and have you then and there this Writ.

Given under my hand and seal, this 8th day of March, 1956

Alvin J. Shuck Clerk.

CIVIL SUBPOENA — ORIGINAL — In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he shall be barred.

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Case No. 2676 March TERM, 1956

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETINGS:

1. Mr. Bruce Spillers, atmore

You Are Hereby Commanded to Summon

if to be found in your County, at the instance of the Defendant
to be and appear before the Honorable, the Judge of the Circuit Court of Baldwin County, at the Court House
thereof, by 9:00 o'clock of the forenoon, on the 15th day of March, 1956, and from
day to day and term to term of said Court until discharged by law, then and there to testify, and the truth
to say, in a certain cause pending, wherein J. R. Bell & H. A. Sharpless ^{Plaintiff} and J. A.
Boone ^{Defendant}.

Herein Fail Not, and have you then and there this Writ.

Given under my hand and seal, this 8th day of March, 1956.

Alice J. Buck

Clerk.

CIVIL SUBPOENA — ORIGINAL — In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he shall be barred.

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Case No. 2676 March TERM, 1956

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETINGS:

You Are Hereby Commanded to Summon 1- Cleve Brown, Atmore, Ala.
Bruce Spellus, Atmore, Ala.

if to be found in your County, at the instance of the Plaintiffs
to be and appear before the Honorable, the Judge of the Circuit Court of Baldwin County, at the Court House
thereof, by 9:00 o'clock of the forenoon, on the 15th day of March, 1956, and from
day to day and term to term of said Court until discharged by law, then and there to testify, and the truth
to say, in a certain cause pending, wherein J. L. Bell d/t/w, Plaintiff and J. A.
Barne, Defendant.

Herein Fail Not, and have you then and there this Writ.

Given under my hand and seal, this 8th day of March, 1956.

Alvin J. Duck Clerk.