

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

ALABAMA MOTOR EXPRESS, INC. )

PLAINTIFF, )

VS. )

BILLY THOMAS LUDLAM, )

SUSAN LUDLAM, )

MATTHEW JEROME LUDLAM, )

DEFENDANTS. )

CASE NO. CV 08-143-J

FILED  
2008  
H. Ludlam  
Woodall, Clerk  
Houston County, AL

COMPLAINT

**GENERAL ALLEGATIONS**

1. Plaintiff, Alabama Motor Express, Inc. ("AMX"), is an Alabama Corporation with its principal place of business in Ashford, Houston County, Alabama.

2. Defendant, Billy Thomas Ludlam, was an employee of Plaintiff from May 5, 1997 until December 21, 2007.

3. Defendant, Billy Thomas Ludlam, was the Director of Maintenance for Plaintiff and his job duties included the verification o the accuracy of certain invoices related to maintenance of Plaintiff's vehicles and the payment of such invoices.

4. Defendant, Susan Ludlam, is the wife of Defendant, Billy Thomas Ludlam.

5. Defendant, Matthew Jerome Ludlam, was an employee of AMX from July 22, 2003 until January 26, 2008.

6. Defendant, Matthew Jerome Ludlam, was the manager of the parts department of AMX, and his job duties included the verification of the accuracy of certain invoices related to the purchase by AMX of mechanical parts.

7. The actions relevant to this cause were done and occurred in Houston County, Alabama.

8. During the time of the employment of Billy Thomas Ludlam and Matthew Jerome Ludlam with AMX, each Defendant named herein illegally and improperly obtained payment of money from AMX by deceptive means.

9. Said deceptive means included the creation of invoices for a nonexistent entity called National Tire, Inc. for services rendered to and materials purchased by AMX when in fact AMX received no such services or materials.

10. Rather, said payments went to Defendants, Billy Thomas Ludlam, Susan Ludlam and Matthew Jerome Ludlam in the form of AMX checks which were deposited into a bank account in the name of National Tire, Inc. and subsequently withdrawn by and/or paid to Defendants.

11. Said deceptive acts were concealed from AMX by Defendants until they were discovered in January of 2008.

12. As a result of said deceptive acts AMX has paid to Defendants and Defendants have illegally and improperly obtained the approximated sum of \$2,131,833.64.

### COUNT I ACCOUNTING

13. Plaintiff realleges and adopts paragraphs 1 through 12 of this Complaint as if fully set forth herein.

14. At all times pertinent hereto, Defendants Billy Thomas Ludlam and Matthew Jerome Ludlam were in a relationship of trust with AMX in that they were assigned the task of reviewing and approving invoices submitted to Plaintiff for payment in connection with maintenance of AMX vehicles.

15. During such employment, a large amount of funds and hundreds of documents,

invoices and checks have been generated all resulting in such funds being illegally and improperly obtained by Defendants.

16. The transactions evidenced by said invoices and said checks were done in a manner so as to conceal the true nature of the transactions from AMX in that such transactions were made to look like typical routine maintenance transactions.

17. Further, once the Defendants obtained funds they used them to purchase real and personal property.

18. Because of such concealment, and because such transactions are of such a complicated and confusing nature, and because of the large amount of transactions and the large amount of funds involved, because of the difficulty in tracing the ultimate disposition of said funds, and because of the existence of a trust relationship with Defendants Billy Thomas Ludlam and Matthew Jerome Ludlam, Plaintiff is due an accounting from Defendants.

19. AMX does not have an adequate remedy at law and hence requires the remedy of an accounting in order to determine the extent of the deceptive practices of said Defendants as well as the ultimate disposition of the improperly obtained funds.

WHEREFORE, premises considered, Plaintiff, AMX respectfully requests this Court order the Defendants to provide an accounting of the amount of funds improperly obtained and the location and disposition of all real and personal property, including cash, which was obtained to any degree with funds illegally and improperly obtained from AMX.

## COUNT II CONSTRUCTIVE TRUST

20. Plaintiff realleges and adopts paragraphs 1 through 19 of this Complaint as if fully set forth herein.

21. Defendants have used the funds improperly obtained from Plaintiff to purchase real

and personal property.

22. Because of the source of said funds it would constitute unjust enrichment and it would be inequitable to allow Defendants to retain such property.

23. A constructive trust should therefore be imposed on all real and personal property that was obtained to any degree with funds illegally and improperly received from Plaintiff.

WHEREFORE, premises considered Plaintiff, AMX, respectfully requests this Court impose a constructive trust on all real and personal property that was obtained by any degree with funds illegally and improperly obtained from AMX.

### **COUNT III FRAUDULENT MISREPRESENTATION**

24. Plaintiff realleges and adopts paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. Defendants misrepresented to Plaintiff material facts, namely, that National Tire, Inc. was a legitimate entity that had in fact rendered services to and supplied materials to Plaintiff for vehicle maintenance and repairs.

26. Said representations were false.

27. Said misrepresentations were made willfully to deceive Plaintiff.

28. Said misrepresentations were acted upon by Plaintiff.

29. Such actions constitute legal fraud.

WHEREFORE, premises considered, Plaintiff, AMX, demands judgment against the Defendants for compensatory damages and punitive damages in an amount in excess of the minimal jurisdictional limits of this Court to be determined by the trier of fact, plus interest and court costs, together with any and all additional amounts which the Plaintiff may be entitled to recover from Defendants as a result of its aforesaid conduct.

**COUNT IV  
THEFT**

30. Plaintiff realleges and adopts paragraphs 1 through 29 of this Complaint as if fully set forth herein.

31. On each occasion wherein Defendants received funds paid on invoices of National Tire, Inc. Defendants knowingly obtained or exerted unauthorized control over Plaintiff's property.

32. Said control was obtained by way of deception.

33. Said control was done with the intent to deprive Plaintiff of its property.

WHEREFORE, premises considered, Plaintiff, AMX, demands judgment against the Defendants for compensatory damages and punitive damages in an amount in excess of the minimal jurisdictional limits of this Court to be determined by the trier of fact, plus interest and court costs, together with any and all additional amounts which the Plaintiff may be entitled to recover from Defendants as a result of its aforesaid conduct.

DATED this the 24 day of March, 2008.

LEWIS, BRACKIN, FLOWERS & JOHNSON



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ATTORNEYS FOR PLAINTIFF

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