

KRAFT COMPANY, INC., a)	IN THE CIRCUIT COURT OF
corporation		
	Plaintiff)	BALDWIN COUNTY,
VS.		
)	ALABAMA
LEWIS R. PHILLIPS,		
	Defendant)	AT LAW
)	CASE NO. <u>3741</u>

DEMURRERS

Comes now the plaintiff in the above styled cause and demurs to plea two filed by the defendant herein, and as grounds for this demurrer sets out and assigns the following separately and severally:

1. Said plea is not properly verified.
2. Said plea is not sufficiently verified in that the affidavit of the attorney making same was merely as to his belief of facts.
3. Said plea is insufficient in that the verification thereto is improper.
4. Said plea is insufficient in that it was not properly verified in accordance with Title 7, Section 226 of the Alabama Code of 1940, as amended.

Comes now the plaintiff in the above styled cause and demurs to plea three and four filed herein by the defendant and as grounds for this demurrer sets out and assigns the following, separately and severally:

1. The plaintiff hereby adopts as grounds of demurrer to plea three and four, the grounds heretofore set out to plea two.
2. Said plea fails to state a sufficient defense to plaintiff's complaint.
3. The allegations of said plea are vague and indefinite.
4. The allegations of said plea are but conclusions of the pleader.
5. Said plea fails to allege sufficient facts to support the conclusions alleged therein.

II.

6. Said plea fails to set forth sufficient facts to constitute a defense to the plaintiff's complaint.
7. Said plea fails to set forth facts constituting fraud with reasonable certainty.
8. Said plea fails to allege any material representation made by the defendant to the plaintiff.
9. Said plea attempts to set up fraud by conclusions.
10. Said plea attempts to rely upon a contract without stating the terms of said contract.
11. Said plea attempts to rely on a contract without alleging the terms of said contract with sufficient definiteness and certainty.
12. Said plea fails to allege sufficient facts to appraise the plaintiff of the contract the defendant has reference to.
13. Said plea attempts to rely upon a contract, without alleging any consideration to support said contract.
14. Said plea fails to allege with sufficient definiteness and certainty what work the plaintiff was to do for the defendant on the contract referred to therein.

Comes now the plaintiff in the above styled cause and demurs to plea five filed herein by the defendant, and as grounds for this demurrer sets out and assigns the following, separately and severally:

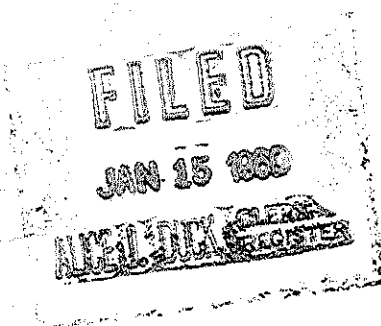
1. Said plea attempts ^{to set} off an unliquidated claim against the demand of the plaintiff.
2. Said plea attempts to set off a claim sounding in damages merely against the demand of the plaintiff.
3. Said plea fails to state a sufficient set off.
4. Said plea attempts to rely upon an oral agreement without alleging any consideration therefore.

III.

5. Said plea attempts to rely upon an oral agreement without setting out the terms of such agreement with sufficient definiteness and certainty.
6. Said plea attempts to rely upon an oral agreement without stating the terms and conditions of said agreement.
7. Said plea is vague and indefinite.
8. Said plea is uncertain.
9. Said plea fails to allege sufficient facts to support the conclusions alleged therein.
10. Said plea fails to set forth sufficient facts to constitute a set off.
11. Said plea attempts to rely upon conclusions without alleging sufficient facts to support same.

WILKINS, STEPHENSON & BYRD

By: Robert L. Byrd



LOUIS R. PHILLIPS
Defendant

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

BILL OF COMPLAINT

The Plaintiff claims of the Defendant the sum of ELEVEN HUNDRED NINETY and 87/100(\$1,190.87)DOLLARS, due by Promissory Note made by the Defendant on the 14th day of May, 1957, and payable on demand with interest thereon, which sum of money, is still unpaid.

The Plaintiff avers that in, by and as a part of said Note, the Defendant agreed to pay all costs of collecting, or securing or attempting to collect or secure such debt, including a reasonable Attorneys fee, whether the same be collected or secured by suit or otherwise and the Plaintiff further claims of the defendant the further and addition sum of ONE HUNDRED FIFTY (\$150.00) DOLLARS, as a reasonable Attorney's fee.

Plaintiff further avers that in, by and as a part of said note, the defendant waived as to this debt or any renewal thereof, all rights to exemptions under the Constitution and laws of Alabama as to personal property and of this waiver the Plaintiff now claims the benefit.

Attorney for Plaintiff

We the firm paid for the Plaintiff
that his the delivery at \$1544.87

Charles W. Grull

James

CRAFT CO. INC.
A Corporation,

Plaintiff

-VS-

LOUIS R. PHILLIPS

Defendant

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

BILL OF COMPLAINT

The State of Alabama
Baldwin County

CIRCUIT COURT

CRAFT CO., INC.

A Corporation

Plaintiffs

vs.

LOUIS R. PHILLIPS

Defendants

Summons and Complaint

Filed FILED 19____

JAN-14-1959

Clerk

ALICE J. DUCK, CLERK
REGISTER

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

3 miles North of Loxley, Ala.

Received In Office

Jan 25 1959

_____, Sheriff

I have executed this summons

this 25 March 1959

by leaving a copy with

Sheriff claims 28 miles at

Ten Cents per mile Total \$ 2.80

TAYLOR WILKINS, Sheriff

BY Deputy Sheriff

DEPUTY SHERIFF

Taylor Wilkins Sheriff
Deputy Sheriff Deputy Sheriff

28 Mar

SUMMONS AND COMPLAINT

Moore Ptg. Co.

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 LOUIS R. PHILLIPS

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-----

LOUIS R. PHILLIPS-----, Defendant.

by CRAFT CO. INC. A Corporation

-----, Plaintiff.

Witness my hand this 14 day of January, 1959

Deirdre J. [Signature], Clerk

Ex 3-25-59

CRAFT CO., INC., A
Corporation,

Plaintiff,

VS.

LOUIS R. PHILLIPS,

Defendant.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NO. _____

P L E A S

Comes now the defendant, LOUIS R. PHILLIPS, and for answer to the complaint heretofore filed in said cause and to each and every count thereof, separately and severally, sets down and assigns the following separate and several pleas:

O N E

That the allegations of the complaint are untrue.

T W O

That the note upon which this action was founded was not executed by him, nor by anyone thereunto lawfully authorized in writing.

T H R E E

The defendant, for further answer to said complaint, says that prior to the making of the note which is the basis of this suit, the plaintiff entered into a contract with the defendant to do certain electrical work on the defendant's residence, for which defendant agreed to pay the plaintiff at the rate of \$5.00 per outlet; that the plaintiff installed approximately 95 outlets in defendant's said residence; that plaintiff falsely and fraudulently procured defendant's signature to said note before plaintiff completed the work on defendant's residence, by telling defendant that plaintiff would fill in said note only for the amount defendant would owe plaintiff when said work was completed; that plaintiff never did complete said work; and that defendant was forced to hire other people to complete said work; and that, at most, the note should have been filled in for only \$475.00.

F O U R

The defendant, for further answer to the complaint, says that he is not indebted to the plaintiff in the amount sued for, but, at most, owes the plaintiff only \$475.00 for electrical work done on defendant's residence; but plaintiff falsely and fraudulently

induced defendant to sign a blank note by representing to defendant that plaintiff would fill in the said note, when the work was completed in accordance with the terms of the agreement between plaintiff and defendant; that defendant, relying upon the said representations of the defendant did execute the blank note; and that later, without completing the work in accordance with the terms of the agreement between the plaintiff and defendant, the plaintiff filled in the note for an amount greatly in excess of the amount owed by defendant to the plaintiff.

F I V E

Comes the defendant and, without in any way confessing the plaintiff's claim or demand, as a defense to the action of the plaintiff, says that at the time said action was commenced, the plaintiff was indebted to the defendant in the sum of \$150.00, for this: That in the year 1957, to-wit: sometime prior to May, 1957, the plaintiff entered into an oral agreement to certain electrical work on defendant's residence in Baldwin County, Alabama; that this agreement provided for the plaintiff to install certain electrical outlets in defendant's said residence; that plaintiff was to install an electric washing machine, including the necessary drain line; that the heat unit on the electric washing machine burned out and defendant paid plaintiff in advance to repair said unit; that plaintiff never has installed the said drain line for the washing machine; and that plaintiff has never repaired the said heating unit on the washing machine; for all of which injuries the plaintiff is indebted to the defendant in the sum of \$150.00 which the defendant hereby offers to set off against the demand of the plaintiff, and he claims judgment for the excess.

Telfair J. Mashburn
ATTORNEY FOR DEFENDANT.

STATE OF ALABAMA, 0
 0
COUNTY OF BALDWIN. 0

Before me, the undersigned authority, personally appeared Telfair J. Mashburn, whose name is signed to the foregoing pleas and who is known to me, and who, being by me first duly sworn, deposes and says, on oath: "That he is the attorney for the defen-

dant in the above and foregoing cause; that he is authorized to make this affidavit; and that he is informed and believes, and, on such information and belief, avers that the allegations contained in the foregoing pleas are true and correct." Further deponent says not.

Justin G. Maddux

Sworn to and subscribed before me on this the 10th day of April, 1959.

Nairy M. D'Olive
NOTARY PUBLIC, BALDWIN COUNTY, ALA.

Defendant

~~XXXXXXXX~~ demands that this cause be tried by a jury.

Filed
4-10-59

Justin G. Maddux
ATTORNEY FOR DEFENDANT.

3741

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
AT LAW. NO. _____

CRAFT CO., INC., A
Corperation,

Plaintiff,

VS.

LOUIS R. PHILLIPS,

Defendant.

PLEAS.

FILED

APR 10 1959

ALICE J. DUCK, CLERK
REGISTER

\$ 1630.47

Daphne, Alabama

ALA., May 14

1957

ON DEMAND

after date without grace I promise to pay to the order of

Craft Company, Inc., Daphne, Alabama

one thousand six hundred thirty and 47/100

DOLLARS

for value received, in lawful money of the United States of America, with interest from _____ Date

at the rate of 6 per cent per annum until paid,

Payable at Craft Company, Inc., Daphne, Alabama

The parties to this instrument, whether maker, endorser, surety, or guarantor, each for himself, hereby severally waive as to this debt, or any renewal thereof, all rights of exemption under the Constitution and Laws of Alabama, as to personal property, and they each severally agree to pay all costs of collecting or securing or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by suit or otherwise. And the maker, endorser, surety or guarantor of this note severally waives demand, presentment, protest, notice of protest, suit and all other requirements necessary to hold them and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply on or after maturity to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor, or any one of them. All suits for the collection of this note may be prosecuted in any county in this State that the payee or assignee elects.

Witness _____ hand and seal the _____ day of _____, 19 _____

Witness *[Signature]*

Witness _____

No. _____ Due _____

Louis R. Phillip L. S.

L. S.

Bill to be 4/1

Each endorser, whose name appears below hereby waives all his right of exemption, and also waives presentment for payment, protest and notice of protest and non-payment of within note, and agrees that said endorsement shall remain good and binding until said note is fully paid.

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