

**IN THE COUNTY COURT OF THE                      JUDICIAL DISTRICT  
OF                      COUNTY, MISSISSIPPI**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO.**

**,                      DEFENDANT**

**COMPLAINT**

COMES NOW the Plaintiff,                      , a Mississippi corporation, and files this its Complaint against                      and in support thereof would state unto the court the following, to-wit:

I.

Plaintiff,                      , (hereafter referred to as                      ) is a                      Corporation organized and existing under and pursuant to the laws of the State of                      with its principal place of business located at                      ,                      , Mississippi                      .

II.

Defendant,                      . is a Mississippi corporation, located at                      ,                      , Mississippi                      , who may be served with process of this Court by serving its registered agent for service of process, being                      ,                      ,                      , Mississippi,                      .

III.

On                      ,                      Plaintiff entered into a Purchase Agreement/Software License Agreement with the Defendant for the purchase of one, new,                      ,                      in the amount of (\$                      ) plus freight in the amount of (\$                      ) plus sales tax in the amount of (\$                      ), for a total Contract price of (\$                      ). A copy of said Contract is attached as Exhibit "                      " hereto and made a part hereof by reference.

IV.

Pursuant to Plaintiff's Contract with Defendant, Plaintiff did pay unto the Defendant the total purchase price referenced above (\$                      ) and has otherwise performed all of the terms and conditions thereof and agreements stated therein to be performed on the part of Defendant and in the manner specified.

V.

Subsequent to the purchase and delivery of the                      ,                      , Plaintiff experienced

numerous problems with and malfunctions of said printer on a continuing basis with substantial sums being expended by Plaintiff to repair and maintain the \_\_\_\_\_ at all times subsequent to its purchase by Plaintiff. To date, Plaintiff has expended \_\_\_\_\_ (\$ \_\_\_\_\_) in parts and (\$ \_\_\_\_\_) in labor costs in an effort to repair and maintain said printer for normal use and benefit to Plaintiff, but to no avail. A copy of the amounts expended by Plaintiff for parts and labor used to repair and maintain the \_\_\_\_\_ are attached hereto as Exhibits " \_\_\_\_\_ " and " \_\_\_\_\_ " respectively and made a part hereof by reference.

Plaintiff has been forced to discontinue using the printer Defendant sold Plaintiff, purchase another printer and incur additional costs and expenses as a result of the Defendant's actions herein and breach of contract referenced above.

#### VI.

Plaintiff would state that upon experiencing continuous malfunctions and problems with the \_\_\_\_\_ sold to Plaintiff by Defendant, and expending considerable sums for parts and labor to repair and maintain said printer, Plaintiff learned that the \_\_\_\_\_ it purchased from Defendant was not new, but used, and that the printer was worn out and not capable of being used by Plaintiff for the purposes for which it was intended and not merchantable in the condition in which Defendant sold said printer to the Plaintiff.

#### VII.

Plaintiff would state that it has been damaged by Defendant's breach of the Contract attached hereto as Exhibit " \_\_\_\_\_ ", by Defendant's false statements and misrepresentations as to the quality, functional capacity and capability of said printer, by the failure of the \_\_\_\_\_, to perform the particular tasks and functions for which Plaintiff purchased said printer as well as the failure of the Defendant to sell to Plaintiff a printer of merchantable quality. Plaintiff has suffered actual damages, expenses and costs as a direct result of Defendant's actions in excess of (\$ \_\_\_\_\_).

#### COUNT I

9. Plaintiff hereby realleges and adopts by reference hereto, all of the allegations set forth and contained in paragraphs numbered 1-8 above as if same were fully set forth and contained herein.

10. Defendant has failed and refused and continues to fail and refuse to perform under and pursuant to the terms and conditions of the Contract attached as Exhibit "A" hereto and has breached said Contract, thereby causing damage to said Plaintiff in a sum of (\$ \_\_\_\_\_), no part of which has been paid and for this Court should enter a judgment of, from and against the Defendant, \_\_\_\_\_.

COUNT II

11. Plaintiff hereby realleges and adopts by reference hereto, all of the allegations set forth and contained in paragraphs numbered 1-10 above as if the same were fully set forth and contained herein.

12. Defendant willfully, knowingly, purposefully and fraudulently represented to Plaintiff that the \_\_\_\_\_ here in question was a new printer and of a quality and design necessary to serve the needs and desires of Plaintiff and of a quality which warranted the payment by Plaintiff to Defendant of \_\_\_\_\_ (\$) plus the freight and sales tax referenced above, for a total of \_\_\_\_\_ (\$ \_\_\_\_\_).

13. However, such representations, along with other representations made by Defendant to Plaintiff concerning said printer were then and are now false and the Defendant knew such representations were false at the time said representations were made. Plaintiff would show the Defendant made such representations to Plaintiff knowing same were false; intending that Plaintiff would rely thereon and that such representations were made by Defendant with the intent to induce Plaintiff to pay the Defendant the full purchase price set forth under the Contract for the subject printer, with full knowledge that the printer was not of the quality, condition or performance contracted for by the Plaintiff and that Plaintiff relied on such representations made by Defendant. As a result of defendant's fraudulent representations Plaintiff has been damaged in excess of \_\_\_\_\_ (\$) and for which Plaintiff demands judgment of, from and against the Defendant, \_\_\_\_\_.

COUNT III

14. Plaintiff hereby realleges and adopts by reference hereto, all of the allegations set forth and contained in paragraphs numbered 1-13 above as if the same were fully set forth and contained herein.

15. At the time the Defendant sold the subject printer to Plaintiff, Defendant was a merchant and seller of the printer, which Plaintiff purchased and knew that Plaintiff relied upon the Defendant's skill and judgment to select and furnish a suitable printer. Plaintiff would show that at the time Defendant sold to Plaintiff the printer here in question, Defendant knew it was a used printer and not fit for or capable of performing the function and purpose for which Plaintiff purchased said printer and the printer was in fact not suitable for or fit for its ordinary use and purpose or for the purpose for which Plaintiff purchased same.

Defendant is in violation of and has breached its implied warranty of merchantability to Plaintiff under S 75-2-314, Miss. Code of 1972 and its implied warranty of fitness for a particular purpose under 5 75-2-313, Miss. Code of 1972 and as a direct result of said breaches, Plaintiff has been caused to suffer direct and consequential damages, injury and loss in the amount of \_\_\_\_\_ (\$) for which it demands judgment of, from and against the Defendant, \_\_\_\_\_.

WHEREFORE, PREMISES CONSIDERED, Plaintiff files this its Complaint against the Defendant herein, \_\_\_\_\_ and demands judgment of, from and against the Defendant in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) plus all pre-judgment and post-judgment interests allowed by law, attorney's fees and all costs expended by Plaintiff in prosecuting this civil action.

Respectfully submitted,

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Attorney for