

Transcript of Civil Cases from Justice's Court of

R. A. HAIL, JR.

NOTARY PUBLIC EX-OFFICIO
JUSTICE OF THE PEACE
BALDWIN

For Sale by Moore Ptg. Co.

County, Ala.

| ATTORNEYS | NAMES OF PARTIES | CAUSE OF ACTION | ITEMIZED BILL OF COST |
|--|--|---|--|
| Kenneth Cooper | Robertsdale Furniture Co John B. Ambrose (Owner) Robertsdale, Alabama. | Detinue Bond & Affidavit Detinue Summons & Comp' | Justice's Fees Issuing Summons Detinue Over \$50.00 1.00 Issuing Alias Summons 50 Issuing Subpoena for each witness 15 Issuing Execution and Taxing Cost 50 .50 Issuing Summons to Garnishee and taking answer 50 Issuing Attachment Writ 50 Affidavit Bond and Affidavit 1 50 1.50 Garnishment Bond and Affidavit 50 Appeal or Certiorari, including Bond 1 00 Bond 50 Administering Oath and certifying same 50 Certificate not otherwise provided for 25 Docketing Cause 10 .10 Judgment on Forthcoming Stay or Replevin Bond 50 .50 Judgment on Summary Proceeding 75 Issuing Venire Facias 50 Transcript of Proceeding 50 Attending Trial or Right of Property 1 00 1.00 Sci. Fa. or notice in nature thereof 50 Making Return of Certiorari 50 Notice to Defendant 15 Release 25 .25 |
| Wilters & Brantley | Mrs. Geneva McNaughton Loxley, Alabama. | Attending Trial or Right of Property Replevey Bond | SHERIFF FEES NOTARY FEES Civil Cases \$4.85 |
| Witnesses | Mrs. Mary Francis Cooper Loxley, Ala. Mrs. Bertha Mae Phillips Loxley, Ala. | | Serving 1 Summons Detinue 6 00 6.00 Serving Summons on each Witness 25 Serving Garnishment 25 Levying Execution under \$50.00 1 00 Levying Attachment under \$50.00 1 00 Making Money, 3 per cent. not less than 75 Serving Notice, etc. on each party therein 25 Serving Sci. Fa. or other like Notices 50 Taking Bail or other Bond \$2.50 2.00 Keeping Property Levied on Milage 10 Miles @ .10 1.00 Witness Days 50 Garnishee's Fee |
| DISPOSITION OF CASE | | | TOTAL cost \$13.85 |
| Bond and Affidavit Filed April 17, 1959 | | | |
| Summons and Complaint Issued Ret. April 17, 1959 | | | |
| Ret. Executed By April 17, 1959 | | | |
| Replevey Bond Okeyed April 18, 1959 by | | | |
| Deputy Sheriff C. A. McNeil, Loxley, Alabama. | | | |
| 1. R. A. Hail, Jr. Ex-Officio Justice of the Peace and Notary Public, Precinct 9, Robertsdale, Ala. | | | |
| Ruled that the Air-Conditioner went with the Building, as it was part of the Building. | | | |
| Records at Probate Office Checked by Building & Loan at Robertsdale, Everything was clear, no Mortgages or anything due at that time. Loan was OKEYED. | | | |
| R. A. Hail, Jr. | | | |
| MY COMMISSION EXPIRES 1-14-63 NOTARY PUBLIC EX-OFFICIO JUSTICE OF THE PEACE | | | |

The State of Alabama, {
Baldwin County

JUSTICE OF PEACE
~~CIRCUIT~~ COURT

No. _____

April 17 1959

To Any Sheriff of the State of Alabama—Greetings:

You Are Hereby Commanded to Summon Mrs Geneva McNaughton

Justice of Peace

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 _____

John R. Ambrose

Witness my hand this 17 day of April 1959

Justice of Peace, Beat #9

COMPLAINT

JOHN R. AMBROSE

MRS GENEVA McNAUGHTON

Plaintiff

Versus

Defendant

The plaintiff claims of the defendant the following personal property, to-wit:

One Westinghouse one-ton Air-Conditioner,
serial number 17904824, of the value of one hundred
(\$100.00) dollars.

with the value of the hire or use thereof during the detention, to-wit:

from _____ 19____, to _____ 19____

Kenneth Cooper

Plaintiff's Attorney.

Kenneth Cooper.

State of Alabama

Baldwin County

CIRCUIT COURT

John B. Ambrose
Robinson Farm Co.

Plaintiff

VS.

Mrs. Geneva McNaughton
Lafayette

Defendant

Detinue Summons and Complaint

Filed _____, 19____

_____, Clerk

Plaintiff's Attorney

Defendant's Attorney

To the Sheriff of said County:

Whereas, the Plaintiff in the within stated cause has made affidavit and given bond as required by law you are hereby required to take the property mentioned in Complaint into your possession unless the Defendant gives bond payable to the Plaintiff with sufficient surety in double the amount of the value of the property, with condition that if the Defendant is cast in the suit he will within thirty days thereafter, deliver the property to the Plaintiff, and pay all damages and costs which may accrue from the detention thereof.

_____, Clerk

Defendant lives at _____

Received in office _____

_____, 19____

_____, Sheriff

I have executed this summons

this 17 April, 1959

by leaving a copy with

Mrs. Geneva McNaughton

care existing house

1-ton Air Conditioner

Serial # 17904824

Value \$100.00

_____, Sheriff

C. Q. Mahie, Deputy Sheriff

STATE OF ALABAMA

BALDWIN COUNTY

JUSTICE OF PEACE
IN THE ~~CIRCUIT~~ COURT OF

Hon R.A. Hail, Jr. BALDWIN COUNTY

Before me, Kenneth Cooper, a Notary Public in and for said County,
personally appeared John R. Ambrose who being by me

duly sworn deposes and says that the property sued for in the complaint of John R. Ambrose

filed in said Court, to-wit:

One Westinghouse One-ton Air -Conditioner, Serial No. 17904824,
of the value of one hundred (\$100.00) dollars.

belongs to John R. Ambrose, the plaintiff.

Robert Dale Freeman Co
John R. Ambrose

Sworn to and subscribed before me this

day of April 17, 19 59.

Notary Public

STATE OF ALABAMA

BALDWIN COUNTY

JUSTICE OF PEACE
IN THE ~~CIRCUIT~~ COURT OF

Hon R. A. Hail, Jr Baldwin COUNTY

KNOW ALL MEN BY THESE PRESENTS, That we, John R. Ambrose

, Principal, and

, Sureties, are held and

firmly bound unto Mrs Geneva McNaughton, his heirs, executors and admin-

istrators in the sum of Two hundred Dollars,
for the payment of which we jointly and severally bind ourselves, our heirs, executors and adminis-

Sealed with our seals and dated the 17 day of April, 1959.

The condition of the above obligation is such that whereas, the above bound

John R. Ambrose has on the _____ day of

April, 19 59 sued out a writ of detinue in the Justice of Peace Court of Hon. R.A. Hail Jr

Baldwin County, returnable to the said Justice of Peace Court against the said Geneva McNaughton for

for the recovery of the following

described property, to-wit:

One Westinghouse One-ton Air-Conditioner,

Serial No. 17904824, of the value of \$100.00

Now, if the said John R. Ambrose shall fail in said suit

and shall pay to the said Geneva McNaughton, the defendant in
said suit, all such costs and damages as he may sustain by the wrongful complaint, then this obligation to
be void, otherwise, to remain in full force and effect.

Taken and approved this 17 day of April, 19 59 *Robert Dale Freeman Co* (SEAL)

John R. Ambrose (SEAL)

R.A. Hail Jr
Justice of Peace

No.

THE STATE OF ALABAMA

..... **COUNTY**

CIRCUIT COURT

..... **Plaintiff**

vs.

..... **Defendant**

Detinue — Affidavit and Bond

Filed this day of, 19

..... **Clerk**

THE STATE OF ALABAMA,
Baldwin County

KNOW ALL MEN BY THESE PRESENTS, That we Mrs. Geneva McNaughton

Mary Francis Cooper and M. E. Givins
Lakely, Ala.

are held and firmly bound unto Robertsdale Furniture Co

in the sum of Two Hundred (\$200.00) DOLLARS

for the payment of which, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors and administrators, jointly and severally. And for the payment of the above bond; we waive our right of exemption to personal property under the Constitution and Law of the State of Alabama.

Sealed with our seals and dated this 17 day of April, 1959.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas a Writ of Attachment issued by Robertsdale Furniture Co (John B. Ambrose) (Owner)

at the suit of said Mrs. Geneva McNaughton against the estate of the above named

returnable before the said R. A. Hail, Jr. Robertsdale, Ala., Justice of the

Peace, as aforesaid, at his office on the 23rd day of May 11:00 AM, 1959, for the

sum of Two Hundred (\$200.00) DOLLARS,

has been placed in the hands of C. A. McNeil Deputy Sheriff, Constable, in and for the said County, and has been levied by him upon the following property, to-wit:

One Westinghouse One-Ton-Air-Conditioner, Serial No. 17904824
Value of One Hundred (100.00) Dollars.

and whereas the property has been delivered to the said Robertsdale Furniture Co
Robertsdale, Alabama. on his entering into this bond.

NOW, THEREFORE, If the Defendant shall fail in said action, he or his securities shall return the specific property attached and above mentioned to the said Constable within ten days after judgment against said Defendant in this suit, then this obligation is to be void, otherwise to remain in full force and effect.

Taken and approved this 18

day of April, 1959

X Geneva McNaughton (L. S.)
X Mary Francis Cooper (L. S.)
X M. E. Givins (L. S.)

No. 4 Page _____

THE STATE OF ALABAMA,
Baldwin County

JUSTICE COURT OF

R. A. Hall, Jr.

REPLEVY BOND

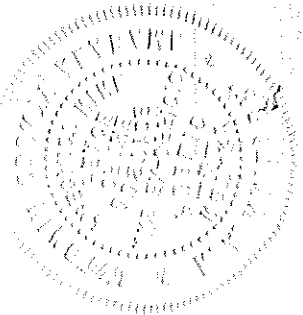
Robertsdale Furniture Co
John B. Ambrose (Owner)

Vs.

Mrs. Geneva McNaughton
Loxley, Alabama.

Taken and approved this _____

day of _____ 19 _____



THE STATE OF ALABAMA,
Baldwin County

KNOW ALL MEN BY THESE PRESENTS:

That we, John R. Ambrose, d/b/a Robertsdale Furniture Company,
are held and firmly bound unto Geneval McNaughton
in the sum of \$200.00 DOLLARS,
for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our
heirs, executors and administrators, jointly and severally. But upon condition, that if the above bound
John R. Ambrose shall prosecute to effect an appeal by him taken this day to
the next term of the Circuit Court of Baldwin County from a judgment
rendered against him in favor of said Geneva McNaughton
by HON R.A. Hail, a Justice of the Peace for said County, for the
sum of \$100.00 (one air-conditioner) Dollars, debt
in said appeal, shall pay such judgment, both as to debt and costs as may be rendered against him by the
said Hon R. A. Hail. then, in either
of said events, this obligation to be void, otherwise to remain in full force and effect.

Given under our hands and seals, this the 23rd day of May 1959

Approved:

Sworn to before me this

3 June 1959

59

J. P.

John R. Ambrose (L. S.)

(L. S.)

(L. S.)

No. _____

Page _____

THE STATE OF ALABAMA,
Baldwin County

APPEAL BOND

JUSTICE COURT OF

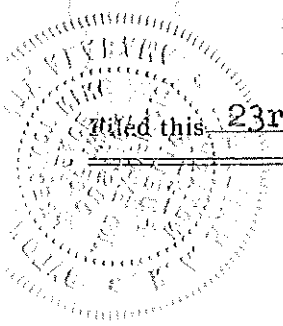
HON R. A. HAIL

JOHN R. AMBROSE, doing business as
Robertsdale Furniture Company
Plaintiff

GENEVA McNAUGHTON

Defendant

Filed this 23rd day of May 1949



ROBERTSDALE FURNITURE COMPANY,)
Complainant,)
Vs.)
GENEVA McNAUGHTON,)
Defendant.)

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

BRIEF OF COMPLAINANT

Comes now the Complainant, by its Attorney files this brief in support of its appeal from the ruling in the Justice of Peace Court of Hon R. A. Hail, Jr.

FIRST, your Complainant takes the position that this was a conditional sales contract between your Complainant and Selma S. Jerkins, from whom the Defendant acquired possession of the air-conditioner. Moreover, in the Conditional Sales Contract between your Complainant and Selma S. Jerkins the latter specifically agreed in paragraph 2 thereto that the air-conditioner would remain personal property.

SECOND, that under the provisions of Title 47, Section 131, Code of Alabama, 1940 (1955 Cumulative Pocket Part, page 73), this conditional sales contract was NOT required to be recorded because:

- a. The amount of the contract was less than \$500.00
- b. The contract was to run for two years, or less.
- c. And the contract related to household furniture, goods, appliances or equipment (underscoring supplied).


THIRD, that the air-conditioner did not become a fixture when it was installed, because:

- a. It was a standard design.
- b. It was not made specially for Mrs Jerkins' house.
- c. It was, and still is, readily detachable without resulting injury to the house or air-conditioner.
- d. By nature it was like any other similar air-conditioner, movable from place to place within the house or any other building. And
- e. It is operational when plugged into an electrical plug-in socket.

In this connection the Court's attention is called to the case of Bay State York Co., vx. Marvix Inc., 331 Mass. 407, 119 NE2d 727, 43 ALR2d 1373, wherein the rule, based on above conditions, is stated that air-conditioning units and a water cooling tower purchased under a conditional sale contract and installed by the owner of an office building do not become a part of the realty. (See also American Jurisprudence, Vol. 22, page 63, 1958 Cumulative Supp. to Vol 22, Section 29).

FOURTH, the Defendant may argue in this case under the decision of Silverman vs. Mazer Lumber and Supply Company, 42 So2d 452, (an Alabama case) if the air-conditioner was even slightly attached to the building, it became a part of the realty. It is to be pointed out however, that in that case action was brought under Title 33, Section 39, Code of Alabama, for establishment of a mechanics or Materialmens lien for a balance due. The facts in that case are not parallel to those in the instance case.

Respectfully submitted,


Attorney for Complainant

IN LAW NO. 3855

X X X X X
ROBERTSDALE FURNITURE CO.
COMPLAINANT

VS

GENEVA Mc NAUGHTON,
DEFENDANT.

X X X X X
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALA.

X X X X X
BRIEF FOR
COMPLAINANT

Respectfully submitted,

Witness my hand and seal of office this 1st day of May, 1933.

ROBERTSDALE FURNITURE COMPANY,

Complainant

VS

GENEVA McNAUGHTON,

Defendant

§

§

§

§

§

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. _____

BRIEF OF DEFENDANT

MAY IT PLEASE THE COURT, the Defendant in this case takes the position that the air conditioner sued for belongs to her, that she is an innocent purchaser for value without notice and at the time she purchased her house from SHERA JERMONS the air conditioner was installed in her home, that it was fasten therein permanently, that is by nailing the air conditioner to the wooden support frame and that it cannot be removed without causing damage to her premises.

We cite for the court's consideration one case that we feel supports our position, that is, that this air conditioner was converted from personal to real property at the time it was installed.

The case of Silverman vs. Mazer Lumber & Supply Co., Inc.

42 So. 2d 452, in an opinion rendered by Judge Simpson, holds

"Yet, the air conditioning system described was not a trade fixture (excepted from the operation of the statute giving such a lien) and from the allegations the system appears to have been attached in some manner to the realty-the building-and the general rule is that whatever is attached to the realty, though but slightly, is prima facie a part thereof. Forbes v. Alabama Machinery & Supply Co., supra; Parker v. Blount County, 148 Ala. 275, 41 So. 923; Bank of Opelika v. Kiser, Moore, Draper Co., 119 Ala. 194, 24 So. 11."

Respectfully submitted,

WILTERS & BRANTLEY

BY:

Mrs. Rufus S. Nesbit
Attorneys for Defendant

STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

ROBERTSDALE FURNITURE COMPANY

Plaintiff

VS

GENEVA MCNAUGHTON

Defendant

BRIEF OF DEFENDANT

John R. Ambrose
Plaintiff
vs

In the J P Court
of R.A. Hall
Baldwin Co. Ark

Mrs. Geneva Mc Naughton
Defendant

In answer to the Complaint the
defendant says:

-1-

Not guilty

2.

The defendant is an innocent
purchaser for value without
notice.

Robert M. Brant,
Att'y for Defendant.

last 9 months wanted 9 months
1000 4.99 1000 4.99
200 2.99 200 2.99

1000 4.99 1000 4.99
200 2.99 200 2.99

1000 4.99 1000 4.99
200 2.99 200 2.99

1000 4.99 1000 4.99
200 2.99 200 2.99

1000 4.99 1000 4.99
200 2.99 200 2.99

1000 4.99 1000 4.99
200 2.99 200 2.99

appeal
from
J. P. Court

STATE OF ALABAMA)
BALDWIN COUNTY }

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

ROBERTSDALE FURNITURE
COMPANY,

Complainant,

Vs.

GENEVA McNAUGHTON,
Defendant.

APPEAL FROM JUSTICE OF PEACE
COURT OF HON. R.H. HAIL, JR.

AGREED STATEMENT OF FACTS:

The parties to this cause, by their attorneys, have agreed to submit this cause to Your Honor upon an agreed Statement of Facts, and do now agree to this and do now mutually waive the right to take further testimony in this cause. They respectfully request Your Honor to accept this Agreed Statement of Facts as the facts in this cause and render a judgment based on this stipulation:

1. That this cause of action originated in the Justice of Peace Court of Hon R. H. Hail, Jr., and who had jurisdiction of this cause, where ROBERTSDALE FURNITURE COMPANY sued GENEVA McNAUGHTON in detinue for a one ton Westinghouse Air Conditioner, Serial No. 17904824.

2. This Air Conditioner was sold to Mrs Selma S. Jerkins on a conditional sale contract, by the Plaintiff, and it was installed in her home in Loxley, Baldwin County, Alabama, on or about July 9, 1957, by John R. Ambrose, owner of the Robertsdale Furniture Company.

3. Selma S. Jerkins made payments on this air conditioner until February, 1959. That there is a balance due of One Hundred (\$100.00) Dollars on this Conditional Sales Contract between the said Selma S. Jerkins and the Robertsdale Furniture Company.

4. That Selma S. Jerkins, subsequent to installation of said air-conditioner, sold her house in which the air-conditioner had been installed to Mrs Geneva McNaughton, without anything being said as to the ownership of the air-conditioner.

5. This conditional sales contract between Robertsdale Furniture Company, as seller, and Selma S. Jerkins, as buyer, has not been recorded; it was for less than five hundred (\$500.00) dollars, and was to be paid in full within a period of two years.

6. That when the said Selma S. Jerkins built the house in which Mr Ambrose installed the said Westinghouse air-conditioner she left out an area in the west wall of her said house for installation of an air-conditioner, the size of said area corresponding to the size of the air-conditioner selected by her from Mr Ambrose, and installed by him. That the walls of the house were made of concrete blocks, with no panneling added to either the inside nor the outside. That in the hole reserved for an air-conditioner, about four feet above the ground level, there was inserted, at the time of construction of the house, a 2" x 4" wood frame around the hole, to which was attached, by nails, a board covering, over the said hole, which was left intact until installation of the air-conditioner. The air-conditioner was set into this reserved hole in the wall by sliding it into the hole by hand, and that some small striping was then put around the two sides and the tops of the air-conditioner to close the small space left. That no support was constructed inside the house after installation of the air-conditioner to hold it up on the inside of the house, but that on the outside thereof two wooden supports, about 2" x 2" in size, were erected, under the air-conditioner, to help support it in the window, these two supports being attached, by nails, to a board on which the rear of the air-conditioner rested. That the electrical plug-in cable or cord from the air-conditioner was plugged into a plug-in socket in the room in which the front of the air-conditioner set. A small hole

was sawed into one edge of a board to a cubbard which fit up to the wall in the room in order for the plug-in cable or extension cord to reach the socket behind the board. That on each side of the air-conditioner there are two metal flanges for fastening the air-conditioner, and two nails were driven through each of the sides of the metal flanges into the 2" x 4" wood frame during installation of the air-conditioner.

7. There is attached hereto as exhibit "A" a copy of the Conditional Sales Contract between Selma S. Jenkins and the Robertsdale Furniture Company, and it is hereby made a part of this Agreed Statement of Facts.

Respectfully submitted, on this 20th day of July, 1959.

FILED
JUL 20 1959

ALICE J. DUCK, Clerk

Kenneth Cooper
Solicitor for Complainant

William M. Brandy
Solicitor for Defendant

CONDITIONAL SALE CONTRACT

Form U.C.-56

APPLIANCES

57671

Buyer's Name Mrs. Selma S. Jenkins Date July 19
 and Address (Please Print) (Name) (Number and Street) (City) (State)
Robertsdale Furniture Co. Seller's Address Robertsdale, Ala.
 Name of Dealer (Seller) (Number and Street) (City) (State)

Buyer (which means all purchasers jointly and severally) has today purchased on the following terms and has examined, accepted in its present condition and received delivery from Seller of the following described merchandise:

| Quantity | New or Used | Trade Name | Merchandise | Model Number | Serial Number | Cash Price |
|----------|-------------|---------------|---------------------|---------------------|---------------|------------|
| 1 | NEW | Wash. Machine | Flor. Wash. Machine | Flor. Wash. Machine | 17-1-1-1-1-1 | \$27.95 |
| | | | | | | \$ |
| | | | | | | \$ |
| | | | | | | \$ |
| | | | | | | \$ |
| | | | | | | \$ |

Quantity 1 Cash Price \$27.95
 Selling Price \$27.95
 Cash Payment \$27.95
 Trade in \$ 0.00 Total Down Payment \$ 27.95
 Unpaid Balance of Cash Selling Price \$0.00
 Finance Charge \$0.00
 Title Insurance \$0.00
 payable in 1 consecutive monthly installments of \$ 27.95 each, and
 one installment of \$ 27.95, all payable the same date of each month.
 The first installment becomes due July 19, 1957 or one month
 from the date of this contract if not otherwise specified.

Said merchandise was kept at Robertsdale, Ala. (City and State)

1. Buyer agrees to pay for or order to said unpaid balance of the purchase price, including interest, in installments. Title to said merchandise is retained by the holder of the contract. If this contract is assigned, the assignee shall be bound by the terms hereof. Holder may purchase or assign in such form and amounts as holder may require; and assignee shall be bound by the terms hereof. In excess of the sums of hereunder, which may become payable under such insurance, including the cost of premiums, and directs any insurance company to make payment directly to holder to be applied on the sums due hereunder, and appoints holder as attorney in fact to endorse any draft. If holder purchases such insurance, holder will pay all premiums thereon.

2. Buyer agrees to pay promptly all taxes and assessments upon said merchandise and/or for its use or operation and/or on this contract; to keep said merchandise in good condition and free from liens and encumbrances; not to attempt to sell, assign, encumber, or in any way dispose of said merchandise; that all equipment, accessories, repairs and parts placed on said merchandise shall be at Buyer's expense and shall become a component part of said merchandise and included in the terms of this agreement (but Buyer shall have no right to create any lien on said merchandise for equipment, accessories, repairs, or parts); to retain possession of said merchandise; that said merchandise will not be removed from the place at which it is to be kept, as stated above, or even temporarily from the county in which the Buyer now resides, without the written consent of holder; that said merchandise will not be used for any legal purpose to settle any claims against Seller directly with Seller and of to set up any such claim in any action brought by any assignee of Seller; that time is of the essence hereof; and that any notices to Buyer shall be sufficiently given if mailed to the above address of Buyer.

3. If Buyer defaults on any obligation under this contract, or makes an assignment for the benefit of creditors, or a fraudulent conveyance, or becomes the subject of bankruptcy or receivership proceedings, or if holder shall consider the indebtedness of said merchandise insecure, at the option of holder, without notice or demand, all said installments, and all other sums payable hereunder, shall be immediately due and payable, together with a reasonable sum as attorney's fees, if an attorney is consulted or employed. In any such case, Buyer agrees to pay said amounts or, at holder's election, without notice or demand, all right and claim of Buyer

hereunder and in or to said merchandise shall cease and terminate, and Buyer shall deliver said merchandise to holder, and holder may, without notice or demand for performance or legal process, enter any premises where said merchandise may be found, and take possession of it, forcibly if necessary, without any liability to any person (and Buyer agrees to indemnify holder against any such liability), and retain all payments made by Buyer as compensation for the use of said merchandise in Buyer's possession; or holder may proceed to sell said merchandise with or without notice, at private or public sale, at which holder may purchase, with or without having said merchandise at the sale; and the proceeds of any such sale, less all holder's expenses (whether incurred in repossessing, holding and selling said merchandise or otherwise) and all sums paid by holder to remedy any default of the Buyer hereunder, shall be credited on the amount due and payable and Buyer shall pay any remaining balance forthwith as liquidated damages for the breach of this contract and shall receive any surplus. Holder may, by suit or otherwise, enforce payment of the sums due hereunder, and no action with respect thereto shall be deemed to waive holder's right to the possession of said merchandise or to exercise any right hereunder, it being agreed that holder's remedies in the event of default by Buyer are cumulative and may be pursued and enforced successively.

4. All rights of exemption under the Constitution and laws of Alabama or any other state are hereby waived by Buyer as against this obligation, and Buyer agrees to pay all costs and expenses of collecting or attempting to collect the same, including a reasonable attorney's fee; and if an action in detinue or other similar proceeding is brought to recover said merchandise and a suggestion is made by defendant in said action to have ascertained the unpaid balance of the purchase price, Buyer agrees that a reasonable attorney's fee for the services of plaintiff's attorney shall be added to and considered a part of the unpaid balance of the purchase price and shall be paid as a part of the debt ascertained to be due.

5. Waiver of any default shall not be a waiver of any other default. No change in this contract shall be binding unless in writing. Buyer acknowledges receipt of a copy hereof, and waives notice of any assignment hereof. No agreement, promise, statement, representation, or warranty, whether oral or written, express or implied, shall be binding unless expressly contained herein. This contract shall apply to and bind the heirs, personal representatives, successors, and assigns of Buyer, and ensure to the benefit of Seller and to Seller's heirs, personal representatives, successors, and assigns.

Witness _____

 (To Buyer's Signature)

 (To Dealer's Signature)

Selma S. Jenkins (SEAL)
 _____ (SEAL)
 _____ (SEAL)
 Dealer's Signature

Buyer

Dealer

By Owner, Officer or Firm Member

Exhibit "A"

BUYER'S STATEMENT

DATE 7 July 1934

IT IS ABSOLUTELY NECESSARY THAT THIS FORM BE FILLED IN COMPLETELY.

To Robert E. Lumber Co. Town Mobile State Alabama
(Name of Dealer)

For the purpose of securing credit from you on my (our) obligation hereto attached, I (we) make the following representations: I am (we are) confident that I (we) can meet the payments provided for in said obligation as they become due, and I (we) COVENANT NOT TO SELL, TRADE, ENCUMBER OR GIVE UP POSSESSION of the merchandise described in said obligation without your WRITTEN CONSENT until paid for in full:

Age 47 Is Buyer of the White Race? W

Married Married Number of Dependents 1

Business _____

Profession _____

Position and Badge No. _____

Present Employer First National Bank of Mobile

Employer's Address 101 N. 1st St.

Past Employers and Addresses _____

Bank First National Bank of Mobile

Checking or Savings Account Checking

Real Estate and Personal Property _____

Location Mobile

Description _____

Value 1000 Owning on Same 1000

LIST BELOW LOAN OR INSTALLMENT OBLIGATIONS NOW OWING:

Name First National Bank of Mobile

Address 101 N. 1st St. Unpaid Balance \$ 1000

Name First National Bank of Mobile

Address 101 N. 1st St. Unpaid Balance \$ 1000

Name First National Bank of Mobile

Address 101 N. 1st St. Unpaid Balance \$ 1000

Are there any suits or judgments against you? _____

Witness to Signature of Buyer _____

Address _____

Income \$ 200 month per week

Have been with present employer 6 years

Income other than salary \$ 25 per mo

From what source From bank

Name and address of nearest relative W. J. Lumber Co.

Address 101 N. 1st St.

REFERENCE—Business Houses or Responsible Individuals

Name W. J. Lumber Co.

Address 101 N. 1st St.

Name W. J. Lumber Co.

Address 101 N. 1st St.

ADDRESS OF BUYER

Give Street and Number of House or R. F. D. Number

Home Address 101 N. 1st St.

County Mobile

Business Address _____

Mail Address _____

Telephone: Home 101 Business _____

How long have you lived in present town or city? 2

Years _____ Months _____

Give former location _____

All of the information in this statement is true and correct.

Robert E. Lumber Co.
(Signature of Buyer)

DEALER'S REPRESENTATION AND ASSIGNMENT

The contract on the reverse side hereof having been accepted by Dealer, we hereby represent and warrant to The First National Bank of Mobile, in order to induce its purchase of said contract, that the same is genuine; the cash payment and/or the trade-in allowance was received; the Buyer is competent and more than twenty-one (21) years old; we had good title to the merchandise, free from all liens and encumbrances, at the time of the execution of said contract; all laws and regulations applicable to the transaction have been complied with; all statements of fact in said contract are true; and "Buyer's Statement" is true to the best of our knowledge, information and belief. For value received, we hereby sell and assign said contract, together with all rights and privileges thereunder, and all interest in the merchandise to The First National Bank of Mobile, its successors and assigns, with full power to the bank in its or our name to take such legal or other proceedings as we might take, except for this

assignment. The assignment is made with _____ recourse on us, and we, jointly and severally, guarantee payment of principal, and interest after maturity at the highest legal contract rate, collecting expense, costs and attorney's fees and all other sums due under said contract, as and when the same shall become due, accepting all the provisions of said contract, and authorizing said bank, without notice to us, to grant Buyer extensions of time and to compound or release any rights against Buyer or any other obligor, and waiving all demands and notices of default and all other things necessary to hold us; also waiving all rights of exemption and agreeing that in the event of non-payment at maturity of any installment due under said contract, suit may be brought by said bank against any one or more or all of us, at the option of said bank, whether or not any suit has been commenced against the Buyer.

Dated 7 July 1934

Witness _____

ROBERTSDALE FURNITURE COMPANY,

Complainant,

Vs.

GENEVA McNAUGHTON,

Defendant,

IN LAW

APPEAL FROM

JUSTICE OF PEACE COURT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

FILED

JUL 20 1959

ALICE J. DUCK, Clerk