

STATE OF ALABAMA, ON RELATION
OF DALE RADCLIFFE, PRINCE GRIFFIN, : IN THE CIRCUIT COURT
H.T. CHILDRESS, MAYNORD COGHLON, :
WILLIAM HENRY MOORER, AND ARTHUR : OF
CLEMENTS, CITIZENS OF THE STATE :
OF ALABAMA, : BALDWIN COUNTY, ALABAMA
Versue : AT LAW NO _____
WILLIAM ROBERT LAUTEN :

Now comes the plaintiffs, and relators in the above styled cause, and files this their demurrers to defendants plea in abatement, and sets down and assigns their separate and several grounds.

1. Because grounds numbers 1 through 7 allege no facts which authorize an abatement of this action.

2. Because grounds numbers 1 through 7 allege no grounds for abatement of this action.

3. Because grounds numbers 1 through 7 are grounds of demurrer merely to the sufficiency of said action, and constitute no grounds for abatement of the same.

4. Because grounds 1 through 7 are grounds for motion to dismiss said action merely, and constitute no grounds for abatement of the same.

5. Because grounds numbers 1 through 7 of said plea show on their face that plaintiffs and relators herein are entitled to maintain this action, but merely allege that said complaint is insufficient.

6. Because grounds 7, 8 and 9 of said plea allege no facts as a ground for abatement of this action.

7. Because grounds 7, 8, and 9 affirmatively show on their face that the persons on whose information this action is brought has given security for cost as required by law.

8. Because the allegations of grounds 7, 8, and 9 that there is no sufficient security for cost are mere conclusions of the pleader.

Attorney for Plaintiffs

STATE OF ALABAMA Ex Rel.
Dale Radcliffe et al.

vs.

William Robert Lauten

Demurrers to plea in
abatement.

7-11-51. Replied to Defendant's
plea in abatement to the
complaint as last
amended.

Curtis L. Moody
Judge
Curtis L. Moody
Attorney for Plaintiffs

RECORDED

FILED

JUL 9 1951

ALICE L. GUCK, Clerk

STATE OF ALABAMA, on the relation	:	
of DALE RADCLIFFE, PRINCE GRIFFIN,	:	
H. T. CHILDRESS, MAYNORD COGHLOND,	:	
WILLIAM HENRY MOORER, and ARTHUR	:	IN THE
CLEMENTS, Citizens of Baldwin	:	CIRCUIT COURT
County, Alabama, joining with the	:	OF
state of Alabama for themselves, and in	:	
the name of the state of Alabama	:	BALDWIN COUNTY
as plaintiffs.	:	ALABAMA
Plaintiffs	:	
vs.	:	AT LAW NO
WILLIAM ROBERT LAUTEN	:	
Defendant	:	

PLEA IN ABATEMENT

Comes William R. Lauten, the defendant in the above styled cause, individually, and by his attorneys, appearing specially for the purpose of filing this plea, and for no other purpose and says that the State of Alabama, Plaintiff in this cause, ought not to have and maintain this said action, and that this action should not be maintained against the Defendant, and assigns the following separate and several grounds in support of this plea:

1. That said action was not brought in compliance with the requirements of Title 7, Section 1142, Code of Alabama of 1940.

2. That there is a non-joinder of parties plaintiff in said action in that Dale Radcliffe, Prince Griffin, H. T. Childress, Maynord Coghlon, William Henry Moorner, Arthur Clements are not joined as plaintiffs with the State of Alabama.

3. That no person is joined as party plaintiff with the State of Alabama as required by the provisions of Title 7, Section 1142, Code of Alabama of 1940.

4. That the person or persons on whose information this action was brought is not, or are not, joined as parties plaintiff.

5. That none of the persons alleged to be relators are made plaintiffs with the State of Alabama as required by law.

6. That the individuals named as relators have no right to institute this action unless and until they make themselves parties thereto as required by Title 7, Section 1142, Code of Alabama of 1940.

7. That the persons upon whose information this action was brought have not given sufficient security for costs.

8. That the security for costs heretofore given by the

relators is not sufficient.

9. That there has been no security for costs as required by law.

WHEREFORE, Defendant says that this action should be abated and should not be allowed to proceed.

Respectfully submitted,

William R. Foster
AND

J. B. Blackburn
John H. H. H.
Malcolm P. Stone
Of Counsel

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STATE OF ALABAMA, ex rel. DALE
RADCLIFFE, et al.,

versus

WILLIAM R. LAUTEN

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

PLEA IN ABATEMENT

Filed: July 11, 1957
Jeffrey J. Mashburn, Jr.
Judge.

RECORDED

STATE OF ALABAMA, ON RELATION OF
DALE RADDOLIFFE, PRINCE GRIFFIN,
H. T. CHILDRESS, MAYNORD COGHLON,
WILLIAM HENRY MOORER, ARTHUR
CLEMENTS, CITIZENS OF THE STATE
OF ALABAMA.

Versus

WILLIAM LAUTEN

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

NO. 1679

KNOW ALL MEN BY THESE PRESENTS, That whereas DALE RADDOLIFFE, PRINCE GRIFFIN, H. T. CHILDRESS, MAYNORD COGHLON, WILLIAM HENRY MOORER, ARTHUR CLEMENTS, citizens of Baldwin County, Alabama did on the 28th day of June, 1951 as relators in the name of the State of Alabama/a quo warranto proceeding against WILLIAM LAUTEN, as acting Solicitor of the County of Baldwin in the 28th Judicial Circuit of Alabama alleging that said Solicitor was disqualified to hold said office of Solicitor in said County and Circuit and praying that he be declared ineligible to hold said office and be ousted from said office, and whereas the Judge of the Circuit Court of Baldwin County, Alabama did on the 11th day of July, 1951 order them as relators to post a bond in the sum of Three Hundred (\$300.00) Dollars to secure the cost of said proceeding;

NOW, THEREFORE, we the undersigned hereby acknowledge ourselves for cost in the sum of Three Hundred (\$300.00) Dollars as security for the cost of said quo warranto proceeding in the Circuit Court of Baldwin County, Alabama, case number 1679, waiving all exemptions as to personal property.

Given under our hands and seals this 11th day of July, 1951.

John H. Helff
Robert H. Hargis
Sadie L. Thompson
J. R. Hargis
George A. Jackson

Taken and approved this 11th day of July, 1951.

Alice J. Hargis
Clerk of Circuit Court of Baldwin
County, Alabama.

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RECORDED

Security for Costs

FILED

JUL 11 1951

ALICE F. DUCK, CLERK

STATE OF ALABAMA, ON RELATION OF)	IN THE
DALE RADCLIFFE, PRINCE GRIFFIN,	)	CIRCUIT COURT
H. T. CHILDRESS, MAYNORD COGHLON,)	
WILLIAM HENRY MOORER, ARTHUR	)	OF
CLEMENTS AND FORD COOK , CITIZENS	)	BALDWIN COUNTY,
OF THE STATE OF ALABAMA,	)	ALABAMA
)	
Versus	)	AT LAW NO. _____
<i>Robert</i> WILLIAM LAUTEN)	

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA:

Comes the State of Alabama on relation of Dale Radcliffe, Prince Griffin, H. T. Childress, Maynard Coghlon, William Henry Moorer, Arthur Clements ~~and Ford Cook~~, Citizens of the State of Alabama, who have given security for the cost of this action, approved by the Clerk of this Honorable Court and respectfully shows unto the court as follows:

COUNT ONE

That they as relators in said cause joining with the State of Alabama are resident citizens and duly qualified electors of Baldwin County, Alabama and over the age of twenty-one years.

That William *Robert* Lauten has usurped, intruded into and unlawfully holds without warrant, or authority of law the office of Circuit Solicitor for the Twenty-eighth Judicial Circuit of Alabama in Baldwin County, Alabama, and said William *Robert* Lauten claims to be clothed with the powers and privileges of said office and is now exercising the powers and functions of the same and enjoying the emoluments of said office, and that said office of Solicitor is a Public Civil Office of the State of Alabama duly created by the Constitution of Alabama. That said William *Robert* Lauten is usurping and intruding into and unlawfully holds and is exercising the powers and functions of said office in that he claims to hold said office

by virtue of a commission issued to him by the Honorable Gordon Persons as Governor of Alabama on the 4th day of June, 1951, which said purported appointment was made by said Governor to fill a temporary vacancy caused by the entry of the Honorable Kenneth Cooper, duly elected Solicitor of said Circuit into the Armed Services of the United States of America on or about June 4th, 1951. Your relators would further show that the said William ^{Robert} Lauten was not at the time of his said appointment to said office, and is not now a qualified elector of said Twenty-eighth Judicial Circuit of Alabama or the County of Baldwin, Alabama in that he has resided and lived in said Twenty-eighth Judicial Circuit in Baldwin County, Alabama for a period of only approximately nine months, or three months less than is required in order that he become a qualified elector of said Circuit and County, and thus the said William ^{Robert} Lauten was at the time of his appointment to said office and is now ineligible and disqualified to hold said office as Solicitor for said Twenty-eighth Judicial Circuit of Alabama, or to exercise the powers and functions of said office by virtue of the aforesaid purported commission, and relators would further show that the said William ^{Robert} Lauten did for a period of three months of the last twelve months next immediately preceding his purported appointment to said office live in, reside in, and vote in Clarke County, Alabama.

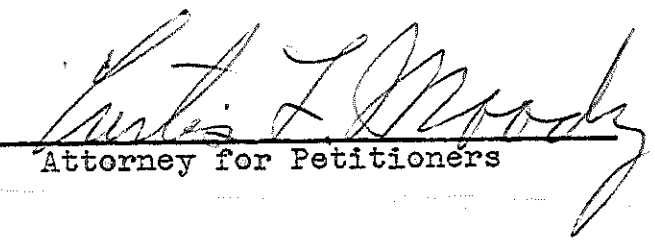
COUNT TWO

Relators would show that William ^{Robert} Lauten has usurped, intruded into and unlawfully holds without warrant, or authority of law the office of Circuit Solicitor for the Twenty-eighth Judicial Circuit of Alabama in Baldwin County, Alabama and said William ^{Robert} Lauten claims to be clothed with the powers and privileges of said office and is exercising the powers and

functions of the same and enjoying the emoluments of said office and that said office is a Public Civil Office of the State of Alabama duly created by the Constitution of Alabama. They would show that the said William ^{Robert} Lauten is usurping and intruding into and unlawfully holding and exercising the powers, and functions of said office in that he claims to hold said office by virtue of a commission issued to him by the Honorable Gordon Persons as Governor of Alabama on, to-wit, the 4th day of June, 1951, which purported appointment was made by said Governor to fill a temporary vacancy caused by the entry of the Honorable Kenneth Cooper, duly elected Circuit Solicitor for said Circuit and County into the Armed Services of the United States of America. That they would show that said William ^{Robert} Lauten, is ineligible and disqualified to hold said office because he was not at the time of said purported appointment, nor is he now a qualified elector of the State of Alabama in that he did abandon and relinquish his residence in Clarke County, Alabama for a period of approximately nine months next immediately preceding his purported appointment to the office of Solicitor for said Twenty-eighth Judicial Circuit and did move to Baldwin County, Alabama, in the Twenty-eighth Judicial Circuit, and declare his intentions in writing and by other acts, including his acceptance of said purported appointment as Solicitor to become a resident and elector of said Baldwin County, Alabama, in the Twenty-eighth Judicial Circuit; but at the time of said purported appointment as Solicitor of the Twenty-eighth Judicial Circuit of Alabama he had only lived and resided in said Baldwin County, Alabama in the Twenty-eighth Judicial Circuit for a period of approximately nine months, or three months less than is required by law to become an elector of said County and Judicial Circuit.

THE PREMISES CONSIDERED, relators pray the Court for the issuance of a writ of quo warranto or other appropriate writ in the

nature thereof, requiring the said William ^{Robert}Lauten to show by what warrant, right or authority he claims to hold said office as Solicitor of the County of Baldwin, Alabama in the Twenty-eighth Judicial Circuit of Alabama and by what warrant, right and authority he does exercise the powers and privileges of said office, and that upon a final hearing thereof the said William ^{Robert}Lauten be adjudged guilty of usurping or intruding into or unlawfully holding or exercising the powers of said office and that judgment be rendered excluding him from said office, and from holding the same or exercising the powers and privileges of said office thereof or enjoying the emoluments therefrom, and that relators may recover their reasonable costs against said William ^{Robert}Lauten and that they may have all other relief to which they may appear entitled.


Attorney for Petitioners

NO 1679

RECORDED

PETITION FOR QUO WARRANTO
BY STATE OF ALABAMA On
Relation of Dale Radcliffe
et al.

vs.
Robert
WILLIAM LAUTEN

CURTIS L. MCCOY
Attorney for Petitioner

Filed
6-28-51
Alice J. Smith
Chick

*I hereby accept service
this 28th day of June 1951
William R. Lauten*

STATE OF ALABAMA
EX REL. DALE RADCLIFFE, ET AL.

Plaintiffs,

vs.

WILLIAM ROBERT LAUTEN,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE NO. 1679.

MOTION TO DISMISS

Comes now the Defendant, William R. Lauten, individually and by his attorneys, appearing specially for the purpose of filing this motion and for no other purpose, and moves the court to dismiss this proceeding and assigns the following separate and several grounds in support of this motion:

1. That no good end would be subserved by proceeding to judgment herein.
2. The public good will not be served by a continuance of this proceeding.
3. It affirmatively appears from the complaint heretofore filed that no private rights are sought to be redressed and that no good end will be subserved by a further continuance of this proceeding.
4. That it affirmatively appears that the public interest will not be served by proceeding to judgment herein.
5. That it affirmatively appears from the complaint that no private rights of any of the plaintiffs are sought to be protected or enforced.
6. For it would not be in the public interest, and no good end would be subserved for the court to enter a judgment of ouster of the Defendant from the Office of the Circuit Solicitor of the 28th Judicial Circuit of Alabama.
7. That to allow said proceeding to continue would be against public policy and the public interest.

Respectfully submitted,

William R. Lauten

AND

J. B. Bradburn

John P. Stine

John P. Stine

of Counsel

(17)
MOTION TO DISMISS

STATE OF ALABAMA
EX REL. DALE RADCLIFFE, ET AL.

Plaintiffs,

vs.

WILLIAM ROBERT LAUTEN,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE. No. 1679.

Filed: July 11, 1957.

Salfair J. Masliberry, Jr.
Judge

RECORDED

STATE OF ALABAMA
EX REL, DALE RADDCLIFFE, ET AL.

PLAINTIFFS,

VS

WILLIAM ROBERT LAUTEN,

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE

NO. 1679

DEMURRERS TO MOTION TO DISMISS

Now comes the plaintiffs in the above styled cause and demurs to the motion to dismiss this cause and sets down the following separately and severally grounds:

1. Because said motion from grounds one through seven aver no facts for a dismissal of this cause.
2. Because said motion and grounds one through seven show no legal cause for a dismissal of this complaint.
3. Because said motion and grounds one through seven are frivolous.
4. Said motion affirmatively shows on its face that this proceeding is authorized by law.


Attorney for Plaintiffs

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RECORDED

Filed: July 11, 1951.

Jeffrey J. Marshall, Jr.
Judge.

JAN 10 1952

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM 1951-52.

1 Div. 471.

State, ex rel. Dale Radcliff, et al.

v.

William Robert Lauten,

Appeal from Baldwin Circuit Court.

FOSTER, Justice.

This is a proceeding tooust by quo warranto appellee who was appointed circuit solicitor to fill a temporary vacancy created by reason of the induction into the Armed Forces of the solicitor elected to that office.

The first matter we will treat is whether security for costs was given as required by section 1137, Title 7, Code. The petition was not filed on the order of the judge of the circuit court but by the State on the relation of certain named individuals, who eventually made themselves parties to the petition, as was necessary. Section 1137, supra, requires security for costs approved by the clerk to be given.

2.

Such security for costs must be given before the commencement of the suit and is a condition precedent to the jurisdiction of the court. Wenzel v. State, ex rel. Powell, 241 Ala. 406, 3 So. 2d 26; Owen v. State, ex rel. Bailes, 240 Ala. 582, 200 So. 412; Birmingham Bar Ass'n. v. Phillips, 239 Ala. 650, 196 So. 725; Evans v. State, ex rel. Sanford, 215 Ala. 61, 109 So. 357; Little et al. v. State, ex rel. Huey et al., 137 Ala. 640, 34 So. 620. That is a condition on which the right to proceed in the name of the State is given to individuals. — Baxter v. State, ex rel. Metcalf, 243 Ala. 120, 9 So. 2d 119.

There was deposited \$15.00 as security at the commencement of the proceeding. The trial court required relators "to furnish security for cost in the amount of \$300.00 in addition to the \$15.00 already deposited." A bond was made pursuant to that order in the sum of \$300.00, whereby the bondsmen acknowledged "themselves for cost in the sum of \$300.00 as security for the cost and said quo warranto proceeding in the Circuit Court of Baldwin County." This was approved by the clerk July 11, 1951. The original petition was filed June 28, 1951. There was no other security given.

We are therefore confronted with the question of whether a deposit of \$15.00 approved by the clerk complies with § 1137, supra, that security for the costs of the action must be given. We look to other statutes for analogies, since this direct question has not been decided. Section 238, Title 17, Code, provides for the contest of an election. It requires security for costs to be filed and approved at the time of commencing the contest.

3.

It is noted that this statute requires the security to be "filed". Emphasis was given that status in Pearson v. Alverson, 160 Ala. 265, 49 So. 756, holding that a deposit of \$100.00 was not a compliance with the statutory requirement and that it could not be supplied after the expiration of the time limit in which the proceeding could be begun, and therefore the cause should be dismissed on motion.

In Ex parte Shepherd, 172 Ala. 205, 55 So. 627, it was observed that a sufficient bond required in an election contest is jurisdictional, but if an insufficient bond is filed with the petition, and later a sufficient bond is filed and approved within the time allowed by law for contesting, the petition will be treated as filed when the bond shall be presented in proper form and approved. But a bond which complies with the statute as security must be filed within the time in which a contest could be begun.

In other cases, it was held that if some sort of security is given in a bona fide effort to comply with the statute, but it is not a full compliance, it is sufficient for jurisdictional purposes to allow an amendment of the security to be made within the time allowed for starting the suit by giving the required security. — Peavy v. Burkett, 35 Ala. 141, extending Ex parte Morgan, 30 Ala. 51, in that respect. — Stribling v. Bank of Kentucky, 48 Ala. 451; Wilson Duncan, 114 Ala. 659, 21 So. 1017; Lowery v. Petree, 175 Ala. 559, 57 So. 818; Ex parte Shepherd, 172 Ala. 205, 55 So. 627; Rowan v. Holcombe, 204 Ala. 549, 87 So. 87; Groom v. Taylor, 235 Ala. 247, 178 So. 33.

4.

This principle is consistent with that which holds that if no security is given when the proceeding is begun it cannot be afterwards given: for then the court can take no step. —

Taylor v. State, ex rel. Hand, 31 Ala. 383; Little v. State, ex rel. Huey, 137 Ala. 640, 34 So. 620; Ex parte Talley, 238 Ala. 527, 192 So. 271. This latter case reaffirms Lee v. State, 39 Ala. 720, pointing out the difference in the two aspects of the principle.

Although the deposit of \$15.00 may be sufficient to sustain the jurisdiction of the court to allow the security to be amended to comply with § 1137, Title 7, supra, no time limit being fixed by statute in which quo warranto may be begun, we think the amended security was insufficient when so measured. There is a limit of liability prescribed in it, to wit, \$300.00. The statute does not permit such a limited security. It must secure all the costs which may accrue, regardless of the amount of them. — Wilson v. Duncan, supra; Ex parte Shepherd, 172 Ala. 205, 216, 55 So. 627; Ex parte Morgan, 30 Ala. 51.

Relators did not offer to give the security required by statute but took a non-suit to test the ruling of the court. If they had offered the proper security the court would probably have allowed it.

We need not discuss other questions presented and argued.

Affirmed.

All the Justices concur, except Goodwyn, J., not sitting.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1 Div., No. 471

State ex rel. Dale Radcliff et al., Appellant,s

vs.

William Robert Lauten, Appellee,

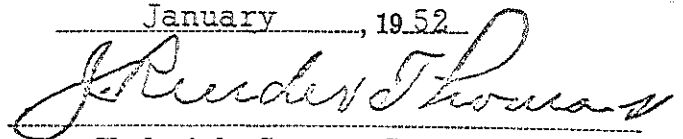
From Baldwin Circuit Court.

The State of Alabama, }
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to 4 inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, this the 10th day of

January, 1952


Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

October Term, 1951-52

" 1 Div., No. 471

State ex rel. Dale Radcliff

et al.,

Appellants

vs.

William Robert Lauten

Appellee.

From Baldwin Circuit Court.

COPY OF OPINION

BROWN PRINTING CO., MONTGOMERY 1950

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19 51-52

To the Clerk of the Circuit Court,
Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court
of said county, in a certain cause lately pending in said Court between
STATE OF ALABAMA ex rel., Appellant S,
Dale A. Radcliffe, et als.,
and

William Robert Lauten, Appellee,
wherein by said Court it was considered adversely to said appellant S, were brought before our
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant S:

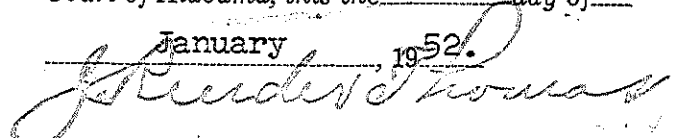
NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ordered, and adjudged by
our Supreme Court, on the 10th day of January, 1952, that said

Judgment of said Circuit Court be in all things
affirmed, and that it was further considered, ordered, and adjudged that the appellant S, ~~and~~
Dale A. Radcliffe, Prince E. Griffin, H. T. Childress,
Maynord Coghlon, W. H. Moorner, and A. W. Clement, and
Robert R. Nahrgang and Mrs. Sadie L. Thompson, sureties
on the appeal bond, pay - - - - -

the costs accruing on said appeal in this Court and in the Court below

It is further certified that, it appearing that said parties have waived their rights of exemption
under the laws of Alabama, it was ordered that execution issue accordingly.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, this the 10th day of

January, 1952.


Clerk of the Supreme Court of Alabama.

No. 1679

THE SUPREME COURT OF ALABAMA

October Term, 19 51-52

1st Div., No. 471

STATE OF ALABAMA ex rel.

Dale A. Radcliffe, et als.,
Appellants

vs.

William Robert Lauten

Appellee.

From Baldwin Circuit Court.

CERTIFICATE OF
AFFIRMANCE

The State of Alabama,

County.)

} Filed

this 11th day of Jan 1952

STATE OF ALABAMA, In the relation
of DALE RADCLIFFE, PRINCE GRIFFIN,
H. T. CHILDRESS, MAYNORD COGLEN,
WILLIAM HENRY MOORE, AND ARTHUR
CLEMENTS, Citizens of Baldwin
County, Alabama for themselves,
and in the name of the State of
Alabama as plaintiffs.

Plaintiffs

vs

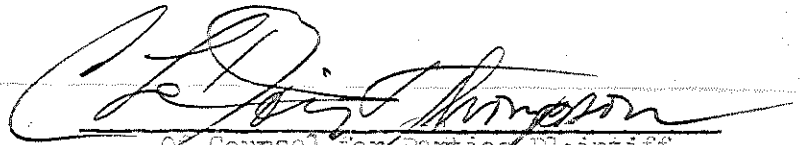
WILLIAM ROBERT LAUTEN,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

NO. _____

I do now appear as Associate Counsel for the parties plaintiff
in the above styled cause.


of Counsel for Parties Plaintiff.

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RECORDED

Filed 8-3-51
Alice H. Huch
Clerk

STATE OF ALABAMA
EX REL., DALE RADCLIFFE, ET AL.,

Plaintiffs,

vs.

WILLIAM R. LAUTEN,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE. NO. 1679.

Comes the Defendant, William R. Lauten, individually and by his attorneys, and demurs to the Complaint as last amended heretofore filed in this cause and to each count thereof separately and severally, and assigns the following separate and several grounds, viz:

1. For that said Complaint fails to state a cause of action.
2. For that said count fails to state a cause of action.
3. For that it affirmatively appears that the relators are not made parties plaintiffs.
4. For that it affirmatively appears that there is a non-joinder of parties plaintiffs.
5. For that the allegations that the relators have given sufficient security for costs is a mere conclusion of the pleader.
6. For aught that appears there is no obliger on the bond of the relators for costs other than relators themselves.
7. For aught that appears the alleged security for costs is nothing more than a deposit with the Clerk of the Circuit Court of Baldwin County, of \$15.00 in United States currency.
8. For aught that appears no bond has been given to secure the costs of this proceeding.
9. For aught that appears no person or persons alleged to be relators in this action have given sufficient security for the costs of said action as required by law.
10. For that it affirmatively appears that it would not be to the best interest of the people of the Twenty-eighth Judicial Circuit of Alabama for this action to proceed.
11. For that it affirmatively appears that no public good will result if defendant is ousted from said office.

12. For that the allegation that the Defendant is not qualified to hold the office in question is a mere conclusion of the pleader.

13. For that said count wholly fails to set out grounds of disqualification of the Defendant to hold said office.

14. For that it affirmatively appears that the office in question is held by Defendant under temporary appointment from the Governor of the State of Alabama.

15. For that the office in question from which the relators seek to oust the Defendant is not alleged with sufficient certainty as required by law.

16. For aught that appears the appointment in question was made in full compliance with Act #5, Special Session of 1951 of the Legislature of the State of Alabama.

17. For that said count wholly fails to allege any grounds which would disqualify the Defendant from holding said office.

18. For that there is no allegation in what manner the Defendant is disqualified from holding said office.

19. For that the allegation that the Defendant is disqualified from holding said office is a mere conclusion of the pleader without any allegation of facts in support of said conclusion.

20. For that it is not alleged in said count with sufficient certainty in which manner or in what way the Defendant is disqualified from holding said office.

21. For aught that appears the Defendant is fully qualified to hold said office.

22. For that it affirmatively appears that the Governor of the State of Alabama acted with full authority in appointing the defendant as such Solicitor.

23. For that it affirmatively appears that the Defendant is not disqualified from holding said office.

24. For aught that appears the Defendant is qualified to hold the office of temporary acting Solicitor of the Twenty-eighth Judicial Circuit of the State of Alabama.

25. For that it affirmatively appears that the Defendant is not holding said office unlawfully.

26. For that it affirmatively appears that the Defendant is not wrongfully usurping said office.

27. For that it affirmatively appears that the Defendant is not wrongfully intruding into said office.

28. For aught that appears the Defendant is lawfully holding said office.

29. For aught that appears the Defendant is a qualified elector of the State of Alabama.

30. For aught that appears the Defendant is a qualified elector of Baldwin County, Alabama.

31. For that it affirmatively appears that the Defendant is a resident of the Twenty-eighth Judicial Circuit of the State of Alabama.

32. For that it affirmatively appears that the Defendant is a resident of Baldwin County, Alabama.

33. For aught that appears the Defendant has met all requirements of a qualified elector of the State of Alabama.

34. For aught that appears the Defendant has met all requirements of a qualified elector of Baldwin County, Alabama.

35. For aught that appears the Defendant was at the time of his appointment to the office of temporary acting Solicitor of the Twenty-eighth Judicial Circuit of Alabama, a qualified elector of the State of Alabama.

36. For aught that appears the Defendant was a qualified elector of Baldwin County, Alabama, at the time of his appointment to the office of temporary acting Solicitor of the Twenty-eighth Judicial Circuit of Alabama by the Governor of said State.

37. For aught that appears the Defendant is now, and has been since his appointment by the said Governor to said office, a qualified elector of the State of Alabama.

38. For aught that appears the Defendant is now, and has been since his appointment to said office by said Governor, a qualified elector of Baldwin County, Alabama.

39. For that it affirmatively appears that the Defendant was at the time of, and has been since his appointment by the Governor of the State of Alabama, a resident of the Twenty-eighth Judicial Circuit of the State of Alabama.

40. For aught that appears the Defendant has not changed his residence from Baldwin County, Alabama, since his said appointment to said office.

41. For aught that appears the Defendant is legally registered as a qualified elector in Baldwin County, Alabama.

42. For that it affirmatively appears that the purported disqualification or disqualifications of the Defendant does, or do, not go to the eligibility of the Defendant to hold the office of temporary acting Solicitor of the Twenty-eighth Judicial Circuit of the State of Alabama.

43. For aught that appears the Defendant is qualified to vote in Baldwin County, Alabama, at the next general election.

44. For aught that appears the Defendant shall have resided in the State of Alabama for more than two years, in Baldwin County, Alabama, for more than one year and in the preceint or ward of his residence for more than three months at the time of the next general election of the State of Alabama.

45. For aught that appears the Defendant is fully qualified to vote at the next general election.

46. For that it affirmatively appears that the Defendant has resided in Baldwin County, Alabama, a sufficient length of time to be a qualified elector.

47. For that the allegation that the defendant has resided in Baldwin County for only "approximately nine months" is a mere conclusion of law without sufficient facts in support thereof.

48. For aught that appears the Defendant had the intention to live in Baldwin County, Alabama, and was physically present in said County coupled with said intention more than twelve months before said appointment to said office.

49. For that the allegation that the law requires the Defendant to be a resident for more than twelve months next preceding his appointment by the Governor of Alabama to said office is a mere conclusion of the pleader without any reference to any statute or any law requiring such period of residence.

50. For that it affirmatively appears that the Defendant was not elected to said office.

51. For that it affirmatively appears that the Plaintiffs in this cause have not complied with Chapter 33 of Title 7, Code of Alabama of 1940.

52. For that the charges made by the Plaintiffs are to ambiguous and do not clearly set forth the act complained of.

53. For that no facts are alleged in said Complaint which, if proven, would support a judgment of ouster.

54. For that the Complaint does not allege with sufficient certainty the facts necessary to invoke the jurisdiction of this court.

55. For that the Complaint fails to allege in what manner the Defendant is disqualified from holding the office of temporary acting Solicitor of the Twenty-eighth Judicial Circuit of Baldwin County, Alabama.

56. For aught that appears from the Complaint the Defendant need not be a qualified elector to be eligible to hold the office of temporary acting Solicitor of the Twenty-eighth Judicial Circuit of Baldwin County, Alabama.

Respectfully submitted,

William M. Fenton
AND

J. B. Blalock

J. B. Blalock

Malcolm C. Stone
Of Counsel.

RECORDED

STATE OF ALABAMA

EX REL., DALE RADCLIFFE, ET AL.,

vs.

WILLIAM ROBERT LAUTEN,

DEFENDANT.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE. NO. 1679

DEMURRER

Filed: July 11, 1951.

W. J. Madhewy, Jr.
Judge.

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 1679

July TERM, 1951

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon WILLIAM ROBERT LAUTEN

to appear and plead, answer or demur, within ^{July 11, 1951} thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

WILLIAM ROBERT LAUTEN

, Defendant

by ~~STATE OF ALABAMA EX REL DALE RADCLIFFE ET ALS~~

, Plaintiff.....

Witness my hand this 9th day of July 1951

Aricef. W. W. W., Clerk

No. Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

vs. Plaintiffs

Defendants

SUMMONS and COMPLAINT

Filed, 19.....

....., Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

....., 19.....

....., Sheriff

I have executed this summons

this, 19.....

by leaving a copy with

..... Sheriff

..... Deputy Sheriff

STATE OF ALABAMA, ON RELATION
 OF DALE RADCLIFFE, PRINCE GRIFFIN,
 H.T. CHILDRESS, MAYNORD COGLON,
 WILLIAM HENRY MOORER, ARTHUR
 CLEMENTS, CITIZENS OF THE STATE
 OF ALABAMA.
 Versus
 WILLIAM LAUTEN


:
 : In The Circuit Court
 : Of
 : Baldwin County, Alabama
 : At Law No _____

Now comes the State of Alabama, on relation of
 Dale Radcliffe, Prince Griffin, H.T. Childress, Maynard
 Coghlon, William Henry Moorner and Arthur Clements, as citizens
 of Alabama, and amend this action to read as follows as to
 the style of said cause, and as to lines 1 through 6 of
 said action:

STATE OF ALABAMA, On the relation
 of, DALE RADCLIFFE, PRINCE GRIFFIN,
 H.T. CHILDRESS, MAYNORD COGLON,
 WILLIAM HENRY MOORER, and ARTHUR
 CLEMENTS, Citizens of Baldwin
 County, Alabama, joining with the
 state of Alabama for themselves, and in
 the name of the state of Alabama
 as plaintiffs.
 Plaintiffs
 vs.
 WILLIAM ROBERT LAUTEN
 Defendant

:
 : IN THE
 : CIRCUIT COURT
 : OF
 : BALDWIN COUNTY
 : ALABAMA
 : AT LAW NO _____

Comes the state of Alabama on the
 relation of DALE RADCLIFFE, PRINCE GRIFFIN, H.T. CHILDRESS,
 MAYNORD COGLON, WILLIAM HENRY MOORER, ARTHUR CLEMENTS, Citizens
 of Baldwin County, Alabama as plaintiffs for themselves, and join
 in the name of the state of Alabama with the state of Alabama
 as plaintiffs in said cause, who having given security for cost
 of this action approved by the clerk of this Honorable court
 and respectfully shows as follows:


 Attorney for Plaintiffs

~~Secretary~~
I hereby accept service
this 9th day of July 1951
William R. Lauten

1679

RECORDED

STATE OF ALABAMA, EX REL
Dale Radcliffe et al.

vs.

William Robert Lauten

No 1679

AMENDMENT TO ORIGINAL
INFORMATION

Curtis L. Moody
Attorney for Plaintiff

FILED

JUL 9 1951

ALICE J. DUCK, Clerk

AMENDMENT TO ORIGINAL COMPLAINT AND INFORMATION

STATE OF ALABAMA, ON RELATION OF	:	IN THE
DALE RADCLIFFE, PRINCE GRIFFIN,	:	CIRCUIT COURT
H. T. CHILDRESS, MAYNORD COGHLON,	:	OF
WILLIAM HENRY MOORER, AND ARTHUR	:	BALDWIN COUNTY
CLEMENTS, CITIZENS OF THE STATE	:	
OF ALABAMA,	:	
VERSUS	:	ALABAMA
	:	AT LAW NO. _____
WILLIAM LAUTEN	:	

Now comes the State of Alabama on relation of Dale Radcliffe, Prince Griffin, H. T. Childress, Maynard Coghlon, William Henry Moorer and Arthur Clements, Citizens of the State of Alabama, and with leave of this Court having first been obtained, amends their original Complaint and Information in the above styled cause to read as follows:

STATE OF ALABAMA, On the relation	:	IN THE
of, DALE RADCLIFFE, PRINCE GRIFFIN,	:	CIRCUIT COURT
H. T. CHILDRESS, MAYNORD COGHLON,	:	OF
WILLIAM HENRY MOORER, AND ARTHUR	:	BALDWIN COUNTY
CLEMENTS, Citizens of Baldwin	:	
County, Alabama, joining with the	:	ALABAMA
State of Alabama for themselves, and:	:	
in the name of the State of Alabama	:	AT LAW
as plaintiffs,	:	
Plaintiffs,	:	
VS.	:	NO. <u>1679</u>
WILLIAM ROBERT LAUTEN,	:	
Defendant.	:	

~~Comes the State of Alabama on the relation of DALE~~
 RADCLIFFE, PRINCE GRIFFIN, H. T. CHILDRESS, MAYNORD COGHLON,
 WILLIAM HENRY MOORER, ARTHUR CLEMENTS, Citizens of Baldwin
 County, Alabama as plaintiffs for themselves, and join in the
 name of the State of Alabama with the State of Alabama as plaintiffs

in said cause, who having given security for cost of this action approved by the clerk of this Honorable Court and respectfully shows as follows:

COUNT ONE

That they as relators in said cause joining with the State of Alabama, are resident citizens and duly qualified electors of Baldwin County, Alabama and over the age of twenty-one years.

That William ^{Robert} Lauten has usurped, intruded into and unlawfully holds without warrant, or authority of law the office of Circuit Solicitor for the Twenty-eighth Judicial Circuit of Alabama in Baldwin County, Alabama, and said William Lauten claims to be clothed with the powers and privileges of said office and is now exercising the powers and functions of the same and enjoying the emoluments of said office, and that said office of Solicitor is a Public Civil Office of the State of Alabama duly created by the Constitution of Alabama. That said William ^{Robert} Lauten is usurping and intruding into and unlawfully holds and is exercising the powers and functions of said office in that he claims to hold said office by virtue of a commission issued to him by the Honorable Grodon Persons as Governor of Alabama on the 4th day of June, 1951, which said purported appointment was made by said Governor to fill a temporary vacancy caused by the entry of the Honorable Kenneth Cooper, duly elected Solicitor of said Circuit into the Armed Services of the United States of America on or about June 4th, 1951. Your relators would further show that the said William ^{Robert} Lauten was not at the time of his said appointment to said office, and is not now a qualified elector of said Twenty-eighth Judicial Circuit of Alabama or the County of Baldwin, Alabama in that he has resided and lived in said Twenty-eighth Judicial Circuit in Baldwin County, Alabama for a period of only approximately nine months, or three months less than is required in order that he become

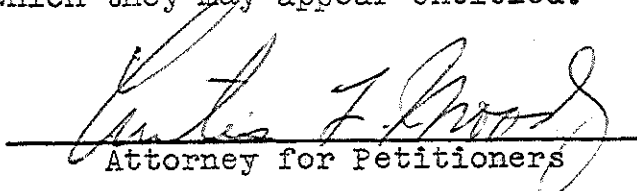
a qualified elector of said Circuit and County, and thus the said William ^{Robert} Lauten was at the time of his appointment to said office and is now ineligible and disqualified to hold said office as Solicitor of said Twenty-eighth Judicial Circuit of Alabama, or to exercise the powers and functions of said office by virtue of the aforesaid purported commission, and relators would further show that the said William ^{Robert} Lauten did for a period of three months of the last twelve months next immediately preceding his purported appointment to said office live in, reside in, and vote in Clarke County, Alabama.

COUNT TWO

Relators would show that William ^{Robert} Lauten has usurped, intruded into and unlawfully holds without warrant, or authority of law the office of Circuit Solicitor for the Twenty-eighth Judicial Circuit of Alabama in Baldwin County, Alabama and said William ^{Robert} Lauten claims to be clothed with the powers and privileges of said office and is exercising the powers and functions of the same and enjoying the emoluments of said office and that said office is a Public Civil Office of the State of Alabama duly created by the Constitution of Alabama. They would show that the said William ^{Robert} Lauten is usurping and intruding into and unlawfully holding and exercising the powers, and functions of said office in that he claims to hold said office by virtue of a commission issued to him by the Honorable Gordon Persons as Governor of Alabama on, to-wit, the 4th day of June, 1951, which purported appointment was made by said Governor to fill a temporary vacancy caused by the entry of the Honorable Kenneth Cooper, duly elected Circuit Solicitor for said Circuit and County into the Armed Services of the United States of America. That they would show that said William ^{Robert} Lauten, is ineligible and disqualified to hold said office because he was not at the time of said purported appointment, nor is he now a qualified elector of the State of Alabama in that he did abandon and relinquish his residence in Clarke County, Alabama

for a period of approximately nine months next immediately preceding his purported appointment to the office of Solicitor for said Twenty-eighth Judicial Circuit and did move to Baldwin County, Alabama, in the Twenty-eighth Judicial Circuit, and declare his intentions in writing and by other acts, including his acceptance of said purported appointment as Solicitor to become a resident and elector of said Baldwin County, Alabama, in the Twenty-eighth Judicial Circuit; but at the time of said purported appointment as Solicitor of the Twenty-eighth Judicial Circuit of Alabama he had only lived and resided in said Baldwin County, Alabama in the Twenty-eighth Judicial Circuit for a period of approximately nine months, or three months less than is required by law to become an elector of said County and Judicial Circuit.

THE PREMISES CONSIDERED, relators pray the Court for the issuance of a writ of quo warranto or other appropriate writ in the nature thereof, requiring the said William ^{Robert} Lauten to show by what warrant, right or authority he claims to hold said office as Solicitor of the County of Baldwin, Alabama in the Twenty-eighth Judicial Circuit of Alabama and by what warrant, right and authority he does exercise the powers and privileges of said office, and that upon a final hearing thereof the said William ^{Robert} Lauten be adjudged guilty of usurping or intruding into or unlawfully holding or exercising the powers of said office and that judgment be rendered excluding him from said office, and from holding the same or exercising the powers and privileges of said office thereof or enjoying the emoluments therefrom, and that relators may recover their reasonable costs against said William ^{Robert} Lauten and that they may have all other relief to which they may appear entitled.


Attorney for Petitioners

RECORDED

Filed: July 11, 1951.

Jeffrey J. Mashburn
Judge.

1. The first part of the document is a list of names and their corresponding addresses. The names are listed in a column on the left, and the addresses are listed in a column on the right. The names are: John Doe, Jane Smith, and Bob Johnson. The addresses are: 123 Main St, 456 Elm St, and 789 Oak St.

2. The second part of the document is a table with two columns. The first column is labeled "Name" and the second column is labeled "Address". The table contains the following data:

Name	Address
John Doe	123 Main St
Jane Smith	456 Elm St
Bob Johnson	789 Oak St

3. The third part of the document is a paragraph of text. It describes the purpose of the document and the information it contains. It states that the document is a list of names and addresses, and that it is intended to be used for mailing purposes.

4. The fourth part of the document is a list of names and their corresponding addresses. The names are listed in a column on the left, and the addresses are listed in a column on the right. The names are: John Doe, Jane Smith, and Bob Johnson. The addresses are: 123 Main St, 456 Elm St, and 789 Oak St.

Figure 1 consists of 12 sub-diagrams labeled (a) through (l). Each diagram shows a square lattice of nodes. In each diagram, a central square is highlighted with a thicker border. The nodes within and around this central square are connected by lines, representing the lattice structure. The diagrams illustrate different configurations or states of the lattice, likely related to the Ising model as mentioned in the caption. The nodes are represented by small circles, and the connections are lines. The central square is always the same size and position in each diagram, but the internal and external node configurations vary.

[illegible]

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The diagram illustrates a two-dimensional lattice structure. The lattice is composed of two types of sites, labeled 'a' and 'b', arranged in a checkerboard pattern. The sites are connected by horizontal and vertical bonds. The diagram shows a portion of the lattice with boundary conditions indicated by dashed lines and arrows. The sites are labeled with 'a' and 'b' and the bonds are labeled with '1' and '2'.

0-7670-8930-7 \$29.95

STATE OF ALABAMA
EX REL., DALE RADCLIFFE, ET AL.,

Plaintiffs,

vs.

WILLIAM ROBERT LAUTEN,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE. NO. 1679.

MOTION TO STRIKE

Comes the Defendant, William R. Lauten, individually and by his Attorneys, appearing specially for the purpose of filing this motion and for no other purpose, and moves the Court to strike the purported security for costs dated July 11, 1951, and filed in this Court on the same day and assigns the following separate and several grounds in support of his motion:

1. That said instrument does not comply with the provisions of Chapter 33, Title 7, Code of Alabama of 1940.
2. That said instrument does not comply with the requirements of Chapter 33, Title 7, Code of Alabama of 1940, in that it was not filed when this suit was commenced.
3. That said instrument is not amended or additional security for costs because no security has heretofore been filed by the relators as required by law.
4. That said instrument is not signed by all of the named relators.
5. That said purported security for costs was given pending this suit.

Respectfully submitted,

William R. Lauten

AND

J. B. Blackburn

Malcolm P. Stone

Of Counsel.

STATE OF ALABAMA
EX REL., DALE RADCLIFFE, ET AL.,

VERSUS

WILLIAM ROBERT LAUTEN,
DEFENDANT.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE. NO. 1679

MOTION TO STRIKE

Filed: July 11, 1951

*Jeffair H. Maslebury, Jr.
Judge*

RECORDED

STATE OF ALABAMA, On the relation	)	IN THE
of, DALE RADCLIFFE, PRINCE GRIFFIN,	)	CIRCUIT COURT
H. T. CHILDRESS, MAYNORD COGHLON,)	
WILLIAM HENRY MOORER, AND ARTHUR	)	OF
CLEMENTS, Citizens of Baldwin	)	BALDWIN COUNTY,
County, Alabama, joining with the)	
State of Alabama for themselves,	)	ALABAMA
and in the name of the State of)	
Alabama, as plaintiffs,)	
Plaintiffs,	)	AT LAW
VS.)	
WILLIAM ROBERT LAUTEN,	)	NO. _____
Defendant.)	

We the undersigned hereby acknowledge ourselves as sureties for all costs of appeal to the Supreme Court of Alabama from a judgment entered in the Circuit Court of Baldwin County, Alabama in the Twenty-eighth Judicial Circuit on the 3 day of Aug., 1951; and we do hereby agree to pay all such costs. And for the payment of this bond we hereby waive all right of exemption to personal property under the Constitution and Laws of the State of Alabama.

WITNESSETH our hands and seals on this 3 day of Aug., 1951.

* Dale A. Radcliffe
* Prince C. Griffin
H. T. Childress
Maynard Coghlon
W. H. Moorer
A. W. Clement
Robert L. Langan
Mrs. Sadie L. Thompson

Taken and approved this 3rd day of Aug., 1951

Clerk of Circuit Court
 Clerk of Circuit Court
 Baldwin County, Alabama

28-

Security for cost
on notice of appeal

RECORDED

Filed 8.3.51
Miss Duck
Clerk

CURTIS L. MOODY
ATTORNEY-AT-LAW
ROOMS 421-425 GRAYSTONE BUILDING
P. O. Box 1182
MOBILE 7, ALABAMA

July 7, 1951.

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

Re: State of Alabama Ex Rel.
Dale Radcliffe et al.

vs.

William Robert Lauten,

Dear Madam,

Inclosed is an original and a copy of amemnments
to the original information in this cause, which I trust you
will marked filed by myself as attorney for plaintiffs. I
understand this cause is set for trial at 10 A.M. the 11th
of this month.

Respectfully yours


Curtis L. Moody

Div. No. _____ CERTIFICATE OF APPEAL (Civil Cases)

No. 1679 Baldwin County, Circuit Court.

STATE OF ALABAMA ex rel DALE RADCLIFF et als

Plaintiff

vs.

WILLIAM ROBERT LAUTEN

Defendant

I, Alice J. Duck, Clerk of Circuit Court,

of Baldwin County, Alabama, hereby certify that in the cause of

STATE OF ALABAMA ex rel DALE RADCLIFF et als Plaintiff.....

vs.

WILLIAM ROBERT LAUTEN Defendant..., 17

case
which was ~~tried and determined in this Court~~ on the 3rd day of August 51
the Plaintiffs elected to take a non suit on account of adverse ruling of the Court
in which ~~there was a judgment for~~ the Plaintiffs ~~in sustaining the demurrer of the defendant to the Plaintiffs Complaint as last amended~~
(or judgment for Defendant), the Plaintiffs on the 3rd day of August
51 took an appeal to the Supreme Court of Alabama to be holden of and for said State.

I further certify that Plaintiffs ~~Dale Radcliff, Prince E. Griffin, H. T. Childress, Maynard Coghlan~~ filed
~~E. H. Moorers, A. W. Clements, Robert E. Nahrgang, and Mrs. Sadie L. Thompson~~
security for cost of appeal, to the Supreme Court Court, on the _____ day of _____
19_____, and that 3rd August
51 Dale Radcliff, Prince E. Griffin, H. T. Childress, Maynard Coghlan
E. H. Moorers, A. W. Clements, Robert E. Nahrgang, and Mrs. Sadie L. Thompson
are sureties on the appeal bond.

I further certify that notice of the said appeal was, on the _____ day of _____
19_____, served on _____ 3rd August as attorney of record for said
51 William R. Lauten
appeal, and that the amount sued for was _____ Dollars.
(or certain lands) (or personal property)

Witness my hand and seal of this Court, this the _____ day of _____ 19_____

6th August 51
Alice J. Duck
Clerk of the Circuit Court of

County, Alabama

RECORDED

THE STATE OF ALABAMA.

STATE OF ALABAMA

EXREL DALE RADCLIFFE ET ALS

vs.

WILLIAM ROBERT LAUTEN

Circuit Court BALDWIN County.

To WILLIAM ROBERT LAUTEN

or Chason & Stone and J. B. Blackburn, Attorneys of record:

Whereas, State of Ala ex rel Dale Radcliffe etals have taken an appeal from the judgment of said Court, rendered at the August 3rd Term, 19 51, thereof, in the above stated cause, returnable to the next Term, 19 , of the Supreme Court of Alabama:

Now, you are therefore cited to appear at the next Term, 19 , of said Supreme Court, to defend on said appeal, if you shall see proper so to do.

Witness this 3rd day of August , 19 51

Alice J. Welch, Clerk.

Civil No 1679

THE STATE OF ALABAMA,

Baldwin County.

CIRCUIT COURT.

STATE OF ALABAMA ex rel

DALE RADCLIFFE et als

vs.

WILLIAM ROBERT LAUTEN

RECORDED

CITATION ON APPEAL.

Issued 8-3-51 1951

Alice J. Muck
Clerk.

Executed by serving a copy on

William Robert Lauten

on this

3 day of Aug. 1951

Taylor Wilburn
Sheriff.

9. That there has been no security for costs as required by law.

WHEREFORE, Defendant says that this action should be abated and should not be allowed to proceed.

William R. Thorne

AND

W. A. Beebe

J. B. Blackburn

John Kason

Rickard & Rickard

Eg. Cramer

E. H. Gason

Malcolm P. Stone

Thomas B. Jones

James H. Christy

A. B. Miller

Shirley Leake Miller

David Lee

Attorneys for Defendant.

STATE OF ALABAMA, EX REL
DALE RADCLIFFE, ET AL.,

vs.

WILLIAM ROBERT LAUTEN,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW. NO. 1679

PLEA IN ABATEMENT

RECORDED

FILED
JUL 6 1951
ALICE I. DUCK, Clerk

CURTIS L. MOODY
ATTORNEY-AT-LAW
Rooms 421-425 GRAYSTONE BUILDING
P. O. Box 1182
MOBILE 7, ALABAMA

July 7, 1951.

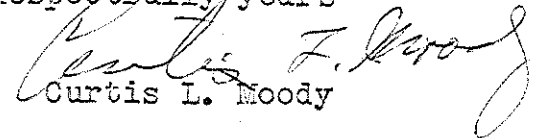
Mrs Alice J. Duck
Clerk of Circuit Court
Baldwin County, Alabama
Bay Minette, Alabama

Re: State Of Alabama Ex. Rel.
Dale Radcliffe
vs. William Robert Lauten.

Dear Madam,

I inclose an original, and a copy of demurrers
to the defendants plea in abatement in this cause,
and trust that you will mark them filed.

Respectfully yours


Curtis L. Moody

STATE OF ALABAMA, ON RELATION OF	)	IN THE CIRCUIT COURT OF
DALE RADCLIFFE, PRINCE GRIFFIN,	)	BALDWIN COUNTY, ALABAMA
H. T. CHILDRESS, MAYNORD COGHLON,)	
WILLIAM HENRY MOORER, ARTHUR	)	AT LAW
CLEMENTS AND CITIZENS OF THE	)	NO. 1679
STATE OF ALABAMA)	
Versus)	
WILLIAM ROBERT LAUTEN)	

MOTION TO STRIKE

Now comes the Defendant, William R. Lauten, individually, and by his attorneys, appearing specially for the purpose of filing this motion, and for no other purpose, and moves the Court to strike the amendment heretofore filed in this cause on July 9, 1951 and assigns the following separate and several grounds in support of his motion.

1. That said purported amendment is not an amendment to the original complaint filed in this cause.
2. That said purported amendment attempts to "amend this action."
3. That there is no provision of law allowing an amendment of an action.
4. That said purported amendment is not in the manner and form required by law.
5. That said purported amendment does not amend any pleading heretofore filed in this cause.
6. That said purported amendment is not authorized by law.

Respectfully submitted,

William R. Lauten
AND
John H. Stone
John H. Stone
Of Counsel

10
STATE OF ALABAMA, ex rel. DALE
RADCLIFFE, et al.,

versus

WILLIAM R. LAUTEN

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

MOTION TO STRIKE

FILED
JUL 9 1951
ALICE J. DUCK, Clerk

RECORDED

STATE OF ALABAMA
EX REL. DALE RADCLIFFE, ET AL.,

Plaintiffs,

vs.

WILLIAM ROBERT LAUTEN,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE. NO. 1679.

MOTION TO QUASH

Comes the Defendant William R. Lauten, individually and by his Attorneys, appearing specially for the purpose of filing this motion and for no other purpose, and moves this Honorable Court to quash the Summons and Complaint heretofore filed in this cause by the State of Alabama, Ex Rel. Dale Radcliffe Et Al., Plaintiffs and assigns the following separate and several grounds in support of this motion:

1. That there has been no security for costs given as required by law.
2. For that security for costs has not been given by the Plaintiffs as required by law.
3. For that the security for costs given by the Plaintiffs is inadequate.
4. For that the security for costs heretofore filed by the Plaintiffs is inadequate in that there is no security.
5. For that there are no obligers on the security for costs heretofore filed other than the Plaintiffs who are already bound for costs as parties to this proceeding.
6. For that it affirmatively appears of record that the Plaintiffs have not given security for costs as required by law.
7. For that it affirmatively appears of record that there is no "security" for the costs of this proceeding.

Respectfully submitted,

William R. Lauten
AND
Dale Radcliffe
D. B. Blackburn
Malcolm P. Spivey
Of Counsel.

13
MOTION TO QUASH

STATE OF ALABAMA
EX REL. DALE RADCLIFFE, ET AL.

Plaintiffs,

vs.

WILLIAM ROBERT LAUTEN,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE. NO. 1679.

Filed: July 11, 1951.

*Wesley J. Mashburn, Jr.
Judge.*

RECORDED

STATE OF ALABAMA, ON RELATION OF) IN THE
DALE RADCLIFFE, PRINCE GRIFFIN,)
H. T. CHILDRESS, MAYNORD COGHLON,) CIRCUIT COURT
WILLIAM HENRY MOORER, ARTHUR)
CLEMENTS AND ~~ROBERT~~, CITIZENS) OF
OF THE STATE OF ALABAMA,)
BALDWIN COUNTY,
ALABAMA
Versus) AT LAW NO. _____
Robert
WILLIAM LAUTEN)

This day came the State of Alabama on relation of Dale Radcliffe, Prince Griffin, H. T. Childress, Maynard Coghlon, William Henry Moorer, Arthur Clements and ~~Robert~~, and filed herein its petition against William ^{*Robert*} Lauten alleging, that the said William ^{*Robert*} Lauten has intruded into or unlawfully exercises the powers and privileges of the office of the Circuit Solicitor for the Twenty-eighth Judicial Circuit of Baldwin County, Alabama, when at said time of intruding into or unlawfully exercising said powers and privileges, he was ineligible and disqualified to hold said office as Circuit Solicitor for the Twenty-eighth Judicial Circuit of Baldwin County, Alabama, or to exercise the powers and privileges thereof; said petition further prayed process may issue requiring and commanding William ^{*Robert*} Lauten to show by what authority he is holding said office and exercising the powers and privileges thereof; and upon consideration of said petition it is ordered by the Court that a copy of said petition be forthwith served upon the said William ^{*Robert*} Lauten and that he, the said William ^{*Robert*} Lauten, be and is hereby commanded to appear before the Circuit Court of Baldwin County at 10:00 a.m. on the 11th day of July, 1951 and show by what authority he is intruding into said office or exercising the powers and privileges thereof.

Dated at Bay Minette, Alabama this 28th day of June, 1951.

Isaiah A. Maddox, Jr.
Circuit Judge

*Order made
by the Court*

Deputy of the Sheriff, Thomas, who is of the County of ...
relates as follows:

On the 11th day of July, 1937, the said Deputy Sheriff ...
was present at the ...

Order of Court

RECORDED

This case was heard on the 11th day of July, 1937, at ...

*Filed 6-28-37
District
Register*

IN SENATE OF MARYLAND,
JULY 11, 1937.
REPORT OF THE COMMISSIONERS OF THE LAND OFFICE,
IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE
ON MARCH 10, 1937.

REPORT

OF THE

LAND OFFICE

IN SENATE

STATE OF ALABAMA, On relation)	
of, Dale Radcliffe, Price Griffin,	:	In The
H. T. Childress, Maynard Coglon,	:	
William Henry Moorer, and Arthur	:	Circuit Court
Clements, Citizens of Baldwin County,)	
Alabama, joining with the State of	:	Of
Alabama for themselves, and in the	:	
name of the State of Alabama	:	Baldwin County,
as plaintiffs.)	
	:	Alabama
Plaintiffs,	:	
VS.	)	At Law
William Robert Lauten,	:	
	:	No. _____
Defendant.)	

Comes the Plaintiff in the above entitled cause and shows to the Court that from the ruling or decision of the Court upon the pleadings in said cause, viz: That on the 11th day of July, 1951 came the Defendant in the above styled cause and filed demurrers to Counts One and Two of Plaintiffs' Complaint, and the said demurrers having been heard and considered by the Court, were sustained by the Court and Plaintiffs were given until the 17th day of July, 1951 to amend said Complaint and it being necessary because of said ruling sustaining demurrers to their complaint Plaintiffs elect to take a non-suit.

Now therefore the Plaintiffs reserve an exception to the ruling of said Court and takes a non-suit in said Court and prays an appeal to the Supreme Court of Alabama to review said judgment upon record of said cause.

Curtis L. Moody
Attorneys for Plaintiffs

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Mitros's

RECORDED

Filed 8.3.51
Alice J. [unclear]

STATE OF ALABAMA, In the relation
of DALE RADCLIFFE, PRINCE GRIFFIN,
H. T. CHILDRESS, MAYNARD COGLON,
WILLIAM HENRY MOORER, AND ARTHUR
CLEMENTS, Citizens of Baldwin
County, Alabama for themselves,
and in the name of the State of Alabama
as Plaintiffs.

Plaintiffs

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. _____

vs.

WILLIAM ROBERT LAUTEN,

Defendant

On the 11 day of July 1951 came the defendant in the above
styled cause, and filed demurrers to counts one and two of plaintiffs
complaint, and the same having been heard and understood by the court,
were sustained by the court, and plaintiffs were given until the 17th
day of July 1951 to amend said complaint, and plaintiffs by their
attorney declined to amend the same within said period of time, and
with leave of the court takes a non-suit, on account of the adverse
ruling by this court, and the same having been, considered, heard and
understood by the court, it is therefore Ordered, Adjudged and Decreed
by the court that a Non-suit be and the same is hereby entered in said
cause, and said cause is hereby dismissed by the court, and the cost of
the same is hereby taxed against plaintiffs in this cause, and Robert
R. Nahrgang, John H. Huff, Mrs. Sadie L. Thompson, and C. R. Weekley
as sureties for plaintiffs in said cause, for which let execution issue
if the same be not paid and the Defendant may go hence without delay
in said cause.

Dated and entered this 3rd day of August, 1951.

Jeffrey J. Maddisbury, Jr.
Judge of Circuit Court of Baldwin
County, Alabama, 26th Judicial
Circuit.

July 8.3.51
Kerry Welch
clerk.