

DEWEY C. GODWIN

Plaintiff,

vs.

ROY C. MAHATHY,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 3415

DEMURRER

Comes the Defendant in the above styled cause and demurs to the Complaint filed in said cause and each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said Complaint does not state a cause of action.
2. That Count One of the Complaint does not state that the account is due by the Defendant.
3. That Count One of the Complaint does not state that the account is unpaid.
4. That Count Two of the Complaint does not state that the account is due by the Defendant.
5. That Count Two of the Complaint does not state when the last articles of building materials were furnished by the Plaintiff to the Defendant.
6. That Count Two of the Complaint does not state when the last labor was furnished by the Plaintiff to the Defendant.
7. That Count Two of the Complaint does not state whether the contract referred to was oral or in writing.
8. That Count Two of the Complaint does not sufficiently set out the terms of the contract referred to.
9. That Count Two of the Complaint seeks to claim a lien on more than one (1) acre of land.
10. That the lien filed with the Probate Court, a copy of which is attached with the Complaint and made a part thereof, is insufficient.

Thomas Stone
Attorneys for Defendant.

Defendant demands a trial of this cause by a jury.

Thomas Stone
Attorneys for Defendant

Filed Dec. 18, 1957
Alice J. Luck, Clerk

DEMURRER

DEWEY C. GODWIN,
Plaintiff,

vs.

ROY C. MAHATHY,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

CASE NO. 3415

FILED

DEC 18 1957

ALICE J. DUCK, Clerk

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

COMPLAINT AS LAST AMENDED

DEWEY C. GODWIN	*	IN THE CIRCUIT COURT OF
	*	
PLAINTIFF	*	BALDWIN COUNTY, ALABAMA.
	*	
VS	*	CASE NO. 3415
	*	
ROY C. MAHATHY	*	
	*	
DEFENDANT	*	
	*	

1. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars due from him by account on to-wit: 15th day of September, 1957 for work and labor done for the Defendant by the Plaintiff on to-wit, the 15th day of September, 1957, at his request, which sum of money with the interest thereon is still unpaid.

2. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars damages for the breach of a written agreement entered into between the Plaintiff herein and the Defendant herein on the 11th day of May 1957, which sum in substance being the balance due on a written contract entered into on the said date between the parties hereto whereby the Plaintiff erected a dwelling at the Defendant's request and there is a balance of One Thousand (\$1,000.00) Dollars due and unpaid on said written contract, copy of which is made a part hereof and attached hereto as exhibit "A". Plaintiff says that although he has complied with all its provisions on his part, the Defendant has failed to comply with the following provisions thereof, to-wit; the payment of the balance due of One Thousand (\$1,000.00) Dollars on the total sum of Eleven Thousand Five Hundred (\$11,500.00) Dollars which the defendant obligated to pay as set out in said contract.

3. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars due by an account on, to-wit, the 15th day of September, 1957, together with the interest thereon, which is past due and unpaid. Plaintiff avers that said account represents building materials and/or labor furnished by the Plaintiff under written contract, with the Defendant, copy of which is attached hereto as Exhibit "A" and made a part hereof, which was furnished to the Defendant for and which was used in the construction of a dwelling on certain real estate described as:

That certain parcel of real property more accurately described as a parcel of land 208.6 feet by 208.6 feet, being one acre square in the Northwest corner, more or less of the

North Half of the Northeast Quarter of the Northeast Quarter,
Section 4, Township 4 South Range 3 East and being that
acre upon which is situate/a brick veneer home. in the center thereof,
Same being situate in Baldwin County, Alabama.

And Plaintiff claims a lien on said real estate as provided for
mechanics and materialmen by law and Plaintiff further avers that
on January 29, 1958, the Plaintiff filed in the Probate Office of
Baldwin County, Alabama, a claim of lien, copy of which is attached
hereto as Exhibit "B" and made a part hereof and plaintiff prays
that said lien may be established and that said real estate be
condemned for the satisfaction of said indebtedness and that same
be ordered sold to satisfy said indebtedness.

Filed May 14, 1958
Alice J. Duck, Clerk

THOMPSON & WHITE

By:

[Signature]
Attorney for Plaintiff.

IT IS AGREED BY AND BETWEEN DEWEY C. GODWIN ad contractor and ROY MAHATHY as owner as follows: That the said owner agrees to employ the said contractor and the said contractor agrees to accept employment for the consideration of the sum of Eleven Thousand Five Hundred (\$11,500.00) Dollars and in return to construct for the said owner a two bedroom brick veneer home in the location to be determined by the owner in the community of Stapletin. Construction to be done in a skilled and workmanlike manner.

It is specifically agreed between the parties that the said contract shall do all of said work in strict accordance with the plans and specifications agreed upon between the parties and signed with their initials for identification. The said plans and specifications to be attached to this contract and to become a part hereof.

It is further agreed between the parties that the said contractor shall every two weeks furnish to the said owner a statement of expense incurred for materials and labor and the said owner shall then and there pay over to the said contractor a sum equal to 90% of the total statement so rendered, retaining the other 10% until the house has been completed in accordance with said plans and specifications for delivery to the said owner on what is known as a lock and key job.

It is further agreed that the said owner is liable only for the total sum of Eleven Thousand Five Hundred (\$11,500.00) Dollars which is the contract price for all labor and materials which the said contractor agrees to furnish. Any difference between the sums paid every two weeks and the total sum agreed upon will be paid by the owner when the remaining 10% withheld as noted is due and payable.

It is further agreed that any change or changes which may be requested by the said owner shall be added in writing on this contract and shall be paid for at the increased expense for making such changes in accordance with estimates furnished then and there by the said contractor and said increased estimates shall be added to the total sum agreed upon herein as stated.

The said contractor agrees to completely finish said house in accordance with the plans and specifications and any changes thereto which may be agreed upon and do hold harmless the said owner from any material or mechanics liens, warranting to pay all bills promptly on or before the date the said contractor is paid by the said owner on the basis of statements presented under this contract.

WITNESS our hands and seals (in duplicate) this 11th day of
May, 1957.

(SIGNED) Roy C. Mahathy

(SIGNED) Dewey C. Godwin

EXECUTED IN THE PRESENCE OF:

(SIGNED) Mrs. Roy C. Mahathy

(SIGNED) Mrs. Edna Godwin

STATE OF ALABAMA
BALDWIN COUNTY

DEWEY C. GODWIN files this statement in writing, verified by the oath of DEWEY C. GODWIN, who has personal knowledge of the facts herein set forth:

That said Dewey C. Godwin claims a lien upon the following property, situated in Baldwin County, Alabama, to-wit:

That certain parcel of real property more accurately described as a parcel of land 208.6 feet by 208.6 feet, being one acre square in the Northwest corner, more or less of the North Half of the Northeast Quarter of the Northeast Quarter, Section 4, Township 4 South Range 3 East and being that acre upon which is situate/a brick veneer home. in the center thereof Same being situate in Baldwin County, Alabama.

This lien is claimed, separately and severally, as to both the buildings and improvements thereon, and the said land.

That said lien is claimed to secure an indebtedness of One Thousand (\$1,000.00) Dollars with interest, from, to-wit, the 15th day of September, 1957, for Dewey C. Godwin.

The name of the owner or proprietor of said property is Roy C. Mahathy.

Dewey C. Godwin
Claimant.

Before me, C. LeNoir Thompson, a Notary Public in and for the County of Baldwin, State of Alabama, personally appeared Dewey C. Godwin, who being duly sworn, doth depose and say: That he has personal knowledge of the facts set forth in the foregoing statement of lien, and that the same are true and correct to the best of his knowledge and belief.

Dewey C. Godwin
Claimant.

Sworn to and subscribed before me this the 14 day of May, 1958.

C. LeNoir Thompson
Notary Public, Baldwin County, Alabama.

DEWEY C. GODWIN,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	
	X	BALDWIN COUNTY, ALABAMA
ROY C. MAHATHY,	X	
Defendant.	X	NUMBER 3415
	X	

Comes the Defendant in the above styled cause and demurs to the complaint as amended May 14, 1958, which was filed in said cause, and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That count "1" of the complaint is not in code form.
2. That count "1" of the complaint claims damages of the Defendant on account and also for work and labor done in the same count.
3. That the allegation in count "2" of the complaint "in substance" is surplusage.
4. That counts "2" and "3" of the complaint alleges that a copy of the contract sued upon is attached to the complaint as "Exhibit A" and "Exhibit A" affirmatively shows that the plans and specifications are attached to the contract and made a part thereof and such plans and specifications are not attached to the complaint as a part of Exhibit A.
5. That the allegation in count "2" of the complaint "Plaintiff says that although he has complied with all its provisions on his part, the Defendant has failed to comply with the following provisions thereof" fails to allege that the Plaintiff has reference to the written contract sued upon.
6. That count "3" of the complaint fails to allege that the amount claimed is due by the Defendant.
7. That there is no provision in the laws of the State of Alabama by which the Plaintiff may claim damages for building materials "and/or labor".
8. That count "3" of the complaint does not state whether the amount claimed is for the building materials or for the labor done or for both.

9. That count "3" of the complaint does not state that the Plaintiff has complied with the contract referred to in such count.

10. The description of the property on which a lien is claimed as set out in count "3" is vague and indefinite.

11. That the allegation in count "3" of the complaint that the Plaintiff claims a lien on "one acre square in the Northwest corner, more or less" is vague and indefinite and does not definitely locate the land upon which a lien is claimed.

12. That the allegation in count "3" that the Plaintiff claims a lien as provided by law, fails to state that such is provided by the laws of the State of Alabama.

13. That count "3" of the complaint alleges that the Plaintiff filed a claim of lien in the Probate Office of Baldwin County, Alabama, on January 29, 1958, and a copy of which is attached as Exhibit B to the complaint, which copy affirmatively shows that it was executed on May 14, 1958, and could not have been filed in the Probate Office on January 29, 1958.

14. That Exhibit B to the complaint affirmatively shows that it is not a true and correct copy of the claim of lien which the Plaintiff filed in the Probate Office of Baldwin County, Alabama, on January 29, 1958.

Filed May 26, 1958
Alice J. Luck, Clerk

Gusman & Stone
Attorneys for Defendant

DEMURRER TO AMENDED COMPLAINT

DEWEY C. GODWIN,
Plaintiff,

vs.

ROY C. MAHATHY,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
NUMBER 4315

3415
FILED

MAY 26 1958

ALICE L. DICK, CLERK

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

DEWEY C. GODWIN files this statement in writing, verified by the oath of DEWEY C. GODWIN, who has personal knowledge of the facts herein set forth:

That said Dewey C. Godwin claims a lien upon the following property, situated in Baldwin County, Alabama, to-wit:

That certain parcel of real property more accurately described as a parcel of land 208.6 feet by 208.6 feet, being one acre square in the Northwest corner, more or less of the North Half of the Northeast Quarter of the Northeast Quarter, Section 4, Township 4 South Range 3 East and being that acre upon which is situate a brick veneer home. (in the center thereof, Same being situate in Baldwin County, Alabama.

This lien is claimed, separately and severally, as to both the buildings and improvements thereon, and the said land.

That said lien is claimed to secure an indebtedness of One Thousand (\$1,000.00) Dollars with interest, from, to-wit, the 15th day of September, 1957, for Dewey C. Godwin.

The name of the owner or proprietor of said property is Roy C. Mahathy.

Dewey C. Godwin
Claimant

Before me, C. LeNoir Thompson, a Notary Public in and for the County of Baldwin, State of Alabama, personally appeared Dewey C. Godwin, who being duly sworn, doth depose and say: That he has personal knowledge of the facts set forth in the foregoing statement of lien, and that the same are true and correct to the best of his knowledge and belief.

Dewey C. Godwin
Claimant.

Sworn to and subscribed before me this the 14 day of May, 1958.

C. LeNoir Thompson
Notary Public, Baldwin County, Alabama.

STATE OF ALABAMA, BALDWIN COUNTY

Filed 5-14-58 10 A.M.

Recorded Ex. 141 book 5 page 277

MR. Stuart
Judge of Probate

DEWEY C. GODWIN

PLAINTIFF

VS

ROY C. MAHATHY

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

CASE NO. 3415

1. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars, due by an account on, to-wit, the 15th day of September, 1957.

2. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars due by an account on, to-wit, the 15th day of September, 1957, together with the interest thereon, which is past due and unpaid. Plaintiff avers that said account represents building materials and/or labor furnished by the Plaintiff under contract with the defendant which was furnished for and which was used in the construction of a dwelling on certain real estate described as: North Half of Northeast Quarter of Northeast Quarter, Section 4, Township 4 South Range 3, containing 20 acres. And plaintiff claims a lien on said real estate as provided for mechanics and materialmen by law and plaintiff further avers that on November 8, 1957, the plaintiff filed in the Probate Office of Baldwin County, Alabama, a claim of lien, copy of which is attached hereto as Exhibit A and made a part hereof and plaintiff prays that said lien may be established and that said real estate be condemned for the satisfaction of said indebtedness and that same be ordered sold to satisfy said indebtedness.

Filed

Dec. 3, 1957

Alice J. Clark, Clerk

Executed Dec. 5, 1957

THOMPSON & WHITE

BY: C. Le Noir Thompson
Attorney for Plaintiff.

STATE OF ALABAMA
BALDWIN COUNTY

DEWEY C. GODWIN files this statement in writing, verified by the oath of DEWEY C. GODWIN, who has personal knowledge of the facts herein set forth:

That said Dewey C. Godwin claims a lien upon the following property, situated in Baldwin County, Alabama, to-wit:

North Half of Northeast Quarter of Northeast Quarter, Section 4, Township 4, South Range 3, containing 20 acres.

This lien is claimed, separately and severally, as to both the buildings and improvements thereon, and the said land.

That said lien is claimed to secure an indebtedness of One Thousand (\$1,000.00) Dollars with interest, from, to-wit, the 15th day of September, 1957, for Dewey C. Godwin.

The name of the owner or proprietor of said property is Roy C. Mahathy.

Dewey C. Godwin
Claimant.

Before me, C. LeNoir Thompson, a Notary Public in and for the County of Baldwin, State of Alabama, personally appeared Dewey C. Godwin, who being duly sworn, doth depose and say: That he has personal knowledge of the facts set forth in the foregoing statement of lien, and that the same are true and correct to the best of his knowledge and belief.

Dewey C. Godwin
Claimant.

Sworn to and subscribed before me this the 8th day of November, 1957, by said Claimant.

C. LeNoir Thompson
Notary Public, Baldwin County, Alabama.

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 3415

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Roy C. Mahathy

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

ROY C. MAHATHY

Defendant

by DEWEY C. B GODWIN

Plaintiff

Witness my hand this 3rd day of November 1957

27

Alvin J. Huch, Clerk

DEWEY C. GODWIN,	I	
Plaintiff,	I	IN THE CIRCUIT COURT OF
vs.	I	BALDWIN COUNTY, ALABAMA
ROY C. MAHATHY,	I	CASE NUMBER _____
Defendant.	I	

Comes the Defendant in the above styled cause and demurs to counts "2" and "3" of the complaint as amended on March 13, 1958, separately and severally, and assigns the following separate and several grounds, viz:

1. That such counts do not state a cause of action.
2. That count "2" of such complaint fails to allege that the agreement was entered into by both the Plaintiff and the Defendant.
3. That said counts allege that a copy of a contract is attached to the complaint and made a part thereof but the copy of such complaint which was sent to the Defendant does not contain a copy of such contract.
4. That count "2" of the complaint does not allege when the sum sued for became due and payable.
5. That count "3" of the complaint does not allege when the labor and materials were furnished by the Plaintiff to the Defendant.
6. That count "3" of the complaint does not properly describe the acre of land referred to.
7. That count "3" of the complaint alleges that the Plaintiff has attached as Exhibit B a copy of a lien which has been filed in the Probate Office but the copy of the complaint served on the Defendant does not have attached thereto a copy of such lien.

Filed
Mar. 19, 1958
Alice J. Clark
clerk

Harmon Jones
 Attorneys for Defendant

AMENDED

DEWEY C. GODWIN
PLAINTIFF
VS
ROY C. MAHATHY
DEFENDANT

*
* IN THE CIRCUIT COURT OF
*
* BALDWIN COUNTY, ALABAMA.
*
* CASE NO. 3415
*
*
*

1. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars due from him by account on to-wit; 15th day of September, 1957 for work and labor done for the Defendant by the Plaintiff on to-wit; the 15th day of September, 1957, at his request, which sum of money with the interest thereon is still unpaid.

2. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars damages for the breach of a written agreement entered into by him on the 11th day of May, 1957, in substance being the balance due on a written contract entered into on the said date between the parties, ^{parts} whereby the Plaintiff erected a dwelling at the Defendant's request and there is a balance of One Thousand (\$1,000.00) Dollars due and unpaid on said written contract, copy of which is made a part hereof and attached hereto as exhibit "A". Plaintiff says that although he has complied with all its provisions on his part, the Defendant has failed to comply with the following provisions thereof, to-wit; the payment of the balance due of One Thousand (\$1,000.00) Dollars on the total sum of Eleven Thousand Five Hundred (\$11,500.00) Dollars which the defendant obligated to pay as set out in said contract.

3. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars due by an account on, to-wit, the 15th day of September, 1957, together with the interest thereon, which is past due and unpaid. Plaintiff avers that said account represents building materials and/or labor furnished by the Plaintiff under written contract, with the Defendant, copy of which is attached hereto as Exhibit "A" and made a part hereof, which was furnished to the Defendant for and which was used in the construction of a dwelling on certain real estate described as:

One acre in the NW corner of the North Half of the Northeast Quarter of the Northeast Quarter, Section 4, Township 4 South Range 3 East being that acre upon which is situate a brick veneer home. Same being situate in Baldwin County, Alabama.

And Plaintiff claims a lien on said real estate as provided for mechanics and materialmen by law and Plaintiff further avers that on January 29, 1958, the Plaintiff filed in the Probate Office of Baldwin County, Alabama, a claim of lien, copy of which is attached hereto as Exhibit "B" and made a part hereof and plaintiff prays that said lien may be established and that said real estate be condemned for the satisfaction of said indebtedness and that same be ordered sold to satisfy said indebtedness.

THOMPSON & WHITE

BY:


Attorney for Plaintiff.

FILED

MAR 13 1958

ALICE J. BUCK, Clerk

AMENDED

DEWEY C. GODWIN

PLAINTIFF

VS

ROY C. MAHATHY

DEFENDANT

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*
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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

CASE NO. _____

1. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars, due by an account on, to-wit, the 15th day of September, 1957.

2. The Plaintiff claims of the Defendant One Thousand (\$1,000.00) Dollars due by an account on, to-wit, the 15th day of September, 1957, together with the interest thereon, which is past due and unpaid. Plaintiff avers that said account represents building materials and/or labor furnished by the Plaintiff under contract with the Defendant which was furnished for and which was used in the construction of a dwelling on certain real estate described as:

One acre in the NW corner of the North Half of the Northeast Quarter of the Northeast Quarter, Section 4, Township 4 South Range 3 East being that acre upon which is situate a brick veneer home.

And Plaintiff claims a lien on said real estate as provided for mechanics and materialmen by law and Plaintiff further avers that on January 29, 1958, the Plaintiff filed in the Probate Office of Baldwin County, Alabama, a claim of lien, copy of which is attached hereto as Exhibit A and made a part hereof and plaintiff prays that said lien may be established and that said real estate be condemned for the satisfaction of said indebtedness and that same be ordered sold to satisfy said indebtedness.

THOMPSON & WHITE

BY:

[Signature]
Attorney for Plaintiff.

Filed 2-7-58
Alice J. Luck,
Clerk

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O
P
Y

IT IS AGREED BY AND BETWEEN DEWEY C. GODWIN ad contractor and ROY MAHATHY as owner as follows: That the said owner agrees to employ the said contractor and the said contractor agrees to accept employment for the consideration of the sum of Eleven Thousand Five Hundred (\$11,500.00) Dollars and in return to construct for the said owner a two bedroom brick veneer home in the location to be determined by the owner in the community of Stapletin. Construction to be done in a skilled and workmanlike manner.

It is specifically agreed between the parties that the said contract shall do all of said work in strict accordance with the plans and specifications agreed upon between the parties and signed with their initials for identification. The said plans and specifications to be attached to this contract and to become a part hereof.

It is further agreed between the parties that the said contractor shall every two weeks furnish to the said owner a statement of expense incurred for materials and labor and the said owner shall then and there pay over to the said contractor a sum equal to 90% of the total statement so rendered, retaining the other 10% until the house has been completed in accordance with said plans and specifications for delivery to the said owner on what is known as a lock and key job.

It is further agreed that the said owner is liable only for the total sum of Eleven Thousand Five Hundred (\$11,500.00) Dollars which is the contract price for all labor and materials which the said contractor agrees to furnish. Any difference between the sums paid every two weeks and the total sum agreed upon will be paid by the owner when the remaining 10% withheld as noted is due and payable.

It is further agreed that any change or changes which may be requested by the said owner shall be added in writing on this contract and shall be paid for at the increased expense for making such changes in accordance with estimates furnished then and there by the said contractor and said increased estimates shall be added to the total sum agreed upon herein as stated.

The said contractor agrees to completely finish said house in accordance with the plans and specifications and any changes thereto which may be agreed upon and do hold harmless the said owner from any material or mechanics liens, warranting to pay all bills promptly on or before the date the said contractor is paid by the said owner on the basis of statements presented under this contract.

WITNESS our hands and seals (in duplicate) this 11th day of
May, 1957.

(SIGNED) Roy C. Mahathy

(SIGNED) Dewey C. Godwin

EXECUTED IN THE PRESENCE OF:

(SIGNED) Mrs. Roy C. Mahathy

(SIGNED) Mrs. Edna Godwin

DEWEY C. GODWIN,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	
	X	BALDWIN COUNTY, ALABAMA
ROY C. MAHATHY,	X	
Defendant.	X	CASE NUMBER <u>3415</u>
	X	

Comes the Defendant in the above styled cause and demurs to the amended complaint filed in said cause and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That count "1" of said complaint does not state a cause of action.
2. That count "1" of said complaint does not allege that the account is due from the Defendant.
3. That count "1" of said complaint does not allege that the amount claimed thereunder is still unpaid.
4. That count "2" of said complaint does not allege that the money claimed therein is due by the Defendant.
5. That count "2" of said complaint does not allege that the materials and labor furnished by the Plaintiff were furnished to the Defendant.
6. That count "2" of said complaint does not allege when the material and labor were furnished by the Plaintiff.
7. That count "2" of said complaint does not sufficiently set out the terms of the contract referred to therein.
8. That the property referred to in count "2" of the complaint is not accurately described.
9. That the description of the property in count "2" of the complaint does not state in what county and state the property is located.
10. That count "2" of said complaint alleges that there is attached to such complaint a copy of the lien which was filed in the Office of the Probate Judge of Baldwin County, Alabama, but such lien is not attached to such complaint.

Filed Feb 17, 1928
Alice J. Smith, clerk

Phason & Stone
 Attorneys for Defendant

COMPLAINT AS LAST AMENDED.

DEWEY C. GODWIN,

Plaintiff,

VS.

ROY C. MAHA THEY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 3415

Comes the Plaintiff and amends his Last Amended Complaint so that, as Last Amended, said Complaint is as follows:

C O U N T O N E.

The plaintiff claims of the defendant ONE THOUSAND (\$1,000.00) DOLLARS, due from him by account on, to-wit, the 15th day of September, 1957, which sum of money, with the interest thereon, is still due and unpaid.

C O U N T T W O.

The plaintiff claims of the defendant ONE THOUSAND (\$1,000.00) DOLLARS, for merchandise, goods and chattels sold to the defendant, and/or work and labor done for the defendant, between, to-wit, the 11th day of May, 1957, and the 15th day of September, 1957, at his request, which sum of money, with the interest thereon, is still due and unpaid.

C O U N T T H R E E.

The plaintiff claims of the defendant ONE THOUSAND (\$1,000.00) DOLLARS, due by an account, on, to-wit, the 15th day of September, 1957, which sum of money, with the interest thereon, is still due and unpaid. Plaintiff avers that said account represents building materials and/or labor furnished by the plaintiff under a contract with the defendant, a copy of which contract (except for certain plans and specifications referred to in said contract, which are too bulky to be attached, but which plaintiff has in his possession and offers to show to the defendant and this Honorable Court at any time) is attached hereto, marked Exhibit "A", and, by reference made a part hereof as though fully set out herein, which was furnished for and which was used in the construction of a brick veneer home for the defendant on the following described land, lying and being in Baldwin County, Alabama, viz:

One acre in the Northwest Corner of the
North half of the Northeast quarter of
the Northeast quarter of Section 4, Town-
ship 4 South, Range 3 East;

And plaintiff claims a lien on said real estate and said improvements, separately and severally, as provided for mechanics and materialmen by law, and plaintiff further avers that on the 29th day of January, 1958, the plaintiff filed in the Probate Office of Baldwin County, Alabama, a claim of lien, a copy of which, marked Exhibit "B", is attached hereto, and, by reference, made a part hereof as though fully set out herein; and plaintiff prays that said lien may be established and that said real estate and/or said improvements be condemned for the satisfaction of said indebtedness and that the same be ordered sold to satisfy said indebtedness.

C O U N T F O U R .

The plaintiff claims of the defendant ONE THOUSAND (\$1,000.00) DOLLARS balance due on a written contract entered into on, to-wit, 11th day of May, 1957, by and between the defendant and the plaintiff, a copy of which contract, as set out in COUNT THREE hereof, is attached hereto, marked Exhibit "A", and, by reference, made a part hereof as though fully set out herein; and plaintiff avers that by and under the terms of said contract plaintiff was to build for the defendant a brick veneer dwelling on the following described land in Baldwin County, Alabama, viz:

One acre in the Northwest Corner of the
North half of the Northeast quarter of
the Northeast quarter of Section 4,
Township 4 South, Range 3 East;

at and for a price of \$11,500.00; and plaintiff avers that he has complied in all respects with the provisions of said contract, but that the said defendant has failed and refused to comply with said contract in that he still owes to plaintiff a balance on said contract in the amount of \$1,000.00 as aforesaid, which said amount said defendant has failed and refused to pay; and plaintiff avers that said amount of \$1,000.00 became due and payable, on, to-wit, the 15th day of September, 1957, which was the date on which plaintiff completed work on said contract as aforesaid, and that said amount, with the interest thereon, is still due and unpaid; and plaintiff claims a lien on said real estate and said improvements, separately and severally, as provided for mechanics and materialmen by law; and plaintiff further avers ton on the 29th day of January, 1958, the plaintiff filed in the office of the Probate

Before me, C. Lessor Thompson, a Notary Public in and for the County of Baldwin, State of Alabama, personally appeared Dewey C. Godwin, who being duly sworn, doth depose and say: That he has personal knowledge of the facts set forth in the foregoing statement of lien, and that the same are true and correct to the best of his knowledge and belief.

STATE OF ALABAMA, BALDWIN COUNTY
Filed 1-29-58 3P.M.
Recorded Ex 4 Book 5 page 263
W. D. Stewart
Judge of Probate

Dewey C. Godwin
Claimant.

Sworn to and subscribed before me this the 29 day of

January, 1958.



C. Lessor Thompson
Notary Public, Baldwin County, Alabama.

Judge of Baldwin County, Alabama, a Claim of Lien, a copy of which, marked Exhibit "B", is attached hereto, and, by reference, make a part hereof as though fully set out herein; and plaintiff prays that said lien may be established and that said real estate and/or improvements be condemned for the satisfaction of said indebtedness and that the same be ordered sold to satisfy said indebtedness.

Filed
July 15, 1958
Alice J. Luck
Clerk

Jeffery M. Madsen
ATTORNEY FOR PLAINTIFF.

C
O
P
Y

Exhibit "A"

IT IS AGREED BY AND BETWEEN DEWEY C. GODWIN as contractor and ROY MAHATHY as owner as follows: That the said owner agrees to employ the said contractor and the said contractor agrees to accept employment for the consideration of the sum of Eleven Thousand Five Hundred (\$11,500.00) Dollars and in return to construct for the said owner a two bedroom brick veneer home in the location to be determined by the owner in the community of Stapleton. Construction to be done in a skilled and workmanlike manner.

It is specifically agreed between the parties that the said contract shall do all of said work in strict accordance with the plans and specifications agreed upon between the parties and signed with their initials for identification. The said plans and specifications to be attached to this contract and to become a part hereof.

It is further agreed between the parties that the said contractor shall every two weeks furnish to the said owner a statement of expense incurred for materials and labor and the said owner shall then and there pay over to the said contractor a sum equal to 90% of the total statement so rendered, retaining the other 10% until the house has been completed in accordance with said plans and specifications for delivery to the said owner on what is known as a lock and key job.

It is further agreed that the said owner is liable only for the total sum of Eleven Thousand Five Hundred (\$11,500.00) Dollars which is the contract price for all labor and materials which the said contractor agrees to furnish. Any difference between the sums paid every two weeks and the total sum agreed upon will be paid by the owner when the remaining 10% withheld as noted is due and payable.

It is further agreed that any change or chages which may be requested by the said owner shall be added in writing on this contract and shall be paid for at the increased expense for making such changes in accordance with estimates furnished then and there by the said contractor and said increased estimates shall be added to the total sum agreed upon herein as stated.

The said contractor agrees to completely finish said house in accordance with the plans and specifications and any changes thereto which may be agreed upon and do hold harmless the said owner from any materiaa or mechanics liens, warranting to pay all bills promptly on or before the date the said contractor is paid by the said owner on the basis of statements presented under this contract.

WITNESS OUR hands and seals (in duplicate) this 11th day of
May, 1957.

(SIGNED) Roy C. Mahathy

(SIGNED) Dewey C. Godwin

EXECUTED IN THE PRESENCE OF:

(SIGNED) Mrs. Roy C. Mahathy

(SIGNED) Mrs. Edna Godwin

STATE OF ALABAMA
BALDWIN COUNTY

0000 005 PAGE 263

EXHIBIT "B"

DEWEY C. GODWIN files this statement in writing, verified by the oath of DEWEY C. GODWIN, who has personal knowledge of the facts herein set forth:

That said Dewey C. Godwin claims a lien upon the following property, situated in Baldwin County, Alabama, to-wit:

NW corner of the
One acre in the North Half of the Northeast Quarter
of the Northeast Quarter, Section 4, Township 4 South
Range 3 East being that acre upon which is situate a
brick veneer home.

This lien is claimed, separately and severally, as to both the buildings and improvements thereon, and the said land.

That said lien is claimed to secure an indebtedness of ONE Thousand (\$1,000.00) Dollars with interest, from, to-wit, the 15th day of September, 1957, for Dewey C. Godwin.

The name of the owner or proprietor of said property is
Roy C. Mahathy.

Dewey C. Godwin