

Elk Turn Co.
Plaintiff.

Vs.

Perdido Hdw. Co. et. als.

In Circuit Court, Baldwin County.

Defendants.

Comes the plaintiff and demurs to the plea of defendants, J. A. Shiver and Henry Havard, filed on Nov. 14th. 1916, on the following grounds:-

1st.

Because said plea fails to show that any notice was given to plaintiff of the assumption of the business of Perdido Hardware Company by defendants J. A. Shiver and Henry Havard

2nd.

Because said plea fails to show that plaintiff agreed and consented that the said Shiver and Henry Havard could continue the business in the name of Perdido Hdw. Co., take charge of all the stock of goods and assets of the said Perdido Hdw. Co., and not assume any of the liabilities and indebtedness of the firm due to plaintiff.

3rd.

Because said alleged agreement between J. A. Shiver, Henry Havard and L. C. Havard, that the said J. A. Shiver and Henry Havard continue the business and take charge and possession of the stock of goods and assets of said business, without the assumption of any liabilities and obligations then existing, is not binding on plaintiff, without its assent and concurrence.

4th.

Because said plea fails to aver that plaintiff was a party to said alleged agreement not to assume any obligations against said firm, at the time, they took over the business, and plaintiff agreed thereto.

5th.

Because said plea fails to set out in full said agreement between said L. C. Havard and Shiver and Henry Havard, and fails to state whether or not defendants took charge of and into their possession all the stock of goods and assets of the Perdido Hardware Company, existing at the time of their entrance into said firm of Perdido Hdw. Co.

6th.

Because said plea fails to state the the consideration for the transfer of all assets and stock of goods to defendants Shiver and Havard, and fails to show whether or not the assumption of all existing obligations and indebtedness of Perdido Hdw. Co. to plaintiff, and the payment of these obligations by Shiver and Havard, was not the main inducement for said transfer

W. H. Hawkins

Attorney for Plaintiff.

[Handwritten notes and signatures in the bottom section of the document, including names like "Hawkins" and "Shiver"]

Elk Horn, Co
Va
Perdido Hdw. Co.

Demurrer to plea
of J. A. Shiver
+ Henry Harvard

Filed 3/2/1917
J. W. Williams
Clerk

W. N. Wacker
Atty for Plaintiff

Received for payment
of \$100.00
J. W. Williams

ELK FURNITURE COMPANY,
Plaintiff

VS

PERDIDO HARDWARE COMPANY, ET AL.
Defendants

NO.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Come HENRY HAVARD and J. A. SHIVER, defendants in the
above entitled cause and for answer deny each and every mater-
ial allegation of the complaint.

Richard Austin Beck
Attorneys for defendants
HAVARD and SHIVER.

2nd

NO.

IN CIRCUIT COURT OF

BALDWIN COUNTY.

ELK FURNITURE COMPANY
Plaintiff

VS

PERDIDO HARDWARE CO., ET AL.
Defendants.

PLEA OF HENRY HAVARD and
J.A. SHIVER.

Filed Sept 16/1914
J W Rimmer
Clerk

RICKARBY, AUSTILL & BEEBE,
ATTYS FOR DEFENDANTS.

SUMMONS AND COMPLAINT

The State of Alabama {

Baldwin County

No.

Circuit Court

July 15

191 6.

To Any Sheriff of the State of Alabama :

You are hereby commanded to summon Henry Havard and J. A. Shiver, individ-
ually and doing business as Perdido Hardware Company

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 them as Defendant s
by Elk Furniture Company, a Corporation

Plaintiff

Witness my hand this 13th. day of July 191 6.

T. W. Rice Clerk.

COMPLAINT

Elk Furniture Company

a Corporation.

Plaintiff

Versus

Henry Havard and J. A. Shiver
individually and doing business as
Perdido Hardware Company.

The plaintiff claims of the defendant s

One Hundred Ninety Eight & 25/100 (\$198.25) Dollars due by
account for goods, merchandise and chattels sold to defendants by plain-
tiff on to-wit: - October 27, 1915 and November 19, 1915, which sum of mon-
ey, with the interest thereon from December 1st, 1915, is still unpaid.

Plaintiff avers that the account sued on in this case, is itemized and
verified as required by law, and is herewith filed in this case.

M. J. Thompson

Plaintiff's Attorney.

Plaintiff's Attorney.

Original. 1st

STATE OF ALABAMA,
BALDWIN COUNTY.
CIRCUIT COURT

Furniture Company,
Corporation.
vs. Plaintiffs
Henry Havard and J. A. Shiver
and as Perdido Hdw. Co.
Defendants

SUMMONS AND COMPLAINT

7/13/16 191
W. H. Hawkins
Clerk

Defendant lives at
Perdido Sta.
Hawkins.
Plaintiff's Attorney
Defendant's Attorney

Times Print, Bay Minette
to amount of \$10.00

Warranted by W. H. Hawkins.
Ch. Hdw. by Hawkins
Dw.

Received in office

July 13 1916
C. E. Curbanks Sheriff

I have executed this Writ

this Aug 18 1916
by leaving a copy of the within summons and complaint
with

*Henry Havard
and J. A. Shivers
Individually
and copy on J. A.
Shivers for
Perdido Hdw Co*

C. E. Curbanks Sheriff
Deputy Sheriff.

ELK FURNITURE COMPANY,
INCORPORATED.

PLAINTIFF

VS

PERDIDO HARDWARE COMPANY,
ET AL. DEFENDANTS.

NO. _____

IN CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

Comes defendants, HENRY HAVARD and
JACOB A. SHIVER, the PERDIDO HARDWARE COMPANY, and
for answer to the complaint says that the account
as set out in PLAINTIFF'S itemized and verified
statement on file is not a liability of any of the
defendants. Wherefore defendants dispute the whole
account as not having been contracted by them or
in any manner being an obligation for which any of
them are liable.

Richard Custis & Beebe
Attorneys for Defendants.

STATE OF ALABAMA }

BALDWIN COUNTY. }

Before me, the undersigned authority
personally appeared J.A. Shiver, who being sworn says
that he is one of the defendants in the above entitled
cause and that he is informed and believes and upon
such information and belief alleges that the foregoing
plea is true.

~~Given under my hand on this the 11th day of~~
~~May, 1918.~~

J. A. Shiver

Given under my hand and seal on this the

CIVIL SUBPOENA.

In case the witness shall wish to charge for attendance he will please produce to the clerk in term this copy of his Subpoena, or within five days after adjournment of court, else he will be barred.

THE STATE OF ALABAMA, }
BALDWIN COUNTY. }

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETING:

You are hereby commanded to summon

L. C. Howard

if to be found in your county, at the instance of the *Peft*
to appear before the honorable Circuit Court, of Baldwin County at the Court House thereof,
on the *20th* day of *Nov* 191*7*, then and there to testify,
and the truth to say, in a certain case pending, wherein

Edgar Furniture Co Plaintiff,

Perkins Wood Co Defendant,

and there remain during said Court until discharged by due course of law.

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

Witness my hand this *2* day of *Nov* A. D., 191*7*.

ATTEST:

D. W. McInnis Clerk.

No.

THE STATE OF ALABAMA,
Baldwin County.

Eck Furniture Co

Vs. || SUBPOENA FOR

Purdee Hurd Co

CIRCUIT COURT

WITNESSES:

L C Harvard

SET FOR TRIAL

26 day of *Nov* 191*7*

Times Print—Bay Minette, Ala.

Executed in full Nov 13 1917

C E Beardslee Sheriff

By O B Beardslee

ELK FURNITURE COMPANY,
Incorporated, PLAINTIFF..

VS

PERDIDO HARDWARE COMPANY,
ET AL. DEFENDANTS.

NO _____

IN CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Comes the defendants and for answer to the complaint says that on the dates upon which the debt here sued upon was alleged to have been contracted, the identity of the partnership of the PERDIDO HARDWARE COMPANY was not that of the present defendants; and that the allegation as to the personnel of said partnership in said complaint is not correct.

Rickaby Austin Beebe
Attorneys for Defendants.

STATE OF ALABAMA)
BALDWIN COUNTY.)

Before me the undersigned authority personally appeared J.A. SHIVER who being sworn says that the matters alleged in the foregoing plea are true.

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

day ref

XXXXXXXXXX

J A Shiver

Given under my hand and seal on this the 6th day of May, 1918.

J C Beebe
Notary Public, Baldwin County,
Alabama.

ELK FURNITURE COMPANY,)

No. _____.

VS)

IN THE CIRCUIT COURT OF

PERDIDO HARDWARE COMPANY.)

BALDWIN COUNTY.

Answer of Defendants, HAVARD and SHIVER to interrogatories propounded by Plaintiff.

1st. The Perdido Hardware Company is a partnership, the members of which, now and at the time suit was brought, are Henry Havard and J. A. Shiver, and their addresses Perdido, Alabama.

2nd. Neither of defendants purchased any goods from plaintiff during the year 1915.

3rd. Defendant J. A. Shiver, at the request of L. C. Havard and out of funds collected by Shiver for Havard's account and under his instructions, made payment to plaintiff as follows: February 12th, 1916, Twenty-five Dollars, and April 14th, 1916, Fifteen Dollars.

4th. Defendants do not owe plaintiff any balance whatsoever, nor did they owe any when this action was commenced. They are not in a position to state whether or not the account filed in this cause is correct as same was contracted before defendants took over the business, and was not assumed by either defendant.

Attorneys for Defendants,
Havard and Shiver.

STATE OF ALABAMA)
BALDWIN COUNTY.)

Personally appeared this day before the undersigned authority J. A. Shiver, who being sworn says that he is one of the defendants above named and that he knows of his own knowledge that the answers set forth above are true.

Subscribed and sworn to before me
this 18th day of November, 1916.

W. C. Beebe
Notary Public, Baldwin County, Alabama.

Lexington, N. C.,

May 31, 191⁶~~91~~

M

Perdido Haw. Co.,
Perdido, Ala.

In Account With

Elk Furniture Company,

Manufacturers of

Sideboards, Chiffoniers, Chamber Suits and Odd Dressers.

1915			
Oct. 27	To Mase	228.25	
Nov. 19	" "	10.00	
1916			
Feb. 17	By Cash		25.00
May 29	" "		15.00
	To Balance.	198.25	

Elk Furniture Company

Manufacturers

Nov. 191, 1915

YOUR ORDER NO.

SOLD TO Perdido Hdw. Co.,
 Perdido, Ala.

TERMS:

SHIPPED TO

Net
F. O. B. LEXINGTON, N. C.

SALESMAN

We are not responsible for damage in transit. Claim should be filed against transportation company

QUANTITY	NO.	ARTICLE	PRICE	AMOUNT	TOTAL
2	711	Dressers Mirrors only 30/36	5.00	10.00	10.00

NOTICE—This shipment has been delivered to the transportation company in good condition as per bill lading and our responsibility ends. Claims arising against transportation company must be handled by yourselves.

~~WE ARE NOT~~ responsible for money paid our agents or representatives unless they have our written order properly signed.

Manufacturers.

SOLD TO

Perdido Hdw. Co.,
Perdido, Ala.

YOUR ORDER

SALESMAN

Wilson

No discount allowed after Dec. 1, 1915

TERMS: Dec. 1st 10%/net Jan 1st
F. O. B. LEXINGTON, N. C.

LEXINGTON, N. C.

Oct. 27, 1915

QUANTITY	No.	ARTICLE	PRICE		
6-	63	Dressers	7.25	43.50	
3	30	"	6.50	19.50	
3	45	"	7.50	22.50	
3	711	"	13.00	39.00	
3	404	Chiffs	8.25	24.75	
1	86	Buffet		8.75	
1	130	"		12.50	
4	51	Toilet Stands	5.00	20.00	
2	50	Splasher "	2.75	5.50	
3	100	Toilet "	5.50	16.50	
3	400	" "	5.25	15.75	
			228.25	228.25	

Office of The Lyon Furniture Agency

HIGH POINT, North Carolina

STATE OF

North Carolina
Davidson County

J. W. CHANDLER, Southern Manager

Personally appeared

J. L. Gilmore

who

being duly sworn

of the

Elk Farm Co.

says he is

Secy. - Treas.
N.C.

a corporation under the laws of

and that the annexed account is just, due, correct and unpaid; that there is now due, and owing thereon from

Prodd's Hdw. Co.
Elk Farm Co.

to the said

the sum of

One Hundred Twenty Eight & ²⁵/₁₀₀

DOLLARS.

sold and shipped to

them

at

their

for goods and merchandise

instance and request

special

That there are no credits, set offs, or counter claims to it, either in law or equity.

Sworn and subscribed to before me this

June 2 191*6*

J. L. Gilmore

Signed

Joseph G. Link

Notary Public

(Seal.)

my com. expires Jan. 14, 1918

ELK FURNITURE COMPANY,
Plaintiff

VS.

PERDIDO HARDWARE COMPANY, ET AL
Defendants.

NO.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Comes the Perdido Hardware Company, defendant in above
entitled cause and for answer denies each and every material al-
legation of the complaint.

Rickard, Austin & Beebe
Attorneys for defendant PERDIDO
HARDWARE COMPANY?

ELK FURNITURE COMPANY,
Plaintiff

VS

PERDIDO HDW. COMPANY? ET AL.
Defendants

NO.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA. FALL TERM 1916.

Come the defendants, Henry Havard and J. A. Shiver and for answer to the complaint in the cause, say that they are not liable to the plaintiff for the reason that the debt sued for was contracted before they entered into or had any interest in the PERDIDO HARDWARE COMPANY, and that they have not in any manner assumed any of the liabilities of said PERDIDO HARDWARE COMPANY existing prior to their interests unto said firm on to-wit: January 8th, 1916.

Richard Austin
Attorneys for defendants.

Havrad and Shiver.

Elk Furniture Co.

Vs.

Perdido Hardware Co.

In Circuit Court, Baldwin County, Ala.

Fall Term 1916.

Interrogatories to be propounded to defendants in the above entitled cause under Sections 4048 et. seq. of the code.

1st.

Is the Perdido Hardware Company, incorporated, or is it a co-partnership? If you say it is a co-partnership, please give the names of the partners, and their address.

2nd.

Did you or any member of your firm buy any goods, wares or merchandise from plaintiff during the year 1915? If so, please state when, and the amount and price of same, and whether or not the goods were delivered and received by you.

3rd.

Have you ever made any payment or payments on this account sued on? If so, please state when, the amount of payment or payments, and attach to your answers returned checks cancelled, and receipts, if you have any.

4th.

Please state what balance you owe plaintiff now, and what you owed at the beginning of this action. If the account filed in this cause ^{is not correct} state in what respects it is incorrect. State fully.

W. H. Hawkins

Attorney for plaintiff.

State of Alabama,

Baldwin County.

Personally appeared before me, T. W. Richerson, Clerk of the Circuit Court, W. H. Hawkins, attorney of record for plaintiff in the above entitled cause, who being by me first duly sworn doth depose and say:- That answers to the above interrogatories will be material testimony for plaintiff in the above entitled cause.

W. H. Hawkins

Attorney for plaintiff.

Sworn to and subscribed before me this 12th day of October 1916

T. W. Richerson

Clerk.

Original
Elk Farm. Co.
Va
Perdido Hdw. Co.

Interrogatories
to be propounded
to adverse parties

Filed Oct 12/16
J. W. Newman
Clerk

Revised Copy
on L. L. Baker

Executed Oct 13
1916
By Serving a copy
on W. L. Baker
W. L. Baker
Shirley

THE STATE OF ALABAMA.
BALDWIN COUNTY.

CIRCUIT COURT.

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

You are hereby commanded to summon Henry Havard,

at the instance of the Plaintiff,

if he shall be found in your County, personally to be and appear before the Circuit Court of said County, on the 1st day of the next term thereof, to be holden at the

Court House in and for said County, to-wit: on the 20th day of May

1918 and to bring with him and produce at the time and place aforesaid, to be used as evidence a certain instrument of writing, purporting to be

Original bill of sale from Louise Reed to Henry Havard, showing the transfer of the interest of said Louise Reed to Henry Havard, of the half interest in Perdido Hardware Company.

bearing date on or about the 2nd day of February 1915, in the year of our Lord One Thousand Nine Hundred and then and there to testify, and the truth to speak, concerning all and singular those things of which he may have knowledge, of the said instrument of writing doth import of, and concerning a certain suit now pending and undetermined in the said Court, wherein

Elk Furniture Company and St Louis Coffin Company, are

Plaintiff's and Perdido Hardware Company, and J.A. Shover & Henry Havard are

Defendant's

And this he shall in nowise omit, under penalty of what the law directs; and have you then and there this Writ, with an endorsement thereon in what manner you shall have executed the same.

Witness T.W. Richerson this 19th day of

April 1918.

T.W. Richerson Clerk.

Original

The State of Alabama,

BALDWIN COUNTY.

CIRCUIT COURT

Elk Furniture Co and

St Louis Coffin Co.

Plaintiff

vs.

Perdido Hardware Co

Defendant

Subpoena Duces Tecum.

Issued this 19 day of

Apr 1918

T. W. McLean Clerk.

BALDWIN TIMES PRINT

Serve Copy on Henry Haverd.

served

the within by

Serving a
Copy of the within
Ducos Tecum on
Henry Haverd

the

~~May~~ 4 day of
May 1918

O. E. Coubert
Sheriff.

By O. B. Cherson