

415

IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA
At Law

BALDWIN COUNTY BANK, a
Corporation,

Plaintiff

vs.

COUNTY BOARD OF EDUCATION
OF BALDWIN COUNTY, ALABAMA,

Defendant

Number 378

Now comes the plaintiff in the above said
cause and for replication to plea (a) as filed in
above styled cause by the defendant, pleads in short
by consent, the general issue, with leave to make
any defense that might be well and specially pleaded
with like leave of reply.

Garvey L. L. L. & Gordon
J. B. T. Blackburn
ATTORNEYS FOR PLAINTIFF

PLAINTIFF'S REPLICATION

BALDWIN COUNTY BANK, a
Corporation,

Plaintiff,

Vs.

COUNTY BOARD OF EDUCATION,
OF BALDWIN COUNTY, ALABAMA

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW. NUMBER 378.

Filed November 15, 1940
R. S. Dorch, Clerk

J. B. BLACKBURN

ATTORNEY AT LAW

BAY MINETTE, ALABAMA

BALDWIN COUNTY BANK,
a Corporation,

Plaintiff,

VS.

THE COUNTY BOARD OF
EDUCATION OF BALDWIN COUNTY,

Defendant,

SMITH, DUKES & BUCKALEW,

Intervenors.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

JUDGMENT

This cause is submitted to the Court for a decision on the pleading and agreed statement of facts, and this day came the several parties by their respective attorneys, and the cause being considered by the Court, it is the opinion of the Court that the plaintiff is not entitled to recover, and it is the order and judgment of the Court that the plaintiff do not recover.

It is further the opinion of the Court that the Intervenors, Smith, Duke & Buckalew, are not entitled to recover, and it is the order and judgment of the Court that said Intervenors do not recover.

It is further the opinion of the Court that the defendant is not entitled to recover on its counter claim, and it is the order and judgment of the Court that the defendant do not recover on said counter claim.

The plaintiff is taxed with the costs of this cause for which let execution issue.

This 17th day of May, 1941.


Judge

IN THE CIRCUIT COURT OF BALDWIN COUNTY,

ALABAMA

At Law

BALDWIN COUNTY BANK, a
Corporation,

Plaintiff

vs.

COUNTY BOARD OF EDUCATION
OF BALDWIN COUNTY, ALABAMA,

Defendant

Number 378

Now comes the defendant and withdraws all demurrers and pleas heretofore filed in the above styled cause, and in substitution thereof, pleads in short by consent to each count of the complaint, as amended, as follows:

The general issue, with leave to make any defense that might be well and specially pleaded with like leave of reply.

Also, the defendant files the following plea of setoff:

(a) The defendant claims of the plaintiff Seventy-five Hundred (\$7500.00) Dollars due from it by account on the 31st day of January, 1938, which sum of money is still unpaid, and defendant offers to set said sum off against the alleged demand of the plaintiff and prays for judgment over.

Bau 1 Bau
ATTORNEYS FOR PLAINTIFF *Defendant*

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

Plaintiffs.

VS.

BALDWIN COUNTY BOARD OF EDUCATION,

Defendant..

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NUMBER 378.

PETITION FOR LEAVE TO INTERVENE.

Now comes the Baldwin County Bank, a Corporation, and files its Petition for leave to intervene in the above entitled cause and as grounds therefor sets down and assigns the following.

1. This suit was commenced on to-wit, August 5, 1937 in which the Plaintiff as assignee of W. D. Stapleton, claims the sum of \$1155.10 from the Defendant on the ground that this amount of money was the personal or individual money of W. D. Stapleton and was deposited by him through error in his account as school treasurer and that the said moneys were not the property of the Defendant but the individual property of the said W. D. Stapleton.

2. On to-wit, January 31, 1938, the Baldwin County Bank, a Corporation, filed case Number 415 in the Circuit Court of Baldwin County, Alabama against the County Board of Education of Baldwin County, Alabama, to recover the sum of \$6012.12 claiming that this amount of money was erroneously paid by it to the said County Board of Education of Baldwin County, Alabama.

3. The said sum of \$1155.10 is a part of the said sum of \$6012.12 and rightfully belongs to the said Baldwin County Bank because the said moneys were the individual moneys of the said W. D. Stapleton the same did not constitute a preferred claim against the assets of the Baldwin County Bank which closed on January 27, 1932, and as to the said sum of \$1155.10 the said W. D. Stapleton was only a common depositor or creditor of the Baldwin County Bank, and the

said Plaintiff here, as his assignee, has no legal or equitable claim to the said moneys.

WHEREFORE, Petitioner prays that the Court will take jurisdiction of this Petition and give due and legal notice thereof to the Plaintiff in this said cause and to the Defendant in this said cause, and upon a hearing of the said Petition will grant to Petitioner the right to intervene in the said cause and set up its claim to the said moneys. Petitioner further prays that such other orders may be made and decrees rendered as may be requisite and proper in the premises.

BALDWIN COUNTY BANK, a Corporation,

By 

As its President.

J. B. T. Blackman

Garvey, Lusk, Lusk & Gordon

Attorneys for Baldwin County Bank.

RECORDED

PETITION FOR LEAVE TO INTERVENE.

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

Plaintiffs,

VS.

BALDWIN COUNTY BOARD OF EDUCATION,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NUMBER 378.

*Filed August 21, 1938
R. S. Buck, Clerk
By - Matthew Morgan, Equity Clerk*

RECORDED

PETITION FOR LEAVE TO INTERVENE.

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

Plaintiffs,

VS.

BALDWIN COUNTY BOARD OF EDUCATION,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NUMBER 378.

*Filed August 21, 1938
R. S. Buck, Clerk
By - Arthur Morgan, Deputy Clerk*

BALDWIN COUNTY

You are hereby commanded to summon the County Board of Education of Baldwin County, Alabama, 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 same, then and there to answer the complaint of the Baldwin County Bank, a Corporation.

Resluck

Circuit Clerk.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840.

Plaintiff,

VS.

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW. NUMBER _____.

1. The Plaintiff claims of the Defendant Three Thousand, Three Hundred Seventy-two and 78/100 Dollars (\$3,372.78) due from it for money on the 1st day of July, 1936, received by the Defendant to the use of the Plaintiff, which sum of money with interest thereon is still unpaid.

2. The Plaintiff claims of the Defendant Two Thousand, Six Hundred Thirty-nine and 34/100 Dollars (\$2,639.34) due from it for money on the 5th day of August, 1936, received by the Defendant to the use of the Plaintiff, which sum of money, with interest thereon, is still unpaid.

C. B. Thompson

Attorney for Plaintiff.

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Executed on January 31 1938
by serving copy of within Summons and
Complaint on

S. M. Sharp as
Secretary of the County
Board of Education
of Baldwin County, Alabama
T. M. H. Williams Sheriff
by J. B. Blackburn Deputy Sheriff

Original — *Check*
RECORDED 8-172

SUMMONS AND COMPLAINT.

BALDWIN COUNTY BANK, a
Corporation,

Plaintiff,

VS.

COUNTY BOARD OF EDUCATION OF
BALDWIN COUNTY, ALABAMA,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NUMBER _____.

Filed January 31 1938
J. B. Blackburn
J. B. BLACKBURN
ATTORNEY AT LAW
BALDWIN COUNTY, ALABAMA

PETITION FOR LEAVE TO INTERVENE.

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

Plaintiffs,

VS.

BALDWIN COUNTY BOARD OF EDUCATION,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NUMBER 378.

Filed August 21, 1938
R. S. Duck, Clerk
By - William Henson, Deputy Clerk

BALDWIN COUNTY BANK,
a corporation,
Plaintiff,

vs.

COUNTY BOARD OF EDUCA-
TION OF BALDWIN COUNTY,
ALABAMA,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

Comes the defendant, the COUNTY BOARD OF EDUCATION OF
BALDWIN COUNTY, ALABAMA, in the above entitled cause and files
this its demurrer to complaint, and sets out and assigns the fol-
lowing grounds, to-wit:

1. Said complaint does not state a cause of action.
2. Said complaint does not state sufficient facts to
fully apprise the defendant of the nature of the obligation or
debt sued on.

AA Carmichael
Attorney General.

Shas S. Lawson
Assistant Attorney General.

Attorneys for Defendant.

2115
BALDWIN COUNTY BANK,
a corporation,
Plaintiff,

vs.

COUNTY BOARD OF EDUCA-
TION OF BALDWIN COUNTY,
ALABAMA,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW.

DEMURRER.

Filed March 3, 1938

R. S. Dyer.
Clerk.

IN THE CIRCUIT COURT OF BALDWIN COUNTY,

ALABAMA

At Law

No. 378

BALDWIN COUNTY BANK,
a corporation

Plaintiff

vs.

COUNTY BOARD OF EDUCATION
OF BALDWIN COUNTY, ALABAMA,

Defendant

Now comes the defendant and to each count,
separately and severally, pleads as follows:

1. The allegations of the count are untrue.
2. The defendant says that \$1155.10 of the plaintiff's claim is barred by the statute of limitations of six years.
3. The defendant avers that heretofore on, to-wit, October 14, 1932, the Circuit Court of Baldwin County, Alabama, in the cause entitled "In the matter of H. H. Montgomery, as Superintendent of Banks liquidating the Baldwin County Bank of Bay Minette, Alabama" rendered a decree in favor of County Board of Education of Baldwin County, Alabama, against Baldwin County Bank for \$30,723.26 on which the following payments have been made on the following dated:

| | |
|-------------------|-----------|
| November 7, 1932 | \$4677.92 |
| October 25, 1933 | 4681.20 |
| August 9, 1934 | 7021.80 |
| February 14, 1935 | 2340.60 |
| May 17, 1935 | 2340.60 |

| | |
|------------------|-----------|
| October 24, 1935 | \$2340.60 |
| July 1, 1936 | 4681.20 |
| August 5, 1936 | 2639.34 |

which said payments are the only payments made on said decree and that the plaintiff is indebted to the defendant for interest on the amount of said decree from the date of its rendition until the date of final payment but that no interest has been paid on said decree. Defendant prays judgment against the plaintiff for \$7500.00 or for the interest due to the date of the judgment of the court in this case and defendant further prays that if the plaintiff should be held entitled to recover judgment over for the defendant against the plaintiff for the excess.

4. The defendant as a defense to the action of the plaintiff, saith that, at the time said action was commenced the plaintiff was indebted to him in the sum of \$7500.00 as the balance of unpaid interest on a decree rendered by this court in favor of the defendant in this case against the plaintiff in this case for \$30,723.26 on, to-wit, October 14, 1932, which it hereby offers to set off against the demand of the plaintiff if the plaintiff should be held to have a legal demand and defendant claims judgment for the excess.

Law + Law

Attorneys for defendant

9-20-39

Exeuted this the
21st day of September
1939 by showing a
copy of the within
defendants Plea and
counterclaims on
S. J. Holmes as
President of the
Baldwin County
Bank

W. H. Stuart
Shrift

W. H. Stuart
at 85

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

RECORDED

BALDWIN COUNTY BANK

VS.

COUNTY BOARD OF EDUCATION

Defendant's pleas and
counterclaim.

Filed September 20, 1939
B. S. DUGG
clerk - register

By W. H. Stuart
Deputy

BALL & BALL
ATTORNEYS AND COUNSELLORS
MONTGOMERY, ALA.

BALDWIN COUNTY BANK, a
Corporation,

Plaintiff,

VS.

COUNTY BOARD OF EDUCATION
OF BALDWIN COUNTY, ALABAMA,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NUMBER 378.

AMENDED COMPLAINT.

1. The Plaintiff claims of the Defendant Four Thousand Five Hundred Twenty-seven and 88/100 Dollars (\$4527.88) due from it for money on the 1st day of July, 1936 received by the Defendant to the use of the Plaintiff, which sum of money with interest thereon is still unpaid.

2. The Plaintiff claims of the Defendant Two Thousand, Six Hundred Thirty-nine and 34/100 Dollars (\$2,639.34) due from it for money on the 5th day of August, 1936 received by the Defendant to the use of the Plaintiff, which sum of money, with interest thereon, is still unpaid.

J. T. Blackburn
Gordon, Leigh, Leigh & Gordon
Attorneys for Plaintiff.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
NO. 378 AT LAW.

Now comes the plaintiff in the above cause and demurs to pleas 3 and 4, each separately and severally, and as grounds of such demurrer to each plea, separately and severally, says as follows:

1. That this Court is without jurisdiction to hear and determine the matters alleged in said plea.

2. Because the plea shows on its face that this Court has already taken jurisdiction on the equity side for the adjustment of all matters in re: "In the matter of H. H. Montgomery, as Superintendent of Banks liquidating the Baldwin County Bank of Bay Minette, Alabama" and the matters contained in said plea should be adjudicated in that particular cause.

3. Because it affirmatively appears from the allegations of said plea that the amount due the County Board of Education of Baldwin County has been paid in full.

4. Because for aught that appears in said plea this plaintiff has complied with all of the terms, conditions and requirements of the decree in all respects.

5. Because there are no facts averred to show that the plaintiff has not complied fully with the terms of the alleged decree of October 14, 1932.

6. Because there are no facts averred in said plea to show that the decree of October 14, 1932 provided for or ordered the payment of any interest on the amount which said decree ordered to be paid by the plaintiff to the defendant.

7. Because there are no facts averred in said plea to show any right on the part of the defendant to any interest on the amount decreed to be paid it by this Court in its decree of October 14, 1932.

8. Because there are no facts alleged to show that this defendant ever filed any claim with the Superintendent of Banks liquidating the Baldwin County Bank for interest on its deposit within the time prescribed by law.

9. Because there is no averment showing that sufficient funds had been collected from the assets of the Baldwin County Bank in liquidation with which to pay all of the obligations of the said bank in full.

10. Because no facts are alleged to show that sufficient funds have been collected from the assets of the Baldwin County Bank in liquidation and the remaining assets on hand are sufficient to pay all of its creditors in full.

11. Because no facts are alleged to show that all of the assets of the Baldwin County Bank, which closed on January 27, 1932, are sufficient to pay the claims of all of its creditors in full.

12. Because there are no facts averred to show that all of the creditors of the Baldwin County Bank in liquidation have been paid in full or that there are sufficient assets with which to pay all of the creditors of said bank in full.

13. There are no facts averred to show that any decree was rendered against the plaintiff in favor of defendant.

14. Because the complaint and the said plea fail to show any mutual demand between the said parties.

15. Because there are no facts averred in said plea to show that the matter in controversy is a mutual demand between the parties plaintiff and defendant.

J. T. Blackburn
Gordon, Leigh, Leigh and Gordon.
ATTORNEYS FOR PLAINTIFF