

Filed in Ninth Judicial
Faulkner County District Court
Date: 7-19-21
By: PR D.C.

IN THE DISTRICT COURT OF FAULKNER COUNTY, ARKANSAS
CONWAY SMALL CLAIMS DIVISION

LAURA HAMMETT

PLAINTIFF

V.

Case No. CWSC-21-45

GOODMAN MANUFACTURING COMPANY, L.P.

DEFENDANT

REPLY IN SUPPORT OF MOTION TO DISMISS AND BRIEF IN SUPPORT

Defendant Goodman Manufacturing Company, L.P. ("Goodman"), for its Reply in Support of its Motion to Dismiss and Brief in Support, states:

1. Plaintiff Hammett takes issue with numerous statements in Goodman's Motion to Dismiss. None of the statements Plaintiff takes issue with are material in any way to this matter. Accordingly, Goodman will not address or respond to the arguments and allegations that are irrelevant, unless Goodman believes the record needs to be made clear on an issue.

2. First, in paragraph 2 of her opposition motion, for instance, Plaintiff Hammett makes an argument that would be otherwise immaterial except it is a fabrication and sets the tone for the remainder of Plaintiff Hammett's opposition brief. Despite there being no requirement that a party meet and confer with an opposing party prior to filing a motion, Plaintiff Hammett asserts to this Court that neither Goodman nor its counsel ever reached out to her about the issues raised in the Motion to Dismiss prior to filing the motion to dismiss.

3. Yet, on June 16, 2021, Goodman sent Plaintiff Hammett a letter specifically requesting she dismiss this matter since she had filed the second action in the Circuit Court of Pulaski County and because it appeared that everyone involved agreed this Court lacked the

requisite subject-matter jurisdiction to hear the case. *See* Exhibit 1 (letter). Plaintiff Hammett even sent an e-mail in response to the letter and told undersigned counsel that the Clerk for Pulaski County agreed that this matter should be dismissed. Exhibit 2 (email). Then, rather than dismiss this matter, Plaintiff Hammett ignored the request made by Goodman and the confirmation of what she should do that she received from the clerk and, instead, filed a Notice of Consolidation in the Circuit Court. These erratic responses are what prompted the motion to dismiss to be filed by Goodman. It is curious why Plaintiff Hammett would attempt to deceive the Court over something that does not even matter other than trying to curry favor and set a tone, which this Court should reject.

4. Second, Plaintiff Hammett confuses the issues between consolidation and subject-matter jurisdiction. Goodman's argument is not that, because of the consolidation, the District Court lacked subject-matter jurisdiction. Goodman's argument is that, when Plaintiff Hammett filed her motion to consolidate on May 19 prior to the hearing and informed the District Court that she would be seeking damages in excess of \$25,000.00, the District Court lost jurisdiction and had no authority to do anything further, except to dismiss the complaint for lack of subject-matter jurisdiction pursuant to District Court Rule 7(b). Moreover, there is no procedure of which counsel for Goodman is aware (and Plaintiff Hammett cites no case law or rule in support) that would allow the consolidation and transfer of case from an inferior court in one county to the Circuit Court of another county.

5. Third, it is interesting to note that, in paragraphs 14 and 25 of her opposition brief, Plaintiff Hammett admits she failed to properly serve Goodman with the Complaint and Summons in this matter. Indeed, in paragraph 14, she states, "Plaintiff did not serve the complaint on Goodman[]" and, in paragraph 25 states, "Goodman had not been served summons...yet[.]"

Goodman agrees. *See* Exhibit 3 (service papers). Goodman never received a signed copy of the Complaint filed by Plaintiff Hammett and was never served with anything in this matter in compliance with the District Court Rules or Rule 4 of the Arkansas Rules of Civil Procedure.

6. Rule 3 of the District Court Rules allows a plaintiff 120-days to serve the Complaint and Summons on the defendant. District Court Rule 10(a)(3)(A) states that the defendant “shall be served by certified mail.” Given that Ms. Hammett filed this action on March 18, 2021, the time to properly serve Goodman with the Complaint and Summons in this matter expires as of Friday, July 16, 2021 – or today. The service papers attached hereto as Exhibit 3 (and which includes the purported service of an unsigned complaint) also specifically state that the service package was received by regular mail not certified mail as required by the rules. Consequently, with Plaintiff Hammett’s admission that she failed to properly serve Goodman and her failure to get an extension of time to do so, this matter should be dismissed pursuant to the District Court Rules because service has never been effectuated on Goodman. In addition to the lack of subject-matter jurisdiction, this is an independent basis to dismiss the lawsuit filed by Plaintiff Hammett and close this matter in this jurisdiction.

7. Fourth, Plaintiff Hammett misapplies and misstates the rules and facts concerning the answer filed by Goodman. The answer filed by Goodman was signed by Caroline Jacobs – who is an officer of Goodman. Pursuant to Administrative Order No. 18(4)(c)(2), “[a] corporation shall be represented in [small claim] proceedings by an officer of the corporation.” Because Ms. Jacobs is an officer of Goodman, she is allowed by an Order of the Arkansas Supreme Court to sign and file the answer on the behalf of Goodman. There is no merit to Plaintiff Hammett’s repeated arguments to the contrary.

8. Finally, Goodman admits it made a typographical error on the date the Court entered the Order, granting Plaintiff Hammett's motion to consolidate. Plaintiff Hammett's motion was filed on May 19, 2021, prior to the scheduled hearing at 1:30PM, and the Court entered the Order on May 28, 2021.

9. Goodman requests that the Court dismiss this action because the claims made by Plaintiff Hammett exceed the subject-matter jurisdiction of the Court. Alternatively, Goodman requests that the Court dismiss this action because Plaintiff Hammett admits she never served Goodman properly and her time to otherwise serve Goodman has expired. Goodman's motion to dismiss should be granted.

WHEREFORE, Defendant Goodman Manufacturing Company, L.P., respectfully requests that the District Court grant its Motion to Dismiss, dismissing Plaintiff Laura Hammett's Complaint, vacating the Order to Consolidate, awarding to Goodman its costs and attorneys' fees, and awarding to Goodman all other relief to which it is entitled.

QUATTLEBAUM, GROOMS & TULL PLLC
111 Center Street, Suite 1900
Little Rock, Arkansas 72201
Telephone: (501) 379-1700
Facsimile: (501) 379-1701
Email: jprice@qgtlaw.com



By: _____
Joseph W. Price, II, Ark. Bar No. 2007168

*Attorneys for Separate Defendant Goodman
Manufacturing Company, L.P.*

CERTIFICATE OF SERVICE

I hereby certify that, on July 16, 2021, I filed the foregoing with the Clerk of the District Court and have also served a copy of this filing on Plaintiff, *pro se*, via electronic mail and United States Mail, postage prepaid, at the following address:

Laura Hammett
16 Gold Lake Club Road
Conway, Arkansas 72032
Bohemian_books@yahoo.com



Joseph W. Price, II

Quattlebaum, Grooms & Tull

A PROFESSIONAL LIMITED LIABILITY COMPANY

111 Center Street

Suite 1900

Little Rock, Arkansas 72201

(501) 379-1700

Joseph W. (Joey) Price, II
jprice@qgtlaw.com

Direct Dial
501-379-1772
Fax
501-379-1701

June 16, 2021

**Via Electronic Mail and
United States Mail**

Mr. James M. Hammett
Mrs. Laura M. Hammett
16 Gold Lake Club Road
Conway, Arkansas 72032
Bohemian_books@yahoo.com

Re: *Hammett v. Goodman Manufacturing Company, L.P.*
District Court of Faulkner County, Arkansas, Conway Small Claims Division,
Case No. CWSC-21-45

Hammett et al. v. Goodman Manufacturing Company, L.P. et al.
Circuit Court of Pulaski County, Arkansas, Case No. 60CV-21-3078

Dear Mr. and Mrs. Hammett:

My name is Joey Price, and my firm and I have been retained to represent Goodman Manufacturing Company, L.P., in the above-referenced manner. Please copy me on, and please remove Caroline Jacobs from, all correspondence regarding this matter from this point forward. If you need to discuss something regarding this matter with or about my client, I will be your point of contact. My contact information is in the letterhead above or you may find my contact information at www.qgtlaw.com.

In reviewing the Complaint and various communications and documents to date, I anticipate that discovery will begin promptly, and my client and I have reason to believe that you possess and control hard-copy materials, as well as electronic information, that may be relevant to the claims and defenses in the above-referenced matter. In addition to the hard copy of materials that you should preserve, please also preserve all sources of electronic information that may be relevant to the claims and defenses in the above-referenced matter, including, but not limited to: electronic documents, e-mail and electronic correspondence, images and graphics, deleted files, spreadsheets, databases, system usage logs, as well as Internet history and cache files. Further, please preserve any parts that you have removed or that you have caused someone to remove from the HVAC unit at issue, and the HVAC unit itself.



QUATTLEBAUM, GROOMS & TULL PLLC

Mr. and Mrs. Hammett

June 16, 2021

Page 2

The potentially relevant materials that you possess and control include, but certainly are not limited to, the following:

- All unprivileged, written communications that you have had with any individuals or entities regarding this matter;
- All records related to the purchase of the HVAC unit at issue in this matter;
- All records related to the installation of the HVAC unit at issue in this matter;
- All records supporting your claim for damages in this matter;
- All records related to the purported repairs to the HVAC unit at issue in this matter;
- All videos or photographs related to the HVAC unit at issue in this matter;
- All parts that you claim are defective that have been removed from the HVAC unit at issue in this matter; and,
- All records to which you refer and on which you rely to make the allegations in the Complaint, whether those records have already been attached to the Complaint as an exhibit or not.

Because evidence can be both fragile and vulnerable to inadvertent destruction, I believe you have an obligation to take reasonable steps to ensure that this information and data is preserved until this matter has been resolved. Data preservation includes, but is not limited to, ceasing all data destruction activities, automatic e-mail deletion functions, backup tape recycling, hard drive reformatting or defragmenting, and cache-clearing processes.

Laws and regulations prohibiting the destruction of evidence may apply to hard copy material, to electronic evidence, and to any information created or stored in any other form, that is relevant to a case. Failure to take all reasonable steps toward preserving potentially relevant information and data may cause irreparable harm in this case and could result in adverse consequences against you.

I would appreciate your confirming that you intend to take all reasonable steps to ensure the preservation of potentially relevant information that you possess and control. If you are unwilling to take such steps, I would appreciate your advising me promptly, in writing.

Finally, Goodman requests that you dismiss the complaint that you have filed in the Small Claims Division in the District Court of Faulkner County, Arkansas. I understand that Goodman did not oppose your Motion to Consolidate the Faulkner County District Court small claims matter with the new matter filed in Pulaski County Circuit Court; however, I am unaware of any procedure

QUATTLEBAUM, GROOMS & TULL PLLC

Mr. and Mrs. Hammett

June 16, 2021

Page 3

that would allow such a consolidation of two matters filed in two different counties and jurisdictions. Moreover, I believe it was recognized by the District Court and the parties that the small claims division was the improper venue for this litigation because the District Court lacked subject-matter jurisdiction of the claims and the parties. Accordingly, with the new matter now open in Pulaski County Circuit Court, it seems unnecessary for the small claims complaint to remain pending and open in another county, and Goodman requests that it be dismissed. Please let me know if you will voluntarily dismiss the lawsuit filed in the Small Claims Division in the District Court of Faulkner County, Arkansas.

Thank you.

Sincerely,

QUATTLEBAUM, GROOMS & TULL PLLC



Joseph W. Price, II

JWP/lad

cc: Cale Block (via electronic mail only)

Joey Price

From: Laura Lynn <bohemian_books@yahoo.com>
Sent: Wednesday, June 16, 2021 3:25 PM
To: Leigh A. Deininger
Cc: Joey Price
Subject: Re: Hammett et al. v. Goodman Manufacturing Co., L.P. (60CV-21-3078)

Dear Mr. Price,

The clerk at Pulaski County Circuit Court said to dismiss the case in Faulkner County, so I will dismiss without prejudice and be clear that the reason is because my claims were consolidated into the proper court.

Laura Hammett

On Wednesday, June 16, 2021, 02:13:20 PM CDT, Leigh A. Deininger <ldeininger@qgtlaw.com> wrote:

Mr. and Mrs. Hammett:

Attached is correspondence from Joseph Price as well as a copy of the answer that was filed today on behalf of Goodman Manufacturing Co., L.P.

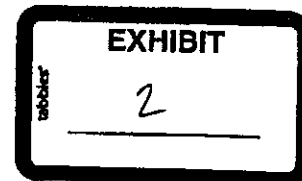
Leigh

Leigh Deininger | Legal Assistant
501.379.1718 | Fax: 501.379.1701 | ldeininger@qgtlaw.com | vcard



111 Center Street, Suite 1900
Little Rock, Arkansas 72201
www.qgtlaw.com

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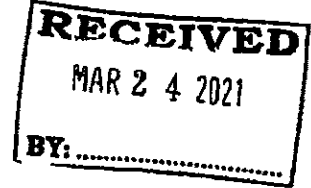


**Service of Process
Transmittal**
03/22/2021
CT Log Number 539246973

TO: Ray Carroll
Goodman Manufacturing Company, L.P.
5847 SAN FELIPE ST STE 2250
HOUSTON, TX 77057-3000

RE: Process Served in Arkansas

FOR: Goodman Manufacturing Company, L.P. (Domestic State: TX)



ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: LAURA LYNN HAMMETT, PLTF. vs. GOODMAN MANUFACTURING COMPANY, L.P., DFT.

DOCUMENT(S) SERVED: -

COURT/AGENCY: None Specified
Case # CWSC2145

ON WHOM PROCESS WAS SERVED: CT Corporation System, Little Rock, AR

DATE AND HOUR OF SERVICE: By Regular Mail on 03/22/2021 postmarked on 03/19/2021

JURISDICTION SERVED : Arkansas

APPEARANCE OR ANSWER DUE: None Specified

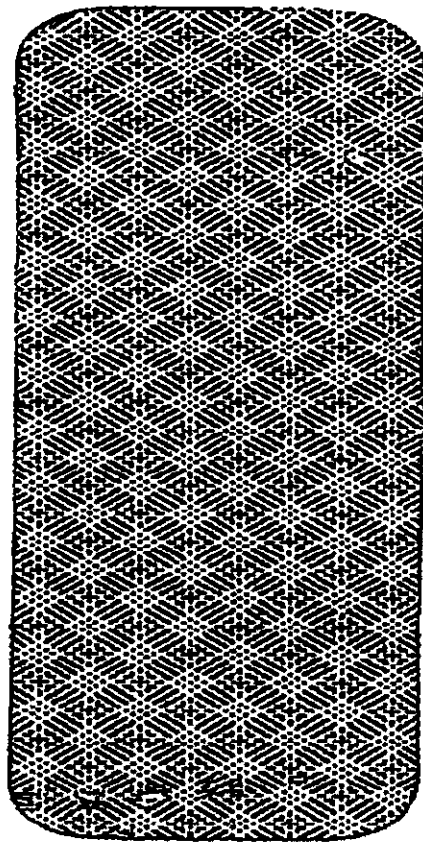
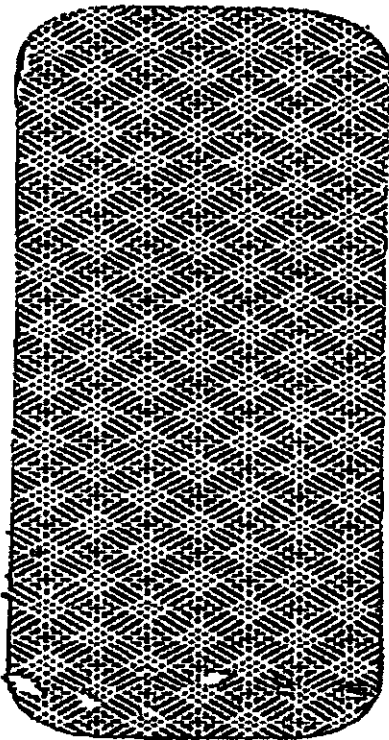
ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: SOP Papers with Transmittal, via UPS Next Day Air , 1ZK212780102007260
Image SOP
Email Notification, Ray Carroll RAY.CARROLL@GOODMANMFG.COM

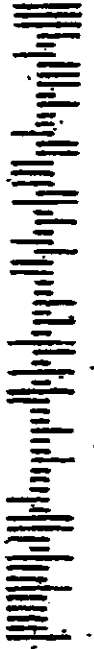
REGISTERED AGENT ADDRESS: C T Corporation System
124 West Capitol Avenue
Suite 1900
Little Rock, AR 72201
866-665-5799
SouthTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the merits of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.





029 BAZDSMP 72201



9TH STATE DISTRICT COURT - CONWAY
JACK SOTALLARO, CLERK
810 PARKWAY
CONWAY, AR 72034
Phone: (501)450-6112

Complaint & Trial Schedule Notice

GOODMAN MANUFACTURING COMPANY, L.P.
124 W. Capitol Ste. 1900
Little Rock, AR 72201



Case# CWSC-21-45
LAURA HAMMETT V. GOODMAN
MANUFACTURING CO.

LAURA LYNN HAMMETT -
PLAINTIFF(S)

Vs.

GOODMAN MANUFACTURING
COMPANY, L.P. - DEFENDANT(S)

RECEIVED
MAR 24 2021
BY:

IN THE 9TH STATE DISTRICT COURT - CONWAY, ARKANSAS

LAURA LYNN HAMMETT

PLAINTIFF(s)

CASE: CWSC-21-45

GOODMAN MANUFACTURING COMPANY, L.P.

DEFENDANT(s)

COMPLAINT

Nature of Claim: SC-CONTRACT

Amount of Relief Claimed: \$1,024.00

Date Claim Arose: June 20, 2018

See the attached **PLAINTIFF'S STATEMENT OF CLAIM FOR SMALL CLAIMS** complaint form for the factual basis of the claim.

(Signature of Plaintiff)

The case referenced above has been set for trial on **Wednesday, May 19, 2021 at 01:30:00 PM** in the **9TH STATE DISTRICT COURT - CONWAY COURTROOM.**

NOTICE TO DEFENDANT GOODMAN MANUFACTURING COMPANY, L.P. :

You are hereby warned to file a written answer with the clerk of the court within **THIRTY (30)** days after the date that you receive this complaint (or **SIXTY** days if you are being held in a correctional facility in this state) and to send a copy to the Plaintiff. If you do not file an answer within **THIRTY (or SIXTY as stated above)** days, a default judgment may be entered against you.

PROOF OF SERVICE

CASE: CWSC-21-45

State of Arkansas

City of _____

I, _____, hereby certify that I served the within complaint on the defendant,
GOODMAN MANUFACTURING COMPANY, L.P., at ___ o'clock ___m. on this ___ day of
_____, 20___, by _____ [state method of service, e.g., hand delivery, mail, commercial
delivery service] with the following documents:

CHECK APPLICABLE SQUARE

- The person named therein
- A family member of the person named therein, above the age of 14, at the defendant's usual abode,
namely: _____
- The duly designated agent for service of process for the person named therein, namely:

- Other: _____

(Signature and Office, if any)

Subscribed and sworn to before me this ___ day of _____, 20___. [To be completed if service is
by someone other than sheriff or constable.]

Notary Public or Court Clerk

My commission expires:

DEFENDANT'S INSTRUCTIONS

- 1. Please fill out the enclosed answer form and return it to the Clerk's office.

IMPORTANT: IF YOU FAIL TO FILE A WRITTEN ANSWER WITH THE COURT, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU IN THE AMOUNT OF THE CLAIM FILED PLUS THE COURT COSTS. IF THIS OCCURS, YOUR WAGES MAY BE GARNISHED OR ANY OF YOUR PERSONAL PROPERTY MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT.

DO NOT FAIL TO FILE A WRITTEN ANSWER.

- 2. It is not necessary to hire an attorney, but you may do so if you wish. In the event both parties do not have attorneys, the judge will ask questions of each party and decide the case on the evidence.
- 3. You may bring witnesses with you to testify on your behalf or you may have witnesses subpoenaed by providing a list of their names and addresses and telephone numbers to the District Court Clerk. There will be additional costs for service of each subpoena.
- 4. Bring all papers, receipts and other materials that might be useful as evidence in the case.
- 5. Bring this form with you when you come to court.
- 6. In court, direct all statements and questions to the Judge.

SUMMONS

CASE: CWSC-21-45

TO GOODMAN MANUFACTURING COMPANY, L.P. :

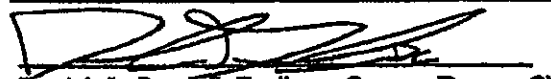
You have been SUED by the plaintiff(s) listed on the previous page.

You must file the attached answer form with this court, within 30 days from the date on which you received this summons or a judgment may be entered against you. In the event that you fail to file a written answer, a judgment may be entered against you. If a judgment is entered against you, you do have the right to appeal to Circuit Court within 30 days after the disposition date. You may seek the advice of an attorney on any matter connected with this suit or your answer. Such attorney should be consulted immediately so that an answer may be filed within the time limit stated above.

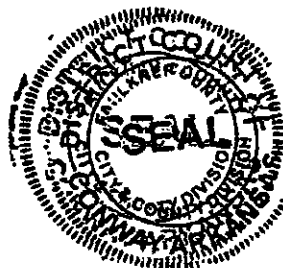
Amount for which plaintiff may take judgment if you fail to appear, exclusive of interest	\$1,024.00
FFSC - SMALL CLAIMS FILING FEES	\$50.00
TECH - COURT TECHNOLOGY FEE	\$15.00
CERM - CERTIFIED MAIL FEE	\$12.55
Total:	\$1,101.55

WITNESS my hand and seal of said Court this day

3-19-21



Patrick L. Randall, Faulkner County Deputy Clerk



IN THE 9TH STATE DISTRICT COURT - CONWAY, ARKANSAS

LAURA LYNN HAMMETT

PLAINTIFF(s)

CASE: CWSC-21-45

GOODMAN MANUFACTURING COMPANY, L.P.

DEFENDANT(s)

ANSWER AND AFFIRMATIVE RELIEF

A copy of your answer must be filed with the court and a copy delivered or mailed to the plaintiff or his attorney (if applicable).

CHECK ONE:

- A. _____ I admit everything in the complaint and do not want a trial.
 B. _____ I admit that I am responsible, but not for the total amount claimed by the plaintiff(s).
 C. _____ I deny that I am responsible at all.
 D. _____ I deny that I am responsible at all. In fact the plaintiff is the one at fault. (Return and file the counterclaim form, shown below, to the court clerk.)

Defendant's Address	GOODMAN MANUFACTURING COMPANY, L.P. 124 W. Capitol Ste. 1900 Little Rock, AR 72201		
Reasons for Denial of Plaintiff's Claim			
Affirmative Defenses			
Amount of Affirmative Relief Sought		Date Affirmative Claim Arose	
Factual Basis of Affirmative Claim			
Names and Addresses of Other Persons Needed for Determination of Affirmative Claim			

GOODMAN MANUFACTURING COMPANY, L.P.

Date

CERTIFICATE OF SERVICE

CASE: CWSC-21-45

The undersigned hereby certifies that a true and correct copy of the foregoing answer was served on

plaintiff on the ____ day of _____, 20____, by _____

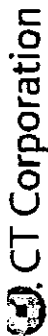
[state method of service used, e.g., hand delivery, mail, commercial delivery service].

GOODMAN MANUFACTURING COMPANY,
L.P.

COMPLETE THIS ANSWER AND MAIL THE ORIGINAL TO:

**9TH STATE DISTRICT COURT - CONWAY
JACK SOTALLARO, CLERK
810 PARKWAY
CONWAY, AR 72034**

IT Packing Slip



UPS Tracking #: 1ZK212780102007260

Created By: Anil Gaur

Created On: 03/22/2021 01:57 PM

Recipient:

Ray Carroll
Title: -
Customer: Goodman Manufacturing Company, L.P.
Address: 5847 SAN FELIPE ST STE 2250
Email: RAY.CARROLL@GOODMANMFG.COM
Phone: 713-263-5284 Fax: 713-426-1248

Package Type: Envelope

Items shipped: 1

Log #	Case #	Entity Name
538246973	CWSC2145	Goodman Manufacturing Company, L.P.