

RICHARD C. LACEY
Attorney-At-Law
FAIRHOPE, ALABAMA 36532

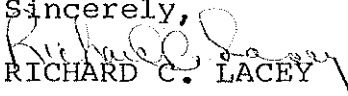

M a r c h 18, 1970

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

RE: Zeb Gafford
vs. Western Lumber and Supply Co., Inc.

Dear Mrs. Duck:

Enclosed please file the Plea of Intervention in
subject case. Thank you.

Sincerely,

RICHARD C. LACEY


RCL/dt
encls.

ZEB GAFFORD

IN THE CIRCUIT COURT
OF BALDWIN COUNTY,
ALABAMA

Petitioner

VS

AT LAW

WESTERN LUMBER AND SUPPLY
COMPANY, INC., a corporation

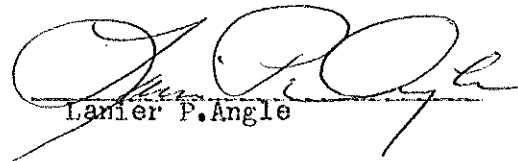
CASE NO. 9102

Defendant

MOTION

Comes now Lanier P. Angle by Motion to strike that certain Plea of Petitioner filed on, to-wit: the 26th day of March, 1970 for that on issue heretofore joined in the above styled cause by pleadings precedent, the allegations of aforesaid Plea are irrelevant, immaterial and impertinent; and said Plea wholly fails to show any matter worthy or proper for consideration in the aforesaid cause.

This the 24th day of April, 1970.


Lanier P. Angle

FILED

APR 27 1970

ALICE J. DUCK

CLERK
REGISTER

ZEB GAFFORD,

Petitioner

VS.

WESTERN LUMBER AND SUPPLY
COMPANY, INC., a corporation,

Defendant

)
) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA

) AT LAW

) CASE NO. 9102
)

Comes the Petitioner in the above styled cause and files his
Plea of Intervention heretofore entered by Lanier P. Angle as
follows:

I

The Petitioner denies that the said Lanier P. Angle was
granted leave to intervene by acquiescence, and Petitioner specific-
ally requests an inspection of the credentials of the said Lanier
P. Angle to practice law before the Circuit Court of Baldwin
County of Alabama.

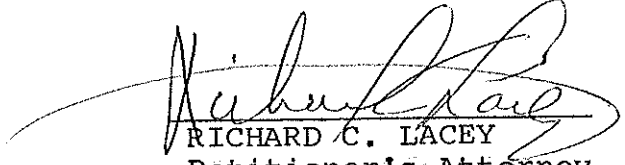
II

Petitioner avers that the said Lanier P. Angle has no juris-
diction as a Justice of the Peace in the Circuit Court of Baldwin
County, Alabama and can only produce records as ordered by this
Honorable Court in its writ of servitude.

III

Petitioner is informed and believes that the said Lanier P.
Angle is no longer licensed as Justice of the Peace in precinct
10, Fairhope, Alabama.

Petitioner having answered fully the Plea of Intervention of
the Plea of Lanier P. Angle requests that such Plea be denied.


RICHARD C. LACEY
Petitioner's Attorney

FILED

MAR 26 1970

ALICE J. DUCK CLERK
REGISTER

COMMON LAW CERTIORARI

ZEB GAFFORD,))	IN THE CIRCUIT COURT OF
Petitioner,))	BALDWIN COUNTY, ALABAMA
VS.))	AT LAW
WESTERN LUMBER and SUPPLY))	CASE NO. <u>9102</u>
COMPANY, INC., a corporation,))	
Defendant))	

Your Petitioner, Zeb Gafford, respectfully shows unto the Court that the records of the J.P. Court of Lanier P. Angle, Baldwin County, Alabama, show that a judgment was rendered against your Petitioner on the 19th day of January, 1970 for the sum of FORTY and 34/100 DOLLARS (\$40.34) plus the costs thereof.

Your Petitioner further avers that he was confined to the hospital on the day judgment was rendered against him by the said Lanier P. Angle.

Your Petitioner further avers that he was unable, due to his illness, to take any action during the statutory appellate.

Your Petitioner further avers that his condition was known to the Deputy Sheriff who served papers upon him and who told your Petitioner that he had thirty (30) days from the date he was served to take any action on the complaint filed by Western Lumber and Supply Company, Inc.

Your Petitioner further avers that the fact of his hospitalization was known by the said Lanier P. Angle.

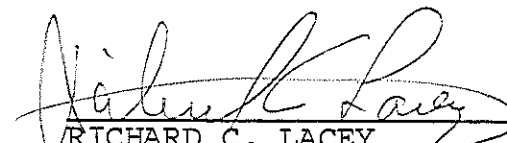
Your Petitioner further avers that he was not guilty of the matters alleged in the Bill of Complaint filed by the said Western Lumber and Supply Company, Inc. and that he had an absolute defence to the action in that the complaint filed by Western Lumber and Supply Company, Inc. alleged an indebtedness on an open account on the date of the 27th day of February, 1954 by virtue of the Statute of Limitations, and that your Petitioner would have filed a proper Plea In Abatement had he had an opportunity to do so.

Your Petitioner further avers that the aforesaid judgment is void and that your Petitioner has no other legal remedy than this Writ of Certiorari.

The PREMISES CONSIDERED, your Petitioner prays that the said Western Lumber and Supply Company, Inc., be made a party Defendant to this cause and that to this end all other needful processes be issued to him. That the said Lanier P. Angle, Justice of the Peace, as aforesaid be required to send up to the Circuit Court of said County all records, papers and proceedings in said cause and he be required and commanded and directed to abstain all further proceedings herein until further order of the Circuit Court.

Your Petitioner prays further that Taylor Wilkins, Sheriff of Baldwin County, Alabama be directed to abstain from all other, further proceedings in said cause, until further orders and directions of this Court.

Your Petitioner prays that, upon the hearing of this Petition, the said judgment be vacated, set aside and held for naught, and be declared an absolute null and void. Your Petitioner prays for such other, further or different relief as the facts and equities in the case may require.


RICHARD C. LACEY
Attorney for Petitioner

STATE OF ALABAMA
BALDWIN COUNTY

Before me, Dorothy V. Turner, a Notary Public in and for said County and State, personally appeared Richard C. Lacey, known to me, who being duly sworn, deposes and says that he is the attorney for the Petitioner, Zeb Gafford, and that the allegations of the foregoing petition are true to the best of his knowledge, information and belief.


RICHARD C. LACEY

SWORN to and subscribed before me on this the 21st day of January, 1970.


NOTARY PUBLIC

FILED

JAN 29 1970

ALICE J. DICK CLERK
REGISTER

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 9102

.....TERM. 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Western Lumber and Supply Company, Inc., a corp.

.....
.....
.....
to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint
filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette against Western Lumber
and Supply Company, Inc., a corp. Defendant.....

by Zeb Gafford
.....
..... Plaintiff.....

Witness my hand this 30th day of January 19 70.

Alice J. Luck Clerk

Ex 1-31-70

889

No. 9102

Page.....

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

ZEB GAFFORD

Plaintiffs

vs.

WESTERN LUMBER & SUPPLY CO., INC.

A CORP.

Defendants

SUMMONS AND COMPLAINT

Filed Jan. 30, 1970

Alice J. Duck Clerk

Richard C. Lacey

Plaintiff's Attorney

Defendant's Attorney

Sheriff claims 70 miles at

Ten Cents per mile Total \$ 7.00

TAYLOR WILKINS, Sheriff

BY *Crook* Defendant's Agent

Received In Office

January 30 1970

Sheriff

I have executed this summons

this *31* Jan. 1970

by leaving a copy with

*Western Lumber & Supply
Served Mr. Floyd Bay*

Sheriff

W.D. Crook Deputy Sheriff

Moore Printing Co. - Bay Minette, Ala.

in FARMER'S DES.

ZEB GAFFORD,.....
Petitioner

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

VS

WESTERN LUMBER AND SUPPLY COMPANY, INC.,
a corporation,
Defendant.

CASE NO. 9102

PLEA OF INTERVENTION

Comes now Lanier P. Angle, Justice of the Peace, Precinct 10, Fairhope, Alabama,
intervening in the above styled cause by leave of this Honorable Court heretofore
granted ore tenus on, to-wit: the 12th day of February, 1970, as also by acquiescence
of attorney for petitioner herein; and represents unto this Honorable Court, as
follows:

- (1) That substantial action of indebitatus assumpsit was initiated on, to-wit:
the 31st day of December, 1969 in the Justice Court of Lanier P. Angle by
Western Lumber and Supply Company, Inc. against Zeb Gafford, and
- (2) That aforesaid complaint and summons thereon was issued and made returnable
on, to-wit: the 19th day of January, 1970, and
- (3) That said process was received in the office of the Sheriff of Baldwin
County at Bay Minette, Alabama on, to-wit: the 6th day of January, 1970 and
after inquiry as to the health and circumstances of said defendant by the
deputy sheriff, Walter M. Crook, Jr. of the defendant's wife and others, was
served upon the defendant on, to-wit: the 15th day of January, 1970; that the
time intervening between the dates of service and trial was adequate and
in compliance with Code of Alabama, 1940 as recompiled, 1958, and
- (4) That the defendant thereto was ambulatory, able bodied and in full possession
of his faculties at time of service and having been notified prior to
service of the pendency thereof, he requested and accepted service of said
process, and
- (5) That on the day of his trial, he came not but made default; nor did he at any
time theretofore, in his own proper person or by agent or attorney, request
continuance or postponement of said trial but remained nihil dicit until
after the date set for his trial.
- (6) On the 21st day of January, 1970 this defendant appeared in said Justice
Court and attempted to enter plea of non acceptavit, i.e. he denied receipt
of the subject goods and chattels for his own account but claimed receipt

(6) Continued:


for account of another person whom he refused to implicate. He offered no proof of his averments nor any reason for his refusal to join such other person.

(7) Petitioner has never pleaded the Statute of Limitations in bar and/or abatement of proceedings against him in said Justice Court but instead attempted to plead to the merits; and such failure, and proposal of an alternate plea, is fatal to assertion of that defense in appellate court.

(8) Wherefore, the premises considered and no proper or timely adverse interest having been represented, it is the respectful submission of said Justice Court of Lanier P. Angle that the judgment by default therein for the Plaintiff and against the Defendant be allowed to remain in full force and effect.

(9) And your intervening complainant separately and severally avers that this Honorable Court is without jurisdiction to hear and determine aforesaid petition for that petitioner has failed and refused to provide proper and timely bond precedent to valid certiorari; and such failure being apparent to the Court, your intervening complainant joins with the defendant herein in prayer to this Honorable Court that the aforesaid petition be forthwith dismissed without hearing thereon at the costs of the petitioner.

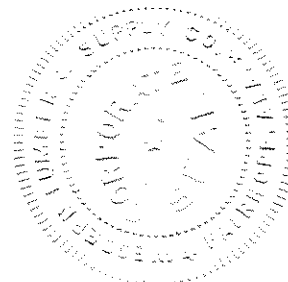
Attest:


Lanier P. Angle

Western Lumber and Supply Company, Inc., a
corporation; as Defendant

By: 
Floyd L. Bung, President

Seal



FILED

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ALICE J. DUCK CLERK
REGISTER

or transfer of property of the estate, and any other matter which may arise in connection with the administration of the estate.

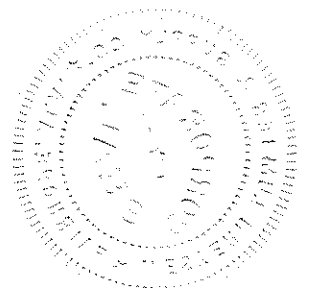
The executor of the estate of the deceased is authorized to execute and deliver any instrument which may be necessary or proper for the administration of the estate, and to do all such other acts and things as may be required for the proper administration of the estate.

The executor of the estate of the deceased is authorized to execute and deliver any instrument which may be necessary or proper for the administration of the estate, and to do all such other acts and things as may be required for the proper administration of the estate.

The executor of the estate of the deceased is authorized to execute and deliver any instrument which may be necessary or proper for the administration of the estate, and to do all such other acts and things as may be required for the proper administration of the estate.



Executed and delivered in presence of me, the undersigned, a Notary Public in and for the State of New York, on this _____ day of _____, 19____.



9102