

1228

Mrs. SADIE L. THOMPSON,

PLAINTIFF.

vs.

JOHN N. MINCHEW and DREW J. MINCHEW,
Individually and as Partners, or as
Partners in Joint Venture,

DEFENDANTS,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW

MOTION FOR CONTINUANCE

Now come the Defendants in the above styled cause and move the Court to postpone and continue the trial of said cause until all the other cases set for trial during this session of court have been disposed of and that this cause be set as the last case for trial during this session of court, and as ground for said motion say: That Eugene Sells was subpoenaed as a witness for the Defendants on June 26, 1950; that the sheriff was not able to serve the subpoena on the said Eugene Sells because the said Eugene Sells was in the State of Florida; that the said Eugene Sells is not now present as this case proceeds to trial; that if the said Eugene Sells were present at the trial he would testify to facts which are material and important to the Defendants' defense in this cause; and that if this motion is granted, it is believed that the said Eugene Sells will be present at the trial.

James P. McMurphy
Attorney for Defendants

1228

Motion for Continuance

Filed 6-30-50
A. J. French
clerk

STATE OF ALABAMA }
BALDWIN COUNTY }

TO ANY SHERIFF OF THE STATE OF ALABAMA:

YOU ARE HEREBY COMMANDED to summon John N. Minchew and Drew J. Minchew 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 Mrs. Sadie L. Thompson.

Witness my hand, this 27th day of August, 1948.

Reice J. Duck
Clerk

MRS. SADIE L. THOMPSON
Plaintiff

VS.

JOHN N. MINCHEW AND DREW J. MINCHEW
INDIVIDUALLY AND AS PARTNERS,
OR AS PARTNERS IN JOINT VENTURE
Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

Count 1. Plaintiff claims of the defendants the sum of \$1,540.00 damages for the conversion by them of the following personal property, 22,000 feet of lumber, the property of the plaintiff, during the months of August, September, October, November and December 1945.

Count 2. Plaintiff claims of the defendants the sum of SIX HUNDRED AND SIXTY FIVE DOLLARS AND EIGHT CENTS (\$665.08) received by the defendants to the use of the Plaintiff, which sums of money with interest thereon, are still unpaid and are the property of the plaintiff.

Count 3. Plaintiff claims of the Defendants SIX HUNDRED AND SIXTY FIVE DOLLARS AND EIGHT CENTS (\$665.08) as damages for the conversion by defendants during the months of August, and September, and October, and November and December 1945 of 166.27 cords of paper wood, the property of the Plaintiff.

Wm. Hall

Frank Horne

Le B. Thompson

Hugh Rozelle

ATTORNEYS FOR THE PLAINTIFF

Received in Sheriff's Office
this 27 day of Aug 1948
TAYLOR WILKINS, Sheriff

Executed _____ 19____
by serving copy of within Summons and
Complaint on

Drew J. Minchew 9-1-48

Taylor Wilkins
At 7 Hall

Served on
John N. Minchew
this 9 of Sept. 1948
By J. L. Lewis Jr.

12228
SADIE L. THOMPSON
VS. *pro se*
JOHN N. MINCHEW AND DREW J.
MINCHEW

RECORDED

COMPLAINT

Filed 8-27-48

In The Law Offices of
C. LENOIR THOMPSON
BAY MINETTE, ALABAMA

The the jury find for the plaintiff on
Count #1 an amount of \$1,540.00 assessed
as damages plus interest at 6% to
date.
Also find for plaintiff Count #2
assess damages at \$665.08 plus
interest at 6% to date.
We do not find any guilt and
the part of Drew J. Minchew on
either Count.
Blame Dickson - J

MRS. SADIE L. THOMPSON,
Plaintiff,
VS.

JOHN N. MINCHEW AND DREW
J. MINCHEW, individually
and as partners, or as part-
ners in joint venture,

Defendants.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 1228.

DEMURRER

Now come the Defendants and for demurrer to the Com-
plaint and to each and every count thereof, separately and sever-
ally, say:

1. It does not state a cause of action.

J. B. Blackburn
Attorney for Defendants.

Defendants demand a trial of said
cause by jury.

J. B. Blackburn
Attorney for Defendants.

RECORDED

DEMURRER

MRS. SADIE L. THOMPSON,

Plaintiff,

vs.

JOHN N. MINCHEW AND DREW J.
MINCHEW, individually and as
partners, or as partners in
joint venture,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NO. 1228

FILED
OCT 12 1948
ALICE J. DUCK, Clerk

MRS. SADIE L. THOMPSON,

AS

Plaintiff,

JOHN N. MINCHEW AND DREW J.
MINCHEW, individually and as
partners, or as partners in
joint venture,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

cause for trial.
Defendants caused a trial of this

affirmed for Defendants.

affirmed for Defendants.

VS. Plaintiff,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NO. 1228.

Now come the Defendants, each separately and severally, and for plea to the Complaint and to each and every count thereof, separately and severally, say:

1. Not guilty.

Attorney for Defendants.

RECORDED

PLEA

SADIE L. THOMPSON,
Plaintiff,

VS.

JOHN N. MINCHEW and DREW J.
MINCHEW,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NO. 1228.

FILED
JUN 23 1950
ALICE J. DUCK, Clerk

STATE OF ALABAMA }
BALDWIN COUNTY }

TO ANY SHERIFF OF THE STATE OF ALABAMA-----GREETING:

You are hereby commanded to serve the foregoing notice upon JOHN
N. MINCHEN, defendant, and make due return of your said service and
of this notice, within thirty days from this date, how you have
executed the same.

WITNESS my hand this 27th day of February, 1951.

W. J. Neusch
Clerk Circuit Court.

MRS. SADIE L. THOMPSON

Plaintiff

VS

JOHN N. MINCHEW

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

TO JOHN N. MINCHEW, Defendant:

Take notice, that, whereas, the plaintiff in the above entitled cause has requested, in writing, the undersigned, as Clerk of said Court, to issue notice to you, as defendant, in the above entitled cause, and in the judgment therein, requiring you to file a statement, in writing, under oath, of all your assets, as provided in Code 1940, Title 7, Section 903, and has filed said request, in writing, in this cause with the undersigned as Clerk of this Court, and it appearing from said request, and the record in said cause, that an execution was return on the judgment in this cause on February 22, 1950, endorsed "no property found," by the Sheriff of Escambia County, and that you reside in the State of Alabama.

Now, therefore, you are hereby required, within thirty days from the service hereof, to file in this Court, a statement, in writing, under oath, of all your assets, including money, choses in action, notes, bonds, and accounts, and all other property, real, personal or mixed, or any interest therein, with a detailed description of the same, the location and reasonable value of each item thereof, together with a detailed list or statement, of any and all liens, mortgages or incumbrances thereon showing the amounts due upon each, and the owner or holder of such liens, encumbrances or mortgages.

WITNESSED my hand this 29th day of February, 1951.

W. L. Smith
Clerk Circuit Court

no 1226
Received in Sheriff's Office
this 27 day of Feb, 1951
TAYLOR WILKINS, Sheriff

Executed this 4 day
March 1951 by serving
a copy of the within.

on John N. Minkew
J. D. Mills
Sheriff

By N. A. Seal
Deputy

STATE OF ALABAMA }
BALDWIN COUNTY }

TO ANY SHERIFF OF THE STATE OF ALABAMA:

YOU ARE HEREBY COMMANDED to summon John N. Minchew and Drew J. Minchew 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 Mrs. Sadie L. Thompson.

Witness my hand, this 27 day of August, 1948.

W. J. Luck
Clerk

MRS. SADIE L. THOMPSON
Plaintiff
vs.

JOHN N. MINCHEW AND DREW J. MINCHEW
INDIVIDUALLY AND AS PARTNERS,
OR AS PARTNERS IN JOINT VENTURE
Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

Count 1. Plaintiff claims of the defendants the sum of \$1,540.00 damages for the conversion by them of the following personal property, 22,000 feet of lumber, the property of the plaintiff, during the months of August, September, October, November and December 1945.

Count 2. Plaintiff claims of the defendants the sum of SIX HUNDRED AND SIXTY FIVE DOLLARS AND EIGHT CENTS (\$665.08) received by the defendants to the use of the Plaintiff, which sums of money with interest thereon, are still unpaid and are the property of the plaintiff.

Count 3. Plaintiff claims of the Defendants SIX HUNDRED AND SIXTY FIVE DOLLARS AND EIGHT CENTS (\$665.08) as damages for the conversion by defendants during the months of August, and September, and October, and November and December 1945 of 166.27 cords of paper wood, the property of the Plaintiff.

H. M. Hall

Frank Horne

C. P. Smith

Hugh Rozell

ATTORNEYS FOR THE PLAINTIFF

after 4:00 PM
John N. Minchew - Plaintiff
Drew J. Minchew - Plaintiff

MRS. SADIE L. THOMPSON,

PLAINTIFF,

VS.

JOHN N. MINCHEW and DREW J. MINCHEW.
Individually and as Partners, or as
Partners in Joint Venture,

DEFENDANTS,

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

ORDER SETTING DAY

Defendant John N. Minchew having filed his motion for new trial on this 25th day of July, 1950, it is therefore considered by the Court that the 15th day of August, 1950, at 10:00 o'clock, A M., be, and is hereby, set as the time for hearing said motion, and the same is hereby continued until said time.

Ordered, Adjudged, and Decreed this 25th day of July, 1950.

J. H. A. Mashburn, Jr.
Judge.

RECORDED

MRS. SADIE L. THOMPSON,

PLAINTIFF,

vs.

JOHN N. MINCHEW, and DREW J.
MINCHEW, Individually and as
Partners, or as Partners in
Joint Venture,

DEFENDANTS,

ORDER SETTING DAY.

FILED

JUL 125 1 50

ALICE I. DUCK, Clerk

Mrs. SADIE L. THOMPSON,

PLAINTIFF,

vs.

JOHN N. MINCHEW and DREW J. MINCHEW,
Individually and as Partners, or as
Partners in Joint Venture,

DEFENDANTS.

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

MOTION FOR CONTINUANCE

Now come the Defendants in the above styled cause and move the Court to postpone and continue the trial of said cause until the next term of court, and for grounds for the said motion say: That the Attorney who presently represents the Defendants was employed by them on June 17, 1950; that prior to that time the said Attorney was not acquainted with and knew nothing of the facts in this case; that the trial of this case has been set down for June 26, 1950; and that because of the short period of time in which the said Attorney has been employed in this case, he is not able to sufficiently prepare the case for trial on the day set.

James P. McMurphy
Attorney for Defendants.

NO 1228
at Law.

Thompson
vs.
Minckley

Motion for Continuance

Filed: June 23, 1950.

Selmer J. Mashburn, Jr.

MRS. SADIE L. THOMPSON,

PLAINTIFF,

vs.

JOHN N. MINCHEW and DREW J. MINCHEW,
Individually and as Partners, or as
Partners in Joint Venture,

DEFENDANTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

MOTION FOR NEW TRIAL

To the Honorable Telfair J. Mashburn, Jr., Judge of the Circuit
Court of Baldwin County, Alabama, Law Side:

Now comes the Defendant John N. Minchew and moves the
Court to set aside the verdict of the jury and the judgment of
the Court entered thereon and to grant unto the Defendant John
N. Minchew a new trial, and as grounds of said motion Defendant
John N. Minchew sets down and assigns the following separate and
several grounds, each separately and severally:

1. For that the verdict of the jury is contrary to the
law and evidence in the case.
2. For that the verdict of the jury as to Count One of
the Complaint is contrary to the law and the evidence in the case.
3. For that the verdict of the jury as to Count Two of
the Complaint is contrary to the law and the evidence in the case.
4. For that the verdict of the jury is not sustained by
the great preponderance of the evidence.
5. For that the verdict of the jury as to Count One of
the Complaint is not sustained by the great preponderance of the
evidence.
6. For that the verdict of the jury as to Count Two of
the Complaint is not sustained by the great preponderance of the
evidence.
7. For that the verdict of the jury is contrary to the
law in the case.
8. For that the verdict of the jury as to Count One of
the Complaint is contrary to the law in the case.
9. For that the verdict of the jury as to Count Two of
the Complaint is contrary to the law in the case.

10. For that the verdict of the jury is contrary to the facts in the case.

11. For that the verdict of the jury as to Count One of the Complaint is contrary to the facts in the case.

12. For that the verdict of the jury as to Count Two of the Complaint is contrary to the facts in the case.

13. For that the verdict of the jury is excessive.

14. For that the verdict of the jury as to Count One of the Complaint is excessive.

15. For that the verdict of the jury as to Count Two of the Complaint is excessive.

16. For that the verdict of the jury as to Count Two of the Complaint is excessive in that there is no evidence in this case to sustain the amount of damages assessed under said count.

17. For that the Court erred in giving at the request of the Plaintiff before the jury retired the following written charge:

"The court charges the jury that if they find for the Plaintiff, that the Plaintiff is entitled to the highest value of each item which the Defendants converted to their own use from the time of such conversion, until today, together with interest thereon from the time of conversion."

and endorsing thereon before the jury retired the words, "Given, Telfair J. Mashburn, Jr., Judge."

18. For that the Court erred in giving at the request of the Plaintiff before the jury retired the following written charge:

"The court charges the jury that if they find for the Plaintiff then they should find that if timber had fluctuating value jury should award Plaintiff highest value shown by evidence with interest from the date of conversion."

and endorsing thereon before the jury retired the words, "Given, Telfair J. Mashburn, Jr., Judge."

19. For that the Court erred in giving at the request of the Plaintiff before the jury retired the following written charge:

"The court charges the jury that if they find for the Plaintiff they may assess damages for the conversion of each item on which they give judgment for the Plaintiff, the highest value of each item which the jury finds the Defendants converted to their own use said highest value assessed being the highest value from the time of conversion until today with interest thereon."

and endorsing thereon before the jury retired the words, "Given, Telfair J. Mashburn, Jr., Judge."

20. For that the Court erred in giving at the request of the Plaintiff before the jury retired the following written charge:

"The court charges the jury that if they find for the Plaintiff, they should give her the value of the lumber and paperwood, with interest thereon from the time it was cut by the Defendants."

and endorsing thereon before the jury retired the words, "Given, Telfair J. Mashburn, Jr., Judge."

21. For that the Court erred in refusing to give at the request of the Defendants before the jury retired the following written charge:

"The Court charges the jury that the Plaintiff has alleged in Count Two of the Complaint a joint obligation owing from the Defendants to the Plaintiff, and that if you are not reasonably satisfied from the evidence that both Defendants are jointly liable to the Plaintiff under Count Two of the Complaint, then you cannot find for the Plaintiff under Count Two of the Complaint."

22. For that the Court erred in refusing to give at the request of the Defendants before the jury retired the following written charge:

"The Court charges the jury that if you believe the evidence in this case you cannot find for the Plaintiff against the Defendant John N. Minchew under Count One of the Complaint."

23. For that the Court erred in refusing to give at the request of the Defendants before the jury retired the following written charge:

"The Court charges the jury that you cannot find for the Plaintiff against the Defendant John N. Minchew under Count One of the Complaint."

24. For that the Court erred in refusing to give at the request of the Defendants before the jury retired the following written charge:

"The Court charges the jury that if you believe the evidence in this case you cannot find for the Plaintiff under Count One of the Complaint."

25. For that the Court erred in refusing to give at the request of the Defendants before the jury retired the following written charge:

"The Court charges the jury that you cannot find for the Plaintiff under Count One of the Complaint."

James P. McMurphy
Attorney for Defendant John N. Minchew.

RECORDED
RECORDED

Mrs. Sadie L. Thompson,

Plaintiff,

vs.

John N. Minchew and Drew J.
Minchew, Individually and as
Partners, or as Partners in
Joint Venture,

Defendants,

MOTION FOR NEW TRIAL.

Filed: July 25, 1950.

*Jeffrey J. Mashburn
Judge.*

no 1276 Thompson vs Minchew
 Jury List For July Session, 1950

NO.	NAME	OCCUPATION	RESIDENCE
1.	JOHN DEAN,	Truck Driver,	Stapleton
2.	JOE A. KLUMPP,	Merchant,	Point Clear B4
3.	PAUL HAUPT, Jr.,	Farmer,	Elberta B5
4.	RUFUS M. ROBINSON,	Farmer,	Bay Minette B5
5.	ANDY McDANIEL,	Farmer,	Robertsdale
6.	HURLEY V. STREET,	Ice Plant,	Fairhope B5
7.	B. N. PATTERSON,	Merchant,	Bon Secour B5
8.	CHARLES HEIDELBERG,	Farmer,	Silverhill B3
9.	JOE STUCKEY,	Saw Mill,	Bay Minette B5
10.	HOWARD BLAXANDALE,	Forrester,	Stapleton
11.	RUDOLPH ERDMAN,	Truck Driver,	Magnolia Springs
12.	WOODROW WILKS,	Truck Driver,	Robertsdale
13.	JULIO CORTE,	Farmer,	Belforest B1
14.	WILLIE R. COOPER,	Farmer,	Rosinton B1
15.	MAXWELL JEWELL,	Merchant,	Foley B5
16.	MACK VINES,	State Employee,	Bay Minette B11
17.	HARRY DECKER,	Electrician,	Bon Secour
18.	WARD MAURER,	Farmer,	Magnolia Springs B7
19.	EVAN S. HIGBEE,	Farmer,	Belforest B7
20.	FRANK SMITH,	Merchant,	Foley
21.	PAT BROCK,	Livestock Dealer,	Loxley
22.	RAY SURVANT,	Linesman,	Foley
23.	GEORGE E. FULLER,	Theatre Operator,	Fairhope B10
24.	MARSHALL CROSBY,	Turpentine,	Magnolia Springs B6
25.	FRANK STURMA,	Merchant,	Silverhill B10
26.	FRED COUSINS,	Fisherman,	Foley B5
27.	JOHN HESSE,	Seafood Dealer,	Foley
28.	JOHN BECK,	Defense,	Foley
29.	MORTON D. COX,	Contractor,	Stockton B7
30.	CLARENCE WALKER,	Merchant,	Orange Beach B8
31.	BLAINE DICKMAN,	Salesman,	Bay Minette
32.	A. C. MOTT,	Hotel Owner,	Bay Minette B3
33.	CLINTON L. WHITE,	Bank Cashier,	Bay Minette
34.	J. CLAY DICKMAN,	Farmer,	Bay Minette B12
35.	ALMA VINES,	Mechanic,	Bay Minette
36.	HENRY PIPKIN,	Woodsman,	Bay Minette
37.	JAMES BRYARS,	Cleaners,	Bay Minette B4
38.	I. B. BYRD,	Farmer,	Stapleton B11
39.	E. K. ELLIS,	Govt. Employee,	Robertsdale B5

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⊕ +++++ +++++ XL

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 2124
 12

Mrs. SADIE L. THOMPSON,

PLAINTIFF,

vs.

JOHN N. MINCHEW and DREW J. MINCHEW,
Individually and as Partners, or as
Partners in Joint Venture,

DEFENDANTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

MOTION FOR CONTINUANCE

Now come the Defendants in the above styled cause and move the Court to postpone and continue the trial of said cause until all the other cases set for trial during this session of court have been disposed of and that this cause be set as the last case for trial during this session of court, and as grounds for said motion say: That the attorney who presently represents the Defendants was employed by them on June 17, 1950; that prior to that time the said attorney was not acquainted with and knew nothing of the facts in this case; that the trial of this case has been set down for June 26, 1950; and that because of the short period of time in which the said attorney has been employed in this case, he is not able to sufficiently prepare the case for trial on the day set.

James P. McMurphy
Attorney for Defendants.

all said.

Motion for
Continuance

Filed: June 23, 1950.

J. J. Mashburn, Jr.

MRS. SADIE L. THOMPSON

Plaintiff

VS

JOHN N. MINCHEW

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

The plaintiff herein having recovered on the 30th day of June, 1950, a judgment against the defendant in the above styled cause for the sum of \$1540.00 with interest at 6%, \$665.08 with interest at 6% and costs and such execution having been returned endorsed by the sheriff of Escambia County, Alabama, "no property found", the plaintiff now requests in writing that the clerk of this court will issue a notice to the above named defendant requiring him, within thirty days from the service of such notice, to file in this cause a statement in writing, under oath, of all of his assets of every kind, character, and description and wheresoever located as provided by Code 1940, Tit. 7, Section 903.


Attorney for Plaintiff.

FILED
FEB 27 1951
ALICE J. DUCK, Clerk

MRS. SADIE L. THOMPSON

Plaintiff

VS

JOHN N. MINCHEW

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

TO JOHN N. MINCHEW, Defendant:

Take notice, that, whereas, the plaintiff in the above entitled cause has requested, in writing, the undersigned, as Clerk of said Court, to issue notice to you, as defendant, in the above entitled cause, and in the judgment therein, requiring you to file a statement, in writing, under oath, of all your assets, as provided in Code 1940, Title 7, Section 903, and has filed said request, in writing, in this cause with the undersigned as Clerk of this Court, and it appearing from said request, and the record in said cause, that an execution was return on the judgment in this cause on February 22, 1950, endorsed "no property found," by the Sheriff of Escambia County, and that you reside in the State of Alabama.

Now, therefore, you are hereby required, within thirty days from the service hereof, to file in this Court, a statement, in writing, under oath, of all your assets, including money, choses in action, notes, bonds, and accounts, and all other property, real, personal or mixed, or any interest therein, with a detailed description of the same, the location and reasonable value of each item thereof, together with a detailed list or statement, of any and all liens, mortgages or incumbrances thereon showing the amounts due upon each, and the owner or holder of such liens, encumbrances or mortgages.

WITNESS my hand this ____ day of February, 1951.

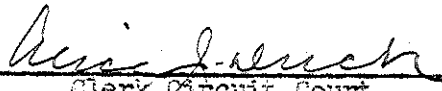
Clerk Circuit Court

STATE OF ALABAMA |
BALDWIN COUNTY |

TO ANY SHERIFF OF THE STATE OF ALABAMA———GREETING:

You are hereby commanded to serve the foregoing notice upon JOHN
N. MINCHEW, defendant, and make due return of your said service and
of this notice, within thirty days from this date, how you have
executed the same.

WITNESS my hand this 26th day of February, 1951.


Clerk Circuit Court.

FILED
AUG 15 1950
AUG 1 1950, Clerk

\$ 1530

Orig

MRS. SADIE L. THOMPSON,

Plaintiff,

VS.

JOHN N. MINCHEW AND DREW J.
MINCHEW, Individually and
as Partners, or as Partners
in Joint Venture,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 1228.

TRANSCRIPT OF THE EVIDENCE TAKEN IN THE TRIAL
OF THE ABOVE STYLED CAUSE ON JUNE 30, 1950.

APPEARED, for Plaintiff,

Hon. C. L. Thompson
Hon. H. M. Hall

For Defendant,

Hon. James P. McMurphy

Mrs. Sadie L. Thompson, having been first duly and legally
sworn, testified as follows:

ON DIRECT EXAMINATION

By Mr. Thompson

Q. You are Mrs. Sadie L. Thompson?

A. Yes.

Q. You are over twenty-one years of age and a resident of Alabama?

A. Yes.

Q. You live up here near Perdido, in Baldwin County?

A. Yes.

Q. Now, you know the defendants here, John Minchew and Drew Minchew?

A. Yes.

Q. Do you own the northwest quarter of Section 7, Township 1 South
Range 5 East, in Baldwin County?

A. Yes.

Q. And a portion of the northwest quarter of Section 6 in the same
range and township?

A. Yes.

- Q. Now, during the summer of 1945 did you enter into an agreement with the defendants in this case, John Minchew and Drew Minchew?
- A. Yes.
- Q. Was that a verbal or oral or written agreement?
- A. Oral.
- Q. Now, briefly, was that agreement that they were to cut your timber and deliver to you lumber?
- A. Yes.
- Q. How much lumber, approximately, were you to get for that?
- A. At least forty thousand feet.
- Q. How were they to get their money for cutting that timber into lumber?
- A. They were to cut it and take it in stumpage.
- Q. Take their pay in stumpage?
- A. Yes.
- Q. Did they cut any of your timber?
- A. Yes.
- Q. Saw logs?
- A. Yes.
- Q. Deliver you any lumber?
- A. Yes.
- Q. About how much?
- A. About seven thousand feet.
- Q. Now where was that lumber delivered to?
- A. Up on highway 31 to the location where I wanted to build.
- Q. Near where Arthur McGill lives at Perdido?
- A. Yes.
- Q. During the time of the cutting that timber into saw logs did you call upon John Minchew or Drew Minchew, or both of them, for the lumber which was owed to you?
- A. Yes.
- Q. Can you recall any statement that was made during those demands as to why you had not received the lumber?
- A. Yes, he had trouble about his log trucks some way and he wanted to- I don't know just how it was-

- Q. But he didn't deliver the timber when you made the demand?
- A. No. I-
- Q. At the time of making your demand, what demands, did you have anyone with you?
- A. You were with me some. I don't think there was anyone else. I don't think Mary went with you.
- Q. Mary was your daughter?
- A. Yes.
- Q. Did you, on your last demand, go over to his mill where you made your last demand?
- A. We went up to the house, went to the mill and went to the house and asked for lumber.
- Q. The last demand, you did go over to the mill to make that?
- A. I think I went up to the house, walked down to the mill, he said the logs were there.
- Q. John Minchew?
- A. Said he was going to cut the logs for me but I didn't get -
- Q. Did he say those were your logs?
- A. Yes.
- Q. Did he say anything further about whether or not to complete the order he would have to cut some more logs?
- A. He thought it would complete it but if it didn't he would cut more logs. I went over another time and he had a big pile-
- Q. All together for all the logs (lumber) he cut you got approximately seven thousand feet of lumber, is that correct, and you were due about forty thousand?
- A. Yes sir.
- Q. Did you know anything about his cutting paper wood or having it cut?
- A. After he started to cutting I knew it.
- Q. You didn't know until it was started?
- A. They were-
- Q. After it started why did you let him keep on?
- A. I wanted my buildings and ~~xxx~~ wanted the money, I wanted him paid and money for my buildings.

- Q. Now did he make any statement when you asked him about the paperwood being cut as to why he was doing it?
- A. That that would help him with his payments on his truck, he was having some trouble with his payments.
- Q. Made the payments to keep the truck running, was that what he stated to you?
- A. Yes.
- Q. Do you know about how much pulpwood he cut?
- A. There was several hundred dollars worth.
- Q. You don't know the exact number of cords?
- A. Around a hundred and sixty or seventy cords.
- Q. Between a hundred and sixty and a hundred and seventy cords?
- A. something like that.
- Q. The land was located in Baldwin County from which the timber was cut?
- A. Yes.

ON CROSS EXAMINATION

By Mr. McMurphy

- Q. Mrs. Thompson, you said, I believe, Mr. Minchew began cutting paperwood on your land without your knowledge or consent?
- A. He had it done. I don't know whether he did it personally or not.
- Q. Who did the cutting, Mrs. Thompson?
- A. I don't know who did the cutting. I know, I think Eugene Sells hauled it.
- Q. How do you know that Mr. Minchew was involved in the paperwood transaction at all?
- A. I was told it.
- Q. Did Mr. Minchew tell you that?
- A. Not before it was cut.
- Q. What was the date this paperwood was cut?
- A. I don't know just exact date, might have been 1946 or 7.
- Q. 1946 or 47?
- A. It was in 1946, not as late as '47. I think that was when it was, I am not sure.
- Q. You said there were approximately one hundred and sixty or seventy cords of paperwood cut, did you count those cords of paperwood?

- A. No. I got the record from where they were hauled to.
- Q. You don't know of your own personal knowledge how much paperwood was cut off of that land?
- A. No, only report I was told where they were sold.
- Q. On your agreement with Mr. Minckew, I believe you testified, you entered into a trade with Mr. John Minckew relative to cutting all saw timber on this land?
- A. He was to cut it and his brother was to haul it. They were to cut and haul the logs and deliver the lumber to me.
- Q. To be sure I understand it, they were to cut the saw timber off of this land and were to be paid so much per thousand stumpage, is that correct?
- A. Yes.
- Q. They were to pay you that much, what was the price of that?
- A. They were to pay me ten dollars for stumpage and what they cut above thirty I was to pay for hauling and delivering.
- Q. They were to cut saw timber off of this land and pay you ten dollars per thousand log scale, is that correct, and then they were to deliver a certain specified amount of finished lumber to you at another price, that the basis of the trade?
- A. I was to get my lumber first. They were given the right to cut what lumber was needed, I was to pay thirty dollars a thousand for cutting and hauling and delivering, then they were to go on and cut logs at ten dollars a thousand stumpage until they were paid.
- Q. It didn't make any difference under this trade what lumber they delivered to you?
- A. So long as it was certain lumber or dimensions.
- A. Yes, knew my trees and land, my trees were hard trees.
- Q. Your trees had been turpentine?
- A. Yes, some of them, but they were large.
- Q. My specific question Mrs. Thompson is, was it part of your trade, require the lumber cut off of your land be delivered back to you?
- A. That was the agreement.
- Q. You would not have been satisfied if they had delivered some more lumber of the same quantity?

- A. They didn't deliver the quantity.
- Q. You would have been satisfied if you could have received back lumber fulfilling specifications would you not?
- A. That was not according to the agreement. I suppose I might have.
- Q. How much timber did he cut off of this land, Mrs. Thompson, saw timber?
- A. He cut it pretty much all, cut more-
- Q. You don't know how much it was?
- A. It was estimated at a good deal more than forty thousand feet.
- Q. Do you know of your own personal knowledge how much timber he cut off of your land?
- A. No, except he cleaned it up pretty much.
- Q. Did he pay you any stumpage money for these trees as he was cutting them?
- A. Not for the timber trees, nor for the lumber.
- Q. He didn't make any payment to you for the lumber trees?
- A. He didn't make any payment for the lumber trees.
- Q. Did he make you any payments to you during this period of time?
- A. Some for piling that was cut.
- Q. That was not part, - you had another agreement concerning piling?
- A. I had some piling trees they wanted to cut them for piling and I let them do it.
- Q. What was the basis of that agreement?
- MR. THOMPSON: We object to another contract. I don't know that it would have any bearing on this case.
- MR. McMURPHY: We believe it is material to show the Court all the transactions between the parties.
- THE COURT: I will let it in. Overrule the objection.
- MR. THOMPSON: I except.
- A. I don't remember just all of it.
- Q. Did you personally enter into that agreement with Mr. Minckew? In other words, you traded with him yourself, is that correct?
- A. I don't remember just all about the piling. It was not in this other agreement.
- Q. That took place about along the same time?
- A. No, on a little later.
- Q. How long later was that?
- A. Several months. I don't remember.

- Q. You do remember specifically the days of the trade relative to the saw timber?
- A. Yes, because I wanted my house.
- Q. But you don't remember the terms at all concerning the piling?
- A. No, I don't remember.
- Q. Do you know how much money Mr. Minchew paid to you during this period of time?
- A. No, I don't remember.
- Q. Would you undertake to say it was as much as three, four or five hundred dollars?
- A. I don't remember.
- Q. You don't remember at all how much money he paid to you during this period of time?
- A. No.
- Q. Do you remember, Mrs. Thompson, whether these payments were made on a special agreement, the terms of which you cannot now remember, or whether the payments were made for the saw timber, or stumpage being cut?
- A. They were definitely not for the stumpage or the saw timber, the lumber was different.
- Q. Other words, the only thing you remember about the piling transaction was that he made some payments to you which definitely were not for saw timber?
- A. That's right.
- Q. How much timber did you tell us, Mrs. Thompson, that Mr. Minchew delivered to you under your trade with him?
- A. Around seven thousand feet.
- Q. What did you do with that lumber, Mrs. Thompson?
- A. It is put in a building I have there on Highway 31.
- Q. Did you sell any of the lumber delivered to you under that contract or trade?
- A. -- going buy lumber from other mills.
- Q. You didn't sell any of the lumber which Mr. Minchew delivered to you?
- A. I don't remember selling any at all. We claimed some lumber for two churches after we got our mill. Somebody might have thought that was part of that lumber but it wasn't.

- Q. How do you remember that it was about seven thousand feet of lumber that was delivered to you under this trade?
- A. I had to go out and buy from other mills to get sufficient lumber to put up a building.
- Q. Can you look at a pile of lumber and tell how many feet of lumber is in the stack. My question is do you personally know that seven thousand feet of lumber was all he delivered or was that what was told you?
- A. It was the carpenters figures.
- Q. You have no personal knowledge that that was all the lumber delivered to you?
- A. I said it would be the difference between that and the other that the carpenters estimated they needed had to have.
- Q. The only thing you base your opinion on was they delivered seven thousand feet was what the carpenter said and you had to buy some more to build your buildings?
- A. I bought from several different mills to get sufficient lumber to build.
- Q. I believe you said that trade was made in the summer of 1945?
- A. Yes.
- Q. When did Mr. Minchew begin cutting under the terms of that agreement?
- A. Started cutting as soon as he could, I guess.
- Q. Shortly thereafter?
- A. Yes.
- Q. You were living on the place at the time?
- A. Living on Section 7, not where I am now in Section 6.
- Q. Living on part of this land at that time?
- A. Yes.
- Q. Then you knew when he was cutting the timber?
- A. I knew when he was there sometimes. I didn't see all of the operations.
- Q. Did Mr. Minchew deliver to you during the first part of the month of December, 1945, a statement showing the account between you and Mr. Minchew?

- A. I don't remember. I had my records in my home that burned and all of my records burned.
- Q. When was that. How long ago was that fire?
- A. It was in 1946.
- Q. In other words you wouldn't undertake to tell us Mr. Minchew didn't deliver to you a statement showing an accounting between you at that time?
- A. I don't remember it. If I had my records I could tell you.
- Q. At what time, Mrs. Thompson, did you decide there was a disagreement between you and Mr. Minchew relative to the payments for this lumber?
- A. When I needed lumber and it wasn't delivered.
- Q. Would that be after the time he delivered that statement to you, assuming that he did deliver it to you?
- A. I don't remember the statement and would have to have my records to substantiate -
- Q. Do you remember at all when you first decided the accounts were not straight between you and Mr. Minchew?
- A. I don't remember it.
- Q. Other words, as well as you remember, all during the year 1945 you and Mr. Minchew were on friendly terms and you had not disagreed over payments of this lumber?
- A. I don't remember.
- Q. When was this - I will withdraw that. You said, I believe, Mrs. Thompson, that you didn't know when this paperwood was first being cut, that somebody started cutting it before you knew anything about it, is that correct?
- A. I don't know when they started cutting.
- Q. They started cutting before you knew about it, I believe you testified?
- A. Yes.
- Q. That you were living on that place they were cutting of the paperwood and you found out about it before they finished cutting?
- A. Yes.
- Q. You didn't stop them from cutting?
- A. No.

- Q. Now, did you know at the time who was receiving the stumpage money for that paperwood?
- A. He was handling the business and I thought he would get through with it. I didn't get it.
- Q. What kind of verbal trade did you enter into with anyone concerning that timber after it was being cut?
- A. I don't remember. I expected to get paid, expected it to be in the settlement/
- Q. You expected to be paid for the paperwood?
- A. Oh, yes.
- Q. How much were you to be paid?
- A. I finally got the -
- Q. What kind of agreement did you enter into relative to what you would be paid?
- A. Whatever the current price was at that time.
- Q. Who was to pay you?
- A. I looked to Mr. John and Mr. Drew Minchew.
- Q. Did you say Mr. John Minchew and Mr. Drew Minchew were cutting this paperwood?
- A. No. I didn't go to the woods and see it.
- Q. Do you know who did the actual cutting of the paperwood?
- A. No. I don't know.
- Q. How long after you found out the paperwood was being cut, how long was it before you talked to Mr. John Minchew and Mr. Drew Minchew regarding the paperwood?
- A. I don't know just how long.
- Q. Otherwords, you knew somebody was cutting the paperwood on your land but you were not sure who it was?
- A. And I don't know who cut the lumber trees.
- Q. At some later date you didn't know how long it was you talked to Mr. John Minchew and Mr. Drew Minchew relative to the cutting of the paperwood and you and they entered into some kind of an agreement, the terms of which you don't remember, relative to this payment of the paperwood, was that correct?
- A. No, I don't remember.

Q. Do you know a man by the name of Eugene Sells, Mrs. Thompson?

A. I have seen him.

Q. Did he ever enter into a trade with you relative to this paperwood?

A. I understood he was the one to haul the wood for Mr. Minchew.

Q. Did he ever enter into a trade with you in regard to this paperwood, this Eugene Sells.

A. I knew when he was hauling it. I don't remember.

Q. Do you remember whether he and you entered into an agreement relative to this paperwood?

A. He never paid me for any of it.

THE COURT: Did you and Mr. Sells enter into an agreement relative to the paperwood on your land?

A. No.

Q. Did Mr. Sells talk with you about the cutting of this paperwood at a time previous to the time it was cut?

A. I am - - - - no -

Q. You don't remember whether he talked with you about it?

A. No.

Q. You do remember that he did not enter into a trade with you concerning it?

A. I don't remember.

Q. Did Mr. Sells buy your paperwood from you, Mrs. Thompson?

A. He never paid me.

Q. Did he buy it from you?

A. I don't remember.

Q. You don't remember whether Mr. Sells bought your paperwood or not?

A. No.

Q. Did you authorize the McCoy Timber Company or the McCoy Lumber Company of Atmore to pay Mr. John Minchew the stumpage checks for the paperwood?

A. I think so.

Q. You think you authorized the McCoy Lumber Company to pay Mr. Minchew the stumpage money for this paperwood?

A. Yes.

Q. But you don't remember whether or not you and Mr. Sells, did you

testify you did not remember whether or not you sold this paperwood to Mr. Sells?

A. I don't remember any such deal.

Q. Would you undertake to tell us you didn't sell it?

A. I don't remember.

Q. You do remember that you authorized the McCoy Lumber Company to pay the stumpage money to Mr. Minchew for the paperwood?

A. Yes.

Q. Were there any other trades or transactions between you and Mr. Minchew during this period of time?

A. I don't remember.

Q. You don't remember whether you had any other trade or contract with Mr. Minchew along about this time?

A. No.

Q. When was this trade relative to the piling on this land entered into, on your land, Mrs. Thompson?

A. That was a different deal. That was not relative to the lumber deal.

Q. In your trade with Mr. Minchew in the summer of 1945 when you traded with him relative to your saw-timber, did you specifically exclude from that agreement any of the saw timber suitable for piling?

A. It was not mentioned.

Q. Isn't piling timber suitable for saw timber?

A. Some of it can be used for saw timber but where it is especially good for piling it is not used for that.

Q. Under the terms of that trade as originally entered into, Mrs. Thompson, could not Mr. Minchew go out on your land and cut any timber he thought suitable for saw timber?

A. Yes.

Q. Can you recall the necessity for making another agreement relative to the piling?

A. It wasn't - it was just a verbal agreement.

Q. Did you enter into the agreement with Mr. Minchew yourself when you traded relative to the saw timber?

A. Yes, I talked to him, LeNoir and I.

Q. You and LeNoir talked to him together?

A. Yes.

- Q. You don't remember the first time there was any disagreement between you and Mr. Minchew relative to the accounting between you?
- A. I just needed lumber.
- Q. During what period of time did Mr. Minchew deliver lumber to you, Mrs. Thompson, could you give us the months approximately?
- A. If I had my records that burned I could.
- Q. Can you tie it in at all as to the time of the trade, assuming you traded in the summer of 1945, approximately how long after that did he begin delivering lumber to you?
- A. I don't remember just how long, got his things arranged and started cutting. I don't remember.
- Q. Do you remember the last time he delivered lumber to you under that trade or contract, Mrs. Thompson?
- A. No.
- Q. Do you know whether he delivered to you a lot of lumber about the middle of December, 1945?
- A. No, I don't remember just when it was.
- Q. Was there any disagreement between you and Mr. Minchew relative to the account between you at the time he made the last delivery of lumber?
- A. When I wanted more lumber and didn't get it, then I didn't agree with him.
- Q. When was that?
- A. I don't remember the time.
- Q. Do you remember approximately how long after the trade it was you became dissatisfied with the accounting between you and Mr. Minchew?
- A. When my logs were cut and I didn't get the lumber and the carpenters were waiting.
- Q. How long a period of time was that after the lumber was cut before he began delivering to you?
- A. I don't remember.
- Q. Do you know how long a period of time after he began cutting saw timber he made the last delivery to you?
- A. I don't remember.
- Q. Would you undertake to tell us or fix any period of time at all in which you decided the accounts were not straight between you and Mr. Minchew?

A. No.

Q. Was it shortly before the filing of this suit you became dissatisfied with the accounting between you?

A. Before this suit, yes.

Q. Approximately how long?

A. I don't remember.

Q. Then, as well as you can recall it might be just six months before suit was filed that you became dissatisfied with the accounting?

A. I don't try to remember all my business. I kept records and they burned.

Q. You become dissatisfied with the accounting after the records burned?

A. I don't remember just when.

Q. You don't remember whether or not you were dissatisfied with the accounting at the time your records burned, is that correct?

A. That is correct.

Q. You told us your records burned when?

A. In 1946 I think.

Q. In 1946?

A. Yes.

Q. At the time those records burned it might very well be true you were completely satisfied with the accounting between you and Mr. Minckew?

A. No.

Q. Do you remember when you became dissatisfied with the accounting between you and Mr. Minckew?

A. When my logs were cut and he didn't deliver the lumber to me.

Q. I don't believe you exactly understand what I am trying to get at. I want to know when you decided Mr. Minckew owed you some money or some saw timber or lumber from this transaction?

MR. THOMPSON: She answered that question.

THE COURT: Let her answer it again.

A. When I needed lumber and didn't get it. I don't remember the dates.

Q. You don't remember whether it was 1945 or 1946?

A. I don't remember the dates.

Q. You don't remember whether you made demand during the year 1945 on Mr. Minchew to deliver some more timber to you?

A. I asked him for lumber, not for timber.

Q. Do you remember whether you asked him to deliver more lumber during the year 1945?

A. I got lumber in 1945. It was in 1946 I think as the carpenters called for the lumber I had to go to him for it.

Q. How long after Mr. Minchew made his last delivery of lumber to you, how long a period of time expired before you made demand on him to deliver some more lumber to you?

A. I don't remember the time.

Q. You do remember you made demand on him to deliver it?

A. Yes.

ON RE DIRECT EXAMINATION

By Mr. Thompson

Q. You entered into that contract back in 1945?

A. Yes.

Q. Nearly five years ago?

A. Yes.

Q. The counsel for the defendants asked about payment of saw logs, how was that to be handled, in money?

A. In lumber.

Q. To be made in lumber?

A. Yes to be made in lumber.

Q. Now when the counsel for the defense asked you if you sold your paperwood, the first indication, you actually give your consent to be cut, that when you talked to McCoy Timber Company about it?

A. Yes.

THE COURT: The first indication she was selling her timber giving consent to be cut was when?

Q. That consent was that McCoy Timber Company would pay the amount of stumpage to John Minchew?

A. Yes.

Q. Now at that time you had not gotten all of your lumber?

A. No.

Q. Do you recall at all way you gave your consent to McCoy to pay John Minchew?

A. I know had to go on there and cut my lumber.

Q. Cut your lumber for you?

A. Yes.

Q. That being the case you didn't tell McCoy Timber Company to pay Sells anything did you?

A. I don't remember.

Q. Eugene Sells didn't go with you to McCoy?

A. No.

Q. The counsel for the defense has brought out a conversation about piling and poles, that also was in 1945 about five years ago?

A. About that time. I don't remember just when.

Q. The first time you, as the counsel for the defense stated, became dissatisfied was that when you didn't get the lumber as you expected?

A. Yes.

Q. The counsel for the defendant wanted to know when you made demands for lumber, do you recall testifying on direct examination that you went to Mr. Minchew's sawmill location and saw a pile of logs there?

A. Yes.

Q. Did he tell you at that time when to expect delivery of the lumber?

MR. McMurphy: I object

Q. Did you see Mr. Minchew after that time at his location?

A. I went several times and didn't get any lumber.

Q. And you never did get the balance of your order?

A. No.

Q. That lumber was to erect two buildings on that property?

A. Yes.

Q. How many did you erect at that time?

A. One, but had to buy lumber from other people.

ON RECROSS EXAMINATION

By Mr. McMurphy

Q. To get back to this paperwood, I believe you testified you didn't remember whether or not you sold paperwood to Eugene Sells, is that correct?

A. Mr. Minchew was handling the timber, no.

Q. Do you remember whether you sold the paperwood to Eugene Sells?

A. Mr. Minchew was the one I was dealing with.

Q. Do you recall how much money was paid by Mr. Minchew to you during these last five months of 1945?

A. No.

Q. I believe you did say you recall any payment made to you, you did remember any payment made for the piling rather than for the saw stumps, is that correct?

A. Yes.

Q. You also go by the name of Mrs. M. J. Thompson do you not?

A. Yes.

Q. I want to show you a check dated August 24, 1945, signed John N. Minchew for the amount of one hundred dollars, made to Lenoir Thompson, containing on the back of it Lenoir Thompson, Mrs. M. J. Thompson, would you undertake to tell us that is your indorsement on the back of this check?

A. Yes sir, that's mine.

Q. Would you tell us, Mrs. Thompson whether or not this money was received by you from this check?

A. Yes, not for lumber.

Q. Do you know what the check was for?

A. It was for piling. You will notice this check has notation for piling and stumpage.

Q. I have another check dated September 3, 1945 made payable to M. J. Thompson in the amount of One Hundred eight dollars and ninety-six cents, signed by J. N. Minchew and the indorsement on the back are M. J. Thompson and Mrs. M. J. Thompson, the notation on this check is for piling stumpage, would you undertake to tell the gentlemen of the Jury did you did receive the money for that check?

A. Yes.

Q. I have a check dated October 5, 1945 signed by J. N. Minchew in the amount of Two Hundred Dollars made payable to Mrs. M. J. Thompson with a notation on the back is stumpage, it is indorsed by Mrs. M. J. Thompson, did you receive payment for that check, Mrs. Thompson?

A. Yes.

provided he was to deliver to you, cut only timber off of your land?

A. The original agreement was for him to cut pine timber for my buildings and go on and cut trees at ten dollars per thousand stumpage, cut enough to pay for his cutting for me.

Q. Do you remember whether under the terms of the original agreement between you and Mr. Minchew that all of the timber he delivered to you must be cut off of your land, was that part of the agreement?

A. I don't think that question came up, there was plenty of timber, he came and just sold him Fifteen Hundred Dollars worth recently and he left quite a stumpage. I could have gotten any amount I would have owed him. He was to cut my trees, deliver the lumber to me and I would owe so much money and let the stumpage pay for the cutting of mine.

Q. Was it a part of your agreement Mrs. Thompson that all of the lumber he delivered to you under the trade must be cut on your land?

A. I don't think that question came up.

Q. If it didn't come up would you undertake to say it was not a part of your agreement?

A. What?

Q. That all of the lumber Mr. Minchew delivered to you under the terms of this trade must have been cut off of your land?

A. I suppose it could have been, the seven thousand feet was supposed to be cut off of my land.

Q. Was that a part of your agreement with Mr. Minchew?

A. I suppose you would say yes. He was to cut my trees.

LeNoir Thompson having been first duly and legally sworn, testified as follows:

ON DIRECT EXAMINATION

By Mr. H. M. Hall

Q. This is C. LeNoir Thompson?

A. It is.

Q. Mr. Thompson, Mrs. Sadie L. Thompson, the Plaintiff in this case is your mother?

A. She is.

Q. Mr. Thompson, you know these defendants, John and Drew Minchew?

A. I do.

Q. How long have you known them?

A. Since, I don't know exactly, definitely since the summer of 1945.

Q. Were you present and do you recall an agreement between your mother, Mrs. Thompson and the two Mr. Minchews relative to some timber?

A. I do.

Q. When was that, about?

A. I believe, it is my recollection it was in July, 1945.

Q. Were you present at the time?

A. I was.

Q. Were both the Minchews present?

A. Both the Minchews were present.

Q. Your mother?

A. She was.

Q. Was that an oral agreement or was it reduced to writing?

A. Oral.

Q. What was the agreement you heard in the conversation between the Defendants and the Plaintiff relative to saw-logs and lumber?

A. The agreement that was made, the day present on the front porch of our house near Perdido, Mr. Drew Minchew ^{would} ~~xxx~~ cut saw logs and haul them to, - return the lumber to the location for the new buildings, that Mr. John Minchew would saw the logs into lumber, Mr. John Minchew was to finance the operation of logging and sawing, the compensation would be Fifteen Dollars per thousand and for each one which Mr. John Minchew was to pay and take his pay in stumpage from the lands of my mother, the rate of stumpage which was explained the going rate was Ten Dollars a thousand.

Q. What was the agreement between Mr. Minchew and your mother relative to this Ten Dollars per thousand.

A. He was to use Ten Dollars per thousand which he would owe her to pay for sawing the lumber and delivering it to the location, they were to deliver the saw lumber to the location..

Q. They were to deliver the saw lumber to the location your mother fixed?

A. Right.

Q. The Minchews enter into that contract to begin work?

A. That would supposed to go as quickly as possible, several weeks, two or three and Mr. Drew Minchew started on the Barbarow Place and put mule pen or oxen pen near the gravel pit. They began cutting the logs.

Q. Do you know whether or not delivered any lumber to Mrs. Thompson?

A. I only know this. At that time I was employed in Montgomery and come down on weekends and saw the lumber stacked where it was supposed to be stacked. I was advised Mr. Minchew had delivered it.

Q. Do you know who was there to receive the lumber on behalf of your mother?

A. Mother and Red Bryars, the carpenter who was to be in charge of the building.

Q. Is he here today?

A. Yes sir.

Q. He was to receive the lumber, take care of the measurements?

A. Correct.

Q. Do you know whether or not Mr. Minchew delivered any more lumber to your mother's place?

A. He didn't deliver any more to my knowledge except this.

Q. Did you go to see Mr. Minchew?

A. I drove over on weekend to find out why she hadn't gotten her lumber.

Q. They ever tell you it had been delivered?

A. No.

Q. Tell you whether they would or not?

A. Stated each time would delay and explain the delay as having^{truck}trouble having to work elsewhere.

Q. On the last occasion you were there and talked to Mr. Minchew did they tell you they had delivered the complete order of lumber?

A. They did not.

Q. Say whether or not they had delivered it?

A. You mean complete order, no. Stated had logs on the yard to finish cutting it.

Q. The time you were there which one of the Minchews did you talk to?

A. Mr. John Minchew.

Q. The one on this side?

A. Yes.

Q. Where was he when you went there?

A. I went there several times. I don't remember whether he was at the house and walked over with me or whether I went to the house and found him at the mill.

Q. You were at the mill during the conversation?

A. Correct.

Q. At that time any logs there?

A. A great pile of logs to one side of the ramp, Mr. Minchew pointed out as from my mother's property.

Q. Anything said about the order?

A. Mr. John Minchew stated on this occasion he could cut the balance of mother's order and deliver it the next week. When I came back no more lumber and Mr. Minchew and the sawmill were gone.

Q. Did you go up there?

A. I did.

Q. Found the mill moved?

A. Found the mill moved.

Q. Did he deliver any more lumber?

A. He did not.

Q. Of this last visit you were there did he tell you or claim he completed the order?

A. There was no question, he sold - pointed out this pile of logs.

Q. What was the agreement, Mr. Thompson, as to the amount of lumber to be delivered?

A. He was to cut two bills of lumber, one for one building and another for another building, a total of approximately forty thousand feet.

Q. You say he delivered approximately seven thousand feet?

A. Correct.

Q. Approximately thirty-three thousand feet still due?

A. Correct.

Q. When was this occasion you were at the mill, Mr. Thompson?

A. Only way I can identify that time it would have to be the last week in December or the first or second week in January before I severed my connection in Montgomery which was on January 31st.

Q. Prior to the time you quit in Montgomery?

A. Right.

- Q. At the time you were there and talked to John Minckew, he is the same person as J. N. Minckew?
- A. Correct.
- Q. Did Mr. Minckew tell you, or mention in any way he paid Mrs. Thompson, that he had paid Mrs. Thompson for the saw logs?
- A. No. He identified the logs he said he would cut and deliver that week.
- Q. Said he had enough to complete Mrs. Thompson's order? You know specifically the order was never completed?
- A. I do.
- Q. Mr. Thompson you know anything about poling and piling contract between your mother and Mr. Minckew?
- A. Just this. She needed at that time somewhere around three hundred dollars and Mr. Minckew agreed to cut poles and pay her for the pole stumpage.
- Q. Was any agreement between your mother and Mr. Minckew that these poles should become merged with the lumber and timber contract?
- A. No.
- Q. There is no claim here for any amount due for poles and piling?
- A. No claim at all.
- Q. When was the first thing you heard about the pulpwood deal?
- A. I came in from Montgomery and found pulpwood being cut and inquired, then I saw Mr. Minckew and he told me he had already made arrangements with mother and the McCoy Timber Company was handling the pulpwood and I wanted to know why part of this original contract - and he stated about the log trucks and he had to have some money.
- Q. At that time did you ask about how many cords of pulpwood had been cut?
- A. He couldn't tell.
- Q. Did he tell you where to get the information?
- A. Told me/^{He would} go to McCoy Timber Company and get the stumpage.
- Q. Did Mr. J. N. Minckew go and get the information?
- A. Correct.
- Q. Did you go to the McCoy Timber Company?
- A. I went to the McCoy Timber Company and inspected the records personally.

Q. Did you get a statement from Mr. Minchew?

A. From Mr. Leslie McCoy who operated the McCoy Timber Company.

Q. How much did he deliver to McCoy?

A. To Mr. McCoy, one hundred and sixty-six and twenty-sevenths hundredths cords.

Q. And you went after Mr. Minchew authorized you to go there and find out?

A. I did.

Q. Did you talk to Mr. Minchew anything about, relative to the price on stumpage or pulpwood?

A. Only to this extent. I wasn't satisfied with the going rate of stumpage, I felt she should have been preferred a little because it was adjacent to the highway.

Q. Do you know of your own personal knowledge stumpage or pulpwood at that time, what it was selling at?

A. Of my own personal knowledge I had offers to cut eighty acres of mine, I have on the highway, at two and a half to three dollars a cord and I wouldn't sell.

Q. That was the market value at that time off the highway?

A. Right.

Q. Mr. Thompson, Mr. McMurphy has offered in evidence a check which is identified as Defendants' Exhibit "2", being check from J. N. Minchew to Lemoir Thompson for One Hundred Dollars, will you explain to the Jury what that check is or was?

Q. At this time Mr. Minchew was cutting poles, piling on mother's place. Mother needed some money and he told her he would lend her one hundred dollars, first asked to advance and said couldn't afford, didn't know how much he would get, he would lend her one hundred dollars until my pay day in Montgomery and drew a check to me because I was guaranteeing payment of that loan of one hundred dollars, it was a loan which was repaid within eleven or fourteen days, about that much time.

Q. Was that check repaid?

A. It was.

Q. Was that check made for piling and stumpage?

A. No.

Q. An additional loan?

A. Yes, that is correct.

Q. You know it was repaid of your own personal knowledge?

A. I do.

Q. Mr. Thompson he has introduced Exhibits "1" and "3" and "4", look at those (standing witness checks), were those checks issued prior to the time you talked to Mr. John Minchew at the mill?

A. Yes.

Q. So far as you know, any payments made subsequent to the time you were at the mill?

A. No payments made.

Q. Mr. Thompson, during this time were you acquainted with the market value of timber of the nature Mr. Minchew cut off your mother's land?

A. Only to the extent of having received bids.

Q. Did you make inquiries as to valuation?

A. I did.

Q. What was the reasonable stumpage at that time?

A. From ten to fifteen dollars per thousand.

Q. Do you know whether or not from that time the lumber market has fluctuated?

A. Considerably. At that time it was under OPA regulation.

Q. Do you know what was the highest value of stumpage until this time, today?

A. I do.

Q. What?

A. Twenty-five dollars a thousand. Timber of that kind and size.

Q. Do you know whether the market has fluctuated?

A. I do.

Q. Do you know the highest market value of pulpwood between that time and the present time?

- A. I do. It has come to my knowledge is is four dollars a cord.
- Q. Mr. McMurphy has mentioned, as I recall, when a disagreement arose between Mr. Minchew and Mrs. Thompson I presume. So far as you know when did the first disagreement arise?
- A. Well, the disagreement was she wanted him, Mr. Minchew, to cut more logs, and he didn't bring her any lumber, - - - - said had to sell some to keep his mill operating. The next disagreement was when found him, he had moved, and according to my information, out of the state,.
- Q. And you went on a certain date and found enough logs to supply her order?
- A. Correct.
- Q. And you went back later and the mill and the logs were gone?
- A. Correct.
- Q. And no lumber had been delivered?
- Q. Correct.
- Q. Had any demand been made upon Mr. Minchew the two gentlemen for a compliance with the contract?
- A. The last demand was made on the day he showed the logs and on frequent demands before that.
- Q. You have made repeated demands?
- A. Correct.
- Q. And it has never been done?
- A. Correct.
- Q. Mr. Thompson, during the progress of this contract, I believe you stated to the Jury you were employed in Montgomery?
- A. I was.
- Q. I believe you stated you came home on weekends?
- A. I did.
- Q. At that time had your mother planned some buildings?
- A. She had.
- Q. Was that understood by Mr. Minchew?
- A. He was given bills of lumber to cut, certain dimensions.
- Q. Those were delivered to one or the other of the Minchews?
- A. Correct.

Q. Upon delivery of this first shipment of lumber were the buildings begun?

A. No, the buildings were not begun, they said you had to get all of one bill of lumber to start.

Q. Later on did your mother find it necessary to go to other mills to buy lumber?

A. Yes, from Dyas, Tom Emmons and Luke Earle at Atmore and from Drew at McCullough.

Q. At that time was there a lid on the buying of lumber?

A. There was a ceiling on lumber.

ON CROSS EXAMINATION

By Mr. McMurray

Q. Were you present, Mr. Thompson, or did you at the time your mother entered into the pole or piling contract with Mr. Minchew?

A. She discussed it with me at the time. I was present at one time, on one occasion when he told her he would begin cutting.

Q. Were you present on one occasion when he delivered the check?

A. I wasn't present when all the checks were delivered.

Q. Do you have personal knowledge of the contract between your mother and the Minchews relative to poles and piling?

A. He would pay her stumpage at the going rate. Mr. Minchew furnished me copy of sales price which was lost when the house burned.

Q. You testified, I believe, Mr. Thompson, that about seven thousand feet of lumber was delivered under this contract.

A. That's right.

Q. Do you have personal knowledge of that figure.

A. Only to this extent. I saw the lumber and started checking it off myself and not being familiar with computing lumber in my head I turned the matter over to Mr. Red Bryars and checked his report with him.

Q. Do you have personal knowledge that that pile of lumber was all of the lumber delivered under this contract?

A. I can say only to this extent. There was no other lumber delivered to that location. You stack lumber on the ground and you can tell it has been there and I know it was not there.

Q. Could have been delivered to another location?

A. I would say it would not have been because I did not at any time when I made demands state he had delivered anywhere else.

Q. And any statement Mr. Minchew delivered to you or your mother concerning this was destroyed in the fire, is that correct?

A. If he delivered a statement on the lumber I have no knowledge. He did not refer to it when I made demands. He did deliver statement on the piling.

Q. What date were these demands made, Mr. Thompson?

A. I didn't mark it on the calendar. I had been in Montgomery, come to Perdido- -

Q. I believe you told us, about the time you last talked with Mr. Minchew and made demand on him for the lumber do you recall the approximate date?

A. I would say in December, possibly January. The only way I can arrive at the date I was employed in Montgomery at that time and shortly after he moved his mill and left the State I severed my connections in Montgomery.

Q. I believe you said that was one or two weeks prior to the time he moved the mill you made the last demand, is that correct?

A. That is correct. My recollection is I made demand on this Saturday and came back the next Saturday and he was gone. It could have been two Saturdays.

Q. Could you undertake to tell us how long previous to that last demand you had been demanding lumber?

A. Practically every trip I came down, not less than two weeks.

Q. Would that be a matter of several weeks, months or years?

A. Months. As I recall the contract was entered into on July, 1945 and those demands were made after he began cutting which I would say would have to be three weeks delay on the original cutting and from then on until he moved the mill. I didn't follow him out of the State.

Q. Then you would say it continued over a period of several months?

A. It did.

Q. Not as much as eight or ten months?

A. No. From July to December.

Q. Do you know how much stumpage was cut off of this land, Mr. Thompson?

A. Actually I do not know to the footage. I went over the land with the timber cruiser and tallied more or less as he gave it to me. I could not tell by looking at the stumps where piling or lumber - approximately ninety thousand feet besides lumber cut for her. We did not tally the area where her lumber -

Q. Are you a qualified timber cruiser?

A. No, I merely took down the figures.

Q. You would not undertake to say definitely what amount of stumpage was cut off of this land during this period of time?

A. I would say on the basis of the check I made ninety thousand feet.

Q. You don't know whether that is correct or not?

A. No.

Q. When was that check made, Mr. Thompson?

A. In March of 1946.

Q. Had any timber been cut off of this land between that date and the date Mr. Minchew had stopped cutting?

A. No.

Q. Did that account which you checked which you say you do not know whether it is correct or not, include the paperwood?

A. No.

Q. You were able to look at the stumps and tell whether or not it was paperwood or -?

A. I knew where the paperwood timber was on the Rock Hill Slope was the paperwood. I did not check next to the highway where he began cutting to get mother's lumber so there could be no confusion on that.

Q. Mr. Thompson, do you know whether or not any lumber was delivered to your mother under this contract was sold by her?

A. I don't know if she sold any. I am sure she didn't sell any.

Q. Would you undertake to tell us that she did not sell any of your own personal knowledge?

- Q. I can say definitely I don't feel, - I do not believe she sold any of it.
- Q. You were down here about ^{every} two weeks?
- A. Sometimes every week. On the average every two weeks.
- Q. Was any differentiation made between hardwood and pine under this contract?
- A. There was a discussion there concerning, and I talked to Mr. Minchew myself, examined some poles nailed on the tool shed which was bay. He stated to me there was bay on this property, it would be good sub-flooring and he was to cut bay.
- Q. There was both hardwood and pine delivered to you?
- A. He delivered enough, well, there was bay and gum most of which had bark showing under the shed, the shed by the planer mill, was all the hardwood gotten.
- Q. None of that sold to your knowledge?
- A. I know it wasn't.
- Q. Except lumber could have been delivered you don't know about?
- A. If it had been stacked there I would have been able to see, it shows-
- Q. I think you were the one who did most of the trading, is that correct?
- A. I was present merely to help my mother in the trade.
- Q. Under the terms of the contract was it part of the contract that all of the lumber delivered to your mother must have been cut from her land?
- A. There was no mention in it. In the beginning except he was to cut logs on her land and deliver the lumber from those logs, then cut whatever stumpage was necessary to pay for cutting. Later he took - - - tell me he wanted to cut logs elsewhere to fill eight by ten dimensions, - - - larger size for floor joists and I objected to it.
- Q. Would you undertake to say Mr. Thompson that it was part of the original contract that all of the lumber delivered to your mother must have been cut off of her land?
- A. No, not necessarily a part, merely ^{he would} ~~xxx~~ cut her logs and deliver her lumber then come back and cut, that wasn't considered.
- Q. He could have fulfilled the contract by cutting the stumpage on your mother's land accounting to her in the proper form and then

delivering any lumber he might have and thereby accounting on that basis?

- A. No, she was to get her lumber first. She was to get the first logs but there was no reason to take any lumber from anywhere else.
- Q. What price was Mr. Minchew to receive for the lumber delivered?
- A. Thirty dollars a thousand. The first agreement was he would saw it for fifteen dollars and Mr. Drew was to log it for fifteen dollars and drop the logs by in passing but - - just as easy to bring the lumber by. Mr. John was financing so he could go ahead and log.
- Q. Were Mr. Drew and Mr. John engaged in a partnership?
- A. I would say a joint venture because Mr. John was financing the whole thing.
- Q. That was the impression you gained from the negotiations?
- A. That is correct.
- That's all

ON RE DIRECT EXAMINATION

By Mr. Hall

- Q. Mr. Thompson, do you remember when Mr. Minchew concluded, finished cutting the piling and poles?
- A. I do to this extent. Piling and poles cut that - cut from the northwest quarter of Section Seven, which was the home place, they would be hauling up and down the road to the home place.
- Q. My question was this: Did he finish cutting the poles and piling before you were there at his mill in December?
- A. He finished in October. May have been the first of November.
- Q. He finished the piling and pole operation before you had a conversation with him?
- A. He had.

Mr. Red Bryars, having been first duly and legally sworn, testified as follows:

ON DIRECT EXAMINATION

By Mr. Thompson

- Q. You are R. B. Bryars?
- A. Yes.
- Q. Known as "Red"?
- A. Yes sir.

Q. You live near Perdido here in Alabama?

A. Yes.

Q. Mr. Bryars, you know Mrs. Sadie L. Thompson?

A. Yes sir.

Q. Do you know Mr. Joan Minchew?

A. Yes sir.

Q. Know Mr. Drew Minchew?

A. No sir, I don't believe I do.

Q. Were you employed by Mrs. Sadie L. Thompson to prepare two bills of lumber in 1945?

A. Yes sir.

Q. Can you recognize that (handing witness paper)?

A. Yes sir, store building, filling station and restaurant building.

Q. Did you prepare a bill of lumber for that now occupied by Mrs. Sadie L. Thompson?

A. Yes sir.

Q. You prepared a bill of lumber for the construction of this building (handing witness paper)?

A. Yes sir.

Q. That is an eight room building?

A. Yes sir.

Q. (Indicating) In this, now on this store building, did you enlarge it from the blueprint?

A. Yes sir, made it a foot wider probably two feet.

Q. Did you change the dimension of the front generally?

A. Yes sir, made that larger.

Q. Did the increase in this building call for long lengths of lumber?

A. Yes, I think the rafters were about twenty feet, longest ones she had.

Q. These are the blueprints, bills of lumber made from?

A. Yes sir.

MR. THOMPSON: I would like to introduce these in evidence.

Blueprints identified by Reporter as Plaintiff's Exhibits "1" and "2".

Q. Mr. Bryars, did you construct one of those buildings?

A. Yes sir, the restaurant and store.

Q. When you were getting ready to construct the building did you observe from time to time the lumber brought there to be used?

A. No sir, not while it was being brought.

Q. You didn't happen to notice while it was being brought?

A. No sir.

Q. Did you measure the lumber brought there or check it to see whether you had your bill of lumber?

A. We run out when we got about a third of the way through, checked it then, about seven thousand feet in the building when we run out of material and shut down.

Q. Up to that time you have any knowledge where that lumber came from?

A. No sir, not exactly.

Q. You don't know where the seven thousand feet came from?

A. No sir. It was there when I went to work, that was there.

Q. While you were waiting on lumber to begin construction did you have any knowledge of where it was to come from?

A. Only what Mrs. Thompson told me that Mr. Minckew was going to cut it.

Q. After you ran out of lumber did you have occasion to know where the balance of the lumber came from?

A. Yes sir.

Q. You made arrangements yourself for the balance of that lumber?

MR. McMURPHY: We object to his leading the witness.

Q. Do you know where some of it came from, state of your own knowledge?

A. I know Mr. Ed Drew brought some down there from McCullough.

Q. Know where any other came from?

A. No sir, I don't believe I do.

Q. Had you been building houses at that time for other people?

A. Yes sir.

Q. What was the price of the lumber of the dimensions you stated to the Jury?

MR. McMURPHY: There has been no dimensions shown on that Your Honor.

MR. THOMPSON: The gentleman stated the rafters were long lengths over twenty feet.

MR. McMURPHY: We object to his testifying about the price of the lumber unless some way shown of what the lumber consists.

Q. Did you contract any building at about that time in 1945?

A. Yes.

Q. Did you buy lumber?

A. Yes sir, bought lumber for that one.

Q. For the length lumber called for in these blueprints admitted in evidence, what was the going price on two by sixes on the length you testified?

MR. McMURPHY: We object, it still hasn't been shown any part of price of lumber was at that time.

THE COURT: Sustain the objection.

Q. You stated you had bought lumber to build houses you actually familiar with the market value of lumber at that time?

A. Somewhat. I bought some at different places.

Q. What was the market value of lumber the size two by six of lumber of that kind?

MR. McMURPHY: I think he ought to specify a date on that. I don't think he is qualified to answer that.

Q. Do you know the value of lumber at that time of that type?

A. No sir. I don't actually know. Been a pretty good while ago.
That's all

ON CROSS EXAMINATION

By Mr. McMurphy

Q. Mr. Bryars, you told us while you were constructing the cafe for Mr. Thompson the pile of lumber contained about seven thousand feet there at one time?

A. Yes.

Q. And you said you had no personal knowledge of where the lumber came from?

A. No sir, only what I was told.

Q. Do you know anything at all about Mr. Minchew delivering lumber to Mrs. Thompson of your own personal knowledge?

A. I don't remember seeing him delivering it. I wasn't working there then.

Q. You don't know of your own personal knowledge whether or not Mr. Minchew ever delivered lumber to Mrs. Thompson?

A. I wasn't there. I don't believe I could.

Q. You would not undertake to tell us one way or the other how much lumber Mr. Minchew delivered to Mrs. Thompson?

A. No sir.

Q. He could have delivered a considerable amount of lumber and you not know anything about that?

A. I used up all he had there.

ON RE DIRECT EXAMINATION

By Mr. Thompson:

Q. After you used up that amount do you know Joan Minchew brought any more or sent any more there?

A. No sir.

Q. He didn't bring any more after you used up that amount?

A. No.

ON RE CROSS EXAMINATION

By Mr. McMurphy

Q. Know whether or not Mrs. Thompson sold any lumber about that time Mr. Bryars?

A. No sir, I do not know that.

Q. You said that at one time the pile of lumber about seven thousand feet of lumber, that pile ran out and subsequent to that time some more lumber was on the place, you know where the lumber came from?

A. Wasn't any there when it run out. I used all they had.

Q. Subsequently some more lumber was brought in?

A. Bought from Mr. Ed. Drew.

Q. Know when that lumber was brought?

A. I don't know the date.

Q. Do you know what time the first pile of lumber was there?

A. It was there when we started building.

Q. What time was that?

A. Well it was, I don't remember the exact date, 1945 or 6.

Q. Could you give us the month?

A. About April.

Q. Do you feel sure of that answer?

A. Reasonably sure.

Q. Are you sure it was in the springtime, Mr. Bryars?

A. It was when she started to build.

Q. You are sure it was in the springtime the building was started?

A. I think I am sure.

Q. At that time when the building was started there was a pile of lumber seven thousand feet there?

A. I didn't estimate it until used what we had.

Q. Then estimated it?

A. Got a pretty good check.

Q. Later then some more lumber was brought in there?

A. Yes sir.

That's all

Mr. Jordan Hammonds being first duly and legally sworn, testified as follows:

ON DIRECT EXAMINATION

By Mr. Thompson

Q. Your name is Jordan Hammonds?

A. Yes sir.

Q. Mr. Hammonds you know Mrs. Sadie L. Thompson?

A. Yes sir.

Q. Did you have occasion to work for her early, in the early part of 1946 on construction of a building?

A. Yes.

Q. During the course of your employment did you have occasion to go get lumber?

A. Yes sir.

Q. State to the Court to the best of your recollection where you got the lumber?

A. Got the lumber from Mr. Freemanville, Frank Earle, I don't remember how many feet.

Q. Mr. E. Freeman?

A. Yes sir.

Q. And Luke Earle?

A. Yes sir.

Q. Know of any other lumber?

A. Mr. Ed Drew brought some down there.

Q. Was that lumber used in the building or sold?

A. Used on the building I suppose.

Q. Recall getting lumber anywhere else or know of it coming from anywhere else?

A. No.

- Q. After you came to work there did you see Mr. John Minchew bringing any there?
- A. Not after I went to work.
- Q. He did bring some before you went to work?
- A. Yes sir.
- Q. Would you have any knowledge as to the quantity of lumber he brought?
- A. No sir. I wouldn't have. I never checked it.

ON CROSS EXAMINATION

By Mr. McMurphy

- Q. When did you start to work on this building Mr. Hammond?
- A. In 1946.
- Q. Could you give us the month on that?
- A. I would say near April.
- Q. You were there when the building started?
- A. Yes sir.
- Q. In other words the building hadn't been started before you started to work?
- A. No sir, because I helped build the foundation.
- That's all.
- MR. THOMPSON: Robert Wood, Atmore. If he comes I would like permission to put him on the stand. Otherwise we rest.

Mr. John N. Minchew, having been first duly and legally sworn, testified as follows:

ON DIRECT EXAMINATION

By Mr. McMurphy

- Q. This is Mr. John N. Minchew?
- A. Yes sir.
- Q. Are you one of the defendants in this case?
- A. Yes sir.
- Q. Did you enter into a trade with Mrs. Thompson during the summer of 1945 relative to the cutting of some timber?
- A. No sir, I did with her son.
- Q. Will you state to the Jury please sir, the terms of that trade.
- A. I was to pay him, first said ten dollars a thousand log scale, cut the pole timber pay fifteen dollars a thousand and sell the lumber, at thirty-five dollars, otherwise pay him fifteen dollars per thousand stumpage and he was to buy the stumpage delivered to him at thirty-five dollars.

Q. Pursuant to that trade how much saw timber did you cut from Mrs. Thompson's land?

A. Approximately twenty to twenty-five thousand feet not counting the poles.

Q. Under that trade you were to deliver to her certain amount of finished timber?

A. Right.

Q. How much timber did you deliver to her under that trade?

A. Around thirty-five thousand feet.

Q. Did you keep records at that time of the amount of timber you delivered to her?

A. Yes sir, I did.

Q. Do you have with you any memorandum you have made from those records?

A. I have.

Q. Did you make that memorandum yourself?

A. I copied it off my book. You have the book.

Q. Will you read to the Jury, please sir, what those figures show?

MR. THOMPSON: We object. Book being in Court would be proper evidence.

MR. McMURPHY: I believe Your Honor, you know he testified he made the memorandum himself, merely a shorthand rendition of the books, would be lengthy and time consuming to go over the books.

THE COURT: Is this a copy of the account he submitted?

MR. McMURPHY: No sir, a memorandum from his records.

THE COURT: I believe the books would be the best evidence.

Q. Was this book kept in your regular course of business, Mr. Minchew (handing witness book)?

A. Yes it was.

Q. Does this book show a record of the lumber which was delivered to Mrs. Thompson by you?

A. Part of it, part on day book, this book at the mill yard big book I had.

Q. Will you go through those books, please sir, and tell the Jury how much lumber was delivered to Mrs. Thompson according to your records?

A. Some is - October 20, 1945, Mrs. Thompson, lumber sold 2x4 16-18 lumber 14 2x4 x8s. I haven't got the amount run up.

Q. Have you previously added those figures up?

A. Yes sir, it is on this.

Q. Does that memorandum which you have correctly show the totals?

A. Approximately.

MR. McMURPHY: We believe, Your Honor, that the memorandum-

THE COURT: He can refresh his recollection.

Q. I will ask you to refer to that memorandum Mr. Minchew and refresh your memory as to how much lumber was delivered to Mrs. Thompson.

MR. THOMPSON: I object on the ground he has the books here and he could make the statement from these books.

THE COURT: I think he can use it to refresh his memory, he testified this memorandum is made from those books. Overrule the objection.

MR. THOMPSON: I except.

Q. What lumber did you deliver to Mrs. Thompson, Mr. Minchew?

A. On October 11, 1945 I delivered 1,769 feet, On September 24, 1945 I delivered 6,000 feet, October 2, 1945 I delivered 9,239 feet, on September 3, 1945 I delivered 4,492 feet, August 14, 1945 I delivered 137 feet, September 23, 1945 I delivered 7,492 feet, October 11, 1945 delivered 306 feet, September 19, 1945 I delivered 324 feet, October 20, 1945 delivered 418 feet, December 11, 1945 1039 feet, September 28, 1945 990 feet, October 19, 1945 delivered 1486 feet.

Q. What is the total amount of that lumber?

A. 35,205 feet.

Q. All of that was delivered to Mrs. Thompson, delivered to her in 1945?

A. That's right.

Q. Pursuant to your contract or trade with her?

A. That's right.

Q. Were you and your brother engaged, Drew Minchew, engaged in a partnership operation for the cutting of this timber?

A. No sir, we were not.

Q. Was Mr. Drew Minchew working for you?

A. He was.

Q. Was in no way engaged in the contract?

A. Nothing, only contract-

Q. There has been introduced in evidence in this case three checks payable to the order of Mrs. M. J. Thompson. I will ask you if these

checks were charged to your account?

A. Yes sir, they were.

Q. Upon what circumstances were these checks delivered to Mrs. Thompson?

A. This check delivered -- on pole stumpage (indicating), this check was on stumpage piling, this check on pole stumpage.

Q. In other words your trade with Mrs. Thompson you were to cut timber on her land and to pay her so much per thousand log scale and you were to deliver payment was to be made by delivering certain lumber to her?

A. I was to get stumpage sufficient to pay for the lumber I was selling.

Q. Upon what circumstances did you give those checks to Mrs. Thompson?

A. Mrs. Thompson came up there each week and wanted stumpage check so give checks for while and told her I couldn't furnish lumber and pay her too, had to quit or make different agreement couldn't pay for stumpage and deliver too.

Q. Did you receive from the McCoy Timber Company certain paperwood checks?

A. Yes sir, I did.

Q. Under what circumstances did you receive those checks?

A. Along toward the last Mrs. Thompson asked could handle paperwood told couldn't asked could get somebody to cut told thought could contact Sells and Sells and myself were down to see Mrs. Thompson and she traded with Sells for paperwood. She made arrangements with McCoy -- -- stumpage -- -- and pay me stumpage she was getting.

Q. Were you ever ordered by Mrs. Thompson not to cut timber off of her land? Mrs. Thompson ever tell you you should not cut timber off of her land after you started?

A. She did not.

Q. Would you say all the timber you cut off of Mrs. Thompson's land pursuant to this contract was cut with Mrs. Thompson's permission?

A. That's right exactly.

Q. You have testified twenty or twenty-five thousand feet log scale?

A. That's right.

That's all

ON CROSS EXAMINATION

By Mr. Thompson

- Q. Mr. Minchew you have just testified as to the delivery of some lumber to my mother. Now, can you find in these books, your records showing you cut out 9, 209 feet?
- A. That's right.
- Q. Who hauled it for you?
- A. My brother.
- Q. Where did he take it?
- A. To your mother's place.
- Q. How many loads did he make?
- A. I never kept up with the loads, sometimes 300 feet, sometimes a thousand.
- Q. What was the capacity of his truck, how many feet could, thousand feet could he haul?
- A. Maybe a thousand or twelve hundred at the time.
- Q. He could haul one thousand to twelve hundred feet at one time?
- A. Yes sir.
- Q. Now, you stated that Mr. McCoy paid you some stumpage on paperwood?
- A. He did.
- Q. Do you recall the amount?
- A. No, I can't exactly.
- Q. You don't remember the exact amount?
- A. No I don't. Mrs. Thompson authorized him to go back to pay to her.
- Q. Do you know the amount he paid to her?
- A. No, I don't.
- Q. Do you know the amount cut off of that place?
- A. No sir, I don't.
- Q. You testified on direct examination you were to get the stumpage to pay for the lumber you were to furnish her?
- A. Right.
- Q. Anyone haul any lumber from your place to her location other than Drew Minchew?
- A. No sir.
- Q. He did all your hauling?
- A. Yes sir.
- Q. Do you recall the day you made the agreement to cut that lumber logs timber to deliver to her?
- A. I can't the exact day. In August, along the first of August.

Q. Do you remember where that agreement was made?

A. Yes, I can.

Q. It was down at her house wasn't it?

A. No sir, it was at my sawmill.

Q. You made the agreement at your sawmill?

A. Yes sir.

Q. You made it with her?

A. No sir, with you.

Q. You didn't come down to her house?

A. Come down looked at it one Sunday. Didn't make the agreement.

Q. Did you make the agreement before you came down to the house?

A. No sir, after.

Q. Do you recall the date you were cutting piling when you began cutting poles and piling?

A. Not the exact date.

Q. Do you recall then when you finished cutting?

A. Along in September sometime in September, I don't remember the date.

Q. Do you recall the stumpage you were to pay for poles and piling?

A. Well it was so much a hundred feet, pieces different in length, poles, highest were around one dollar.

Q. You say you were to pay in proportion to poles you cut?

A. That's right.

Q. Had whatever it brought?

A. Right.

Q. Have a recollection of the number of poles you cut?

A. No sir, have the records.

Q. Would you say you cut fifteen hundred? ~~five~~

A. No, didn't cut that many. I won't say. Have to go to the record. Been five years.

Q. You don't remember the details?

A. No sir.

Q. Would you say you didn't cut over five hundred?

A. No sir.

THE COURT: Let him refresh his recollection.

MR. THOMPSON: I wanted to show for that length of time his recollection.

Q. Now you have testified as to delivering on one day 9, 209 feet of lumber, will you locate that in the book (handing witness book)?

A. It will take sometime. I wasn't working just for you. I was working for several other people at the same time.

MR. McMURPHY: How much did you say?

MR. THOMPSON: 9, 309.

A. What was it you wanted to know?

Q. Wanted you to find that entry. I find here you have an entry sold 9,239 feet at sixty dollars. I think you testified awhile ago you were going to sell it for Thirty-five Dollars, is that right?

A. Yes sir, that's right.

Q. Can you find the tally sheet?

A. Didn't just keep tally sheet.

Q. Just which is your story Mr. Minckew, was the sale Thirty-five Dollars or Sixty Dollars?

A. Difference in the long lumber, Sixty Dollar stuff for _____ you remember very well the long stuff would be more money.

Q. I am asking which amount was in the agreement?

A. The general run of it was Thirty-five Dollars per thousand.

Q. Then can you show a tally sheet as to why you would price it at Sixty Dollars?

A. I haven't got tally sheet, foundation of the building cut off other timber, wasn't even cut off her timber.

Q. You stated you were to cut off of her timber?

A. Wont say I cut all of it.

Q. You stated under the contract was for you to cut off of her timber?

A. Wasn't to deliver the lumber directly off of her land.

Q. How many loads did it take to make this?

I just don't know, couldn't call back -

Q. You stated the average load was from four to six hundred, maybe a thousand?

A. I don't know how many logs, - hauling logs bringing in load of logs carry lumber back.

Q. Isn't it a fact when you got ready to move to Florida you made some entries to bring up your balance?

A. I didn't never fool with those books.

Q. You didn't make your entries?

A. No sir.

Q. Don't know whether or not that was actually sold?

A. I know what's on the books is the lumber.

Q. You stated you didn't make the entry didn't have tally sheet.

A. I checked the lumber loaded on the truck, didn't keep amount of pieces. I have tally sheets for some show how checked the lumber.

Q. Do you have the bills she gave you?

A. No sir, have you got it.

Q. You testified you didn't make this entry, who made this entry?

A. I did some and my daughter did some of it.

Q. Did you make this entry or your daughter make it (indicating)?

A. I put some and she put some.

Q. I asked you if you made the entry you found and showed me?

THE COURT: Let him see it.

A. I did, that's my writing.

Q. You didn't have the tally sheet?

A. No sir, never kept them.

Q. You couldn't say what dimensions this was?

A. No sir, I couldn't.

Q. Could you say what day you entered this?

A. Best I remember in August, working cutting off somebody else's lands the book shows.

Q. Look at that closely and see if it isn't a recent entry?

A. It wasn't made in the last six months.

Q. Will you take that book and find me your entry for 7,492 feet (handing witness book)? Now, Mr. Minchew, I call your attention to this fact that these other entries - adjoining that made in ink and - - - - - this is made in pencil and not identified, did you make this entry?

A. Yes, I did.

Q. Did you tally the lumber?

A. No sir, I didn't.

Q. Where did you get your information?

A. Probably my daughter tallied it, somebody working there-~~x~~

Q. You don't know who tallied it?

A. I don't know right off hand.

Q. You don't know what paper you got that to enter -

A. No sir, don't, didn't check it.

Q. You do admit pencil?

A. No sir.

Q. Not the style of the other entries.

A. Find some other entries.

Q. You admit that?

A. Yes.

Q. I will ask you to find one more entry, 4,492 feet (looking at book) now I notice you put the price on this Fifty Dollars per thousand, is that correct.

A. That is correct.

Q. You stated the contract was for Thirty-five Dollars. I will ask if it isn't put down the same as the other not identified as to the entry - ?

A. If I say I put some down -

Q. Did you tally that last -?

A. No sir.

Q. You didn't have that tally sheet?

A. No sir.

Q. How was that lumber tallied, do you know?

A. _____

Q. Was the lumber tallied as it was shipped?

A. As it was loaded on the truck piece by piece length and dimension.

Q. In the order of delivery?

A. That's right.

Q. Was it put in the book in the order of delivery?

A. You mean at the time it was taken off the tally?

Q. Was it entered in the book in the order of delivery, is that correct?

A. That is correct.

Q. If it was entered in the book in the order of delivery Mr. Minchew,

how do you account for the fact the October 24 delivery is on page 44 and the September 3 delivery on page 87.

A. Didn't try to keep it - What I was doing was putting it on this so I would know what it was, I didn't have that kind of business.

Q. You entered the other accounts in the order of delivery on the pages as they were gotten?

A. The books show

Q. You will find the dates connective on the other accounts. Do you have any way of accounting as to way you snapped through the books to make the large entries?

A. Just take the book and done it.

Q. Never tried to keep the pages straight?

A. That's right, put it down where I come to it.

Q. You still say this handwriting is older than six months?

A. Sure.

Q. Mr. Minchew you will notice from your book you kept one page on the other accounts and one page on the small trees for Mrs. Thompson's account, can you give the Jury a reason why you snapped through the book to put the large entries in?

A. I taken some off the little books and put on the big books.

Q. With the operation there you didn't enter all her account -

A. Aint no one got one account.

Q. I will ask you to look at the book you will see a person's name at the top of the page, you will see her name at the top of the page with the small trees and large trees being scattered on page 83 October on 44, you still don't have a reason?

A. Just taken off tally and put on book, didn't have no bookkeeper. That's all

Mr. Drew Minchew having been first duly and legally sworn, testified as follows:

ON DIRECT EXAMINATION

By Mr. McMurray

Q. Is this Mr. Drew Minchew?

A. Yes sir.

Q. Are you one of the defendants in this case?

A. Yes sir.

Q. Were you working for your brother during the last five months in 1945?

A. Yes sir.

Q. Were you engaged in a partnership with him?

A. No sir.

Q. Were you present when he traded with Mrs. Thompson relative to the cutting of timber on her land during the summer of 1945?

A. How was that, Mr. McMurphy?

Q. Were you present when your brother, John Minckew, traded with Mrs. Thompson relative to the cutting of timber on her land?

A. Yes sir.

Q. Did you, working for your brother, cut timber off of Mrs. Thompson's land relative to that agreement?

A. I was to log it.

Q. Did you supervise the actual cutting of the timber?

A. Yes sir.

Q. Could you tell the Jury, please sir, approximately how much timber was cut off Mrs. Thompson's land?

A. Saw logs between twenty and twenty-five thousand feet.

Q. Did you deliver for your brother some timber to Mrs. Thompson, some lumber?

A. Yes sir.

Q. You have heard your brother testify as to the amount of timber delivered to Mrs. Thompson, did you deliver that timber?

A. Well, I didn't drive the truck all together, truck driver in the woods pick up a load of trees and come back in the woods and get another load of logs.

Q. In the course of the operation of that business, working for your brother, would you state the amount of lumber your brother ~~said~~ said he delivered to Mrs. Thompson is substantially correct?

A. Yes sir.

ON CROSS EXAMINATION

By Mr. Thompson

Q. You stated that sum of lumber was substantially correct, how did you know?

A. My truck picked up there with load of lumber, men pick up, -- length, dimension, called out and checker standing over there -- -- book paper whatever had to tally on and some -- --

Q. You just testified you didn't drive the truck?

A. Not all together. Drove oxen some and sawed logs some.

Q. You were in there all the time?

A. No sir.

Q. You couldn't say positively?

A. My truck driver -- -- -- brought another load of lumber over from the planer mill.

Q. How many loads did he make a day?

A. Sometimes one, sometimes four and sometimes five.

Q. You don't know that you made over five loads a day?

A. It's been over five years ago.

Q. You heard your brother testify that a maximum load of lumber 12,500 feet?

A. If what put on truck it was.

Q. On that day he has down there for 9,000 feet, -- -- how many loads would it take to haul 9,000 feet.

A. I don't know I wasn't hauling lumber. Below sometimes two thousand five hundred-- --

Q. You couldn't state on what day you hauled any such amount?

A. Five years ago, I don't recall.

Q. Would you say you hauled seven thousand in one day.

A. Probably, that day truck may have just hauled lumber.

Q. Mr. Minchew, I will ask you if you recall if you didn't come out on the steps Sunday afternoon while your brother stood on the porch and talk about sawing that lumber?

A. I recall talking the trade over.

Q. Don't you recall that time when you were talking the trade over you were to get fifteen dollars a thousand?

- A. I recall twenty-five a thousand log mill and haul lumber back over there.
- Q. You don't recall fifteen dollars a thousand for logging?
- A. No sir.
- Q. Recall fifteen dollars a thousand for the sawing?
- A. No sir, I don't.
- Q. You remember what he was to get for sawing?
- A. He was to pay you stumpage and let you have the lumber back for thirty-five dollars a thousand.
- Q. You heard him testify he charged fifty dollars and sixty dollars there on the book?
- A. Difference in foundation lumber.
- Q. Didn't you just testify he was to charge thirty-five dollars?
- A. On the biggest majority, yes sir.

ON RE DIRECT EXAMINATION

By Mr. McMurphy

- Q. Did you receive any paperwood checks?
- A. No sir.
- Q. You didn't receive any money at all from paperwood?
- A. I didn't know the paperwood was being cut. I was in Florida at the time it was cut, Walnut Hill.

MR. McMURPHY: We rest your Honor.

In Rebuttal

Mr. Red Bryars being recalled to the stand, testified as follows:

ON DIRECT EXAMINATION

By Mr. Thompson

- Q. Mr. Bryars, you say you were employed by Mrs. Thompson to erect her buildings weren't you?
- A. Yes sir.
- Q. You lived within about two hundred or three hundred yards of the location you were to put it up?
- A. Yes.

Q. You had occasion to see from time to time the lumber on the ground there?

A. Yes sir.

Q. You testified on direct examination approximately seven thousand feet, little more or little less, when you ran out of lumber?

A. Yes sir.

Q. You used all of the lumber? Used all that was on the ground?

A. All but two or three big heavy pieces I couldn't use.

Q. Would you say any, find any thirty or thirty-five thousand feet of lumber?

A. No sir.

Q. From July until you began construction of that building in March or April, was thirty or thirty-five thousand feet of lumber on that ground at one time?

A. No sir.

ON CROSS EXAMINATION

By Mr. McMurphy

Q. You began working for Mrs. Thompson in April, is that correct?

A. Yes sir.

Q. From the period of ^{what} time from the previous July until about April you began work for Mrs. Thompson were you always present at the place where the cafe was being built?

A. No sir, passed there.

Q. Do you know how much lumber was delivered to the place of the cafe from the period of July previous to that April?

A. No sir, what was there we used up.

Q. You wouldn't know how much was delivered?

A. No sir.

ON RE DIRECT EXAMINATION

By Mr. Thompson

Q. You said what was there you used up?

A. Yes.

Q. What you used amounted to what?

A. Approximately seven thousand feet.

Mrs. Sadie L. Thompson being recalled to the witness stand,
testified as follows:

ON DIRECT EXAMINATION

By Mr. Thompson

Q. You are Mrs. Sadie L. Thompson?

A. Yes.

Q. Did you at any time see the number of loads Mr. John Minchew testified delivering to your place there on that ground?

A. There was never that much lumber there on that ground at at time during that time from his mill.

MR. THOMPSON: We rest.

THE COURT'S CHARGE TO THE JURY

Now, gentlemen, it becomes my duty to charge you with the law in regard to this case and in the beginning I want to charge you Gentlemen, of the Jury, you are the sole judges of the evidence in the case and of the weight you will give to all the evidence in the case. The Court charges you that you may look, and it is your duty to look, to the demeanor of the witnesses on the stand, and their opportunity to remember, to see and know the facts they testified to and weigh and give the testimony of such witnesses all such weight and credence as you think fit and proper. Now, this is a suit by Mrs. Sadie L. Thompson against John N. Minchew and Drew J. Minchew, individually and as partners. I charge you first that under the evidence unless you are reasonably satisfied from all the evidence every one or both owe Mrs. Thompson then it would be your duty to bring in a verdict for the defendants. If you are reasonably satisfied from the evidence that either one or both owe the amount sued for, it would be your duty to bring in a verdict for the plaintiff for such amount as you think they owe. What the Court is trying to get across to you is the fact that under the complaint you can find against one or both of these defendants whatever sum, if you think either owe the complainant.

The Court charges you Gentlemen of the Jury that a claim for conversion in law is this: That the defendant has taken something of the plaintiff's and unlawfully used it himself. Count One and Count Three of this complaint are for conversion of certain timber and certain pulpwood. Unless you are reasonably satisfied from the evidence

that these defendants or one of them unlawfully took timber belonging to the Plaintiff or unlawfully refused to give back to her timber that he had gotten from her lawfully, the Court charges you you cannot find for Plaintiff on Counts One and Three.

The Court charges you Gentlemen of the Jury that the difference between an action on account and an action for conversion is this: If the Plaintiff sold to the Defendants certain saw-logs and the sale was consummated when they took the saw logs and they were supposed to pay by certain means payment not necessarily lumber from that same log, then that would not be conversion, but merely a balance of account. Unless you are reasonably satisfied from the evidence that the Defendant or both of them or either one of them took logs belonging to the Plaintiff either took unlawfully or having taken them lawfully unlawfully refused to return to her her timber, then you cannot find for the Plaintiff on Count One and Three.

Count Two of the Complaint claims for certain moneys had and received by the Defendant to the use of the Plaintiff. If you believe the Defendants or either one of them received certain moneys for the Plaintiff and failed to turn those moneys over to her then ^{you}/should find for the Plaintiff on Count 2 of the Bill of Complaint up to the amount you find due.

No objections to the oral charge.

The Court gives the written charges.

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I, Ora S. Nelson, Court Reporter for the Twenty-eighth Judicial Circuit, hereby certify that the above and foregoing is a true and correct transcript of the testimony in the above case as taken and transcribed by me on the trial of said cause.

This 29th day of July, 1950.

Ora S. Nelson
Court Reporter

Area of Nelson Paint Reported



Scale 1/2" = 1' - 0"

1. WILLIAM B. COOPER, ALA.
 2. W. A. RICHARDS
 3. W. A. RICHARDS, ALA.

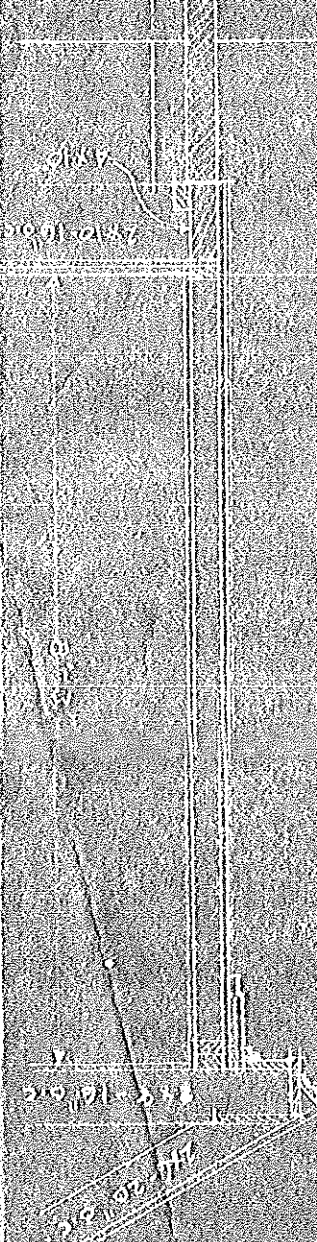
Thompson

Carl D. Cooper, A.I.A.
Architect
Montgomery, Ala.

FRONT ELEVATION
MONTGOMERY, ALA.



ALL SECTION
SCALE 1/8" = 1'-0"



Q. I have another check dated October 18, 1945 in the amount of Eighty Dollars and Fifty-six Cents signed by J. N. Minchew made payable to the order of Mrs. M. J. Thompson with a notation on the check is pole stampage indorsed by Mrs. M. J. Thompson, did you receive the payment for that check Mrs. Thompson?

A. Yes.

MR. McMURPHY: We wish to introduce these checks in evidence at this time, each one: Check dated September 3, 1945 in the amount of One Hundred Eight Dollars and Ninety-six Cents made payable to the order of M. J. Thompson signed, signature J. N. Minchew and ask that it be marked Defendants' Exhibit "1".

Check admitted in evidence, properly identified and attached hereto.

Defendants Exhibit "1"

ATMORE, ALA. *Sept. 3, 1945* No. _____

THE FIRST NATIONAL BANK 61-452/6

PAY TO THE ORDER OF *M. J. Thompson* \$ *108⁹⁶/₁₀₀*

One hundred eight⁹⁶/₁₀₀ DOLLARS

FOR *Piling Stampage* *J. N. Minchew*

Sum # 81.72

COUNTER CHECK

MR. McMURPHY: We wish to introduce in evidence check dated August 24, 1945 in the amount of One Hundred Dollars signed by the signature J. N. Minchew and made payable to the order of Lenoir Thompson, containing the indorsement of Lenoir Thompson and Mrs. M. J. Thompson, and ask that it be marked Defendants' Exhibit "2".

Check admitted in evidence, properly identified and attached hereto.

Defendants exhibit 2

ATMORE, ALA. *August 24, 1945* No. _____

THE FIRST NATIONAL BANK 61-452/6

PAY TO THE ORDER OF *Lenoir Thompson* \$ *100⁰⁰/_{cents}*

One hundred⁰⁰/_{cents} DOLLARS

FOR *Piling + Stampage* *J. N. Minchew*

COUNTER CHECK

MR. McMURPHY: We wish to introduce in evidence check dated October 5, 1945 in the amount of Two Hundred Dollars signed by the signature J. N. Minchew, made payable to the order of Mrs. M. J. Thompson and ask that it be marked Defendants' Exhibit "3".

Check admitted in evidence, properly identified and attached hereto.

Dependents Exhibit 3

ATMORE, ALA. *Oct 5*, 194*5* No. *61-452*

THE FIRST NATIONAL BANK

PAY TO THE ORDER OF *Mrs. M. J. Thompson* \$*200.00*

Two hundred DOLLARS

FOR *Stumpage* *J. N. Minchew*

COUNTER CHECK

MR. MC MURPHY: We wish to introduce in evidence check dated October 18, 1945 in the amount of Eighty Dollars and Fifty-six cents signed by the signature J. N. Minchew, made payable to the order of Mrs. M. J. Thompson and ask that it be marked Defendants' Exhibit "4".

Check admitted in evidence, properly identified and attached hereto.

Dependents Exhibit 4

ATMORE, ALA. *Oct 18*, 194*5* No. *61-452*

THE FIRST NATIONAL BANK

PAY TO THE ORDER OF *Mrs. M. J. Thompson* \$*80.56*

Eighty 56 DOLLARS

FOR *Stumpage* *J. N. Minchew*

COUNTER CHECK

Q. You told us, I believe, you received these checks under a prior agreement between you and Mr. Minchew?

A. Yes.

Q. Do you know how much money you did receive under that agreement?

A. No, I don't remember.

Q. To be sure I understand the original trade, Mrs. Thompson, you delivered a specified list of lumber to Mr. Minchew and asked that he deliver to you that amount of lumber and he was to be paid by cutting stumpage off of your land?

A. Yes.

Q. I think you told us before that the exact terms of the agreement