M. FUGAZZI & COMPANY, a firm, composed of Charles S. Fugazzi and John E. Fugazzi, Plaintiff,	)	IN THE CIRCUIT COURT
vs.	)	OF BALDWIN COUNTY.
W.M. RUPEL, Defendant.	)	AT LAW.

Interrogatories propounded by plaintiff to defendant W. M. Rupel, in the Circuit Court of Baldwin County:

FIRST. Are you the defendant in the above styled cause? What business were you engaged in during the year 1917? Did you, through one L.T. Rhodes, purchase any Irish potatoes from the plaintiff in this cause? State when you purchased said potatoes? How many potatoes did you purchase? What did you pay for the same?

SECOND. Did you procure L.T. Rhodes to purchase potatoes from M. Fugazzi & Company? Was there any contract entered into between you and M. Fugazzi & Company with reference to the sale of potatoes raised from the seed purchased from the said M. Fugazzi & Company? If you answer that there was a contract, please state the terms of said contract and the price that you were to receive for said potatoes? Did you plant the potatoes purchased from the said Fugazzi & Company? How many potatoes did you raise from said seed? To whom did you sell the same? What sum of money did you receive for the same? Who hauled the potatoes to the market? State the names of the parties who assisted you to gather the potatoes? State the names of the parties who assisted you in planting the potatoes? Have you ever delivered the potatoes grown from the seed purchased from the plaintiff, to the plaintiff? Why did you not deliver the same? Did you, or not, on January 17, 1917, execute the instrument which is hereto attached, marked EXHIBIT

"A"? Did not one E. Edmunson witness the same?

Frank Stone & Son
Armbrecht, Johnston & McMillan
Attorneys for the Plaintiff.

STATE OF ALABAMA)
)
COUNTY OF MOBILE) Personally appeared before me, Virgie M. Finklea, a Notary Public, in and for said county and state, S.M. Johnston, who being by me first duly sworn, deposes and says that he is a member of the firm of Armbrecht, Johnston & McMillan, who are attorneys for the plaintiff in the above styled cause, and that if the defendant, W.M. Rupel does truly answer the foregoing interrogatories, said answers will be material evidence for the plaintiff in the trial of said cause.

~~Frank Stone & Son~~
~~Armbrecht, Johnston & McMillan~~
S. M. Johnston

Subscribed and sworn to before me this 2nd day of October, A.D., 1918.

Virgie M. Finklea
Notary Public, Mobile County, Ala.

We, Gordon & Edington, attorneys for the defendant W.M. Rupel, hereby accept service of the foregoing interrogatories and acknowledge that we have received copy of the same, this 17 day of October, A.D., 1918.

Gordon & Edington
Attorneys for the Defendant.

EXHIBIT "A"
COPY

EXHIBIT "A"

$82.50 Bay Minette, Ala., Jan.17,1917.

On June 1st, 1917, I or we, promise to pay to L. T. Rhodes, agent or order, Eighty-two and 50/100 Dollars with 6% interest for value received, negotiable and payable at Baldwin County Bank, at Bay Minette, Alabama.

And to secure the payment of this note, or any renewal thereof, and all other sums I or we, may owe the payee before this note is paid. I, or we, hereby mortgage and convey unto said payee and its assigns the following property located in Baldwin County, Alabama. Which I, or we warrant is free from any lien or incumbrance, and is the property of Mortgagor, to-wit:

I agree to allow said L. T. Rhodes to sell my entire crop of Irish potatoes as per his agreement with M. Fugazzi & Co. I also agree to pay said L. T. Rhodes 5% commission. The containers are to be furnished by M. Fugazzi & Co. and also my or our, entire crops of cotton, corn, potatoes, and all farm products, and all rents accuring to me, or us, for the year 1917, and each succeeding year hereafter in the county, where I or we, now reside, or in which I, or we, may hereafter reside, until paid, I, or we further agree that without said advance it would not be possible for myself, or ourselves, to make a crop. I, or we, empower said payee or his agents or assigns at any time to take possession of any of the within described property and crops and sell the same at public or private sale at any place fixed by payee or assigns in Baldwin County, when he shall deem himself insecure, by posting a notice of the place and time of sale on the Court House door of Baldwin County, Ala., for three days before said sale.

The parties to this instrument whether maker, endorser, surety or guarantor severally waive demand, presentment, protest, notice of protest and all other requirements necessary to hold them, and agree that time of payment may be extended without notice to them of such extension and hereby waive all right of exemptions as to personal property under the laws of the United States and the State of Alabama, for the collection of this debt and agree to pay all costs of collecting, or attempting to collect or securing this note including all expenses of sale and a reasonable attorney's fee, if this note and mortgage is not paid when due.

Executed in the presence of
E. Edmundson

W. H. Ruple (L.S.)

JOHN F.FUGAZZI, ET AL, Plaintiffs, - vs - W. M. RUPEL, Defendants.	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

ANSWER OF PLAINTIFF JOHN F.FUGAZZI TO INTERROGATORIES PROPOUNDED BY DEFENDANTS IN THE ABOVE ENTITLED CAUSE, UNDER SECTION 4049 OF THE CODE OF ALABAMA OF 1907:

ANSWERING THE FIRST INTERROGATORY THE PLAINTIFF SAYS:

I was engaged in the fruit and produce business at Cincinnati, and resided at Cincinnati, during January, 1917. I do not know the defendants personally. I did not see the defendants at all during the month of January, 1917. I am one of the plaintiffs in this cause.

ANSWERING THE SECOND INTERROGATORY THE PLAINTIFF SAYS:

There is a contract existing between plaintiffs and defendants, made by defendants, through L.T.Rhodes, acting as their agent, which is partly in writing and partly oral. The written part of the contract consists of correspondence as follows: On September 26th, 1916, M.Fugazzi & Company wrote L.T.Rhodes a letter, copy of which is hereto annexed, marked Exhibit "A" and made a part of the answers to these interrogatories. This letter was written in the office of M.Fugazzi & Company and mailed to L.T.Rhodes. On September 29th, 1916, L.T.Rhodes wrote a letter fo M.Fugazzi & Company, which was received by M.Fugazzi & Company a few days after the date of said letter, copy of which letter from Rhodes to Fugazzi is hereto annexed, marked Exhibit "B", and made a part of the answers to these interrogatories. On November 29th, 1916, L.T. Rhodes wired M.Fugazzi & Company as follows: "Secure one car seed potatoes and option on another", which telegram was received by M.Fugazzi & Company. On the same day L.T.Rhodes wrote M.Fugazzi & Company a letter, copy of which is hereto annexed

marked Exhibit "C", and made a part of the answers to these interrogatories. On December 4th, 1916, M.Fugazzi & Company sent a telegram to L.T.Rhodes, copy of which telegram is hereto annexed marked Exhibit "D", and made a part of the answers to these interrogatories. On December 8th, 1916, L.T.Rhodes wrote M.Fugazzi & Company a letter, copy of which is hereto annexed, marked Exhibit "E" and made a part of the answers to these interrogatories. On December 27th, 1916, L.T.Rhodes sent a telegram to M.Fugazzi & Company, copy of which telegram is hereto annexed, marked Exhibit "F" and made a part of the answers to these interrogatories. On December 28th, 1916, L.T.Rhodes wrote a letter to M.Fugazzi & Company, copy of which letter is hereto annexed, marked Exhibit "G" and made a part of the answers to these interrogatories. On December 30th, 1916, L.T.Rhodes sent M.Fugazzi & Company a telegram, copy of which is hereto annexed, marked Exhibit "H" and made a part of the answers to these interrogatories. On January 1st, 1917, M.Fugazzi & Company sent a telegram to L.T.Rhodes, a copy of which telegram is hereto annexed, marked Exhibit "I", and made a part of the answers to these interrogatories. On January 2nd, 1917, M.Fugazzi & Company wrote a letter to L.T.Rhodes, copy of which is hereto annexed, marked Exhibit "J" and made a part of the answers to these interrogatories. On January 3rd, 1917, L.T.Rhodes sent a telegram to M.Fugazzi & Company, copy of which is hereto annexed, marked Exhibit "K" and made a part of the answers to these interrogatories. On the same day M.Fugazzi & Company sent a telegram to L.T.Rhodes, copy of which telegram is hereto annexed, marked exhibit "L" and made a part of the answers to these interrogatories. On January 3rd, 1917, M.Fugazzi & Company wrote L.T.Rhodes a letter, copy of which is hereto annexed, marked Exhibit "M" and made a part of the answers to these interrogatories. On January 4th, 1917, L.T.Rhodes wrote M.Fugazzi & Company a letter, copy of which is hereto annexed, marked Exhibit "N", and made a part of the answers to these interrogatories. M.Fugazzi & Company caused to be shipped to the said L.T.Rhodes, two carloads of seed potatoes, among which

two carloads of seed potatoes were ttwelve barrels for the defendant, W.M.Rupel, and thereupon the said W.M.Rupel executed a crop lien note and mortgage for $82.50 and an agreement with reference to the sale of the crop of Irish potatoes to the said M.Fugazzi & Company, copy of which note, mortgage and agreement is hereto annexed, marked Exhibit "O" and made a part of the answers to these interrogatories. The seed potatoes were furnished by M.Fugazzi & Company in acceptance of the first proposition made by L.T.Rhodes, in his letter of November 29th,1916, which proposition was as follows:

"1st: You furnish one or two cars of seed and charge 6% interest on purchase price, in return we agree to sell all the potatoes from 1½ inches up in diameter for the price of $1.25 per bushel of 60 pounds, you to furnish containers, either hampers or bags."

It was this proposition from Rhodes, as agent for the defendant and other growers, which was accepted by M.Fugazzi & Company, and on which they furnished potatoes to the defendants and other growers, which is referred to in the crop lien note, mortgage and agreement, copy of which is hereto annexed, marked Exhibit "O". This crop lien note, mortgage and agreement was turned over by Rhodes to plaintiffs.

ANSWERING THE THIRD INTERROGATORY THE PLAINTIFF SAYS:

Plaintiff was not present and cannot testify of his own knowledge as to the oral conversations between L.T.Rhodes and W.M. Rupel. Mr.Rhodes advised plaintiff that, according to the oral conversation between W.M.Rupel and Rhodes, that the defendant asked Rhodes upon what terms the seed potatoes could be obtained, and Rhodes advised defendant that the seed potatoes had been furnished by M.Fugazzi & Company; that the price for the seed potatoes was $5.25 per barrel f.o.b. loading station; that the defendants and the other growers would have to sign a note for the seed potatoes obtained by them, the amount of the note to be a sum equal to the number of barrels of seed potatoes delivered to defendant, multiplied by $5.25, plus the freight charges, the notes to pay interest at 6%; that M.Fugazzi & Company had agreed to buy all of the potatoes raised from such seed, ranging from 1½ inches and up, at

a price of $1.25 per bushel of sixty pounds; that M.Fugazzi & Company were to furnish the containers for the potatoes so to be shipped; that the defendant and other growers were to agree that they would ship all the potatoes grown from the seed furnished by M.Fugazzi & Company, through L.T.Rhodes, to M.Fugazzi & Company, and the growers were further to pay Rhodes a commission of 5% of the sale price of such potatoes, and that when each car was loaded, the defendants and other growers would take the bill of lading covering such cars of potatoes to the bank, make draft with the bill of lading attached, on M.Fugazzi & Company, and get the money on the draft; that out of the proceeds of such draft they were to pay Rhodes the commission of 5%; that the amount due to plaintiffs for the seed was to be paid to the bank at Bay Minette as soon as the potatoes were brought in, and placed in a special account, to be held by the bank until all of the potatoes were loaded, and then turned over to Fugazzi & Company; that the object of holding the money due M.Fugazzi & Company for the payment of the seed, was to insure to the farmers that M.Fugazzi & Company would carry out their contract and take the potatoes and pay for them on the basis above mentioned. This was fully explained by Rhodes to each of the growers, including the defendants, and defendants agreed to abide by the terms of this contract.

ANSWERING THE FOURTH INTERROGATORY THE PLAINTIFF SAYS:

The letters received by plaintiff with reference to the contract were signed by L.T.Rhodes, and the letters from plaintiff with reference to said contracts were addressed to L.T.Rhodes. The conversations with the plaintiff with reference to the contract were had with L.T.Rhodes, Rhodes representing at the time that he was agent for the defendant. Rhodes obtained the potatoes as agent for the growers, and delivered them to defendant, and defendant delivered to Rhodes the written instrument, copy of which is annexed, marked Exhibit "O", and Rhodes turned same over to plaintiffs. The potatoes furnished to defendant, through L.T.Rhodes, were shipped to L.T.Rhodes in carload lots, to secure the lowest freight rate, and Rhodes, who was acting as ghe growers' agent, distributed the potatoes among the various growers, including defendants. At the time the potatoes

were shipped, plaintiffs did not know the names of but one of the growers. As stated before, the plaintiffs did ship all of the potatoes obtained by the defendants, and those obtained by all the other growers, to L.T.Rhodes, as agent for the growers, including defendants, Had the potatoes for each grower been shipped to the grower direct, in less than carload lots, the freight rate would have been much higher. On this account all of the potatoes were shipped in two carload lots to Rhodes, as agent for all of the growers. The price of the potatoes was charged on the books of M.Fugazzi & Company to L.T.Rhodes, as agent for the various growers. The seed potatoes were not furnished on the basis of so many bushels. They were furnished om the basis of so many barrels. The number of barrels furnished the defendant was twelve barrels, at $5.25 per barrel, which would amount to $63.00. The freight on same and handling charge was $19.50, ~~xxxxx~~ making a total of $82.50, which was the amount mentioned in the written instrument, copy of which is hereto annexed, marked Exhibit "O". The charge, as stated before, was made against L.T.Rhodes, as agent for the defendants and other growers.

John F Fugazzi

STATE OF OHIO
COUNTY OF Hamilton.

Personally appeared before me, Milton Hurtig a Notary Public in and for said County in said State, John F.Fugazzi, who being by me first duly sworn, on oath deposes and says that he is one of the plaintiffs in the above entitled cause, and that the foregoing answers to the interrogatories propounded by defendants are true of his own knowledge, except as to those matters therein stated to be on information and belief, and as to those he is informed and believes them to be true.

John F Fugazzi

Subscribed and sworn to before me
this the 12th day of October, A.D.,1917.

Milton Hurtig
Notary Public, Hamilton County, Ohio.

EXHIBIT "A"
COPY

Sept. 26, 1916.

Mr. L. T. Rhodes,
Bay Minette, Ala.

Dear Sir:-

Replying to yours of the 19th will say that we will be pleased to have you outline how many bushel of Seed potatoes would be needed, and just how it could be fixed, so that we could count on getting the handling of the potatoes, as that would be our only motive for even considering the furnishing of Seed.

Also advise when the Growers will want this Seed to be shipped, and any other information of interest in reference to the proposed deal.

Yours truly,

M. Fugazzi & Co.

Dic. GSF.

EXHIBIT "B"
COPY.

Bay Minette, Ala. 9/29/16.

Mess. M. Fugazzi & Co.,
Cincinnati, Ohio.

Gentlemen:-

We have your letter of the 26th inst, and note contents. In reply will say that we think that we could handle about two cars of seed potatoes.

We would expect you to handle the potatoes, and could get contracts from each farmer accepting the proposition, and I am in a position to keep in close touch with the situation, and could see that you handled the potatoes. I could handle this so there would be no question as to your getting the whole output, whatever it might be, and would also be in position to deal with only those that are reliable.

We would want the seed delivered about the first of February, Personally, I would prefer to consign to you; but some the growers might prefer to have a contract price. Would like to grade from one and half inches up, and from one and a quarter to one and a half, making two grades.

It may seem early to take this matter up now, but would like for you to kindly consider the matter, and make us a proposition. So thanking you for your consideration and for a reply, I am,

Yours truly,

L. T. Rhodes.

EXHIBIT "C"
COPY.

Bay Minette, Ala. Nov.29,1916.

Mess. M. Fugazzi & Co.
Cincinnati, Ohio.

Gentlemen:

I wired you yesterday to secure one car seed potatoes as per your letter, and to get option on another.

It seems that $1.90 per bushel is awfully high, but we are willing to take one car at this figure, if it is the best price that you can obtain, and may possibly want another one soon. We mean to have the potatoes delivered about the first of February next, C.O.D. The potatoes must be free of scab and other diseases; and we do not want the shipper to ship anything but as stated above. We will not plant diseased potatoes, and do not want to have to refuse shipment. We will ask you to please explain this to the shipper. Further, we will expect the potatoes not to be damaged by frost in transit.

We are going to name you a proposition, or rather two of them, and you may think them over, and advise you if either of them appeals to you.

Ist. You furnish one or two cars of seed and sharge 6% interest on purchase price. In return we agree to sell all the potatoes from 1½ inches up in diameter for the price of $1.25 per bushel of 60#, you to furnish the container, either hamper or bags.

2nd. You furnish one or two cars seed and charge 6% interest on purchase price. We agree to consign all the potatoes as above to you for disposition, paying you 10% for shipment jobbed by you, and 7% for cars sold by you, without jobbing or running through the store.

If neither of the above propositions appeal to you we thank you for your interest in helping us to locate the seed potatoes and will be glad to give you a chance to handle our potatoes for shipment next spring.

Thanking you for all favors, I am,

Very truly yours,

L. T. Rhodes.

EXHIBIT "D"
COPY.

TELEGRAM.

RECEIVED AT 3MY 60NL

Cincinnati, Ohio, I2 4 I6

L. T. Rhodes,

Bay Minette, Ala.

Will furnish one car seed and purchase crop basis you wrote with additional condition that all potatoes smaller than size mentioned in proposition are to be consigned to us will write later as to second car wire quick if quality in sample hamper is satisfactory so can have order confirmed delay shipment next car sweets until latter part this week.

M. Fugazzi & Co.

827 AM.

EXHIBIT "E"
COPY

Bay Minette, Ala. Dec,8,1916.

Mess. M. Fugazzi & Co.
Cincinnati, Ohio.

Gentlemen:

We did not wire you promptly with reference to the Irish potatoes seed, as it seems that the growers are pretty well divided as to whether they would like to sell to you as per your letter.

Some of the best and largest growers are willing to play safe, by contracting now; but it seems that some of them are not willing.

I think that the best thing to do now, is to secure one car of seed, and let me advise you a little later as to which we will do. I would like to get all of them to agree to one thing, and I believe that we will need two cars of seed.

As to the potatoes that are smaller than one and a quarter inches, we would prefer to hold that part of the deal open, and either sell them to you or allow you to handle them on commission. Some growers will prefer to keep them for seed purposes, and for home use.

As to the seed, we prefer the Western grown seed. The Virginia may be just as good, but as I told your Mr. Fugazzi in Mobile, we have had better success getting stands with the western seed than with the Virginia stock.

The sample of seed from Virginia is apparently free from disease, and would be satisfactory, if we used the Eastern seed. I understood that you has a price of $1.90 per bushel on the western seed with 43¢ rate to Mobile. We have used the potato known as the Red River Triumph grown in Minnesota, and would like to have it, but the Wisconsin seed, if free of scab and other diseases, would be satisfactory. But we must be careful about scab; for as I wrote you before, we don't want to plant scabby potatoes, and would like for the shipper to know that such stock would not be satisfactory.

As we advised you before, we are willing to contract one car of seed as per paragraph above, and would like to get an option on another.

Yours very truly,

L. T. Rhodes.

EXHIBIT "F"
COPY

TELEGRAM.

12/27/16

M. Fugazzi & Co.

Cincinnati, Ohio.

Your letter received secure two cars Virginia Red Bliss Triumph seed potatoes to be shipped at once. We are willing to contract output and make you safe on proposition. Writing you fully.

L. T. Rhodes.

EXHIBIT "G"
COPY

Bay Minette, Ala. Dec.28,1916.

Mess. M. Fugazzi & Co.,
Cincinnati, Ohio.

Gentlemen:

In reply to your letter we wired you to secure two cars of the Virginia seed potatoes for us, and I hope that you will be able to confirm the order at once.

The majority of the farmers are willing to contract the potatoes for one twenty five per bushel of sixty pounds but they insist that the price be net to them. In that case we think that you would be willing to compensate me for my trouble. Where I handle stuff for shipment, I do it for 5% per cent on the net returns. Do you think that you would be willing to pay me that amount? I would buy the seed from you at cost, and pay you 6% interest on the cost of the seed, this amount to begin to draw interest on date of arrival of cars.

To make you feel safe I have interested Mr. W. D. Stapleton, cashier and general manager of the Baldwin County Bank at Bay Minette, and also Mr. W. M. Stuart, President and Manager of the Peoples Fertilizer Co. of Bay Minette. These gentlemen together with myself are willing to buy these two cars of seed from you, as stated above, and also to agree to see that you get all the potatoes that grow from this seed. We are willing to sign a contract to this effect, and to become personally responsible to you for the amount of the seed potatoes; and we assume all risk of losing, should there be any loss; but we think that we are in position to see that we make ourselves safe with the farmers.

I presume that I have covered all the ground; but will sumarize; We pay you6% interest on the cost of seed potatoes, and become responsible for the total amount of seed. You are to pay us $1.25 per bushel of 60# taking everything from one and a quarter inches in diameter up; you to furnish the containers, and pay me 5% in addition for handling them for you, if this meets your approval, and I feel sure that it will. If the growers desire to sell the smaller potatoes at the time of digging the crop, they let you handle them on consignment. If you want two grades made of the potatoes, we will grade them that way for you.

If you are willing to take our grading, we will try to treat you right, but if you prefer to furnish a man to inspect them as they are loaded, it will be all right, of course.

When the potatoes are loaded, we would expect to pay the farmer for his potatoes at once; and would draw on you for each car as loaded, and pay for the seed potatoes out of the last shipments. I know you well enough to believe that you will be willing to carry out your part of the contract regardless of conditions, but some of the others don't know you as well as I do, and am sure that the terms of payment will be satisfactory with you.

The two gentlemen that are interested in the deal with me are good business men, and both are willing to do this in order to help the farmers out to this extent. We do not see any chance to lose money on potatoes this season; but many of the farmers will not plant potatoes if left alone. But in this way, they know what they are working to, and as one of them expressed it to me, they have a heart to work, knowing what they are to get as compensation.

If you have not already done so, we hope that you will be in position to confirm the orders by the time you have received this letter, and we believe that it would be wise to have them shipped at once, or as soon as cars can be had, as it is very uncertain that we could get cars just when wanted.

Mr. Holman wrote me that his potatoes were satisfactory, and we will ask to please advise shipper that we do not want potatoes showing scab. We are offered potatoes at a slightly lower price, but we are afraid of the stock. Please confirm by wire. As soon as you have closed orders for the two cars.

Thanking you for past as well as future favors, and wishing you the compliments of the season, we are,

Very truly yours,

L. T. Rhodes.

EXHIBIT "H"
COPY.

TELEGRAM.

Dec. 30,1916.

M. Fugazzi & Co.
Cincinnati, O.

We have responsible parties who want five or six cars seed potatoes on same terms as we have and they are willing to contract the crop Advise me by wire if you will furnish them and we can complete arrangements at once. Could you afford to come down here to see me?.

L. T. Rhodes.

EXHIBIT "I"
COPY.

TELEGRAM.

RECEIVED AT 8MY N 78 BLUE

Ca Cincinnati Ohio III5 AM I I I7.

L. T. Rhodes
Bay Minette, Ala.

Letter twenty eight received ordered car seed shipped soon as possible and requested option on another car until received your letters terms now outlined would make potatoes cost us dollar forty bushel there instead dollars quarter as original suggested cannot pay over dollar quarter and furnish container or we will pay your commission and grower to furnish container as we cannot pay both wire quick as possible growers decision so can cancel option and order if not acceptable.

M. Fugazzi & Co.
42I PM

EXHIBIT "J"
COPY

Cincinnati, O. Jan.2,1917.

Mr. L. T. Rhodes,
Bay Minette, Ala.

Dear Sir:-

We received a telegram from you stating that you could place 5 or 6 cars of potatoes on the same kind of contract as submitted to us for 2 cars. We did not reply as we had not received your letter until yesterday, and on receipt of same we wired you as follows:

"Letter twenty eighth received ordered carseed shipped as soon as possible and requested option on another car until received your letter terms now out lined would make potatoes cost us dollar forty bushel there instead dollar quarter as originally suggested. Can't pay over dollar quarter and furnish container or we will pay your commission and grower to furnish container as we can't pay both. Wire quick as possible growers decision so can cancel option and order if not acceptable."

And if further explanation thereof will state that we could not see our way clear to pay $1.25 a bushel and pay for the sacks or hampers and also pay you a commission of 5% as this would make potatoes cost us around $1.40 a bushel Fob there which does not look very cheap to us.

We feel that you are entitled to the Commission for looking after the deal, and are perfectly willing to pay same, but we do not see where the growers are risking very much, and we figure they ought to be satisfied with 2¢ a lb. for their potatoes to be contracted ahead, and the buyer furnishing the packages and the seed and waiting for his money until his potatoes are grown, and we cannot see it any other way bu t that the grower ought to either pay your commission or pay for the packages to put the potatoes in, and we trust you will be able to make a deal with some responsible growers for about 2 cars which is about all we would care to contract at any price that is over $1.25 loaded on car.

We figure that potatoes ought to be bought $1.25 a bushel loaded on cars, package in all to be safe, and any addition over that price we figure is a little risk, as we expect the freight rate on potatoes will be advanced to 40¢ a hundred lbs. by the time the potatoes are ready to move.

The balance of the contents of your letter of the 28th are satisfactory as far as payment of potatoes when they are loaded on basis of drawing of draft of each car loaded, but it would look to us as if a certain amount ought to be deducted to be credited on seed account from each shipment instead of waiting until the last shipments to get paid for the seed, as it is a pretty hard matter to tell just how many

potatoes each grower is going to have out of the last shipment, and it would look a little more equitable to deduct about 10 or 15¢ a bushel from each shipment, and the remainder due from any certain grower to be deducted out of last potatoes hauled in, and if necessary, we could have the funds in the bank to pay for potatoes as loaded upon presentation ofB/L so that the growers would not have any cause to be uneasy in any way, and at the same time they would be paying for the seed furnished a little at a time instead of waiting until their last shipment is ready to move.

Trusting that we have made our position in this matter clear, we beg to remain,

Yours very truly,

M. Fugazzi & Co.

CSF-AF

EXHIBIT "K"
COPY.

TELEGRAM.

Jan 3rd, 1917.

M. Fugazzi & Co.,
CINTI, O.

YOUR WIRE RECEIVED SHIP TWO CARS WIRE ANSWER MY TELEGRAM REFERENCE FIVE OR SIX ADDITIONAL CARS.

L. T. RHODES.

144P

EXHIBIT "E"
COPY

TELEGRAM.

RECEIVED AT I7 MY N BLUE 49 BLUE

Ca Cincinnati Ohio 249 PM I 3 I7.

L. T. Rhodes

Bay Minette, Ala.

Dont care furnish more than the two cars unless additional potatoes can be contracted at dollar twenty per bushel loaded on cars grower to furnish new ninety pound sacks we to pay your brokerage would furnish one of two more cars on this basis have ordered two cars shipped.

M. Fugazzi & Co.

452 PM.

EXHIBIT "M"
COPY

Cincinnati, O. Jan.3,1917.

Mr. L. T. Rhodes,
Bay Minette, Ala.

Dear Sir:

Not hearing from you yesterday we wired you this morning to wire answer quick as the Virginia shipper had booked our order for 2 cars, and was ready to ship them; quite naturally we would not care to have 2 cars of Potatoes go forward to you if satisfacotry arrangements could not be made.

On receipt of your wire instructing us to ship 2 cars and requesting us to answer your telegram in reference to 5 or 6 additional cars, we wired you as per copy attached:

> "Don't care furnish more than the two cars unless additional potatoes can be contracted at dollar twenty per bushel loaded on cars. Grower to furnish new ninety pound sacks we to pay your brokerage. Would furnish one or two more cars on this basis. Have ordered two cars shipped."

In further explanation thereof, will state that we did not care to go in on any Potato Brokerage than the 2 cars unless we could contract for them on the basis originally figured on of $1.25 loaded on cars and we figured that the only way out of it was to put it up to the growers at $1.20 a bushel, for them to furnish new ninety lb. sacks and we to pay their brokerage, and if they did not want to close any deal on this basis, we will simply drop it, as we believe the 2 cars already ordered shipped to you will be enough for you to speculate on at the price we agreed upon, as we figure that they should turn out about 20 cars or more, if they have any kind of a growing season, and if we are not correct in this, we will be glad to have you advise us in your next letter.

Awaiting your further favors, we beg to remain,

Yours very truly,

M. Fugazzi & Co.

CSF-AF

EXHIBIT "M"
COPY

Bay Minette, Ala. Jan.4,1917.

Mess. M. Fugazzi & Co.
Cincinnati, O.

Gentlemen:

We have your telegrams and also your letter of the 2nd inst. and have just wired you night letter in reply as follows:

"Your telegram received and W. D. Owen is party that wants to use additional seed potatoes and is willing to accept your proposition. He requests you to wire Baldwin County Bank as reference. He is extensive land owner, turpentine operator and farmer. Please confirm and advise."

Mr. Owen is a large land owner and also an extensive turpentine operator, and also a big farmer. He was very anxious to plant 400 acres of potatoes, and is disappointed in not getting five or six cars of seed.

I hope that you will wire the Baldwin County Bank with reference to Mr. Owen, and that you will feel favorable to the proposition. If necessary he could get the bank to guarantee the payment; but Mr. Stapleton(whom has been promoted to the presidency of the bank since I wrote you about him a few days ago) told me that he thought that when you had investigated Mr. Owen that you would be satisfied. He did not authorize me to say that the bank would guarantee the payment for Mr. Owen; but Mr. Owen can always arrange for what he wants. If you decide to let us have more than four cars of seed, please advise me. If you prefer not to contract for them, Mr. Owen would arrange for the seed and allow you to handle the potatoes for him, of course, through me. You could get the interest on the cost of the seed potatoes and also the commission for handling the crop of potatoes.

If the above Suggestions do not exactly suit you, you might wire me as to details. We don't want to quibble over details; but think it well to have an understanding.

As to the payment of the seed for the first two cars, and other cars as well, we expect for the grower to pay for the seed out of the first shipment, and we put the money in the Bank. You allow bank to pay us for each car as loaded and instruct them to collect for the seed potatoes and to allow this amount to go as part payment for the shipments. Mr. Stapleton and Mr. Stewart as well as myself are to become personally responsible for the

payment of the seed potatoes, and we will be sure to collect out of the first shipments made by each farmer.

As above outlined no one would be taking any risk. The only reason for asking that the pay for the seed being paid to you in the last shipments is to satisfy these gentlemen that they are taking no risk having the tail end of the crop rejected or thrown back on us, when we are standing between the farmer and yourself. Such things do happen or have happened when the price should unexpectedly go down. It happened in Baldwin County two years ago with the cuke deal.

We have made this letter lengthy; but do not know whether we have said very much or not. However, we hope that you will suggest some means of getting together on the deal for Mr. Owen, if our suggestions are not satisfactory to you. He is willing to accept any amount up to at least five cars and says that he will consider or entertain any proposition you may see fit to offer; but would not be willing to accept a contract price lower than dollar twenty as per your telegram.

We have been having a good deal of rain and also warm weather, but we hope to have better weather later, and the farmers are inclined to feel optomistic as to the prospects this year, and we hope that it will be a good year for everybody.

Please consider the matter and wire me Monday and oblige,

Very truly yours,

L. T. Rhodes.

EXHIBIT "O"
COPY

$82.50 Bay Minette, Ala., Jan.17,1917.

On June 1st, 1917, I or we, promise to pay to L. T. Rhodes, agent or order, Eighty-two and 50/100 Dollars with 6% interest for value received, negotiable and payable at Baldwin County Bank, at Bay Minette, Alabama.

And to secure the payment of this note, or any renewal thereof, and all other sums I or we, may owe the payee before this note is paid. I, or we, hereby mortgage and convey unto said payee and its assigns the following property located in Baldwin County, Alabama. Which I, or we warrant is free from any lien or incumbrance, and is the property of Mortgagor, to-wit:

I agree to allow said L. T. Rhodes to sell my entire crop of Irish potatoes as per his agreement with M. Fugazzi & Co. I also agree to pay said L. T. Rhodes 5% commission. The containers are to be furnished by M. Fugazzi & Co. and also my or our, entire crops of cotton, corn, potatoes, and all farm products, and all rents accuring to me, or us, for the year 1917, and each succeeding year hereafter in the county, where I or we, now reside, or in which I, or we, may hereafter reside, until paid I, or we further agree that without said advance it would not be possible for myself, or ourselves, to make a crop. I, or we, empower said payee or his agents or assigns at any time to take possession of any of the within described property and crops and sell the same at public or private sale at any place fixed by payee or assigns in Baldwin County, when he shall deem himself insecure, by posting a notice of the place and time of sale on the Court House door of Baldwin County, Ala., for three days before said sale.

The parties to this instrument whether maker, endorser, surety or guarantor severally waive demand, presentment, protest, notice of protest and all other requirements necessary to hold them, and agree that time of payment may be extended without notice to them of such extension and hereby waive all right of exemptions as to personal property under the laws of the United States and the State of Alabama, for the collection of this debt and agree to pay all costs of collecting, or attempting to collect or securing this note including all expenses of sale and a reasonable attorney's fee, if this note and mortgage is not paid when due.

Executed in the presence of
E. Edmundson

W. M. Ruole (L.S.)

place? If you say said contract was oral, please state in detail the substance of said contract.

FOURTH: Was not the alleged contract upon which this suit is based, made with L. T. Rhodes, who lives at Bay Minette, Alabama? Were not the potatoes alleged to have been furnished by the plaintiff to the defendant, as a matter of fact shipped by plaintiff to L. T. Rhodes at Bay Minette, Alabama, under a personal agreement had by and between plaintiff and said Rhodes? As a matter of fact, did you know, or had you ever heard of this defendant at the time the potatoes, alleged to have been furnished to defendant, were shipped to Bay Minette, Alabama? Did not the plaintiff ship the potatoes alleged to have been furnished defendant, together with many other potatoes, to L. T. Rhodes at Bay Minette, Alabama, and were not these and other potatoes charged on the books of plaintiff against said Mr. Rhodes? Please state the exact number of bushels of potatoes that the plaintiffs furnished the defendant under the alleged contract sued upon and the price charged for same. Was this charge made against the defendant or one Rhodes?

Gordon & Edington
ATTORNEYS FOR DEFENDANT.

STATE OF ALABAMA,

MOBILE COUNTY.

Personally appeared before me, Edward Kramer, a Notary Public in and for said State and County, Robert E. Gordon who being by me first duly sworn deposes and says as follows: That he is a member of the firm of Gordon & Edington, who are the attorneys of record for the defendant in the above cause, and that if the plaintiff John F. Fugazzi does truly answer the foregoing interrogatories, said answers will be material testimony for the defendant in the trial of said cause.

Robt E. Gordon

Subscribed and sworn to before me this the 28th day of June, 1917.

Edward Kramer
NOTARY PUBLIC, MOBILE COUNTY, ALA.

Original

Fugazzi vs
Wm Ruple

Serve Copy on
John S. Fugazzi
Filed 6/26-1917
T W Richmond
Clerk

Executed by serving
copy of the within
on B. Costello atty for
Deft.
W E Erickson
Sheriff

Recorded
Compared
Filed
Compared

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.

L J Hall
Joe Page.
R H Burch.

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETING:

You are hereby commanded to summon File Atwell, C. E. Ayers, T. J. Brooker. Joe Page. J. S. Lowell. Eli Gagner. W. S. Davis. J. W. Quinley.

if to be found in your county, at the instance of the Deft

to appear before the honorable Circuit Court, of Baldwin County at the Court House thereof, on the 21 day of May 1918, then and there to testify, and the truth to say, in a certain case pending, wherein

M Fitzgerald vs Plaintiff,

W M Ruffle. W J Roberts. Cook & Stewart & Ed Green 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 17 day of May A. D., 1918.

ATTEST:

T W Richmond Clerk.

Original

No. 8

THE STATE OF ALABAMA
Baldwin County.

M. Fingazzi

Vs. SUBPOENA FOR

Wm Ruple
et-al 6

Circuit Court

WITNESSES:

J. R. Howell
Eli Gaynor
W S Davis
J W Quilley
R H Bizzell
L J Hall Sr
Joe Page
T J Booker
Wm Ayers, Fle Hall

SET FOR TRIAL

21 day of May 1918

Times Print—Bay Minette.

Continued in further hearing this
28 day of March 1918
By Order of Court
J. S.

M. Fugazzi & Company, a firm composed of Charles S. Fugazzi and John F. Fugazzi, Plaintiff,	
-VS-	IN THE CIRCUIT COURT OF BALDWIN COUNTY.
W. M. Rupel, Defendant.	

Interrogatories propounded by defendant to plaintiff Charles S. Fugazzi, under Section 4049 of Code of 1907:

FIRST: Please state where you resided and what business you were engaged in during the month of January, 1917. Do you know the defendant in this case? If you say yes, how long have you known defendant? Did you see defendant at all during the month of January, 1917? Are you one of the plaintiffs in this cause?

SECOND: It is alleged in the complaint, that defendant had a contract with M. Fugazzi & Company entered into on to-wit January , 1917, whereby defendant was to ship to them certain potatoes, now please state if that contract was in writing. If you say yes, please state if said contract was signed by defendant? If you say said contract was in writing, have you said contract or a copy thereof in your possession? If you say said contract was in writing, that you have said contract or copy thereof in your possession, please attach said contract, or a copy thereof, to your answers to these interrogatories and mark it Exhibit "A". If you say said contract was in writing, where was the defendant when same was executed? If you say said contract consists of a series of letters, please attach a copy of said letters to your answers to these interrogatories and mark them Exhibit "B".

THIRD: If you say said contract was oral, please state where the plaintiffs and defendant were when said contract was entered into and who was present at such time and

place? If you say said contract was oral, please state in detail the substance of said contract.

FOURTH: Was not the alleged contract upon which this suit is based, made with L. T. Rhodes, who lives at Bay Minette, Alabama? Were not the potatoes alleged to have been furnished by the plaintiff to the defendant, as a matter of fact shipped by plaintiff to L. T. Rhodes at Bay Minette, Alabama, under a personal agreement had by and between plaintiff and said Rhodes? As a matter of fact, did you know, or had you ever heard of this defendant at the time the potatoes, alleged to have been furnished to defendant, were shipped to Bay Minette, Alabama? Did not the plaintiff ship the potatoes alleged to have been furnished defendant, together with many other potatoes, to L. T. Rhodes at Bay Minette, Alabama, and were not these and other potatoes charged on the books of plaintiff against said Mr. Rhodes? Please state the exact number of bushels of potatoes that the plaintiffs furnished the defendant under the alleged contract sued upon and the price charged for same. Was this charge made against the defendant or one Rhodes?

Gordon & Edington
ATTORNEYS FOR DEFENDANT.

STATE OF ALABAMA,

MOBILE COUNTY.

Personally appeared before me, Edward Kramer, a Notary Public in and for said State and County, Robert E. Gordon who being by me first duly sworn deposes and says as follows: That he is a member of the firm of Gordon & Edington, who are the attorneys of record for the defendant in the above cause, and that if the plaintiff Charles S. Fugazzi does truly answer the foregoing interrogatories, said answers will be material testimony for the defendant in the trial of said cause.

Robt E. Gordon

Subscribed and sworn to before me this the 20th day of June, 1917.

Edward Kramer
NOTARY PUBLIC, MOBILE COUNTY, ALA.

Original

Pingappilvco
vs
Wm Ruffer

Rule Copy on
Chas L Pigg

Filed 6/26-1917
T W Rutherford
Clerk

Excluded by removing
copy on D. C. Sons
Atty for Deft
O. E. Eubanks

as Exhibit "C" to the answers of John F.Fugazzi to interrogatories propounded to him in this cause, which said Exhibit "C" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On December 4th, 1916, M.Fugazzi & Company sent a telegram to L.T.Rhodes, copy of which telegram is attached as Exhibit "D" to the answers of John F.Fugazzi, to interrogatories propounded to him in this cause, which said Exhibit "D" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On December 8th, 1916, L.T.Rhodes wrote M.Fugazzi & Company a letter, copy of which letter is attached as Exhibit "E" to the answers of John F.Fugazzi, to interrogatories propounded to him in this cause, which said Exhibit "E" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On December 27th, 1916, L.T.Rhodes sent a telegram to M.Fugazzi & Company, a copy of which telegram is attached as Exhibit "F" to the answers of John F.Fugazzi, to interrogatories propounded to him in this cause, which said Exhibit "F" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On December 28th, 1916, L.T. Rhodes wrote a letter to M.Fugazzi & Company, copy of which letter is attached as Exhibit "G" to the answers of John F.Fugazzi, to interrogatories propounded to him in this cause, which said Exhibit "G" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On December 30th, 1916, L.T.Rhodes sent M.Fugazzi & Company a telegram, copy of which telegram is attached as Exhibit "H" to the answers of John F.Fugazzi, to interrogatories propounded to him in this cause, which said Exhibit "H" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On January 1st, 1917, M.Fugazzi & Company sent a telegram to L.T.Rhodes, copy of which telegram is attached as Exhibit "I" to the answers of John F.Fugazzi to interrogatories propounded to him in this cause, which said Exhibit "I" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On January 2nd, 1917, M.Fugazzi & Company wrote a letter to L.T.Rhodes, copy of which letter is attached as Exhibit "J" to the answers of John F.Fugazzi, to interrogatories propounded to him in this cause, which said Exhibit "J" to said answers of

John F.Fugazzi is here referred to and made an exhibit to this answer. On January 3rd, 1917, L.T.Rhodes sent a telegram to M. Fugazzi & Company, copy of which is attached as Exhibit "K" to the answers of John F.Fugazzi to interrogatories propounded to him in this cause, which said Exhibit "K" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On the same day M.Fugazzi & Company sent a telegram to L.T.Rhodes, copy of which telegram is attached as Exhibit "L" to the answers of John F.Fugazzi to interrogatories propounded to him in this cause, which said Exhibit "L" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On January 3rd, 1917, M.Fugazzi & Company wrote L.T.Rhodes a letter, copy of which is attached as Exhibit "M" to the answers of John F.Fugazzi to interrogatories propounded to him in this cause, which said Exhibit "M" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. On January 4th, 1917, L.T.Rhodes wrote M.Fugazzi & Company a letter, copy of which letter is attached as Exhibit "N" to the answers of John F.Fugazzi, to interrogatories propounded to him in this cause, which said Exhibit "N" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. M.Fugazzi & Company caused to be shipped to the said L.T.Rhodes, two carloads of seed potatoes, among which two carloads of seed potatoes were twelve barrels for the defendant, W.M.Rupel, and thereupon the said Rupel executed a crop lien note and mortgage for $82.50, and an agreement with reference to the sale of the crop of Irish potatoes to the said ~~xxxxxxxxx~~ W.M.Rupel, copy of which note, mortgage and agreement is attached as Exhibit "O" to the answers of John F. Fugazzi, to interrogatories propounded to him in this cause, which said Exhibit "O" to said answers of John F.Fugazzi is here referred to and made an exhibit to this answer. The seed potatoes were furnished by M.Fugazzi & Company in acceptance of the first proposition made by L.T.Rhodes, in his letter of November 29th, 1916, which proposition was as follows:

"1st. You furnish one or two cars of seed and charge 6% interest on purchase price, in return we agree to sell all the potatoes from 1½ inches up in diameter for the price of $1.25 per bushel of 60 pounds, you to furnish containers, either hampers or bags".

It was this proposition from Rhodes, as agent for the defendants and other growers, which was accepted by M.Fugazzi & Company, and on which the furnishedpotatoes to the defendants and other growers, which is referred to in the crop lien note, mortgage and agreement, copy of which is annexed as Exhibit "O" to the answers of John F. Fugazzi. This crop lien note, mortgage and agreement was turned over by Rhodes to plaintiffs.

ANSWERING THE THIRD INTERROGATORY THE PLAINTIFF SAYS:

The plaintiff was not present and cannot testify of his own knowledge as to the oral conversations between L.T.Rhodes and W.M.Rupel. Mr.Rhodes advised plaintiffs that according to the oral conversation between W.M.Rupel and Rhodes, that the defendant asked Rhodes upon what terms the seed potatoes could be obtained, and Rhodes advised the defendants that the seed potatoes had been furnished by M.Fugazzi & Company; that the price for the seed potatoes was $5.25 per barrel f.o.b.loading station. That the defendant and other growers would have to sign a note to be a sum equal to the numbe of barrels of seed potatoes delivered to plaintiff, multiplied by $5.25, plus the freight charges, the notes to pay interest at 6%; that M.Fugazzi & Company had agreed to buy all of the potatoes raised from such seed, ranging from 1¼ inches and up, at a price of $1.25 per bushel of 60 pounds; that M.Fugazzi & Company were to furnish the containers for the potatoes so to be shipped; that the defendants and other growers were to agree that they would ship all the potatoes grown from the seed furnished by M.Fugazzi & Company, through L.T.Rhodes, to M.Fugazzi & Company, and the growers were further to pay Rhodes a commission of 5% of the sale price of such potatoes, and that when each car was loaded, the defendants and other growers would take the bill of lading covering such cars of potatoes to the bank, make draft with the bill of lading attached, on M.Fugazzi & Company, and get money on the draft; that out of the proceeds of such draft, they were to pay Rhodes the commission of 5%; that the amount due to plaintiffs for the seed was to be paid to the bank at Bay Minette, as soon as the potatoes were brought in,

and placed in a special account, to be held by the Bank until all of the potatoes were loaded, and then turned over to Fugazzi & Company; that the object of holding the money due M.Fugazzi & Company for the payment of the seed was to insure to the farmers that M. Fugazzi & Company would carry out their contract and take the potatoes and pay for them on the basis above mentioned. This was fully explained by Rhodes to each of the growers, including defendants, and defendants agreed to abide by the terms of this contract.

ANSWERING THE FOURTH INTERROGATORY THE PLAINTIFF SAYS:

The letters received by plaintiffs with reference to the contract were signed by L.T.Rhodes, and the letters from plaintiffs with reference to said contracts were addressed to L.T.Rhodes. THe conversations with the plaintiff, John F.Fugazzi, with reference to the contract, were had with L.T.Rhodes, Rhodes representing at the time that he was agent for the defendants. Rhodes obtained the potatoes as agent for the growers, and delivered them to defendant, and defendant delivered to Rhodes the written instrument, copy of which, marked Exhibit "O" is attached to the answers of John F. Fugazzi to the interrogatories propounded to him in this cause, and Rhodes turned same over to plaintiffs. The potatoes furnished to defendants, through L.T.Rhodes, were shipped to L.T.Rhodes in carload lots, to secure the lowest freight rate, and Rhodes, who was acting as the growers' agent, distributed the potatoes among the various growers, including defendant. At the time the potatoes were shipped plaintiffs did not know the names of but one of the growers. As stated before, the plaintiffs did ship all of the potatoes obtained by the defendant, and those obtained by all the other growers, to L.T.Rhodes, as agent for the growers, including defendants. Had the potatoes for each grower been shipped to the grower direct, in less than carload lots, the freight rate would have been much higher. On this account, all of the potatoes were shipped in two carload lots to Rhodes, as agent for all of the growers. The price of the potatoes was charged on the books of M.Fugazzi & Company to L.T. Rhodes, as agent for the various growers. The seed potatoes were not furnished on the basis of so many bushels, they were furnished on the basis of so many barrels. The number of barrels furnished

the defendant was twelve barrels, at $5.25 per barrel, which would amount to $63.00. The freight on same and handling charge was $19.50, making a total of $82.50, which was the amount mentioned in the written instrument copy of which is hereto annexed, marked Exhibit "O". The charge, as stated before, was made against L.T.Rhodes, as agent for the defendants. and other growers.

Chas. S. Fugazzi

STATE OF OHIO
COUNTY OF Hamilton

Personally appeared before me, Milton Hurley a Notary Public in and for said County in said State, Charles S.Fugazzi, who being by me first duly sworn, on oath deposes and says that he is one of the plaintiffs in the above entitled cause, and that the foregoing answers to the interrogatories propounded by defendant are true of his own knowledge, except as to those matters therein stated to be on information and belief, and as to those he is informed and believes them to be true.

Chas. S. Fugazzi

Subscribed and sworn to before me
this the 12th day of October, 1917.

Milton Hurley
Notary Public, Hamilton County, Ohio.

EXHIBIT "O"
COPY

$82.50

Bay Minette, Ala., Jan.17,1917.

On June 1st, 1917, I or we, promise to pay to L. T. Rhodes, agent or order, Eighty-two and 50/100 Dollars with 6% interest for value received, negotiable and payable at Baldwin County Bank, at Bay Minette, Alabama.

And to secure the payment of this note, or any renewal thereof, and all other sums I or we, may owe the payee before this note is paid. I, or we, hereby mortgage and convey unto said payee and its assigns the following property located in Baldwin County, Alabama. Which I, or we warrant is free from any lien or incumbrance, and is the property of Mortgagor, to-wit:

I agree to allow said L. T. Rhodes to sell my entire crop of Irish potatoes as per his agreement with M. Fugazzi & Co. I also agree to pay said L. T. Rhodes 5% commission. The containers are to be furnished by M. Fugazzi & Co. and also my or our, entire crops of cotton, corn, potatoes, and all farm products, and all rents accuring to me, or us, for the year 1917, and each succeeding year hereafter in the county, where I or we, now reside, or in which I, or we, may hereafter reside, until I, or we further agree that without said advance it would not be possible for myself, or ourselves, to make a crop. I, or we, empower said payee or his agents or assigns at any time to take possession of any of the within described property and crops and sell the same at public or private sale at any place fixed by payee or assigns in Baldwin County, when he shall deem himself insecure, by posting a notice of the place and time of sale on the Court House door of Baldwin County, Ala., for three days before said sale.

The parties to this instrument whether maker, endorser, surety or guarantor severally waive demand, presentment, protest, notice of protest and all other requirements necessary to hold them, and agree that time of payment may be extended without notice to them of such extension and hereby waive all right of exemptions as to personal property under the laws of the United States and the State of Alabama, for the collection of this debt and agree to pay all costs of collecting, or attempting to collect or securing this note including all expenses of sale and a reasonable attorney's fee, if this note and mortgage is not paid when due.

Executed in the presence of
E. Edmundson

W. M. Ruple (L.S.)

M.Fugazzi & Company, a firm composed of Charles S.Fugazzi and John F.Fugazzi, Plaintiff,	:	In the Circuit Court of Baldwin County, Alabama.
Vs.	:	AT LAW.
W.M.Rupel, Defendant.	:	

ANSWER of defendant, W.M.Rupel, to interrogatories propounded by Plaintiff, in the above entitled cause, under Section 4049 of the Code of Alabama of 1907.

ANSWERING THE FIRST INTERROGATORY THE DEFENDANT SAYS:

I am the defendant in the above styled cause. During the year 1917 I was engaged in the business of farming. I did not thro one, L.T.Rhodes, purchase any irish potatoes from the plaintiff in this cause.

ANSWERING THE SECOND INTERROGATORY THE DEFENDANT SAYS:

I did not procure L.T.Rhodes to purchase potatoes from M.Fugazzi & Company. There was no contract entered into between me and M.Fugazzi & Company with reference to the sale of potatoes raised.
I never purchased from the said M.Fugazzi & Company any seed potatoes. ~~I never purchased any seed potatoes from the Plaintiff and~~
I have never delivered the Plaintiff any potatoes.
I did execute the instrument which is attached to the interrogatories I am answering and marked EXHIBIT "A", the same was witnessed by E.Edmundson, however I am not certain that the instrument is a true copy of the original signed by me as I have not seen the original.

W M Rupel

The State of Alabama, :
County of Baldwin. :

Personally appeared before me, Cornelia Hall, a Notary Public for said County in said State, W.M.Rupel, who being by me first duly sworn, on oath deposes and says, that he is the defendant in the above entitled cause, and that the foregoing answers to the interrogatories propounded by Plaintiff are true of his own knowledge.

W. M. Rupel

Sworn to and subscribed
before me this 11th, day of
November, 1918.

Cornelia Hall
Notary Public, Baldwin County, Ala.

M. Fugazzi & Company,

vs.

W.H.Rupel.

In Circuit Court of
Baldwin County, Ala.

.....

Filed 11/12-1918
T. W. Reisman
Clerk.

12 Original

No.

The State of Alabama,
Baldwin County.

CIRCUIT COURT.

M Fingazzi et al

vs. Plaintiffs.

W M Ruple

Defendants.

SUMMONS AND COMPLAINT.

Filed 5/28 1917

T W Rickman Clerk.

Defendant lives at

Plaintiff's Attorney.

Defendant's Attorney.

THE BALDWIN TIMES PRINT

Received in office

May 28th 1917

C R Culbanks Sheriff

I have executed this Writ

this May 30 1917

by leaving a copy of the within summons and complaint with

W M Ruple

C R Culbanks Sheriff

O B Richerson Deputy Sheriff

SUMMONS AND COMPLAINT

The State of Alabama, Baldwin County. } No. .....

CIRCUIT COURT. Fall Term, 1917

To any Sheriff of the State of Alabama:

You are hereby commanded to summon W M Rupel

to appear at the next term of the Circuit Court to be held for said County at the place of holding the same, then and there to answer the complaint of

M Fugazzi & Company a firm composed of Charles S Fugazzi and John F. Fugazzi

Witness my hand, this 28th. day of May 1917.

T W Richerson Clerk

M Fugazzi & Company a firm ~~xxCOMPLAINTxxxxxxxxxxxxxx~~ Composed of Charles S Fugazzi and John F Fugazzi — Plaintiffs

vs.

W M Rupel. — Defendants

The plaintiff s claim of the Defendant

Five hundred ($500.00) ---------- Dollars, ~~xxxx~~

damages for the breach of a certain contract made and entered into between plaintiffs and defendant on to-wit the ____ Jan. 1917, whereby the defendants agreed to sell and deliver to plaintiffs and plaintiffs agreed to purchase from defendant the entire crop of irish potatoes raised by defendant during the year 1917 from seed potatoes furnished by plaintiff at and for the price of One Dollar & 25/100 Dollars per bushel F.O.B. cars shipping point, said potatoes to be delivered to plaintiff within a reasonable time after said crop was gathered and plaintiffs aver that although plaintiffs are now and ever since the making of said contract continuously have been ready able and willing to and have offered to comply with all the terms and provisions on their part in said agrement contained the defendant has breached said contract in this , he has failed and refused to deliver to plaintiffs the potatoes covered by said contract to-wit ~~xxx~~ 360 bushels of potatoes; and by reason of which breach of contract plaintiffs have suffered damages in the sum of Five Hundred Dollars to recover which they bring this suit.

Frank S. Stone
Geo H. Armbrecht
Plaintiffs Attorneys

John F. Fugazzi and Charles S. Furgazzi, as partners doing business under the firm name and style of M. Fugazzi & Company,	*	IN CIRCUIT COURT OF
-VS-	*	BALDWIN COUNTY.
W. M. Rupel, Defendant.	*	

Now comes the defendant in above entitled cause, and demurs to the complaint upon the following grounds:

FIRST: Because said complaint fails to allege that the crops of potatoes had ever been gathered.

SECOND: Because said complaint alleges that the crops of potatoes were to be delivered to plaintiffs within a reasonable time after said crop was gathered, and fails to allege that said crop of potatoes had ever been gathered, or that defendant failed to deliver same to plaintiffs within a reasonable time after same was gathered.

THIRD: Because there is no allegation of fact showing that defendant breached the terms of the alleged contract, in that it is neither alleged or shown that the defendant failed or refused to deliver said crop of potatoes within a reasonable time after same was gathered.

FOURTH: Because said complaint fails to allege that the alleged 1000bushels of potatoes were raised by defendant during the year 1917, from seed potatoes furnished to defendant by plaintiffs.

Gordon & Edington
ATTORNEYS FOR DEFENDANT.

Defendant asks for a jury trial in above said cause.

Gordon & Edington
ATTORNEYS FOR DEFENDANT.

2nd

Engagement
vs
Wm Ruple

Filed 6/24/917
T W Richmond
Clerk.