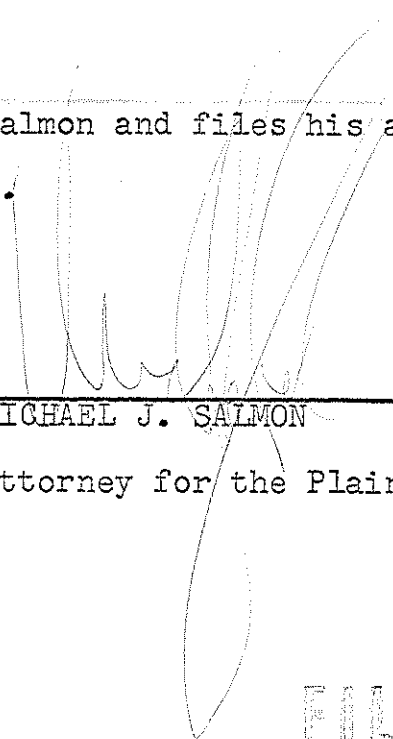


L. C. MILLER,  
Plaintiff,  
-vs-  
JAMES E. ALLEN, JR.,  
Defendant.

: IN THE CIRCUIT COURT OF  
: BALDWIN COUNTY, ALABAMA  
: AT LAW  
:  
: CASE NUMBER 10763

Comes now Michael J. Salmon and files his appearance  
for the Plaintiff, L. C. Miller.

  
MICHAEL J. SALMON

Attorney for the Plaintiff

FILED

FEB 18 1968

WILLIAM L. DUCK, CLERK  
REGISTER

L. C. MILLER,

Plaintiff,

vs.

JAMES E. ALLEN, JR.,

Defendant.

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 6763

DEMURRER

Comes now the Defendant in the above styled cause by his attorneys and demurs to the complaint heretofore filed against him in said cause and to each and every count thereof, separately and severally, and assigns the following separate and several grounds in support thereof:

1. Complaint fails to state a cause of action.

2. Count Two of said Complaint fails to sufficiently set out the alleged agreement between the parties herein sued upon.

3. Count Two of said Complaint fails to sufficiently set out that part of the alleged agreement furnishing the consideration for that part of the agreement whereby the Defendant is alleged to be indebted to the Plaintiff.

CHASON, STONE & CHASON

By

John Earle Chason  
Attorney for Defendant

Defendant respectfully demands

a trial of this cause by jury.

John Earle Chason

FILED

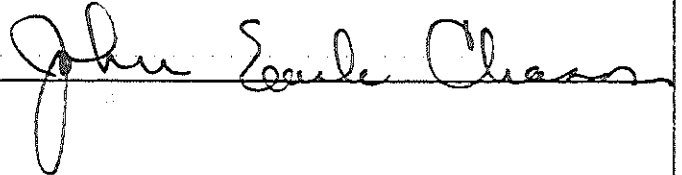
MAR 11 1963

AJCE L. DICK, CLERK  
REGISTER

We do hereby certify that we have this day served a copy  
of the foregoing Demurrer on Hon. Michael J. Sammon, the attorney  
for the Plaintiff, by mailing said copy to him at his address  
in Mobile, Alabama

CHASON, STONE & CHASON

By

A handwritten signature in cursive script, reading "John Soule Chason", written over a horizontal line.

6763

L. C. MILLER,

Plaintiff,

vs.

JAMES E. ALLEN, JR.,

Defendant.

\* \* \* \* \*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 6763

\* \* \* \* \*

DEMURRER

\* \* \* \* \*

L. C. MILLER, X  
Plaintiff, X IN THE CIRCUIT COURT OF  
X  
vs. X BALDWIN COUNTY, ALABAMA  
X  
JAMES E. ALLEN, JR., X AT LAW NO. 6763  
Defendant. X

PLEAS:

Comes now the Defendant in the above styled cause by his attorneys of record and for plea to the Complaint heretofore filed and to each count thereof, separately and severally, says separately and severally as follows:

1. The allegations of the Complaint are untrue.
2. The Defendant for answer to the said Complaint, saith that he has paid the debt, for the recovery of which this suit was brought, before the action was commenced.
3. That there has been a failure of consideration on the part of the Plaintiff for the sum sued for.
4. That the Plaintiff and the Defendant agreed that as a part of the consideration of the note alleged in "Count One" that the Plaintiff would make certain repairs to real property, the sale of which was part of the consideration of said note to the Plaintiff and that the Plaintiff has failed to make all of such repairs to the date hereof and hence there exists a failure of consideration to support said note.
5. That in consideration of the sale of the real property which furnishes part of the consideration to the Defendant for the execution of the note alleged in "Count One" the Plaintiff agreed to make certain repairs thereto and he has failed to do so and the Defendant has been forced to make such repairs at his own expense at a cost of \$881.60 which sum he claims as a defense to this

action and offers to set off against the demand of the Plaintiff.

CHASON, STONE & CHASON

By: John E. Chason  
Attorneys for Defendant.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 8<sup>th</sup> day of February, 1968.

FILED

FEB 8 1968

John E. Chason

ALICE J. BUCK

CLERK  
REGISTER

L. C. MILLER,	)	
PLAINTIFF,	)	IN THE CIRCUIT COURT OF
VS	)	BALDWIN COUNTY, ALABAMA
JAMES E. ALLEN, JR.,	)	AT LAW
DEFENDANT	)	CASE NUMBER <u>6763</u>

AMENDED BILL OF COMPLAINT

COMES NOW THE PLAINTIFF IN THE ABOVE STYLED CAUSE AND AMENDS  
THE BILL OF COMPLAINT HERETOFORE FILED AS FOLLOWS:

COUNT ONE:

THE PLAINTIFF CLAIMS OF THE DEFENDANT NINE HUNDRED TEN AND  
No/100 (\$910.00) DOLLARS DUE BY PROMISSORY NOTE MADE BY HIM ON THE  
31ST DAY OF JANUARY, 1962, AND PAYABLE ON THE 31ST DAY OF JANUARY  
1965, WITH INTEREST THEREON.

COUNT TWO:

THE PLAINTIFF CLAIMS OF THE DEFENDANT FIVE HUNDRED SEVENTY-  
THREE AND 70/100 (\$573.70) DOLLARS DUE FROM HIM FOR MERCHANDISE,  
GOODS AND CHATTELS SOLD BY THE PLAINTIFF TO THE DEFENDANT ON TO-WIT  
THE 14TH DAY OF NOVEMBER, 1961, AT HIS REQUEST, AND THE PLAINTIFF  
CLAIMS OF THE DEFENDANT ONE HUNDRED NINETY-NINE AND 10/100 (\$199.10)  
DOLLARS DUE FROM HIM FOR WORK AND LABOR DONE FOR THE DEFENDANT BY  
THE PLAINTIFF ON TO-WIT THE 14TH DAY OF NOVEMBER, 1961, AT HIS RE-  
QUEST, WHICH SUMS OF MONEY, WITH THE INTEREST THEREON, IS STILL UN-  
PAID.

  
ATTORNEY FOR PLAINTIFF

AMENDED BILL OF COMPLAINT

L. C. MILLER,

PLAINTIFF

VS

JAMES E. ALLEN, JR.

DEFENDANT

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

CASE NUMBER 6763

**FILED**

DEC 28 1967

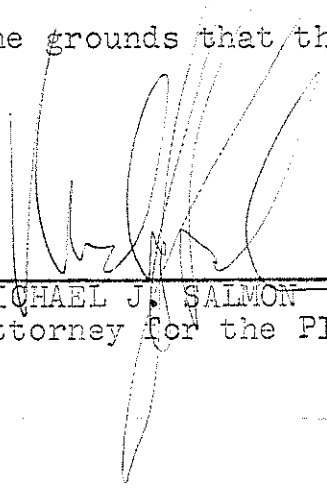
**ALICE J. DUCK** CLERK-  
REGISTER



L. C. MILLER, : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
-VS- : AT LAW  
JAMES E. ALLEN, JR., :  
Defendant. : CASE NUMBER 6763

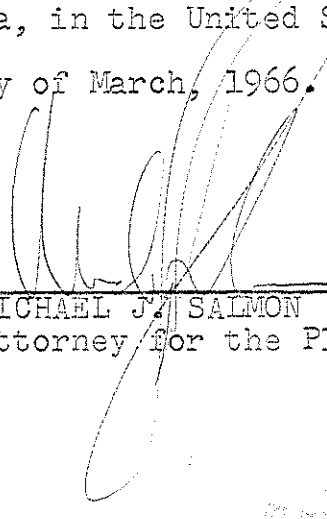
MOTION TO STRIKE DEMAND FOR JURY TRIAL

Comes now the Plaintiff and moves the Court to strike demand for jury trial contained in Defendant's demurrer heretofore filed on the grounds that the same comes too late.

  
\_\_\_\_\_  
MICHAEL J. SALMON  
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion to Strike Demand for Jury Trial on John Earle Chason, Esquire, by mailing the same to him at his address in Bay Minette, Alabama, in the United States Mail, postage prepaid, this 30 day of March, 1966.

  
\_\_\_\_\_  
MICHAEL J. SALMON  
Attorney for the Plaintiff

813

FILED  
APR 1 1966  
ALICE L. BOWEN, CLERK  
RECEIVED

ERNEST M. BAILEY  
ATTORNEY AT LAW  
56 NORTH SECTION STREET  
FAIRHOPE, ALABAMA 36532  
PHONE 928-2393

December  
30th  
1966

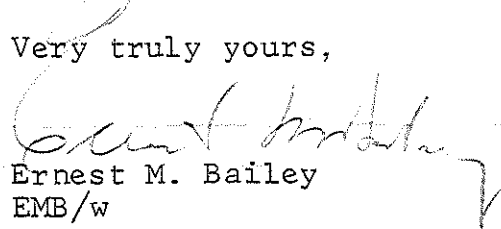
Mrs. Alice J. Duck  
Clerk, Circuit Court  
Baldwin County  
Bay Minette, Alabama

Re: L. C. Miller -vs-  
James E. Allen  
Civil 6763

Dear Mrs. Duck:

I will appreciate you filing this appearance for me in the above matter and will make a notation on the record of my appearance. I am associating with Mr. Salmon who has previously filed an appearance for the Plaintiff, L. C. Miller.

Very truly yours,

  
Ernest M. Bailey  
EMB/w

FILED

JAN 4 1967

ALICE J. DUCK, CLERK  
REGISTER

FRANK A. MASSA

L.C. MILLER

N.J.

VS. Suit For: Count I - \$910.00 due by promissory note  
Count II \$910.00 damages for breach of an agreement.  
Count III - \$573.70 due for merchandise

WILLIAM R. FAVRE, JR.

JAMES E. ALLEN, JR.

*****		*****	
PLEADINGS, PROCESS, ETC.	* FILING DATE *	*****	
*****		*****	
1. Complaint and Summons	* 4-28-65 *	Complaint and Summons served on Defendant on May 14, 1965.	
2. Plea in Abatement	* 6-9-65 *		
3. Motion	* 11-4-65 *		
	* *	November 12, 1965 - Plea in Abatement sustained by Court. - Will G. Caffey, Jr.	
	* *	32-747	
	* *		
	* *	Plaintiff's motion, filed November 4, 1965 for Court to transfer this cause	
	* *	to Circuit Court of Baldwin County, Alabama.	
	* *	November 12, 1965 - Motion Granted, and case ordered transferred to	
	* *	Baldwin County. - Will G. Caffey, Jr. - Judge	
	* *	32-747	
	* *		

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.

In witness whereof I have hereunto set my hand and attached my official seal as such Clerk of said Court at Mobile, Mobile County, Alabama, on this the 15th day of November, 1965.

*John E. Mandeville*, Clerk.

FILED

NOV 18 1965

ANNE A. DICK, CLERK REGISTER

70.6763

L.C. MILLER,                   Ø     IN THE CIRCUIT COURT OF  
                  Plaintiff       Ø     MOBILE COUNTY, ALABAMA  
Vs.                   Ø     AT LAW  
JAMES E. ALLEN, JR.,       Ø  
                  Defendant   Ø     CASE NO. 15847-Coffey  
                                 Ø

COUNT ONE

The Plaintiff claims of the Defendant Nine Hundred Ten and No/100 (\$910.00) Dollars due by promissory note made by him on the 31st day of January, 1962, and payable on the 31st day of January, 1965, with interest thereon.


COUNT TWO

The Plaintiff claims of the Defendant Nine Hundred Ten and No/100 (\$910.00) Dollars, damages for the breach of an agreement entered into by him on to-wit the 31st day of January, 1962, by which he promised to pay to L. C. Miller the sum of Seven Thousand and No/100 Dollars (\$7,000.00). Said sum shall be paid in installments as follows: An installment of \$3,500.00 on or before the 31st day of January, 1964, with the unpaid balance payable on or before the 31st day of January, 1965, said sum being payable with 5% interest, and although the Defendant has received full value and consideration for said sum of money and agreement, the Defendant fails and refuses to pay the said sum set out and claimed herein.

COUNT THREE

The Plaintiff claims of the Defendant Five Hundred Seventy-Three and 70/100 (\$573.70) Dollars due from him for merchandise, goods and chattels sold by the Plaintiff to the Defendant on to-wit the 14th day of November, 1961, at his request, and the Plaintiff claims of the Defendant

One Hundred Ninety-Nine and 10/100 (\$199.10) Dollars  
due from him for work and labor done for the Defendant  
by the Plaintiff on to-wit the 14th day of November,  
1961, at his request, which sums of money, with the  
interest thereon, is still unpaid.

  
Frank A. Massa, Attorney for  
Plaintiff

Defendant's Address:

Fairway Drive  
Lake Forrest  
Daphne, Alabama

STATE OF ALA. MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON

APR 28 8 45 AM '65

  
CLERK

843

**THE STATE OF ALABAMA**  
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

JAMES E. ALLEN, JR.

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,  
at the place of holding the same, then and there to answer the complaint of

L. C. MILLER

WITNESS: John E. Mandeville, Clerk of said Court, this 28th day of April, 19 65

Attest: John E. Mandeville  
Clerk

**SHERIFF'S RETURN**

Received \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and on \_\_\_\_\_ Day  
of \_\_\_\_\_, 19\_\_\_\_, I served a copy of  
the within \_\_\_\_\_ on \_\_\_\_\_  
by service on \_\_\_\_\_

RAY D. BRIDGES, SHERIFF

By \_\_\_\_\_ D.S.

REC'D. SHERIFF DEPT.  
MOBILE COUNTY, ALA.

Apr 30 4 52 PM '65

BY \_\_\_\_\_

mail  
JUDGE \_\_\_\_\_

No. 15847 *Laufey*

DOCKET

CIVIL DIVISION

*GP*  
**CIRCUIT COURT**

MOBILE COUNTY

L. C. MILLER

VS. } Complaint and Summons

JAMES E. ALLEN, JR.

Issued 28th day of April, 1965

Defendant's Address

Fairway Drive  
Lake Forrest  
Daphne, Alabama

FRANK A. MASSA

Plaintiff's Attorney

Received 4 day of April 1965  
and on 14 day of May 1965  
I served a copy of the within  
on James E. Allen Jr.  
By service on James E. Allen Jr.  
James E. Allen Jr.  
by Raymond J. Lauder  
Deputy Sheriff  
D.S.  
821  
Lake Forrest

L. C. MILLER,	)	IN THE CIRCUIT COURT
Plaintiff	)	OF MOBILE COUNTY,
vs.	)	ALABAMA
JAMES E. ALLEN, JR.	)	AT LAW
Defendant	)	CASE NO. <u>15847 - C</u>

DEFENDANT'S PLEA IN ABATEMENT

Comes now the defendant, James E. Allen, Jr. and appearing specially and solely for the purpose of filing the following plea in abatement, and for no other purpose, pleads in abatement to the complaint filed in this cause and to each count thereof separately and severally as follows:

1. That this Honorable court is without jurisdiction of the cause of action sued on in that the above named defendant does not reside in Mobile County and did not reside in Mobile County at the time the complaint was filed. Defendant resides on Fairway Drive and Lake Forrest, Daphne, Alabama, which is in Baldwin County, Alabama.

2. The defendant says that he can not be sued in Mobile County, Alabama and that the Circuit Court of Mobile County, Alabama has no jurisdiction of the cause of action made on the basis of this suit, that the work and labor claimed to be performed was performed in Baldwin County, Alabama.

James E. Allen, Jr.  
James E. Allen, Jr.

TONSMEIRE & McFADDEN

By William R. Tonsmeire  
Attorneys for Defendant

State of Alabama )  
County of Mobile )

Before me, the undersigned authority in and for said state and county, personally appeared James E. Allen, Jr., who is known to me, and who, upon being first duly sworn, on oath, deposes and says that the facts stated in the foregoing are true and correct.

James E. Allen, Jr.  
James E. Allen, Jr.

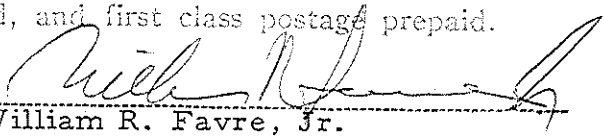
Subscribed and sworn to before me this 8th day of June, 1965.

William R. Tonsmeire  
Notary Public, Mobile County, Alabama



# CERTIFICATE OF SERVICE

I do hereby certify that I have on this 9th  
day of June, 1965, served a copy of the  
foregoing pleading on counsel for all parties to this  
proceeding by mailing the same by United States mail,  
properly addressed, and first class postage prepaid.

  
William R. Favre, Jr.

STATE OF ALA. MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON

JUN 9 4 19 PM '65

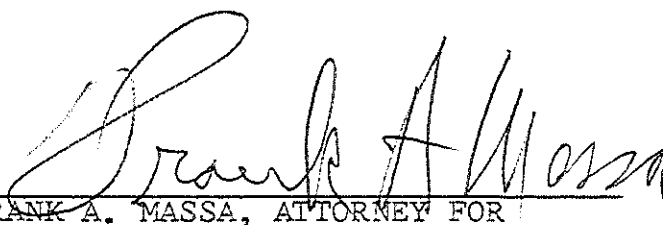
  
CLERK

823

L. C. MILLER,	Ø	IN THE CIRCUIT COURT OF
Plaintiff	Ø	MOBILE COUNTY, ALABAMA
Vs.	Ø	AT LAW
JAMES E. ALLEN, JR.,	Ø	
Defendant	Ø	CASE NO. 15847C
	Ø	

MOTION FOR TRANSFER OF CASE

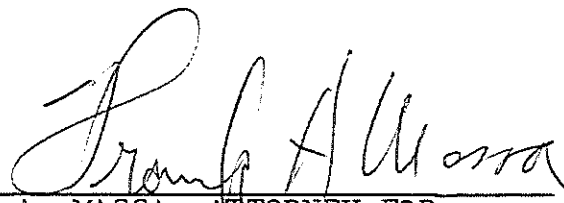
Comes now the Plaintiff in the above styled case and confesses to the allegations set out in the Plea of Abatement, hithertofores filed by the Defendant in the above styled case, and the Plaintiff further moves this Honorable Court to transfer this suit, and all of the appropriate and pertinent pleadings and papers connected therewith, to the Circuit Court of Baldwin County, Bay Minette, Alabama.

  
 FRANK A. MASSA, ATTORNEY FOR  
 PLAINTIFF

CERTIFICATE OF SERVICE

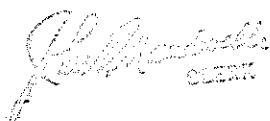
This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 2<sup>nd</sup> day of November, 1965.

  
 FRANK A. MASSA, ATTORNEY FOR  
 PLAINTIFF

STATE OF ALA. MOBILE CO.  
 I CERTIFY THIS PLEADING  
 WAS FILED ON

Nov 4 8 45 AM '65

  
 CLERK

824

FRIDAY, NOVEMBER 12, 1965

L.C. MILLER

CAFFEY -vs- 15847

JAMES E. ALLEN, JR.

)  
)  
)  
)  
)

PLEA IN ABATEMENT SUSTAINED  
BY COURT

This day in open Court came the parties by their attorneys, and defendant's Plea in Abatement filed June 9, 1965 in this cause, coming on to be heard and being argued by counsel and understood by the Court;

It is ordered and adjudged by the Court that the defendant's Plea in Abatement filed June 9, 1965 in this cause, be, and the same is hereby sustained by Court.

Minute Book 32

Page 747

FRIDAY, NOVEMBER 12, 1965

L.C. MILLER	)	PLAINTIFF'S MOTION, FILED NOVEMBER
	)	4, 1965 FOR COURT TO TRANSFER CAUSE
CAFFEY      -vs-    15847	)	TO CIRCUIT COURT OF BALDWIN COUNTY,
	)	ALABAMA, - MOTION GRANTED, AND
JAMES E. ALLEN, JR.	)	CASE ORDERED TRANSFERRED TO BALDWIN
	)	COUNTY

This day in open Court came the parties by their attorneys, and plaintiff's motion filed November 4, 1965 for Court to transfer cause to Circuit Court of Baldwin County, Alabama in this cause, coming onto be heard and being argued by counsel and understood by the Court;

It is ordered and adjudged by the Court that the plaintiff's said motion, filed November 4, 1965 for Court to transfer cause to Circuit Court of Baldwin County, Alabama, in this cause, be, and the same is hereby granted and case ordered transferred to Baldwin County.

Minute Book 32

Page 747

826

STATE OF ALABAMA, }  
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby  
certify that the foregoing is a full, true and correct copy of Orders of Court

as rendered by the said Circuit Court on the 12th day of November, 1965, in the cause  
entitled No. 15847 - CAFFEY

L.C. MILLER

, Plaintiff,

— versus — JAMES E. ALLEN, JR.

Defendant, (~~Together with the cancellation thereof~~), as the same remains of record in this office in  
Minute Book No. 32, Page No. 747

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office  
in the City of Mobile, Alabama, on this the 15th day of November, 1965.

ATTEST:

*John E. Mandeville*  
Clerk, Circuit Court, Mobile County, Alabama.

1-15-65

C. C. LAW 34-5M-1-65

CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY

L.C. MILLER

Plaintiff

No. 15847

VS.

JAMES E. ALLEN, JR.

Defendant

(Act No. 740, Reg. Session Ala. Legislature 1957  
Appvd. Sept. 20, 1957)  
(Amend Sec. 21, Title 11, Code Ala. 1940)

BILL OF COST

(Act No. 571, Reg. Ses. Leg. 1955)  
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

CLERK'S FEES	Pltff.	Deft.	SHERIFF'S FEES	Pltff.	Deft.
Suits for \$100 or less \$ 6.00			Mileage \$4.60	6 10	
Suits for over \$100 but less than \$1,000 10.00			Serving Summons & Complaint \$ 1.50		
Suits for \$1,000 and over 20.00	20 00		Serving Writ of Garnishment 1.50		
Suits in detinue, ejectment, etc. 10.00			Serving Sci Fa.-Notices 1.50		
Suits not otherwise provided 10.00			Levying Attachment & Return 6.25		
Writs, Mandamus, Prohibition, etc. 15.00			Executing Writ Possession 5.00		
Appeals from Court General Sessions 15.00			Seizing personal property under Writ of Detinue 6.00		
Appeals from Probate Court 20.00			Serving subpoenas, each .75		
Appeals from JP Courts 6.00			Impanelling Jury .75		
Appeals from State Dept of Pub. Safety, and other State Agencies 10.00			Taking & Approving Bond 2.00		
Workmen's Compensation Settle. 10.00			Collecting Costs Execution 1.50		
Garnishment on Judgment 6.00			Serving Contempt Writ 1.50		
Order of Sale, Motions to sell. 6.00			Making Deed for Property sold 2.50		
Recording executions from State Agencies 3.00			Commission, collecting money on executions, 1st \$200 5%; \$200 to \$500 4%; over \$500 3% \$		
Cert. Copy of Record - per 100 words .15					
Taking Appeal Bond .75			Total \$	6 10	
Record for Supreme Court etc., per 100 words .15					
Add'l Copies of Record for Supreme Court, per 100 words .05			RECAPITULATION		
Checking - including Reporters Transcript of Evidence 10.00			Clerk 20 00		
Certifying Abstract in lieu of Transcript on Appeal 5.00			Sheriff Taylor Wilkins 6 10		
Collecting Money on Judgments over 30 days old; ½ the percentage allowed Sheriffs \$			Inferior Civil Court		
			Justice Peace fees		
			Witness fees		
			Commissioner's fees		
			<del>XXXXXX</del> of Judgment 80		
			Judgment		
			10% Damages		
			Interest		
			Stenographer's fees (\$10.00 Day)		
			Library fee 1.50 1 50		
			Trial Tax (County) 1.50 1 50		
			Trial Tax (State) 1.50 1 50		
			Advertisement		
			Garnishee's fees		
Total \$	20 00				

\$31.40

I respectfully beg to advise that if this bill for costs is not paid before 19\_\_\_\_, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk