

Dimonstein Answer:

2. Demand was accompanied by proof of receipt, a record showing Dimonstein's payment of shipping costs by Dimonstein's check. Dimonstein has a record of his own checks. Receipt was confirmed when demand was made by the bookkeeper checking Dimonstein's own records.

I think this alone justifies discovery, against D and cert. pub. accountant.

4. The phrasing, as I suspected when you read this, is all our way. They limit to "purchased and received." They fail to claim credit for any returns, and this is the big issue outside the Bookazine 1000.

I explain this as Mike Michel originally explained it to me. Once they make a purchase, whether or not they pay for it, the merchandise purchased is their property. They owe me for it unless it is returned for credit. The practise is to request permission to return and any instructions covering the return. (For example, where and how to ship.) It is my recollection they did none of these things. Rehardless, the merchandise was their property when they undertook to return. They were negligent in failing to make a claim for the damages. They have proof of the damages. They asked me to make the claim and I tried, through a lawyer, who would give an affidavit. The person with whom I handled all of this originally at Dimonstein was one fatty named "ashman, some manager and Dimonstein's brother-in-law, who originally placed most of the orders by phone, also necessary in the business. I went as far as the local lawyer said was possible in seeking to protect Dimonstein in the matter of the shipping and the insurance the shipper carried on the shipment.

Demand for Bill of Particulars:

I'll give this to Lil. She has begun. You have the original ledger page. We have sent them a new bill as you directed and have sent you a copy.

You may want an affidavit from me on such items as 3,4,5, 6 and 8. There would have to be a substitute for their formulations, as in 8, where their fraud consisted in part in not acknowledging receipt, but the Bookazine record is a kind of receipt and there was the verbal acknowledgement to me after checking of their books. They'll have to fake their records to hide this.

All in all they may have helped us in this. They have opened up new areas we can go into, which may overcome some of the need for an amended complaint, and the total is now enough to refile in federal district court in Baltimore if the Maryland law helps us.

I can probably get a supporting affidavit from a local friend who has retired from a regular bookstore and now deals in rares and collections, including stamps. He knows the practises of the business. I don't think the local wholesaler would help or that any Dimonstein competitor would. If I can find the people who were with "erkle I'm sure they'd remember enough and would, at least in one case, be willing to help.

Hastily,