

DEMURRER TO DEFENDANTS ANSWER AND CROSSBILL

TRIPLE A CONSTRUCTION &  
BUILDING SUPPLY INC., A  
CORPORATION,

PLAINTIFF

VS

JOHN LONGMIRE AND RUBY  
LONGMIRE

DEFENDANTS

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

NO. 3124

Comes now the Plaintiff in the above styled cause and demurrs  
to the Defendants pleas and answer and for grounds therefore says;

1.

That plea number 5 is no defense to this suit.

2.

That plea number 5 is irrevelant and frivalous.

3.

That the Defendants attempt to set up more than one grounds  
for defense in plea number 5.

4.

That plea number 5 is ambiguous.

5.

The Defendants attempt to plead fraud in his plea number 5 but  
fails to set out the necessary allegations for a plea of fraud.

6.

The Defendants failed to state a cause of action in their Cross-  
Bill.

7.

For aught appearing the debt on which the Defendants based their  
Cross-Bill is barred by the statute of limitations.

8.

Defendants fail in their Cross-Bill to show that the debt set out  
therein is due and unpaid.

Wilters & Brantley

BY:

*Robert M. Brantley*  
Attorneys for the Plaintiff

TRIPLE A CONSTRUCTION &  
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PLAINTIFF

VS

JOHN LONGMIRE AND RUBY  
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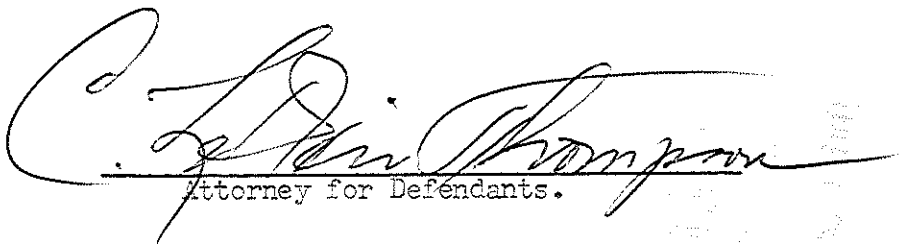
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW.

Come Defendants, John Longmire and Ruby Longmire, in the above styled cause and amend their answer and cross-bill heretofore filed in said cause by striking Count 6 in the original answer and substituting the following Count as a part of the original answer:

6.

Come the Defendants and without any way confessing the plaintiff's claim or demand as a defense to the action of the said plaintiff says that at the time said action was commenced the plaintiff was indebted to the Defendants in the sum of Seven Hundred Sixty (\$760.00) Dollars which the Defendants hereby offer to set up against the demand of the plaintiff and they command judgment for the excess.

  
Attorney for Defendants.

TRIPLE A CONSTRUCTION &  
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PLAINTIFF

VS

JOHN LONGMIRE AND RUBY  
LONGMIRE

DEFENDANTS

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
AT LAW.

Come the Defendants in the above styled cause and for answer to said complaint and to each and every count thereof separately and severally and to each and every phase of every count thereof separately and severally shows as follows:

1.

As to count 1, they deny the allegations of said complaint.

2.

As to count 2, they deny the allegations of said complaint.

3.

The Defendants for answer to count one of said complaint saith that they have paid the debt for the recovery of which this suit was brought before the action was commenced.

4.

The defendants for answer to count two of said complaint saith that they have paid the debt for the recovery of which this suit was brought before the action was commenced.

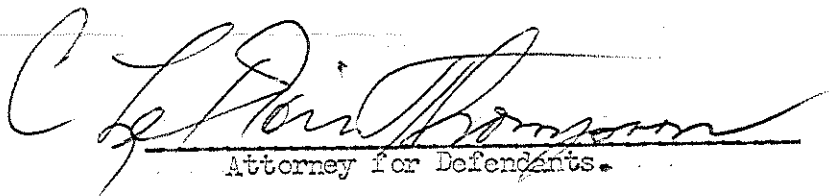
5.

For further answer defendants say that plaintiff's alleged agent, to-wit: Joseph E. Durden, when negotiating the alleged contract set out in count one of said complaint, on which contract plaintiff seeks to recover falsely and fraudently in material particulars which are set out in said contract misrepresented by the contents of the paper writing illegibly signed by the defendants as being no contract and no value until the said paper writing had been executed by J. C. Baston in his capacity as President of the Triple A Construction and Building Supply, Inc., a corporation; and that the said Joseph E. Durden began work on the said defendants' home without furnishing the said defendants with a copy of the paper writing alleged by count one to be a contract, having been signed by the said J. C. Baston in his capacity as President of said corporation; and the said Joseph E. Durden named as

salesman on the alleged contract of count one of said complaint did not proceed in a skilled and workman-like manner; upon due protest made by your defendants the said Joseph E. Durden failed or refused to proceed in a skilled and workman-like manner; and the said Joseph E. Durden failed or refused to obtain the signature of the said J. C. Easton in his capacity as President of said corporation.

6.

Come the defendants and without any way confessing the plaintiff's claim or demand as a defense to the action of the said plaintiff says that at the time said action was commenced the plaintiff was indebted to the defendants in the sum of Six Hundred Sixty-five (\$665.00) Dollars which the defendants hereby offer to set up against the demand of the plaintiff and they command judgment for the excess.

  
Attorney for Defendants.

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BALDWIN COUNTY, ALABAMA.

AT LAW.

Come the Defendants in the above styled cause and for demurrers to the complaint filed therein and to each count thereof separately and severally and to each phase of each count thereof separately and severally shows as follows:

1.

That count one of said complaint does not state a cause of action.

2.

That the contract alleged in count one of said complaint is not a valid contract by the terms of the said alleged contract in that the said J. C. Baston, President did not sign said contract.

3.

That count one of said complaint does not state a cause of action in that by the terms of said alleged contract, the work and labor set out in said complaint has not been done yet by the allegations of said count that the said work and labor had been done.

4.

That for aught alleged in count one of said complaint the said plaintiff has not completed the requirements of his alleged contract.

5.

That for aught alleged in count one of said complaint the said alleged contract has been completed.

6.

That for aught alleged in count two of said complaint there existed a different contract between the parties than that alleged in count one thereof.

7.

Said Plaintiff fails to allege in count two of said complaint whether the request complained of was in writing or was an oral request.

8.

Said Plaintiff fails to allege in count two of said complaint the premises on which the said work and labor was done.

9.

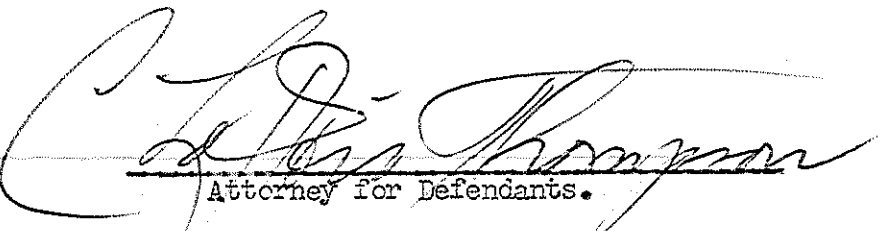
Plaintiff fails to allege in count two of said complaint that the said work, labor and merchandise, goods, and chattel was delivered to the said Defendants.

10.

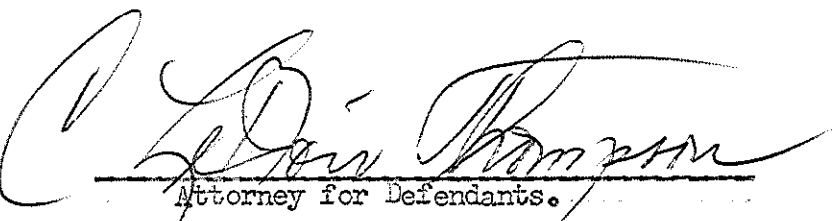
Plaintiff fails to allege in count two thereof that the said defendants agreed to pay the sum alleged in said count two.

11.

That for aught alleged in counts one and two of said complaint said Ruby Longmire is being sued as a surety for her husband.

  
Attorney for Defendants.

Defendants request a trial by jury in said cause.

  
Attorney for Defendants.

STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon JOHN LONGMIRE and RUBY LONGMIRE 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 TRIPLE A CONSTRUCTION & BUILDING SUPPLY, INC., a corporation.

WITNESS my hand, this 9th day of January, 1957.

Dee J. Welch  
Clerk

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AT LAW

1.

The Plaintiff claims of the Defendant TWO THOUSAND SIX HUNDRED FORTY (\$2640.00) DOLLARS damages for the breach of a covenant entered into by them on the 20th day of October, 1956, in substance as follows:

TRIPLE A. CONSTRUCTION & BUILDING SUPPLY, INC.

Chain Link fence

Aluminum & Wood Awnings

Aluminum Screens

465 S. Conception St.

Phone HE 8-1310

Additions

Alterations

Roofing, Siding.

To Mr. and Mrs. John Longmire  
Bayminette, Ala.

Mobile Ala., Oct. 20, 1956

We propose to furnish and install make the folling alernations in a building located at No \_\_\_\_\_ St. \_\_\_\_\_ City Bayminette, State Ala. according to the following plans:

Replace bad sills and one in center of house;

Close in front room and make partition in living room;

Build front poarce appt. 8 X 12;

Build kitchen and dining room appx. 16' X 10', Sheet rock same.

Sheet rock ciling in bed room # 2.

Repair and replace bad windows;

Furnish front door.

Furnish and install asbesto siding to exterior house;

Color to be white. no painting to be done

Paid \$500.00 October 20, 1956

\$500.00 to be paid Oct. 29.

For the sum of Thirty Three Hundred (\$3300.00), payable as follows  
1000. 2300.00 when job is completed. Seller agrees to deliver and install the listed materials within 60 days of the date of this contract.

It is understood that said materials are custom built for this purchaser and this contract shall constitute a present obligation to pay the entire purchase price therefor, and this contract is not subject to cancellation for any reason.

In the event of shortage due to oversight, errors in manufacture, or damage in transit, payment shall be made for materials actually installed.

The contract is amply protected with workman's compensation, public liability, and property damage insurance in connection with all work executed by it on the purchaser's premises, and assumes all risks, incident to the work done by it, provided for in such insurance.

It is understood that the entire contract is contained in this agreement and that no verbal or other understanding shall be binding on the contractor.

The Contractor shall not be responsible for damage or delay resulting from acts of God, riots, civil commotions or disorders, delays or defaults by carriers or inherent defects in the premises on which work is to be done, strikes, fires, accidents, storms or other causes beyond its reasonable control.

This contract not valid until signed by J. C. Baston, President.

Accepted (date) Oct. 20, 1956.  
John Longmire

Triple A Construction & Building  
Supply, Inc.

Ruby Longmire

By Joseph E. Durden  
J. C. Baston  
Salesman

and the Plaintiff says that, although he has complied with all its provisions on its part, the Defendant has failed to comply with the following provisions thereof, viz: they have failed to pay \$2640.00 as is provided for by the terms of said contract.

2.

The Plaintiff claims of the Defendants TWO THOUSAND SEVENTY SEVEN and 42/100 (\$2077.42) DOLLARS due from them for merchandise, goods and chattels sold by the Plaintiff to the Defendants and for work and labor done for the Defendants by the Plaintiff at their request on to-wit, October 20, 1956, through December 1, 1956, which sum of money, with interest thereof, is still unpaid.

Williams & Brantley

by: Robert M. Brantley  
Attorneys for the Plaintiff



AMENDED

TRIPLE A CONSTRUCTION &  
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AT LAW.

Come the Defendants in the above styled cause and amends his answer to said complaint and to each and ever count thereof separately and severally and to each and every phase of every count thereof separately and severally shows as follows:

1.

As to count 1, they deny the allegations of said complaint.

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The defendants for answer to count one of said complaint saith that they have paid the debt for the recovery of which this suit was brought before the action was commenced.

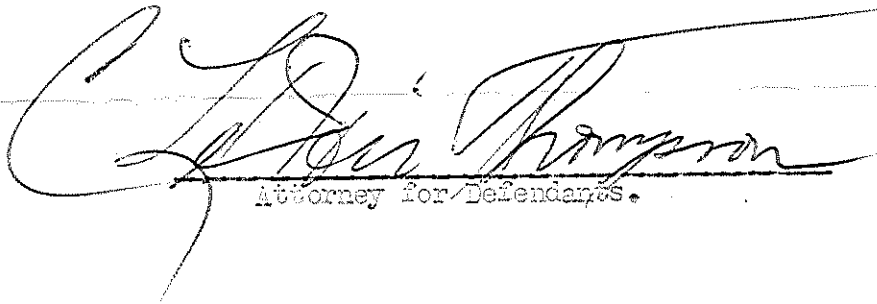
4.

The defendants for answer to count two of said complaint saith that they have paid the debt for the recovery of which this suit was brought before the action was commenced.

5.

The substance of plea 5 is that Joseph E. Durden when negotiating the alleged contract basis of said action, falsely and fraudulently in material particulars, which are set out, misrepresented the contents of the paper writing allegedly signed by the Defendants herein, as evidence of the alleged contract; that Defendants relying upon such misrepresentation signed the alleged contract without knowing the contents; and that upon certain work and labor done and material furnished failing to meet with the agreement and contract as represented in that said work and labor done and material furnished did not offer a complete repair, recandition and remodeling of Defendants said home, that Defendants paid the said Joseph E. Durden for the work and labor done and rescinded said alleged contract then and there and that no further work was done upon the home of the said Defendants, and that the said contract

was never completed in accordance with the terms as explained to your Defendants  
by the said Joseph E. Durden the said J. C. Baston not signing same as  
President of the said corporation for the purpose of binding said corporation  
and keeping a contract agreement between the parties.

  
Attorney for Defendants.