

JAMES O. PITTS, JR., individually and  
d/b/a KIRBY HOME SERVICE COMPANY,

Plaintiff,

vs.

JOE and SEALEY TURNER, jointly and  
severally,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY,  
ALABAMA

NO. 4492

COUNT ONE

Plaintiff claims of the Defendants the sum of TWO HUNDRED THIRTY AND 04/100 (\$230.04) DOLLARS, due by a promissory note executed by the Defendants on, to-wit: June 12, 1959, which sum of money with the interest thereon is still due and unpaid.

Plaintiff claims benefit of waiver of exemptions made in said note by the Defendants.

Plaintiff claims of the Defendants the further sum of SEVENTY-SIX AND 68/100 (\$76.68) DOLLARS as a reasonable attorney's fee, which the Defendants agreed in said note to pay, and for all of which he asks judgment for THREE HUNDRED SIX AND 72/100 (\$306.72) DOLLARS.

HOGAN & HELT

By Edward R. Hogan

Attorneys for Plaintiff

DEFENDANTS' ADDRESS:

General Delivery  
West 16<sup>th</sup> Street  
Bay Minette, Alabama

JAMES O. PITTS, JR., individually  
and d/b/a KIRBY HOME SERVICE  
COMPANY,

Plaintiff,

vs.

JOE and SEALEY TURNER, jointly  
and severally,

Defendants.

Ø IN THE CIRCUIT COURT  
Ø OF BALDWIN COUNTY,  
Ø ALABAMA  
Ø  
Ø  
Ø NO. 4492  
Ø

Comes now the Plaintiff in the above styled cause and  
amends Count One of the bill of complaint heretofore filed,  
to read as follows:

COUNT ONE

Plaintiff claims of the Defendants the sum of TWO HUNDRED  
THIRTY AND 04/100 (\$230.04) DOLLARS, due by a promissory note  
executed by the Defendants on, to-wit: June 12, 1959, and payable  
in eighteen (18) equal monthly installments of TWELVE AND  
78/100 (\$12.78) DOLLARS each, beginning on the 26th day of  
July, 1959 and a like payment on the 26th day of each month  
thereafter.

Plaintiff avers that the Defendants failed to pay the  
installment due on, to-wit: July 26, 1959, together with  
the other installments becoming due thereafter, which sum  
of money with the interest thereon is still due and unpaid.

Plaintiff claims benefit of waiver of exemptions made  
in said note by the Defendants.

Plaintiff claims of the Defendants the further sum of  
SEVENTY-SIX AND 68/100 (\$76.68) DOLLARS as a reasonable attorney's  
fee, which the Defendants agreed in said note to pay, and  
for all of which he asks judgment for THREE HUNDRED SIX AND  
72/100 (\$306.72) DOLLARS.

HOGAN & HELT

By Clarence L. Hogan  
Attorneys for Plaintiff

DEFENDANTS' ADDRESS:

General Delivery  
West 16th Street  
Bay Minette, Alabama

Filed  
9-14-61

BK \_ P. - 15 A

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. 4992

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon

Joe and Bealey Turner, Jointly & Severally

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

Joe and Bealey Turner, jointly & Severally

, Defendant

by James D. Pitts, Jr., Individually and d/b/a Kirby Home Service Company,

, Plaintiff

Witness my hand this 19 day of November 19 60

Alice J. Luck, Clerk

No. 4492

Page

**STATE of ALABAMA**

**Baldwin County**

**CIRCUIT COURT**

**JAMES O. PITTS, JR., Ind. & d/b/a**

**KIRBY HOME SERVICE COMPANY**

Plaintiffs

vs.

**JOE & BEALEY TURNER, Jointly**

**& Severally**

Defendants

**Summons and Complaint**

Filed **November 19,** 1960

**Alice J. Duck**

Clerk

*See the Jury find  
in favor of the  
defendant -*

*Wm Hines  
Forster*

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

*Nov. 19*, 19*60*

Sheriff.

I have executed this summons

this \_\_\_\_\_ 19\_\_\_\_  
by leaving a copy with

Received *17* day of *Nov* 19*60*  
and on *22* day of *Nov* 19*60*

I served a copy of the within  
on *Joe & Bealey Turner*  
*Jointly & Severally*  
By service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff

By *W. A. Talbot* D. S.  
*O m m*

Sheriff.

Deputy Sheriff.

HOGAN & HELT  
ATTORNEYS AT LAW  
1868 GOVERNMENT STREET  
MOBILE, ALABAMA

ELWOOD L. HOGAN  
HENDERSON F. HELT, JR.

P. O. BOX 6162  
GR 9-5419

March 16, 1961

Mrs. Alice J. Duck  
Register, Circuit Court  
Baldwin County  
Bay Minette, Alabama

RE: James O. Pitts, Jr., individually  
and d/b/a Kirby Home Service  
Company vs. Joe and Sealey  
Turner. Case No. 4492.

Dear Mrs. Duck:

Please find enclosed a motion to reinstate the above captioned cause which was set for trial on March 16, 1961. I have requested a special hearing for this motion by writing Judge Hall as of this date. If this request is granted and set down, it would be appreciated if your office would contact me as of date and time of setting.

Thanking you, I am

Very truly yours,

HOGAN & HELT

  
Elwood L. Hogan

ELH/ab

2 Enclosures

4492  
James O. Patti  
J.S.  
October 25  
Gurnee

- ~~1. Cooper, Grady, Farmer, Elseanor~~
- ~~2. Conway, Roscoe, Brookley Field, Bay Minette~~
- ~~3. Crotwell, Alfred, Carpenter, Gulf Shores~~
- ~~4. Kennedy, J.C., Ins. Agent, Bay Minette~~
- ~~5. Kinnard, B.B., Clerk, Bay Minette~~
- ~~6. Lazzari, A.V., Jr., Farmer, Belforest~~
- ~~7. Lee, Herbert, Florist, Robertsdale~~
- ~~8. Leitterman, Atnon, Farmer, Elberta~~
- ~~9. Lenz, William, Civil Service, Elberta~~
- ~~10. McMillan, Raymond N., Farmer, Stockton~~
- ~~11. Mothershed, George J., Farmer, Bay Minette~~
- ~~12. Nail, Wilber C., Farmer, Gulf Shores~~
- ~~13. Nelson, Clarence A., Merchant, Fairhope~~
- ~~14. Nelson, James H., Ship Carpenter, Gulf Shores~~
- ~~15. Nix, Herbert, Brookley Field, Bay Minette~~
- ~~16. Norsworthy, John C., Clerk, Bay Minette~~
- ~~17. Osborne, W.A., Civil Service, Foley~~
- ~~18. Page, Glenn A., Insurance, Bay Minette~~
- ~~19. Mitchell, White, Clerk, Bay Minette~~
- ~~20. Yarbrough, Leon, Forester, Bay Minette~~
- ~~21. Bryars, Charles Henry Jr., Farmer, Stockton~~
- ~~22. Casteel, Jim, Laborer, Elseanor~~
- ~~23. Harrison, Bibb, Farmer, Fairhope~~
- ~~24. Hedge, Langston, Chemist, Bay Minette~~
- ~~25. James, Lonnie, Salesman, Bay Minette~~
- ~~26. Golden, David, Jr., Merchant, Foley~~
- ~~27. Grantham, Donald R., Farmer, Mag. Spgs.~~
- ~~28. Griffith, Jack, Shipyard, Fairhope~~
- ~~29. Hammond, Cecil C., Trk. Oper., Bay Minette~~
- ~~30. Harris, Guy H., Merchant, Foley~~
- ~~31. Ellison, W.V., Farmer, Robertsdale~~
- ~~32. Solava, Paul, Farmer, Mag. Spgs.~~
- ~~33. Godwin, Dewey C., Mechanic, Bay Minette~~
- ~~34. Day, Gladden, Salesman, Bay Minette~~
- ~~35. Culver, W. Batson, Nurseryman, Bay Minette~~
- ~~36. Duffee, Kenneth, Brookley Field, Stockton~~
- ~~37. Duck, Davis, Farmer, Bay Minette~~
- ~~38. Patterson, Earnest, Farmer, Rosinton~~
- ~~39. Prine, Julian C., Ins., Bay Minette~~
- ~~40. Rieben, Albert, School Bus Mechanic, Bay Minette~~
- ~~41. Rieben, Ray, Paper Mill, Bay Minette~~
- ~~42. Simms, R.J., Hardware, Belforest~~
- ~~43. Thieme, W.H., Foreman, Foley~~
- ~~44. Topp, Henry, Clerk, Foley~~
- ~~45. Vines, Mack, Clerk, Bay Minette~~
- ~~46. Weeks, Elliot, Mechanic, Mag. Spgs.~~
- ~~47. Weeks, Sydney, Farmer, Mag. Spgs.~~
- ~~48. Coleman, James A., Restaurant Oper., Gulf Shores~~
- ~~49. Boan, Jessie Forest, Farmer, Stapleton~~
- ~~50. Padden, C.A., Ala. Power Co., Bay Minette~~
- ~~51. Brantley, E.R., Contractor, Bay Minette~~

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D XXXXX XXXXX XXX

HOGAN & HELT  
ATTORNEYS AT LAW  
1868 GOVERNMENT STREET  
MOBILE, ALABAMA

ELWOOD L. HOGAN  
HENDERSON F. HELT, JR.

November 18, 1960

P. O. BOX 6162  
GR 9-5419

Mrs. Alice J. Duck  
Register, Circuit Court  
Baldwin County  
Bay Minette, Alabama

RE: Kirby Home Service Company vs.  
Joe and Sealey Turner.

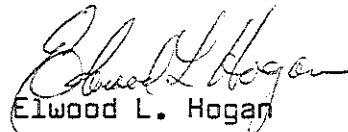
Dear Mrs. Duck:

Please find enclosed an original and two copies of a complaint by Kirby Home Service Company against Joe and Sealey Turner, due under a promissory note.

I would appreciate your filing this matter for me and if there is a court cost deposit, please advise and we shall remit same.

Very truly yours,

HOGAN & HELT

  
Elwood L. Hogan

ELH/ab

3 Enclosures

HOGAN & HELT  
ATTORNEYS AT LAW  
1868 GOVERNMENT STREET  
MOBILE, ALABAMA

ELWOOD L. HOGAN  
HENDERSON F. HELT, JR.

P. O. BOX 6162  
GR 9-5419

September 13, 1961

Mrs. Alice J. Duck  
Circuit Clerk  
Baldwin County  
Bay Minette, Alabama

RE: James O. Pitts, Jr., ind.  
and d/b/a Kirby Home Service  
Company vs. Joe and Sealey  
Turner. Case No. 4492.

Dear Mrs. Duck:

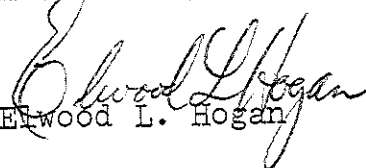
Please find enclosed the amended complaint in the above case which was tried yesterday. This amendment should have been filed as of September 12, 1961. I failed however to do it through oversight.

The defendants' attorney, Kenneth Cooper did receive a copy of same prior to the trial in this cause.

With highest personal regards, I am

Very truly yours,

HOGAN & HELT

  
Elwood L. Hogan

ELH/ab

2 Enclosures

JAMES D. PITTS, JR., Individually)  
and d/b/a KIRBY HOME SERVICE  
COMPANY,

Plaintiff,

Vs

JOE AND SEALEY TURNER, jointly  
and severally,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW.

Case No. 4492

DEMURRERS

Comes now Joe and Sealey Turner, Defendants in the above  
styled cause, and files this, their demurrers to Plaintiff's  
Complaint, and respectfully shows to the Court that:

1.

The Complaint does not state a cause of action.

2.

The allegations of the Complaint are vague, uncertain and  
indefinite.

3.

The Complaint does not allege whether Plaintiff is the owner  
of the promissory note.

4.

The Complaint does not allege when the alleged promissory  
note was due and payable.

5.

The Complaint does not allege when the alleged promissory note  
was payable.

*Defendants demand  
a trial by jury.  
Kenneth Cooper  
Attorney for Defendants*

*Kenneth Cooper*  
Kenneth Cooper  
Attorney for Defendant

**FILED**

DEC 15 1960

ALICE I. DUCK, CLERK  
REGISTER

CASE NO. \_\_\_\_\_

\*\*\*\*\*

JAMES D. PITTS, JR., Individually and d/b/a KIRBY HOME SERVICE COMPANY,

Plaintiff,

Vs

JOE and SEALEY TURNER,  
Defendants.

\*\*\*\*\*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

\*\*\*\*\*

DEMURRER

\*\*\*\*\*&\*\*\*\*\*

Kenneth Cooper  
Attorney for  
Defendants.

JAMES O. PITTS, JR., individually  
and d/b/a KIRBY HOME SERVICE COMPANY,

Plaintiff,

vs.

JOE and SEALEY TURNER, jointly  
and severally,

Defendants.

§ IN THE CIRCUIT COURT  
§ OF BALDWIN COUNTY,  
§ ALABAMA  
§ AT LAW.  
§  
§ NO. 4492  
§

TO THE HONORABLE JUDGES OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,  
SITTING IN EQUITY:

MOTION TO REINSTATE

Comes now JAMES O. PITTS, JR., individually and d/b/a KIRBY HOME SERVICE COMPANY through his attorneys, and files this, his motion to reinstate the above styled cause which was dismissed on the 16<sup>th</sup> day of March, 1961 and as grounds therefor respectfully shows unto the Court as follows:

ONE

That Elwood L. Hogan, who was handling the above styled cause for the firm of Hogan & Helt was not aware of the setting of said cause on March 16, 1961, in that the docket received by the firm from the Circuit Court Clerk had been misplaced.

TWO

That there were demurrers pending in said cause filed by the Honorable Kenneth Cooper, Attorney for the Defendants, and that the firm of Hogan & Helt did not anticipate a trial on the merits until after a ruling on the demurrers.

THREE

That the judgment of dismissal was made on the date of the first setting of the case, to-wit: March 16, 1961.

FOUR

That the Plaintiff has a valid and just cause of action against said Defendants.

P. 15-B

FIVE

That the Plaintiff, being unaware of the setting of the case on March 16, 1961 did not have an opportunity to notify witnesses whose testimony would be material in the trial of this cause.

HOGAN & MELT

By

Clewood L. Hogan  
Attorney for Plaintiff

I certify that I have mailed a copy of this motion to the Defendants' Attorney of Record on this 16<sup>th</sup> day of March, 1961.

Clewood L. Hogan  
Attorney for Plaintiff

FILED

MAR 17 1961

ALICE J. DUCK, CLERK  
REGISTER

JAMES O. PITTS, JR., INDIVIDUALLY  
and D/B/A KIRBY HOME SERVICE COM-  
PANY,

Plaintiff,

Vs.

JOE AND SEALEY TURNER, JOINTLY  
AND INDIVIDUALLY,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW.

Case No. 4492

PLEAS

Come now the Defendants in the above styled cause and for  
answer to Plaintiff's complaint and to Count One thereof says:

ONE:

Defendants allege that the promissory note described in the  
Bill of Complaint was obtained from them by misrepresentation,  
fraud and deceit on the part of the Plaintiff, or Plaintiff's  
agents or representatives, in that the Defendants advised the  
Plaintiff, or Plaintiff's agents or representatives, that they,  
the Defendants, did not desire to sign the said promissory note  
for the merchandise, to-wit, a Kirby Complete vacuum cleaner, for  
which the said promissory note was given as security, and that  
upon being so advised the Plaintiff, or Plaintiff's agents or  
representatives, assured the Defendants that they would hold the  
note and give the Defendants an opportunity to try out the Kirby  
Complete vacuum cleaner, and if they, the Defendants, were not  
entirely satisfied with the said Kirby Complete vacuum cleaner,  
or that they would not be able to pay for the same, then they  
would return the said note to Defendants and pick up the said  
Kirby Complete vacuum cleaner; and whereas, after the said agreed  
trial terms the Defendants notified the Plaintiff, or Plaintiff's  
agents or representatives, that they were not satisfied with the  
said Kirby Complete vacuum cleaner, and that they could not pay  
for the same, the Plaintiff, or Plaintiff's agents or representa-  
tives, failed to return to the Defendants the aforementioned pro-  
missory note, and failed to pick up the said Kirby Complete  
vacuum cleaner.

TWO:

Defendants allege that they were induced to sign the promissory note, upon which this suit is based, by fraud, misrepresentation and deceit by the Plaintiff, of Plaintiff's agents or representatives, because the Plaintiff, or Plaintiff's agents or representatives assured the Defendants, before they signed the aforesaid promissory note, that if, after a trial period, they, the Defendants, were not entirely satisfied with the Kirby Complete vacuum cleaner, or that they would be unable to pay for it, then the said promissory note would be cancelled and returned forthwith to the Defendants, and the Kirby Complete vacuum cleaner picked up; and, after the said agreed trial period the Plaintiff, or Plaintiff's agents or representatives, failed, and refused, to return the above said promissory note and to pick up the said Kirby Complete vacuum cleaner, although the Defendants had advised the Plaintiff, or Plaintiff's agents or representatives, that the Kirby Complete vacuum cleaner was unsatisfactory, and that they, the Defendants, could not make the payments thereon.

THREE:

There was no consideration for the note sued upon.

FOUR:

The allegations of the Complaint are untrue.

Joe Turner  
Defendant  
Sealey Turner  
Defendant

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Kenneth Cooper, Notary Public, State at Large, State of Alabama, personally appeared Joe Turner and Sealey Turner, who, being known to me, and by me first legally sworn, depose and say on oath, that they are the Defendants in the above styled cause, that they have personal knowledge of the facts stated in the foregoing pleas, and that the said facts therein are true and correct.

Joe Turner  
Sealey Turner

Sworn to and subscribed to before me, this 16th day of March, 1961.

Kenneth Cooper  
Notary Public, State at Large, Alabama.

156

FILED

JUL 18 1961

ALBERT J. DUCK, CLERK  
REGISTER