

COLLINS, GALLOWAY & MURPHY
ATTORNEYS AT LAW
FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA

February 8, 1956

FRED G. COLLINS
THOMAS M. GALLOWAY
M. THOMAS MURPHY

Hon. Alice Duck, Clerk
Circuit Court of Baldwin County
Baldwin County Court House
Bay Minette, Alabama

Re: Joe Penton and Chester Sapp
Vs: E. C. Wiggins

Dear Mrs. Duck:

Please file the enclosed demurrer and have a
copy of same served upon the attorney for the Defen-
dant.

Very truly yours,

COLLINS, GALLOWAY & MURPHY

BY: Thomas M. Galloway
Thomas M. Galloway

TMG:mah

COLLINS, GALLOWAY & MURPHY
ATTORNEYS AT LAW
FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA

December 14, 1955

FRED G. COLLINS
THOMAS M. GALLOWAY
M. THOMAS MURPHY

Hon. Alice Duck, Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: Joe Penton and Chester Sapp
Vs: E. C. Wiggins

Dear Mrs. Duck:

Would you please file the enclosed suit and
contact me when same is filed.

Very truly yours,

COLLINS, GALLOWAY & MURPHY

BY: Thomas M. Galloway
Thomas M. Galloway

TMG:mah
Enc.

JOE PENTON and CHESTER SAPP * IN THE CIRCUIT COURT OF
Individually and d/b/a *
SOUTHERN CITY MOTORS, * BALDWIN COUNTY, ALABAMA
a co-partnership, * AT LAW

Plaintiff,

VS:

E. C. WIGGINS,

Defendant.

NO. _____

COUNT ONE

The Plaintiff claims of the Defendant TWO HUNDRED THIRTY-SIX AND 40/100 (\$236.40) DOLLARS damages for the breach of a contract entered into by him on the 17th day of April, 1954, by which he promised to pay to the Plaintiff the sum of FOUR HUNDRED SIXTEEN AND 40/100 (\$416.40) DOLLARS for the purchase of a motor vehicle, and Plaintiff avers that said payment was to be made in payments of TWENTY AND 00/100 (\$20.00) DOLLARS each due on the 1st and 15th of each successive month beginning May 1, 1954, and Plaintiff avers that after the payment of ONE HUNDRED AND 00/100 (\$180.00) DOLLARS in installments the Defendant has failed and/or refused to pay further, hence this suit.

COUNT TWO

The Plaintiff claims of the Defendant TWO HUNDRED THIRTY-SIX AND 40/100 (\$236.40) DOLLARS damages for breach of an oral agreement, entered into by him on the 17th day of April, 1954, by which he promised to pay to the Plaintiff the sum of FOUR HUNDRED SIXTEEN AND 40/100 (\$416.40) DOLLARS for the purchase of a motor vehicle, and Plaintiff avers that said payment was to be made in payments of TWENTY AND 00/100

(\$20.00) DOLLARS each due on the 1st and 15th of each successive month beginning May 1, 1954, and Plaintiff avers that after the payment of ONE HUNDRED EIGHTY AND 00/100 (\$180.00) DOLLARS in installments the Defendant has failed and/or refused to pay further, hence this suit.

COLLINS, GALLOWAY & MURPHY

By: Thomas W. Galloway
Attorneys for Plaintiff

Address of Defendant:

Stapleton, Alabama

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No.

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon E. C. Wiggins

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 _____

E. C. Wiggins

Defendant

by Joe Penton and Chester Sapp Individually and a/b/a/

Southern City Motors, A Co-partnership

Plaintiff.....

Witness my hand this 17th day of December 19...55...

Alvin F. Drake Clerk

JOE PENTON AND CHESTER
SAPP, Individually and
doing business as Southern
City Motors, a Co-Partnership,

PLAINTIFF

VS

E. C. WIGGINS

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW

CASE NO. 2795

Comes now the Defendant in the above styled cause and files the following demurrers to the Plaintiff's complaint and to each and every count thereof:

1.

The Complaint fails to state a cause of action.

2.

The Complaint fails to state that the monies sued for are due and unpaid under the terms of the contract.

3.

The Complaint fails to set out the terms of the contract under which he sues.

The Defendant files the following demurrers to Count 1 of the Plaintiff's Complaint.

1.

It fails to set out the written contract on which this count is based.

2.

It fails to set out the terms of the written contract on which this count is based.

Walters & Brantley

BY: James M. Brantley

Attorneys for the Defendant

The Defendant demands a trial by jury.

Walters & Brantley

BY: James M. Brantley

Attorneys for the Defendant

JOE PENTON AND CHESTER
SAPP, Individually and
doing business as Southern
City Motors, a Co-Partnership,

PLAINTIFF

VS

F. C. WIGGINS

DEFENDANT

1

2

3

4

5

6

7

IN THE CIRCUIT COURT OF

SALERIN COUNTY, ALABAMA,

AT LAW

CASE NO. 2795

PLEAS

The Defendant files the following Plea to the Plaintiff's Complaint
and to each and every count thereof separately and severally:

1.

Not guilty.

2.

That he does not owe the Plaintiff the amount sued for nor any amount.

3.

That the Plaintiff when negotiating a sale of the car, the price of
which the Plaintiff seeks to recover, agreed to sell the Defendant this
car for the sum of TWO HUNDRED FIFTY (\$250.00) DOLLARS and allow him
Eighty Dollars "trade in" value for his old car. The Plaintiff falsely
and fraudulently represented to the Defendant that the contents of the
paper writing signed by the Defendant, as evidence of the contract of sale,
showed the sale to be for this price. The Defendant relying upon such
representation signed the contract without knowing the contents and that
he did not discover this fraud until a much later date, at which time the
Defendant rescinded the contract and offered to return the car, which offer
being refused by the Plaintiff, the Defendant has since held the car as
bailee for the Plaintiff. The Defendant avers that he gave the Plaintiff
his old car as trade in and paid him One Hundred Eighty (\$180.00) Dollars
in addition thereto prior to the discovery of this fraud.

4.

The Plaintiff's agent, servant or employee, then and there acting within
the line and scope of his employment when negotiating a sale of the car,
the price of which the Plaintiff seeks to recover, agreed to sell the

Defendant this car for TWO HUNDRED FIFTY (\$250.00) DOLLARS and allow him Eighty (\$80.00) Dollars "trade in" value for his old car. The Defendant's agent, servant or employee then and there acting within the line and scope of his employment falsely and fraudulently represented to the Defendant that the contents of the paper writing signed by the Defendant, as evidence of the contract of sale, showed the sale to be for this price. The Defendant relying upon such representation signed the contract without knowing the contents and that he did not discover this fraud until a much later date, at which time the Defendant rescinded the contract and offered to return the car, which offer being refused by the Plaintiff, the Defendant has since held the car as bailee for the Plaintiff. The Defendant avers that he gave the Plaintiff his old car as trade in and paid him One Hundred Eighty (\$180.00) Dollars in addition thereto prior to the discovery of this fraud.

Walters & Brantley

BY: J. Albert M. Brantley
Attorney for the Defendant

JOE PENTON AND CHESTER
SAPP, Individually and
d/b/a Southern City Motors,
a Co-Partnership,

Plaintiff

VS:

E. C. WIGGINS,

Defendant.

* IN THE CIRCUIT COURT OF
* BALDWIN COUNTY, ALABAMA

* AT LAW

* NO. 2795

*

Comes now the Plaintiffs in the above styled
cause and demur to the pleas three and four filed
herein, separately and severally, and assign the
following separate and several grounds of demurrer:

O N E

The plea does not state a defense of the cause
of action

T W O

The plea does not state a defense to the com-
plaint heretofore filed in this matter.

T H R E E

The plea consists of conclusions of the pleader.

F O U R

The pleas as set out allege fraud, but do not
state facts supporting the same.

COLLINS, GALLOWAY & MURPHY

BY:

Shamir M. Galloway
Attorneys for Plaintiff