

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

MICHAEL A. NEEL and DOROTHY
S. NEEL,

Plaintiffs,

v.

GEORGE R. BURTON and MARY
NELL BURTON,

Defendants.

FILED IN OFFICE

MAR 17 1982

POPEY CONRADI
CLERK OF CIRCUIT COURT
JEFFERSON COUNTY, AL

CAUTION NO. 81-1535

MOTION TO ENFORCE SETTLEMENT AGREEMENT

COME NOW Plaintiffs in the above-styled case and move this Honorable Court for an Order enforcing the settlement agreement reached between the parties. As grounds in support of this Motion, Plaintiffs allege as follows:

1. On or about April 14, 1981 Plaintiffs instituted suit against Defendants for the sum of \$15,000.00 arising out the sale by Defendants of a defective home to Plaintiffs.

2. Shortly after suit was instituted, counsel for Defendants, Hewitt L. Conwill, commenced settlement negotiations with Plaintiffs' counsel to resolve all claims in the case and to secure a general release of Defendants.

3. On or about January 5, 1982 Defendants' counsel reached a settlement agreement with Plaintiffs' counsel for the sum of \$3,500.00. In connection therewith, Defendants' counsel represented to Plaintiffs' counsel that said sum of \$3,500.00 would be forthcoming within several days.

LEITMAN, SIEGAL & PAYNE, P. A.

ATTORNEYS AT LAW

425 FIRST ALABAMA BANK BUILDING

417 NORTH 20TH STREET

BIRMINGHAM, ALABAMA 35203

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BOOK

4. In direct reliance upon the settlement agreement reached with Defendants, Plaintiffs have taken no further action in this case, including discovery. In further reliance thereon, Plaintiffs have not required Defendants' to answer the case or otherwise respond to their Complaint and have not sought a default judgment by virtue of Defendants' failure to respond in a timely fashion to the institution of the instant action.

5. Despite repeated requests by Plaintiffs' counsel and representations and assurances by Defendants' counsel that the \$3,500.00 in settlement of the case would be forthcoming, Defendants have failed and refused for over three months to pay the agreed-upon sum of \$3,500.00 required to settle this action.

6. Plaintiffs aver that this Court should exercise its authority to enforce the settlement agreement reached with Defendants by requiring Defendants to pay promptly the sum of \$3,500.00 as agreed to on January 5, 1982.

7. In the alternative, Plaintiffs are entitled to have this Court enter a judgment against Defendants for the sum of \$3,500.00 by virtue of the fact that the case has been settled on the aforementioned basis or, in the alternative, a default judgment for the full amount claimed due to Defendants' failure to answer the Complaint.

WHEREFORE, premises considered, Plaintiffs pray that this Honorable Court shall enter an Order granting a judgment in the sum of \$3,500.00 in favor of Plaintiffs against Defendants.

ANDREW P. CAMPBELL
Counsel for Plaintiff

Of counsel:

LEITMAN, SIEGAL & PAYNE, P. A.
425 First Alabama Bank Building
Birmingham, Alabama 35203
251-5900

PLEASE TAKE NOTICE that the foregoing has been set for
hearing before the Honorable Thomas E. Huey for Wednesday,
March 24, 1982 at 10:00 a.m.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing
MOTION TO ENFORCE SETTLEMENT AGREEMENT upon Defendants' counsel,
Hewitt L. Conwill, Esquire, by depositing a copy in the
United States mail, first-class postage prepaid, addressed as
follows:

Hewitt L. Conwill, Esquire
Harrison, Conwill, Harrison & Justice
Post Office Box 557
Columbiana, AL 35051

This 17 day of March, 1982.

Motion continued to

Judge

Date

OF COUNSEL

REAL 2192 PAGE 41

March 31, 1982. On this day judgment by consent has been entered in favor of plaintiff and against the defendants in the amount of Three Thousand Five Hundred Dollars (\$3,500.00) and costs. See order on trial sheet.

Thomas A. Snowden, Jr.
Presiding Judge

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STATE OF ALA. JEFFERSON CO.
I CERTIFY THIS INSTRUMENT WAS FILED
REAL 2192 PAGE 38
MAY 11 1 53 PM '82
RECORDED & MTC. TAX
& \$ 0.00 HAS BEEN
PD. ON THIS INSTRUMENT.
700 *Thomas A. Snowden, Jr.*

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1982 MAY 18 AM 9:14

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

Rec. 6.00.
Ind. 1.00
7.00