PERRY COKER PLAINTIFF -VS- JACK G. PRICHARD DEFENDANT	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW 3887

PLEAS

THE DEFENDANT for answer to the complaint, saith that he has paid the debt for the recovery of which this suit was brought, before the action was commenced.

E. G. RICKARBY
ATTORNEY FOR DEFENDANT

3887

PERRY COKER

PLAINTIFF

-VS-

JACK G. PRICHARD

DEFENDENT

PLEAS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

FILED

AUG 12 1959

ALICE J. DUCK, CLERK REGISTER

TELEPHONE WA 8-9836

LAW OFFICES
E. G. RICKARBY
392 FAIRHOPE AVENUE
FAIRHOPE, ALABAMA

P. O. BOX 71

August 7, 1959

Mrs. Alice J. Duck
Clerk of Circuit Court
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Perry Coker
Vs: Jack G. Prichard

Please file the above pleas and oblige.

Yours very truly,

EGR/bs

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Jack G. Prichard, to appear within thirty days from service of this writ in the Circuit Court of Baldwin County, Alabama, to be held for said county at the place of holding the same, then and there to answer the complaint of Perry Coker, and in this you fail not.

Witness my hand, this 1 day of July, 1959.

Clerk

- - - - - - - - - - -

PERRY COKER	I	IN THE CIRCUIT COURT OF
PLAINTIFF	I	
VS	I	BALDWIN COUNTY, ALABAMA,
JACK G. PRICHARD	I	
DEFENDANT	I	AT LAW

Plaintiff claims of the defendant the sum of TWO THOUSAND EIGHT HUNDRED SEVENTY ONE and 85/100 ($2,871.85) DOLLARS, balance due from him on a promissory note made by him on the 19th day of April, 1954, in the sum of $3500.00, to the Bank of Fairhope, payable in monthly installments of $100.00 each, commencing on the 17th day of May, 1954, which said note was endorsed by plaintiff, the defendant having made default thereon the plaintiff paid the same on September 17, 1955, the same was by the said Bank of Fairhope on said date assigned to the plaintiff, and on which said note there is a balance due the plaintiff the said sum of $2,871.85, together with interest thereon from December 31, 1958.

Plaintiff further alleges that in and by said note defendant promised to pay all cost of collection, including a reasonable attorney's fee, and plaintiff claims the further and additional sum of $431.77 as a reasonable attorney's fee in the premises.

Plaintiff further shows that in and by the said note the defendant waived all right of exemption as to personal property under the laws of the State of Alabama, and the plaintiff claims the benefit of such waiver.

BEEBE & SWEARINGEN

BY W. C. Beebe
Attorneys for plaintiff

Received 1 day of July 1959
and on 5 day of August 1959
served a copy of the within S. & C.
on Jack G. Prichard

By service on

TAYLOR WILKINS, Sheriff
By Calvin Stubbs
Fairhope
Ala

Sheriff claims 20 miles at
Ten Cents per mile Total $ 2.00
TAYLOR WILKINS, Sheriff
BY DEPUTY SHERIFF

No. 5851

Perry Coker

vs.

Jack G. Prichard

FILED
JUL 1-59
ALICE J. DUCK, CLERK
REGISTER

BEEBE & SWEARINGEN
LAWYERS
BAY MINETTE, ALABAMA

108 Blackney

LAW OFFICES
E. G. RICKARBY
BANK BUILDING
FAIRHOPE, ALABAMA

TELEPHONE WA 8-9836

P. O. BOX 71

July 13, 1960

Mrs. Alice Duck
Clerk of the Circuit Court
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Perry Coker, d/b/a Coker Distributing Co.
Vs: Jack G. Prichard
Fairhope Ice & Creamery Co., Garnishee.
Our File: 4463

Enclosed find answer to garnishment, this day made by the Fairhope Ice & Creamery Company in the above styled cause.

Yours very truly,

E. G. Rickarby

EGR/ts
ccs: Marvin Berglin
Mrs. Phyllis S. Nesbit

Garnishment on Judgment.

The State of Alabama,
Baldwin County

CIRCUIT COURT, BALDWIN COUNTY

_____TERM, 19____

To any Sheriff of the State of Alabama, Greeting:

WHEREAS, at a regular_____Term, 19 60, of the Circuit Court of Baldwin County, to-wit: On the 9th day of February, 19 60, being a regular day of said term, Perry Coker, doing business as Coker Distributing Company

recovered judgment against Jack G. Prichard

for the sum of THREE THOUSAND THREE HUNDRED SEVENTY-SEVEN and 31/100 Dollars, and cost of suit, and affidavit having been made by Phyllis S. Nesbit, Attorney that process of garnishment is believed to be necessary to obtain satisfaction of such Judgment, and that the following named persons or corporations, viz:

Fairhope Ice & Creamery Company, Inc. 627 Fairhope Avenue, Fairhope, Alabama.

has or is believed to have in its possession, or under its control money or effects belonging to said defendant_____ or that it is, or is believed to be indebted to said defendant _____or to be liable to them, or to one of them on a contract for the delivery of personal property, or on a contract for the payment of money which may be discharged by the delivery of personal property, or which is payable in personal property.

You Are Therefore Hereby Commanded to Summon

Fairhope Ice & Creamery Company, Inc. 627 Fairhope Avenue, Fairhope, Alabama.

to be and appear before the honorable Judge of the Circuit Court for Baldwin County, at the Court House thereof, in the city of Bay Minette, on the_____Monday in_____A. D. 19 60, then and there within the three first days of the term, to answer on oath, whether at the time of the service of the garnishment, or at the time making its answer, or at any time intervening the time of serving the garnishment, and making the answer it was_____ indebted to said defendant _____and whether it will not be indebted in future to said defendant _____by a contract then existing, and whether by a contract then existing it is, or are, liable to said defendants for the delivery of personal property, or for the payment of money which may be discharged by the delivery of personal property, or which is payable in personal property, and whether it has not in its possession or under its control money or effects belonging to the defendant Jack G. Prichard

Herein fail not, and have you then and there this Writ.

Witness, ALICE J. DUCK, Clerk of said Court, this 25 day of June, A.D., 1960

Issued 25 day of_____A. D., 1960.

ATTEST:

Alice J. Duck, Clerk.

State of Alabama
BALDWIN COUNTY

TO Jack G. Prichard, Defendant:

YOU ARE HEREBY NOTIFIED that a Writ of Garnishment has been issued in the case of Perry Coker, doing business as Coker Distributing Company, Plaintiff, versus Jack G. Prichard, Defendant, now pending in the Circuit Court of Baldwin County, Alabama, Law Side, in which Fairhope Ice & Creamery Company, Inc., 627 Fairhope Avenue, Fairhope, Alabama has been named as Garnishee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal on this the 25 day of June, 1960.

Alice J. Clark
Clerk of the Circuit Court.

THE STATE OF ALABAMA,
BALDWIN COUNTY } **CIRCUIT COURT**

Personally appeared before me, Alice J. Duck, Clerk of the Circuit Court in and for Baldwin County and State aforesaid Phyllis S. Nesbit who being duly sworn, on oath says, that a regular _____ Term of the Circuit Court of Baldwin County, to-wit: on the 9th day of February 1960, Perry Coker, doing business as Coker Distributing Company recovered a judgment against Jack G. Prichard _____ for the sum of THREE THOUSAND THREE HUNDRED SEVENTY-SEVEN and 31/100 ($3,377.31) Dollars besides costs of suit; that said judgment remains wholly unsatisfied and in full force and effect: that Fairhope Ice & Creamery Company, Inc., 627 Fairhope Avenue, Fairhope, Alabama _____ supposed to be indebted to or have effects of the said Jack G. Prichard in its possession, or under its control, and that she believes process of Garnishment against said Fairhope Ice & Creamery Company, Inc., 627 Fairhope, Alabama is necessary to obtain satisfaction of said judgment.

Phyllis S. Nesbit

Sworn to and subscribed this 25 day of June A. D. 1960

Alice J. Duck
Clerk

NO. 3887 1/2

CIRCUIT COURT

VS.

AFFIDAVIT
Garnishment on Judgment

Filed this FILED day of

JUN 28 1960, 19

ALI J. DUCK, Clerk

Clerk.

MOORE PRINTING CO., BAY MINETTE, ALA.

PERRY COKER, Individually, and doing business as COKER DISTRIBUTING COMPANY,	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
-VS-	)	BALDWIN COUNTY, ALABAMA,
JACK G. PRICHARD,	)	AT LAW.
Defendant,	)	Case No._____
	)	
FAIRHOPE ICE & CREAMERY COMPANY, INC., a Corporation,	)	
Garnishee.	)	

ANSWER OF GARNISHEE

Comes the FAIRHOPE ICE & CREAMERY COMPANY, INC., a Corporation, which makes its answer by and through M. O. BERGLIN, its agent duly authorized to make this answer, and for answer to the writ of garnishment served on it in this cause, says:

That it is indebted to said defendant in the sum of 80.00 Eighty Dollars, being the amount due the said defendant for wages, as salary or compensation, for the personal service of the defendant, who is a resident of the State of Alabama, as a laborer or employee of this garnishee; that it is indebted to said defendant in no other sum, either at the time of the service of this garnishment, or at the time of making this answer, or at any time intervening the time of the service of said garnishment and the time of making this answer; that it will not be indebted to said defendant, except for wages as above stated, in the future by a contract then or now existing; nor will it be liable to the defendant by virtue of a contract then or now existing for the delivery of personal property, or for the payment of money which may be discharged by the delivery of personal property, or which is payable in personal property; that it has not in its possession or under its control money or effects belonging to said defendant; that it has no contract with, and is not liable to said defendant in any other manner than as is herein above set forth.

That seventy-five per cent (75%) of said sum is exempt

from levy under writ of garnishment as provided by Section 630, Title 7, Code of Alabama as amended September 18, 1957. And said garnishee is retaining twenty-five per cent (25%) of said wages for such time as is necessary to accumulate a sum equal to the amount shown as due by the Court on the writ of levy unless otherwise ordered.

FAIRHOPE ICE & CREAMERY COMPANY,
INC., a Corporation,

By M. O. Berglin
M. O. BERGLIN, Agent.

Sworn to and subscribed before me this 16th day of July, 1960.

Lillie K. Stephens
Notary Public, Baldwin County, Alabama.

Attorney for Garnishee

PERRY COKER, Individually, and doing business as COKER DISTRIBUTING COMPANY,	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,
- VS-	)	AT LAW.
JACK G. PRICHARD,	)	CASE NO._____
Defendant,	)	
FAIRHOPE ICE & CREAMERY COMPANY, INC., a Corporation,	)	
Garnishee.	)	

Comes the defendant, JACK G. PRICHARD, and shows to this Honorable Court:

1. That there was filed by him a petition in voluntary bankruptcy on the 21st day of July, 1960, in the United States District Court for the Southern District of Alabama, Bankrupt Case No. 13,106, and that the defendant was adjudicated a bankrupt by said court on the 21st day of July, 1960.

2. That the indebtedness due was incurred prior to the filing of defendant's petition of bankruptcy, and the plaintiff's demand was duly scheduled in defendant's schedules in bankruptcy.

3. That the plaintiff in this case was given notice, as required by law, that he was a scheduled creditor, of said pending petition in bankruptcy.

4. That the lien obtained by garnishment in this case is on the property scheduled as exempt to said bankrupt and was acquired within four (4) months prior to the initiating of bankruptcy proceedings, and attached during the insolvency of the bankrupt.

WHEREFORE movent shows that this lien against his property was obtained within four (4) months before the filing of his petition in bankruptcy, at a time when said movent was insolvent and voidable under Section 67 of the Bankruptcy Act.

WHEREFORE movent moves that the garnishment in this case be dismissed and the funds paid into court be ordered returned

to this movent.

The facts set forth in said motion are duly verified.

E. G. RICKARBY, Attorney
for JACK G. PRICHARD

Subscribed and sworn to before me by JACK G. PRICKARD this 15th day of August, 1960.

Jack Gordon Prichard
JACK G. PRICHARD

Notary Public, Baldwin County, Alabama.

FILED
AUG 16 1960
ALICE J. DUCK, CLERK
REGISTER

3887½

FILED
AUG 18 1980
AUDREY L. DUNN, COUNTY
RECORDER