

378

Gilbert F. Dukes and Vardaman
M. Buckalew, as partners doing
business under the name of
Smith, Dukes and Buckalew,
Plaintiffs,

-vs-

The County Board of Education of
Baldwin County,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

No. 378

Come the plaintiffs in the above styled cause, and
move the Court for a judgment by default against the defendant,
and for grounds for said motion respectfully show unto the
Court that, although more than sixty days have elapsed since
interrogatories propounded by the plaintiffs to the defendant
were duly served on the defendant, the defendant has not filed
answers to the said interrogatories.

McCormey, McLeod, Turner & Rogers

Hubert A. Bass
Attorneys for Plaintiffs

Gilbert F. Dukes and Vardaman
M. Buckalew, as partners doing
business under the name of
Smith, Dukes and Buckalew,

Plaintiffs

Vs.

The County Board of Education of
Baldwin County,

Defendant

No. 378

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

Now come the plaintiffs in the above styled cause, and with leave of Court first had and obtained, amend the complaint heretofore filed so as to read as follows:

1. The plaintiffs, as assignees of W. D. Stapleton for a valuable consideration, claim of the defendant \$1,155.10, due from defendant for money on and between, to-wit, the 7th day of November, 1932, and the 5th day of August, 1936, received by the defendant to the use of the said W. D. Stapleton, which claim for money had and received was duly assigned and transferred to the plaintiffs by the said W. D. Stapleton for a valuable consideration, the said defendant having had notice of said transfer and assignment, and said sum of money is the property of the plaintiffs and, with the interest thereon, is still unpaid.

2. The plaintiffs, as assignees of W. D. Stapleton for a valuable consideration, claim of the defendant \$1,155.10, due from defendant for money on, to-wit, the 7th day of November, 1932, received by the defendant to the use of the said W. D. Stapleton, which claim for money had and received was duly assigned and transferred to the plaintiffs by the said W. D. Stapleton for a valuable consideration, the said defendant having had notice of said transfer and assignment, and said sum of money is the property of the plaintiffs and, with the interest thereon, is still unpaid.

3. The plaintiffs, as assignees of W. D. Stapleton for a valuable consideration, claim of the defendant \$1,155.10, due from defendant, by account on the 5th day of August, 1936, which claim for money due by account was duly assigned and transferred

to the plaintiffs by the said W. D. Stapleton for a valuable consideration, the said defendant having had notice of said transfer and assignment, and said sum of money is the property of the plaintiffs and, with the interest thereon, is still unpaid.

McCorvey McLeod Turner & Rogers.
Attorneys for Plaintiffs.

Service

August

19-18-39

Bar Bar

all right

RECORDED

In the Circuit Court of Baldwin County

Alabama

Dukes et al

vs

County Board of Education
of Baldwin County

Now comes the defendant and pleads in short
by consent the general issue with leave to give in
evidence any matter which might have been specially
pleaded.

Sam. R. Raine
Attorneys for the defendant

RECORDED

Place

Filed Sept. 18, 1939

W. H. Stone

Judge

SUMMONS

STATE OF ALABAMA,

MOBILE COUNTY.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon the County Board of Education of Baldwin County to appear within thirty days from the service of this writ in the Circuit Court, to be held for said County at the place of holding the same, then and there to answer the complaint of Gilbert F. Dukes and Vardaman M. Buckalew as partners doing business under the name of Smith, Dukes & Buckalew.

Witness my hand this 5 day of August, 1937.

R. S. Dukes
Clerk.

COMPLAINT

Gilbert F. Dukes and Vardaman :
M. Buckalew, as partners doing :
business under the name of :
Smith, Dukes and Buckalew, :
Plaintiffs, :
Vs. :
The County Board of Education :
of Baldwin County, :
Defendant. :

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

1. The plaintiffs, as assignees of W. D. Stapleton for a valuable consideration, claim of the defendant \$1,155.10, due from defendant for money on the 15th day of June, 1935, received by the defendant to the use of the said W. D. Stapleton, which claim for money had and received was duly assigned and transferred to the plaintiffs by the said W. D. Stapleton for a valuable consideration, the said defendant having had notice of said transfer and assignment, and said sum of money is the property of the plaintiffs and, with the interest thereon, is still unpaid.

2. The plaintiffs, as assignees of W. D. Stapleton for a valuable consideration, claim of the defendant, \$1,155.10, due from defendant, by account on the 15th day of June, 1935, which claim for money due by account was duly assigned and trans-

2.

ferred to the plaintiffs by the said W. D. Stapleton for a valuable consideration, the said defendant having had notice of said transfer and assignment, and said sum of money is the property of the plaintiffs and, with the interest thereon, is still unpaid.

Steven Mc Conway, McLeod Good & Turner
Hybart & Chason
Attorneys for Plaintiffs.

8-30-1937

serving copy of within Summons and
complaint on

Frank Earl as
Chairman of Baldwin
County Board of
Education

M.H. Williams
Baldwin County
C.N. Anderson
Deputy Sheriff

SUMMONS & COMPLAINT.

GILBERT F. DUKES and VARDAMAN
M. BUCKALEW, as partners doing
business under the name of Smith,
Dukes and Buckalew,

Plaintiffs,

-VS-

THE COUNTY BOARD OF EDUCATION
OF BALDWIN COUNTY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

Filed August 5, 1937

R. D. Dyer
Clerk.

Ind Aug 27

RECORDED
Index Card 128
Blackshaw

For by Co: By

GILBERT F. DUKES and VARDAMAN
M. BUCKALEW, as partners doing
business under the name of
SMITH, DUKES AND BUCKALEW,

Plaintiffs

v.

THE COUNTY BOARD OF EDUCATION
OF BALDWIN COUNTY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW.

Now comes the County Board of Education of Baldwin
County, defendant in the above styled cause, and demurs to the
complaint filed therein and each and every count thereof, separ-
ately and severally, and separately and severally assigns the fol-
lowing separate and several grounds of demurrer:

1. Said count states no cause of action.
2. Averments of said count are mere conclusions of the
pleader.
3. The averments of said counts are too vague, indefinite
and uncertain.

A. A. Carmichael

A. A. Carmichael,
Attorney General

Thos. S. Lawson

Thos. S. Lawson,
Assistant Attorney General,

ATTORNEYS FOR DEFENDANT.

RECORDED *Out*
8-128-

GILBERT F. DUKES and VARDAMAN
E. BUCKALEW, Plaintiffs,

Versus

BALDWIN COUNTY BOARD OF EDUCATION,
Defendant.

DEMURRER.

Filed September 29
1939

W. S. Davis
Clerk

-----	:	
Gilbert F. Dukes and Vardaman	:	
M. Buckalew, as partners doing	:	
business under the name of	:	
Smith, Dukes and Buckalew,	:	IN THE CIRCUIT COURT OF
Plaintiffs,	:	BALDWIN COUNTY, ALABAMA,
	:	
Vs.	:	AT LAW NO. 378.
	:	
The County Board of Education	:	
of Baldwin County,	:	
Defendants.	:	
-----	:	

INTERROGATORIES PROPOUNDED TO DEFENDANT BY PLAINTIFF.

1. Is it not a fact that W. D. Stapleton was at one time the duly selected County Treasurer of school funds of Baldwin County, Alabama? Please state the dates between which the said W. D. Stapleton was such County Treasurer of school funds.

2. Is it not a fact that during the term of office as aforesaid of the said W. D. Stapleton, as County Treasurer of school funds, and prior to November 30, 1931, the Baldwin County Bank was a depository of the public school funds of Baldwin County, duly designated as such depository by the defendant? State the date on which the said Bank was designated by the defendant as such depository. If it is answered that the Baldwin County Bank was not such designated depository, then state the name of the duly designated depository of said funds prior to November 30, 1931, and the date on which it was so designated by defendant.

3. Did not the said W. D. Stapleton as County Treasurer of school funds of Baldwin County, prior to the termination of his office as such Treasurer, maintain a deposit of said funds at the depository duly designated for such purpose by the defendant? State the name of the depository or depositories at which he maintained such deposit. ~~Was not the said deposit a general deposit in said depository?~~ If not, state specifically and in detail the terms and conditions of the said deposit.

4. Did not the said W. D. Stapleton, after the termination of his said office as County Treasurer of school funds, transfer to the defendant, or to a succeeding County Treasurer of school funds of Baldwin County, for the defendant, the sum of \$12,688.83, on account of monies due to the defendant as of November 30, 1931, by said Stapleton as such Treasurer? If not, state the amount

so transferred on account of monies due as of said date.

5. Is it not a fact that immediately after the transfer of funds referred to in the preceding interrogatory, there remained a balance due to defendant from the said W. D. Stapleton, as County Treasurer of school funds, of Baldwin County, the sum of \$3,374.16? If not, state the amount of such balance.

6. Is it not a fact that an Assistant Examiner of the Department of Examiners of Accounts of the State of Alabama, made an examination and report as to the accounts of the said W. D. Stapleton, as County Treasurer of school funds of Baldwin County, covering the period from October 1, 1919, to November 30, 1931? Please state the name of the Assistant Examiner of Accounts who made such examination and report, and the date when such report was made. Did not the said Assistant Examiner of Accounts also make a supplementary or amended report in regard to the said accounts of the said W. D. Stapleton, signed by him on or about July 22, 1932? Please attach to your answers a true and correct copy of each of the said two reports.

7. If in answer to interrogatory No. 5, you state that the said balance due was any amount other than \$3,374.16, then please answer the following interrogatories marked (a) and (b).

(a) In the first report of the Assistant Examiner of Accounts, referred to in interrogatory No. 6, did not the said Assistant Examiner of Accounts charge the said W. D. Stapleton, as County Treasurer of school funds of Baldwin County, with a balance of \$12,049.11 due to defendant as of November 30, 1931, after the transfer of funds referred to in interrogatory No. 4, above? If not, state with what amount said Assistant Examiner did so charge said W. D. Stapleton in the said report.

(b) Is it not a fact that in the amended or supplementary report of the Assistant Examiner of Accounts, referred to in interrogatory No. 6, that the said Assistant Examiner of Accounts made correction of the balance referred to in (a) above, by adding certain items to and deducting certain items from the said balance? Is it not a fact that after the correction of said balance by such addition and deduction, the said amended or supplementary report of the Assistant Examiner of Accounts showed

that there remained a balance of \$3,374.16 due to defendant by the said W. D. Stapleton as County Treasurer of school funds of Baldwin County, as of November 30, 1931, after the transfer of funds referred to in interrogatory No. 4, above?

8. Is it not a fact that since the transfer by the said W. D. Stapleton to the defendant of the amount referred to in interrogatory No. 4 above, the defendant has received from the Baldwin County Bank the sum of \$4,529.26 on account of monies due by the said Bank to the said Stapleton as Treasurer of school funds on or before November 30, 1931? If not, state what amount has been so received by defendant from said source on said account.

9. Is it not a fact that the Baldwin County Bank, or one of its employees, did during the term of office of the said Stapleton as County Treasurer of school funds, and prior to November 30, 1931, wrongfully or erroneously charge to the account of said Stapleton as such Treasurer, the total sum of \$4,529.26? If not, state what sum was so charged.

10. Did not the amended or supplementary report of the Assistant Examiner of Accounts, referred to in interrogatory No. 6, above, show that the total sum of \$4,529.26, was wrongfully charged by an employee of the said Bank to the account of said Stapleton as County Treasurer of school funds, prior to November 30, 1931?

11. Did not the said amended or supplementary report of the Assistant Examiner of Accounts contain the following statement: "The amount of \$4,529.26 is determined to be three items of admitted defalcation by a former bank employee".

12. Did the said Baldwin County Bank, or any other person or corporation for the said Bank or its employee, ever pay to the defendant the said sum of \$4,529.26 as reimbursement or repayment of the said admitted defalcations of the said former Bank employee? If not, did the said Baldwin County Bank, or any other person or corporation for said Bank or its employee, ever pay to the defendant any sum or sums whatsoever as reimbursement or repayment of said admitted defalcations of the said former Bank employee? Please state the total amount of any such sum or sums so paid.

13. Please state whether the payment or payments referred

to in the preceding interrogatory were made before or after November 30, 1931.

14. Has the Baldwin County Bank, or any other person or corporation, paid to the defendant since November 30, 1931, any sums of money whatsoever, on account of money due prior to November 30, 1931, by the said Bank to said W. D. Stapleton as County Treasurer of school funds? If so, state the amount of each sum so received, the source and reason for such receipt, and the date received.

15. Is it not a fact that there was a balance of \$56,377.64 shown by the accounts of the Baldwin County Bank to be due to the account of defendant or to the account of a County Treasurer of School Funds for the defendant, by the said Bank as of the time the said Bank closed? If not, state what balance was shown by the accounts of the said Bank to be due to the account of the defendant, or to the account of a County Treasurer of school funds for the defendant, by the said Bank as of the date it closed. Please state the date on which the said Bank closed.

16. Did the said balance shown to be due by the Baldwin County Bank to the account of the defendant, or to the account of a County Treasurer of school funds for the defendant, as of the time said Bank closed, include a credit to such account as a reimbursement, repayment, or correction because of the wrongful or erroneous charges to the account of W. D. Stapleton as County Treasurer of school funds referred to in interrogatory No. 9, above? If so, what was the amount of such credit included in said balance?

17. Did the said balance shown to be due from the said Bank to such account at the said time include any credits to defendant's account other than for sums actually deposited in said Bank by defendant since November 30, 1931? If so, please state in detail the nature and amount of each such credit.

18. Is it not a fact that the defendant has received payment in full from the Baldwin County Bank of the balance referred to in interrogatory No. 15, above? State the total sum that defendant has received on account of the said balance from the

5.

said Bank and state in detail the date and amount of each payment comprising said total.

19. Is it not a fact that the payments made by the Baldwin County Bank to the defendant after the said Bank closed included a certain sum or sums which had been credited to the defendant by the said bank as reimbursement or correction of the amounts erroneously or wrongfully charged to the account of W. D. Stapleton as County Treasurer of school funds by a former employee of the said Bank? State the amount of such sum or sums included in such payments.

20. If in answer to the preceding interrogatory the defendant states that the said payments did not include such sum or sums referred to, then state whether or not it is a fact that Mr. S. M. Tharp, in a letter written by him in his capacity as Superintendent of the County Board of Education of Baldwin County to Hon. A. A. Carmichael, Attorney General of the State of Alabama, under date of January 21, 1937, made the following statement: "This money in question was made a part of the claim of the Board of Education against the Baldwin County Bank and was included in all the court proceedings relative to same and has finally been paid in full by the Baldwin County Bank." Is it not a fact that the phrase, "this money in question" used in the said statement, quoted above, referred to the money being claimed by the plaintiff in this suit. Is it not a fact that a copy of said letter was sent by said S. M. Tharp in his capacity as such Superintendent, to Mr. William McLeod, a member of the firm of Stevens, McCorvey, McLeod, Goode & Turner, attorneys for the plaintiff in this suit?

Stevens McCorvey McLeod Goode & Turner
Hubert A. ...
Attorneys for Plaintiff.

State of Alabama,
Mobile County.

Before me, Chas. L. Rehm, a Notary Public in and for the aforesaid State and County, personally appeared C. A. L. Johnstone, Jr., known to me, who, being by me first duly sworn, deposes and says that he is an associate in the firm of Stevens, McCorvey, McLeod, Goode & Turner, attorneys for the plaintiff in the above styled cause, and is authorized to make this affidavit, and that the answers to the foregoing interrogatories, if well and truthfully made, will be material evidence for the plaintiff in said cause. Subscribed and sworn to before me this 11th day of April, 1938.

Chas. L. Rehm
Notary Public, Mobile County, Alabama.

CIRCUIT COURT

Smith, Duke & Buckle

VS.

Reuben Term, 1937, of the Circuit Court of said County,

DEAR SIRs: At the

recovered a judgment against _____ Dollars
for the sum of _____ Dollars, cost of suit, and execution
besides _____ Dollars, cost of suit, and execution
was duly issued thereon, commanding any Sheriff of the State that he cause to be made of the goods and chattels, land and tene-
ments of said _____ and the Sheriff has re-

ments of said _____ the amount of the judgment and costs, and the Sheriff has re-
turned said exception indorsed, "No Property Found," and the costs have never been paid. In order to save you the additional ex-
pense of an execution against you, I herewith inclose an itemized statement of the costs which have accrued in said cause, and
respectfully request that you will, on receipt of this, remit the amount. If I do not hear from you in a few days I will forward the
execution to the Sheriff of your County for collection.

Clerk

Respectfully yours, _____, Clerk.

[illegible]

No. 378 Page _____

THE STATE OF ALABAMA
Baldwin County
CIRCUIT COURT

Smith Dishes & Bussabals

vs. Plaintiff

Baldwin County Board of Education
Defendant

Civil Cost Bill
(NOTICE)

Received of

_____ Dollars,

in payment of the above, this _____ day

of _____, 193_____

_____, Clerk.

Plaintiff's Attorney.

Defendant's Attorney

RECEIVED
CLERK OF COURT
BALDWIN COUNTY
ALABAMA

INDEXED
FILED
JAN 10 1938
BALDWIN COUNTY
ALABAMA

FILE
CLERK