TILLIE P. HERDRICH,
Complainant,

VS.

FREDERICK H. HERDRICH,
Respondent.

NO.

IN EQUITY.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

COMPLAINANT'S MEMORANDUM BRIEF ON MOTION TO DISMISS ATTACHMENT.

The respondent has here filed a motion to dismiss the equitable attachment issued under Article 27 of the Code, Section 3179 et seq, and in support of his motion sets out eight grounds. We submit that none of these have merit, and take them up in their respective order:

1st. That alimony and counsel fees are not money demands the amounts of which can be certainly ascertained.

Ware vs. Seasongood, 92 Alabama, 152, clearly holds that it is unnecessary that a debt be even due and demandable to justify equitable attachment, and to say that the amount of this cannot be certainly ascertained, when the Chancery Court has ample machinery for the purpose, is absurd.

2nd. That alimony and counsel fees are not a debt within the purview of the law of attachments.

Code Section 3179 says "Writs of equitable attachment may issue on equitable debts and demands, in any case for which an attachment at law may issue". It is not disputed that the respondent is absent from the city, which is a ground at law, and certainly alimony is a demand.

3rd. A claim for alimony is not a suit to recover damages for a breach of contract.

Attachment by law may issue in an action of tort, which certainly is not a contract. (Dillman & Co., vs Mixon, 120 Alabama, 206.) This same argument applies to paragraph four. Counsel seem to have lost sight of the purpose of the suit which is clearly to protect such claims as have a standing in equity.

5th. The respondent, having left the State to avoid the

jurisdiction thereof, and, having been a resident of the State of Alabama, this state has the right to prescribe the manner in which service may be had, but even if a personal judgment could not be obtained, this would not interfere with the validity of the attachment, which is a remedy resorted to in lieu of personal service.

6th. That complainant's claim of indebtedness is untrue, is the issue in this case to try which suit is brought.

7th and 8th. The affidavit of attachment describes the only property owned by respondent in the County of Baldwin, and is, therefore, sufficiently definite. This same argument applies to paragraph eight to the effect that the property is not adequately described.

We, therefore, submit that the attachment is in all respects legal and should be sustained.

Rickarby, Brazier & Beebe.

Solicitors for Complainant.

NO.

IN EQUITY

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

TILLIE P. HERDRICH,

vs.

FREDERICK H. HERDRICH.

MEMORANDUM BRIEF.

Rickarby & Frazer,
Solicitors.

TILLIE P. HERDRICH, COMPLAINANT VS F.H. HERDRICH, DEFENDANT	IN EQUITY IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

DEPOSITIONS OF M.A. BOWEN AND E.G. RICKARBY, WITNESSES FOR COMPLAINANT IN ABOVE STYLED CAUSE.

The said witnesses, having been by me first duly sworn to tell the truth, the whole truth, and nothing but the truth, upon examination by counsel for complainant, defendant being in default, testified as is set out on the following pages:

M.A. BOWEN

I am a resident of the town of Fairhope and have been acquainted with Mr. and Mrs. Herdrich practically from the time they came to Fairhope a little over three years ago. I do not know them intimately but as I am connected with the boat that runs across the Bay and had shown Mrs. Herdrich some courtesies and was later Mayor of the town, she came to me later when she had trouble. Herdrich is a thick, heavily set man, a German, and has the reputation in the community of being surly and ill tempered, but I do not know this of my own personal knowledge as his dealings with me were business dealings, but I know that about a month after the marriage Mrs. Herdrich came to me in great trouble with both her eyes badly blackened and her face swollen and told me that Mr. Herdrich had beaten her up with his fists and she told me how he had treated her. I then sent her to my friend and lawyer, Mr. Rickarby, and asked him to look after her interests and he has done so ever since. She staid away from her husband about a month and then went back to him, as I am told, on his promise of good behavior. About nine months later, however, the exact date I do not remember, she came to me again with her face all bruised up which she said her husband had done. This is all I know about the matter.

M. A. Bowen

ELLIOTT G. RICKARBY

I have known Mrs. T. P. Herdrich for about four years, my first acquaintance was when she was sent to me by Capt. W. A. Bowen to whom she had gone in trouble and he sent her to me. This was about March, 1917. Her face was badly swollen and both eyes were "blacked". She told me that her husband had beaten her with his fists over some trifling matter over which he had flown into a rage. From her account he seemed to have "slugged" her. I took her case but do not remember now just how far we went. I think that I started suit for divorce for we had an examination in the office of John E. Mitchell, Esq, Herdrich's lawyer, of a little negro girl who saw the trouble and who has since died, also of Herdrich, and at this time he admitted the beating but sought to justify it by saying that she interferred between him and one of his children by a former wife. As I recollect, the trouble started because he wanted to take his little girl with him to town and Mrs. Herdrich sent her upstairs to put of a clean dress. This was about a month after the marriage. She stayed away from him for a month while Mitchell and I tried to patch up the trouble. She was willing to go back if he would promise not to abuse her again and after a month he asked her to come back and promised to be good to her and she returned. I think now that it was fear of paying alimony, rather than any affection or sense of duty that made him do this. About nine months later she came to me again, showing marks of bruises but not as bad as before, and I think I again advised her to return. Soon after that he left her, and went to Chicago, but left at his house his oldest son, a worthless waster, who would not work and who was very ~~annoyous~~ arrogant and over bearing. He too abused her, once striking her in the head with a pitcher, which broke and cut her forehead. I saw this scar also.

This is about all I know of my personal knowledge though I learned a great deal of his cruelty, unfounded and insame jealously and abuse, not only from her, but corroborated by neighbors.

He is much older then she, a German, a former saloon-keeper and until prohibition, ran a Mail-order Liquor House in Chicago out of which he made much money. I saw enough of him to know that he is ignorant, suspicious, domineering and sullen. He hated his wife and would hurt her if he had a chance and could get away with it.

Elliott G. Rickarby.

CERTIFICATE

I, Gretchen McNair, the commissioner named in the foregoing commission issued out of the Equity side of the Circuit Court of Baldwin County, Alabama in a certain cause therein pending, wherein Tillie P. Herdrich is complainant and F.H. Herdrich defendant, do hereby certify that under the power conferred upon me by such commission, I caused the said M.A. Bowen and E.G. Rickarby who are known to me and whom I know to be the identical witnesses named in the commission to come before me at 1010 Van Antwerp Building, Mobile on the 23rd day of November and they testified as is hereinabove written; that their testimony was by me reduced to writing as given by them and as near as might be in the language of the witnesses, and that after this testimony had been transcribed it was read over and signed by them in my presence.

I further certify that I am not of counsel or of kin to either party to the cause or in anywise interested in the result thereof.

Witness my hand and seal as commissioner this the 23rd day of November, 1920.

Gretchen McNair.
Commissioner.

COMMISSION TO TAKE DEPOSITION. [redacted] (Box 649.) MARSHALL & BRUCE CO., NASHVILLE

The State of Alabama, Baldwin **COUNTY.** | **CIRCUIT COUNTY.** Equity Division.

To Miss Gertrude McNair,

or such of you as may act herein, of Mobile County, State of Ala, Greeting:

KNOW YE, That we, reposing confidence in your integrity, skill, and ability have appointed you Commissioners to take the testimony of M A Bowen and E G Rickarby,

material witness in a suit now pending in our Circuit Court of Baldwin County, wherein Tillie P Hendricks Plaintiff, and Frederick H Hendricks Defendant, *and we hereby authorize and empower you to call and cause to come before you* M A Bowen. E. G. Rickarby.

the said *witness* and their *deposition* on the Holy Evangelists to take, as well for the Complainant as for the ——— touching ——— knowledge *of the matters and things in controversy in said suit, which deposition, when so taken, shall be signed by said witness and certified by such of you Commissioners as may act herein; and you are further commanded, the deposition, when so taken, with this commission, to return under your hands and seals to the Clerk of said Court, with all convenient speed, and any one or more of you Commissioners, are authorized to act alone in the premises.*

Witness my hand, this 20th *day of* Nov *19*12

Witness' Fees, - - - $

Commissioners' Fees, $5 00 T. W. Richardson *Clerk.*

No. .....

The State of Alabama, Bibb County

CIRCUIT COURT, Eighth DIVISION

Lucie B Alexander

vs. Plaintiff

Frederick H Alexander

Defendant.

COMMISSION TO TAKE DEPOSITION ON SET INTERROGATORIES.

Issued this 20th day of Nov 1912

W M Reaves Clerk

WITNESSES:

M A Bowen

E A Pickering

Commissioner for Ala

MARSHALL & BRUCE CO., NASHVILLE

DIRECTIONS:

TO THE COMMISSIONERS IN EXECUTING AND RETURNING THE COMMISSION.

1. If the time and place of executing the commission are not named therein, the Commissioners will subpoena the witness to appear before them at such time and place as they may appoint, and administer the oath to witness.

2. Either the Commissioners, witness, or some impartial persons, must reduce the answer of witness to writing, as near as may be in the language of the witness.

3. State the caption of the cause at the beginning, and then the following heading or title:

By virtue of the Commission hereto annexed, issued from the office of the Clerk of the Circuit Court of_____ County, State of Alabama, we, the Commissioners therein named, have called and caused to come before us the said A B, the witness named in said commission, on this_____day of_____191__, at the_____; and having duly cautioned and sworn the said witness to speak the truth, the whole truth, and nothing but the truth, A B, the said witness, deposeth and saith as follows:

First.—To first interrogatory he saith:

Second.—To second interrogatory he saith:

First.—To first cross-interrogatory he saith:

4. When the deposition is finished, it must be subscribed by the witness and certified as follows:

We, C D and E F, the Commissioners in said commission named, do hereby certify that the foregoing testimony and answers, taken down and written by us in the words of the witness, A B, were read over to him; that he assented, swore to, and subscribed the same in our presence, at the time and place herein mentioned: that we have personal knowledge of the personal identity of said witness [or, if unacquainted with the witness, that proof hath been made before us of the identity of the said witness]; that we are not of counsel or kin to either of the parties to said cause, nor interested in the event thereof. And we inclose the said testimony, together with said commission and the interrogatories, direct and cross, to the said Clerk of the Circuit Court whence the same emanated, as our full execution of said commission.

Given under our hands and seals, this_____day of_____191__

_____[L. S.]

_____[L. S.]

Next unite the commissions, interrogatories, and answers together, with wafers or tape; second, envelope all, sealed with three seals; third, write each Commissioner's name across each seal; and, fourth, write on the envelope the names of the parties and witnesses, and direct it thus:

C D *v.* E F — DEPOSITION OF A B	*To*.....*Esq.*, CLERK OF THE CIRCUIT COURT. ....*County, Ala.*

☞ **The package may by sent by mail or private conveyance.**

TILLIE P. HERDRICH,
Complainant,

VS.

FREDERICK H. HERDRICH,
Defendant.

NO.

IN EQUITY.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

INTERROGATORIES TO BE PROPOUNDED TO FREDERICK H. HERDRICH, THE DEFENDANT IN THE ABOVE ENTITLED CAUSE, UNDER THE PROVISIONS OF CODE SECTION 4049:

1st. Are you the defendant in this cause? If so, where were you born and where did you reside up to the time you came to Baldwin County?

2nd. When did you come to Baldwin County to establish residence there, and how long did you live there?

3rd. Is it not a fact that you were married to the complainant in this cause on February 7, 1917, by a Baptist Minister in the city of Mobile, Alabama, and that you and she at once went to your home at Fairhope to live? Did you not live there together as man and wife until you left in the month of May, 1919?

4th. Is it not a fact that within about a month after your marriage you lost your temper and beat up your wife with your fists so that not only was her face badly bruised, but one if not both of her eyes blackened? Did she not leave you on account of this and threaten you with divorce, and were you not represented in this controversy by John E. Mitchell, Esquire, a lawyer in Mobile?

5th. If you state that you had trouble with your wife on this occasion, is it not a fact that you promised better behavior and that she returned to live with you because of this promise?

6th. In the fall of the year following the occurrence last stated is it not true that you again assaulted and beat your wife with your fists so that she was badly bruised up and bore the

marks of the injuries for days thereafter?

7th. Is it not a fact that on or about May 8, 1919, you left Baldwin County and returned to Chicago, where you have since been in business, leaving your wife with no money, but giving your son, Frederick, charge of the farm and authority over her so that she had to go to him for what little money she needed? If you state that you made arrangements for her to get credit at the stores, state at what stores this was done and how much you have paid since that time to the several merchants, giving dates, names and amounts.

8th. Have you sent your wife any money since you left her other than the sum of Twenty-five Dollars at Christmas time, and have you made arrangements or said anything to her about following you to Chicago? Please state in detail what amounts you have paid to your wife and on her behalf since you left Fairhope in May, 1919.

9th. Did you not in the month of February, 1920, receive a number of bills for accounts contracted in Fairhope, some prior to the time of your leaving and some by Mrs. Herdrich since that time? State whether or not these bills have been paid. If you have made any payments on account of these bills, please state to whom, when and how much.

10th. Is it not a fact that when you were living together you repeatedly cursed and abused your wife, accusing her of all manner of improper behavior?

11th. Is it not a fact that since you have returned to Chicago you have had people paid to watch your wife in the endeavor to discover some conduct on her part which you could use toward getting a divorce, or in defense of any claim she might make on you for support or alimony, and have you not sent people down from other places, both men and women, in the endeavor to secure such evidence? Give the names of such parties and the dates when they were sent.

12th. Did you not in the early part of April, 1920, send a registered letter to Mrs. Herdrich in which you, in effect, charged her with immoral relations with a man in Fairhope, calling said man by name? State whether this charge is true or false. If you say that it is true, or that you believe it to be true, state the name and address of your informants, and the date when you secured the information.

13th. If you state that your wife has been guilty of any improper conduct, give the specific instances and details, and the names and addresses of the parties by whom you expect to prove this. If these are not residents of Fairhope, state whether or not they are the parties you paid to secure this evidence, and how much you have paid them for this purpose. State just what report your paid spies made to you about your wife's doings.

14th. Give a complete list of all of the property owned by you, both real and personal, including property that you have transferred to others within the past two years in anticipation of a suit for divorce or alimony, and, in such latter event, state the names of the parties and the class and value of the property thus transferred.

15th. Do you still own the store building at 348 West Chicago Avenue; what did you pay for this property, at what figure have you it assessed, and what is its value now? If you do not own it, state when, to whom and at what price you have sold it.

16th. Do you own the residence at 4732 Kenmore Avenue, Chicago; what did you pay for this, what is it assessed for and what is its present value?

17th. Do you own a cottage at Benton Harbor, Michigan, near the Jewish settlement there? What did you pay for this, what is it assessed for, and what is it now worth?

18th. State what property you own in Baldwin County, Alabama, giving the purchase price and present value and describe the property in detail.

19th. What business were you engaged in during the year 1919 and where? State the net profits from this business and what disposition you have made of the money.

20th. Give a full list of all real estate that you own or in which you have an interest not covered by the foregoing questions, and also list all personal property, securities, investments and cash that you have now.

21st. State what was the amount of your gross and your net income as reported by you to the Federal authorities in making out your income tax return in the year 1919, and also the figures returned by you in making your last income tax return.

22nd. How much have you invested in your present business?

23rd. Is it your intention to return to Baldwin County to live, and, if so, when? If not, have you permanently abandoned your residence in Alabama, and what place do you claim as your legal residence?

Rickarby Frazer & Beebe
Solicitors for Complainant.

STATE OF ALABAMA,
COUNTY OF MOBILE.

Before me, Natalie C. Torbert, a notary public in and for said State and County, personally appeared Elliott G. Rickarby, who, being sworn, says that he is of counsel for the complainant in the above entitled cause, and that he believes that the answer of the defendant, Frederick H. Herdrich, to the foregoing interrogatories, if true, will be material evidence for complainant in said cause.

Elliott G. Rickarby.

Subscribed and sworn to before me,
on this the 10th day of April, 1920.

Natalie C. Torbert.
Notary Public, Mobile County, Alabama.

NO.

IN EQUITY.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Tillie P. Herdrich,

vs.

Frederick H. Herdrich.

Filed April 13th 1920
T. W. Richerson
Register

INTERROGATORIES

Rickarby, Frazer & Beebe,
Attorneys.

TILLIE P. HERDRICH Complainant VS F.H. HERDRICH Defendant	IN EQUITY IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF SAID COURT, SITTING IN EQUITY:

Comes Tillie P. Herdrich by her solicitors, and prays the Court that if upon consideration of the cause, if she be found entitled to the relief prayed, viz, a decree of divorce, that in rendering such decree same may also grant to her the right to resume the name of "Harrod", that borne by her prior to the time of her marriage to the Defendant and that she may use said name as her own thereafter.

Respectfully submitted,

Tillie P. Herdrich
Petitioner.

BY Rinsaby & Beebe
Her Solicitors

NO.____________

IN EQUITY

IN CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

TILLIE P. HERDRICH
Complainant

vs

F.H¾ HERDRICH,
RESPONDENT

* * *

* * *

COMPLAINANT'S PETITION FOR LEAVE TO RESUME FORMER NAME.

* * *

Filed Dec 13th 1920
T W Richerson
Register.

Tillie P. Herdrich, Complainant	:	No. 228
vs.	:	In the Circuit Court of Baldwin County
Frederick H. Herdrich, Respondent.	:	In Equity.

We hereby appear for the respondent in the above styled cause, reserving the right to demur, answer and plead specially.

Dated, May 24, 1920.

Stevens McCorvey & McLeod
Attorneys for Respondnet.

No. 228

In the Circuit Court
of Baldwin County
In Equity

Tillie P. Hendrick
v.
Frederick H. Hendrick

Appearance

Filed May 24/1920
T W Richerson
Register

Stevens McCorvey McLeod
of Mobile
attys for Respondent

RETURN RECEIPT.

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(Signature or name of addressee.)

(Signature of addressee's agent.)

Date of delivery, 21 Feb 20, *19*

Form 3811

C 5—6116

Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300.

REGISTERED ARTICLE

No. 1683

INSURED PARCEL

No. _____

Filed May 20th 1920 Thurman Register

POSTMARK OF DELIVERING OFFICE

CHICAGO ILL. MAY 18 4 30 PM 1920

ADDRESS OF DELIVERY

Return to F. N. Peterson

(NAME OF SENDER)

Street and Number, or Post Office Box, _____

Post Office at Bay Minette

State Ala

G 5—6116

Tillie P. Herdrich, Complainant,	No._____
-vs-	IN THE CIRCUIT COURT OF BALDWIN COUNTY,
Frederick Herdrich, Respondent.	IN EQUITY.

MEMORANDUM BRIEF OF STEVENS, McCORVEY & McLEOD IN SUPPORT OF RESPONDENT'S MOTION TO DISSOLVE ATTACHMENT.

The brief for the complainant, a copy of which has just been given us, fails to cite any case in which an attachment has ever been issued in support of a suit for divorce and alimony against a non-resident defendant. We have searched carefully and are confident that there is no such case ever decided by our Appellate Court. The lack of authority from this State upon such question is not surprising, because from the reading of the Sections of our Code which must be relied upon, it is apparent that such remedy is not available in aid of a suit for divorce and alimony.

Section 3179 of the Code, under which the complainant professes to be proceeding, does permit the issuance of writs of equitable attachments, for equitable debts and demands, but only in such cases for which an attachment at law may issue. It therefore follows that if the debt or demand is not such as would support an attachment at law, then it will not support an equitable attachment.

The Attorneys for complainant in their brief practically admit that alimony is not a debt. Certainly the suit is not an action

sounding in damages, or a tort action. It is insisted, however, that a claim for alimony constitutes and is a "demand." However, by express statutory provision it is only a monied demand the amount of which can be certainly ascertained, which will support an attachment.

The nature of complainant's claim for alimony is neither a debt nor such a monied demand. In fact no debt or monied demand is created or exists until a decree awarding alimony is rendered.

McFadden vs. McFadden, 134 Ala. 337;
Mille v. Long, 58 Ala. 458, 460,

Alimony is awarded as an incident to a decree dissolving the bonds of matrimony. Therefore, an indebtedness or monied demand for alimony is entirely inconsistent with the marital status, and the debt or demand never exists so long as the parties are married. This has particular reference to the claim for permanent alimony which constitutes and is, of course, the greater portion of the complainant's claim, and for which the attachment was levied. The same is true of the claim for attorneys fees. A complainant wife is not entitled to attorneys fees as a matter of right, but the matter lies within the discretion of the Court, depending upon the good faith of the proceedings and the probability of success.

Bulke vs. Bulke, 173 Ala. 138;
Brinkley vs. Brinkley, 121 Ala. 429.

At the present time the respondent is not indebted to the complainant for either alimony or attorneys fees, and this is apparent from the allegations of the bill of complaint, and the statements of the complainant in her affidavit for attachment. It therefore follows that the complainant's statement that respondent is indebted to her for

these matters, is upon its face untrue, and that the attachment sued out upon this ground should and ought to be dissolved and dismissed upon motion.

The levy of the attachment was made under order of Court which failed to state any amount for which the levy should be made, as is required by Section 2929 of the Code. Likewise the requirements of Section 2931 do not appear to have been complied with. In addition thereto, the property levied on is not sufficiently described in complainant's affidavit for attachment and the return of the Levying Officer is subject to the same objection. We know of no case where an attachment simply levied on so many acres of land and so many head of stock, without otherwise describing them, has been upheld. On these grounds the attachment is void and of no effect, and the same should be dissolved.

The Court's order in dissolving and dismissing the attachment is not to deny the complainant any right to which she may be entitled as against the defendant's property under the law or the rules of Chancery procedure. Courts of Chancery have their own procedure by injunction or, otherwise, adequate to meet such ends, and it was not necessary for complainant to seek the attachment in the manner and form in which this remedy is sought to be invoked. Attachment is purely a statutory remedy, is in derogation of the common law, and must be strictly construed in favor of a party against whom it is invoked, and the procedure must conform to the requirements of the Statute.

Ware vs. Seasongood, 92 Ala. 152;
Earp vs. Stephens, 1 Ala. App. 447;
Taliaferro vs. Lane, 23 Ala. 369,371.

The fact that complainant has mistaken her remedy can be no concern of the Court, whose sole concern in the present instance is to see that the statutes relating to attachments have been conformed with. For the reasons stated, the law has not been followed and the attachment has been improperly sued out and levied.

We submit that the respondent is entitled to an order dissolving and dismissing the attachment.

Respectfully Submitted,

Stevens, McCorvey & McLeod,
Attorneys for Respondent,
appearing specially.

Sept. 20, 1920.

Hon. Elliott G. Rickarby,
C/o Rickarby & Frazer,
Mobile, Alabama.

Dear Mr. Rickarby: Re.: Herdrich vs. Herdrich.

I received your letter last week and intended writing you, but have been without the assitance of a stenographer for so long that my business has accumulated to such an extent that I have great difficulty in clearing my desk. I certainly trust that you will pardon my delay in writing you.

You will recall that this file of papers, together with the case of Turner vs. Turner, was handed to me while you were in Brewton on an occasion when you and Mr. Caffey made an oral argument in a chancery case before me. You stated at that time that you would write me about the matter. I merely took the two files and placed them away in my office and did not hear from you for quite a long time, and this is the reason I did not look into these two cases.

You will find herewith my decree on the motion to dismiss the attachment.

You will doubtless remember that I also ordered the Register to hold a reference for the purpose of ascertaining alimony in behalf of the wife and Solicitors' fees for prosecuting the suit. The Register will doubtless hold this reference at an early date, of which I presume he will give you formal notice.

With very best wishes and kindest regards, I am,

Very sincerely yours,

Cc to Stephens, McCorvey & McLeod,
Mobile, Alabama.

TILLIE P. HERDRICH Complainant. vs. FREDERICK H. HERDRICH Respondent.	)))))))	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. NO. 228. IN EQUITY.

This cause was submitted on Respondent's motion to discharge and dissolve the attachment hereto issued and was taken and held under consideration by the Court. The Court having duly considered the motion and the several matters therein contained is of the opinion that the motion is well taken and made and should be sustained.

It is therefore ordered, adjudged and decreed by the Court that said motion be and the same is hereby granted and that said attachment be and the same is hereby vacated , discharged, annulled, dissolved and held for naught, and that the property levied on under said writ of attachment be and the same is hereby released and discharged from said levy free from any and all liens that may have been ~~[illegible]~~ fastened thereon by reason of the issuance or levy of said writ.

Ordered and decreed out of term time, but in open court, this the 17th day of September, 1920.

John D. Leigh
Judge of the Circuit Court for
Baldwin County, Alabama.

TILLIE P. HERDRICH, Complainant,	NO.
VS	IN EQUITY,
FREDERICK H. HERDRICH, Defendant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

This cause, coming on to be heard at this Term, was submitted upon the bill of complaint, decree pro confesso and testimony as noted by the Register; and, upon consideration thereof, the Court is of opinion that the Complainant is entitled to the relief prayed for in her bill.

IT IS, THEREFORE, Ordered, adjudged and decreed by the Court, that the bonds of matrimony heretofore existing between the Complainant and the Defendant be, and the same are hereby dissolved, and the said TILLIE P. HERDRICH, is forever divorced from the said FREDERICK H. HERDRICH, for and on account of cruelty, as alleged in said bill of complaint;

IT IS FURTHER ORDERED, that the said TILL IE P. HERDRICH, be, and she is hereby permitted to again contract marriage.

IT IS FURTHER ORDERED, that the said FREDERICK H. HERDRICH, pay the costs herein taxed, for which execution may issue, and if such execution is returned "no property found," then execution for such costs may issue against the said TILLIE P. HERDRICH.

IT IS FURTHER ORDERED, adjudged and decreed that said TILLIE P. HERDRICH shall not again marry except to said FREDERICK H. HERDRICH, until sixty days after this date, and that if an appeal is taken within sixty days she shall not marry again except to said FREDERICK H. HERDRICH, during the pendency of said appeal.

IT IS FURTHER ORDERED, and adjudged that complainant may resume the name of Harrod borne by her prior to her marriage to defendant.

This 18th day of December 1920.

John D. Leigh

Judge of the Circuit Court of Baldwin County, Alabama.

NO_____

IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

TILLIE P. HERDRICH
COMPLAINANT

VS

F.H. HERDRICH
DEFENDANT

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::::::::::::::::::::::::::::::

::::::::::::::::::::

DECREE OF DIVORCE

::::::::::::::::::::

Filed Dec 20th 1920.
T. W. Rickman
Register

::::::::::::::::::

::::::::::::::::::::::

Recorded in
minutes

Tillie P Herdrich,)
Complainant.)
vs)
Frederick H Herdrich,)
Respondent.)

In the Circuit Court of

Baldwin County, Alabama.

No. 228. In Equity.

- - - - - - - - - - - -

This cause was submitted on Respondent's motion to discharge and dissolve the attachment heretofore issued and was taken and held under consideration by the Court. The Court having duly considered the motion and the several matters therein contained is of the opinion that the motion is well taken and made and should be sustained.

It is therefore ordered, adjudged and decreed by the Court that said motion be and the same is hereby granted and that said attachment be and the same is hereby vacated, discharged, annulled, dissolved and held for naught, and that the property levied on under said writ of attachment be and the same is hereby released and discharged from said levy free from any and all liens that may have been fastened thereon by reason of the issuance of levy of said writ.

Ordered and decreed out of term time, but in open Court, this the 17th, day of September, 1920.

John D Leigh,
Judge of the Circuit Court for
Baldwin County, Alabama.

The State of Alabama
Baldwin County.

Circuit Court In Equity.

I. T. W. Richerson, Register of said Circuit Court of said County, Alabama, do hereby certify that the above is a full, true and correct copy of the decree rendered by said Court on the 17th day of September, 1920. in the cause of Tillie P Herdrich, Complainant vs Frederick H Herdrich, Defendant as appears of record in said Court.

Witness my hand and the seal of said Court, this the 22nd day of September, 1920.

T W Richerson
Register.

Hon. W. R. Stuart, Sheriff of Baldwin County, Alabama.

You will take notice of the above decree, dissolving the attachment in cause of Tillie P Herdrich vs Frederick H Herdrich, and be governed accordingly.

T W Richerson
Register.

ORIGINAL.

Sept 22nd, 1920.

I. hereby accept service of the within notice of decree.

W. R. Stewart

Sheriff.

TILLIE P. HERDRICH,
Complainant,

VS.

FREDERICK H. HERDRICH,
Defendant.

NO.

IN EQUITY.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

This cause coming on to be heard upon the motion of complainant for an order of reference, as prayed in the bill, to ascertain a suitable amount to be awarded complainant out of the estate of the defendant as compensation for her solicitors in this cause and as alimony pendente lite:

It is hereby ordered and decreed that the Register of this Court, after proper notice to the parties, hold a reference for the purpose of ascertaining a suitable amount to be awarded complainant as compensation for her solicitors, and as temporary alimony, and make such report forthwith for such further orders as may be proper in the premises.

Done in term time at Bay Minette, Alabama, this the 31th day of May, 1920.

John D. Leigh
Judge of the Circuit Court of Baldwin County, Alabama.

TILLIE P. HERDRICH, Complainant, -vs- FREDERICK H. HERDRICH, Respondent.	No._____ IN THE CIRCUIT COURT OF BALDWIN COUNTY, IN EQUITY.

Comes the respondent in the above styled cause and appearing specially and only for the purpose of making the following motion, and substituting for the special appearance heretofore filed herein, the special appearance now made for the sole purpose as aforesaid, and moves the Court to enter an order herein vacating, discharging and dissolving the attachment heretofore issued herein upon the following separate and several grounds:

1. The only demand made upon the respondent in the bill of complaint heretofore filed herein is for alimony and support and counsel fees, none of which said demands are moneyed demands, the amount of which can be certainly ascertained, within the terms and meaning of the law providing for the issuance of attachments against non-resident defendants,

2. The said bill of complaint is a suit for divorce and claims as incident thereto alimony and support and counsel fees, and is not a suit to enforce the collection of a debt, within the meaning and terms of the law providing for attachments against non-resident defendants.

3. The bill of complaint filed herein is a suit for divorce and as an incident thereto prays for the allowance of alimony and support and counsel fees, and as such is not a suit to recover damages for a breach of contract, within the terms and meaning of the law providing for attachments against non-resident defendants.

4. The bill of complaint heretofore filed herein is a suit for divorce and prays as an incident thereto for the allowance of alimony and support and counsel fees, and as such is not an action sounding in damages merely, within the terms and meaning of the law providing for attachments against non-resident defendants.

5. This Court is without jurisdiction to enter a personal judgment for alimony and support and counsel fees in the said suit upon service upon the respondent by publication and without personal service had

upon him.

6. The said attachment was sued out upon the sworn statement that the respondent was indebted to the complainant, which said statement is false and untrue, within the terms and meaning of the law providing for attachments against non-resident defendants.

7. The said attachment was sued out upon the sworn statement which fails to describe the property sought to be attached with sufficient definiteness and particularity to enable the property sought to be attached to be validly levied upon under the process of attachment sued out.

8. For that the levy of the said attachment upon the said property and return made upon said levy fails to describe and identify the property attached with sufficient definiteness and particularity, and is therefore void.

Wherefore respondent prays that the Court take jurisdiction of this, his said motion, to the extent only necessary to provide the relief herein prayed for, and that the Court will be pleased to enter an order herein forthwith vacating, discharging, releasing, annulling and dissolving the attachment heretofore issued herein against the property of the said respondent.

Stevens, McGowan & McLeod
Attorneys for Respondent,
appearing specially.

We hereby accept service of a copy of the foregoing motion and waive all further notice thereof, and consent that the same be submitted forthwith without argument. We hereby further agree that the appearance of the respondent herein be limited solely to the purpose of making the above and foregoing motion, and that the acceptance of service by the attorneys for the respondent of a copy of the motion of the respondent heretofore filed herein for an order of reference to the Register to ascertain and report a suitable allowance to the complainant for alimony pendente lite, and the agreement of the said counsel to submit the said motion without argument, which said acceptance of service and agreement to submit is dated the 26th day of May, 1920, shall not vary the nature of the appearance for the respondent as set out hereinabove and shall not be considered as a general appearance for the said respondent in the said cause.

Ristaby, Frazer & Beebe,
~~Attorneys~~ Solrs for Complainant.

STATE OF ALABAMA,

COUNTY OF BALDWIN.

TO ANY SHERIFF IN THE STATE OF ALABAMA:

WHEREAS, TILLIE P. HERDRICH hath complained on oath to me, JOHN D. LEIGH, Judge of the Circuit Court of Baldwin County, Alabama, sitting in equity, that FREDERICK H. HERDRICH is justly indebted to complainant for maintenance and support, and will be further indebted to complainant for alimony, both temporary and permanent, and for counsel fees, but in a sum yet to be determined by this Court, and, complainant having made affidavit as required by law in such cases, and defendant being a nonresident of the State of Alabama and complainant having elected not to give bond, you are hereby commanded to attach the thirty acres of land east of the town of Fairhope, Alabama, with the dwelling and improvements thereon, the household furniture in said dwelling and the livestock and poultry on said property, together with three lots and one small dwelling at Magnolia Beach, Alabama, and said property, unless replevied, so to secure that same may be liable to further proceedings therein to be held at the next term of the Circuit Court of Baldwin County, Alabama, to be held at the Court House thereof, when and where you must make known how you have executed this writ.

WITNESS my hand, at Brewton, Alabama, this the 16th day of April, 1920.

John D Leigh

JUDGE.

Circuit

4 R

NO.

IN EQUITY.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Tillie P. Herdrich,

vs.

Frederick H. Herdrich.

Filed April 17th/1920
D. Richerson
Register

WRIT OF ATTACHMENT

Rickarby, Frazer & Beebe,
Attorneys.

Executed, April, the 20th, 1920 By Attaching the followerin described Property, as the Property of Frederick H. Herdrich. Thirty acres Of land East of the Town Of Fairhope, with dwelling and Improvements, there on. Also, Three, Lots and One Small dwelling at Magnolia Beach, Alabama, All of ~~HERE~~ Above Property in Baldwin County Alabama.

W. R. Stead
Sheriff Of Baldwin County

8572 CERTIFICATE OF REGISTER AS TO NOTICE BY REGISTERED MAIL.

Tillie P Herdrich

vs.

Frederick H Herdrich,

CIRCUIT COURT OF

Baldwin COUNTY,

IN EQUITY.

I, T.W. Richarson, Register of said Court. do hereby certify that I did, on the 15th, day of May 1920, send to Frederick H Herdrich, Defendant whose address was Chicago Ill, by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," a copy of the Bill of Complaint filed in this cause; also copy of attachment with Sheriff's return that I demanded a return receipt addressed to the Register of this Court; and that such receipt was duly received and filed by me in this cause, on the 20th day of May 19 20

Witness my hand, this 21st day day of May 19 20

T.W. Richarson

Register.

Acts 1915, Page 604.

5-12

No. 228

CIRCUIT COURT OF

Baldwin COUNTY,

IN EQUITY.

Tillie P Herdrich

vs.

Frederick H Herdrich

CERTIFICATE OF REGISTER AS TO NOTICE BY REGISTERED MAIL.

Filed in office on this 21st

day of May 1920

D. W. Reaves

Register.

TILLIE P. HERDRICH,
Complainant,

VS.

FREDERICK H. HERDRICH,
Respondent.

NO.

IN EQUITY

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

STATE OF ALABAMA ;

COUNTY OF MOBILE.

Comes the complainant and moves the court for an order of reference to the Register to ascertain and report a suitable allowance to be made to Complainant out of the estate of the Defendant for compensation of her solicitors and for alimony pendente lite as prayed in the bill.

Rickarby Frazer & Beebe.
Solicitors for Complainant

We acknowledge receipt of a copy of the foregoing motion this 26th day of May 1920. and agree that same be submitted without argument.

Stevens & McCorvey & McLeod.
Solicitors for Respondent.

TILLIE P. HERDRICH,
Complainant,

VS.

FREDERICK H. HERDRICH,
Defendant.

NO.

IN EQUITY.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

STATE OF ALABAMA,

COUNTY OF MOBILE.

Before me, the undersigned notary, personally appeared this day TILLIE P. HERDRICH, who, being sworn, says that she is the complainant in the above entitled cause; that Frederick H. Herdrich, the defendant therein named, is over the age of twenty-one years, and a resident of the City of Chicago, Illinois, his address there being 4752 Kenmore Avenue, wherefore, she prays that service be had upon him by publication or by registered mail, as provided by law in such cases.

Tillie P. Herdrich.

Subscribed and sworn to before me,
on this the 7th day of April, 1920.

Natalie C. Tolbert.
Notary Public, Mobile County, Ala.

3 R

NO.

IN EQUITY.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Tillie P. Herdrich,

vs.

Frederick H. Herdrich.

AFFIDAVIT
Of Defendant's Non-Residence.

Filed April 13/920
T. O. Richerson
Register

Rickarby, Frazer & Beebe,
Attorneys.

TILLIE P. HERDRICH,
Complainant,

VS.

FREDERICK H. HERDRICH,
Respondent.

NO.

IN EQUITY.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

STATE OF ALABAMA,

COUNTY OF MOBILE.

Personally appeared before me, the undersigned notary, TILLIE P. HERDRICH, who, being sworn, says that Frederick H. Herdrich, to whom she was and is lawfully married, has left her without means of support; that she has this day filed suit against him for divorce, praying for an allowance to her for temporary alimony and support, for an allowance for suitable counsel fees to prosecute her cause and permanent alimony; that the amount of the sums to be thus allowed are as yet undetermined by the Court, and that the said Frederick H. Herdrich is indebted to her by reason of his action; that he is at present a non-resident of the State of Alabama, residing at 4752 Kenmore Avenue, Chicago, Illinois; that he has removed out of the State of Alabama so that ordinary process of law cannot be served upon him; that his only assets in Alabama known to affiant are thirty acres of land with the dwelling and improvements thereon located near Fairhope, Baldwin County, the household furniture therein and the livestock and poultry thereon and three lots at Magnolia Beach; and that this attachment is not sued out for the purpose of vexing or harassing the said Frederick H. Herdrich, but for the purpose of securing the enforcement of affiant's demands as evidenced by her Bill in Chancery this day filed and to secure the payment of such sum as may be awarded to her by law by virtue of said proceeding.

Tillie P. Herdrich.

Subscribed and sworn to before me,
on this the 7th day of April, 1920.

Natalie C. Tarbut,
NOTARY PUBLIC, MOBILE COUNTY, ALA.

The defendant being a non-resident, the complainant elects not to give bond.

2 R

NO. _____

IN EQUITY.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Tillie P. Herdrich,

vs.

Frederick H. Herdrich.

Filed April 13th 1920
T W Rimmer
Register

AFFIDAVIT FOR
ATTACHMENT.

Rickarby, Frazer & Beebe,
Attorneys.

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA: SITTING IN EQUITY.

Comes TILLIE P. HERDRICH, and, by this, her bill of complaint exhibited against FREDERICK H. HERDRICH, respectfully shows:

FIRST: That she is over the age of twenty-one years, is now and has been for more than three years past bona fide a resident of Baldwin County, Alabama, residing near the town of Fairhope; that Frederick H. Herdrich is over the age of twenty-one years, and that he formerly resided in Baldwin County, but has now removed to and resides in the city of Chicago, Illinois, having abandoned his residence in Alabama.

SECOND: That complainant and defendant were lawfully married in the city of Mobile, Alabama, on the 7th day of February, 1917, and at once took up their residence east of Fairhope on a farm owned by defendant, where complainant has since resided.

THIRD: That shortly after this marriage defendant displayed the possession of a violent and ungovernable temper which he made no effort to control; that within a month after the marriage, because of a trivial grievance for which complainant was in nowise to blame, he ran at complainant striking her with both fists, blacking both eyes and bruising her seriously about the face; that the following November defendant again assaulted and beat complainant savagely with both fists, and being a thick, heavyset, powerful man, injured her severely; that complainant left defendant because of this cruelty, but on his representations and promises, returned to him, hoping for better treatment; that, in spite of defendant's promises of reform, he continued to treat her with great cruelty, so that she lived in constant fear of her life or of great bodily harm, and, while she was able to keep out of his reach in his frenzied rages, he was accustomed to cursing and abusing her, charging her with all manner of offenses, openly flouting and insulting her before others, and making her life

one of shame, humiliation and fear.

FOURTH: That on May 8, 1919, defendant left Baldwin County and returned to Chicago, his former home, where he had formerly been engaged in business as a liquor dealer and to which business he returned; that he refused to permit complainant to accompany him, and left her without any money for her support, though he did make arrangements for certain credits to be allowed her for necessities at some of the stores at Fairhope, and has since said departure sent complainant only the sum of Twenty-five Dollars.

FIFTH: Complainant further shows that when defendant abandoned her as aforesaid he left his grown son, her step-son, on the place ostensibly to help operate the farm, but he left said step-son to manage all matters concerning the financial affairs of the house, so that complainant was compelled to go to the son to ask for money for the simplest household needs, which money, if given her at all, was doled out to her in small and inadequate quantities and under circumstances of extreme humiliation, while the son would purchase on the credit allowed his mother candy and other luxuries and have them charged to her account.

SIXTH: That said son, after staying several months, left, making no provisions for complainant's support, other than a limited credit for groceries and necessities, and even this small credit has been practically cut off because of the refusal or failure of defendant to pay the bills contracted by complainant, who has been compelled to support herself on the meager amount received from nuts raised on the place, and from chickens and eggs from the poultry which she herself cares for; that she has no funds with which to pay for labor or fertilizer to cultivate the farm, and, because of lack of support, whould have been unable to subsist had she not drawn upon her slender savings before marriage.

SEVENTH: Complainant specifically charges defendant with

having committed violence to her person by beating her with his fists in such manner as to endanger her life or health, and with conduct from which she has reason to believe that such violence will be repeated should she further resume marriage relations with him.

THE PREMISES CONSIDERED, complainant prays that Frederick H. Herdrich by appropriate process be made a party defendant to this bill of complaint, required to answer same within the time prescribed by law, and to abide by such orders and decrees as Your Honor may make in the premises.

Complainant further prays that an order of reference be made forthwith commanding the Register to ascertain a suitable amount to be allowed complainant as alimony pendente lite, and what further allowance would be suitable to her for for solicitors' fees for the prosecution of this cause; that upon said report a suitable decree be made ordering defendant to pay such amounts as to Your Honor shall seem proper. Complainant further prays that upon the hearing of this cause a decree be rendered forever divorcing her from the said Frederick H. Herdrich, granting her the right to marry again, should she so desire, and ordering the payment to her of such sum for permanent alimony, either continuing or gross, as to Your Honor shall seem proper, together with such other, further or different relief as to equity may seem meet.

And, as in duty bound, complainant will ever pray, etc.

Rinkaby, Frazer & Beebe
Solicitors for Complainant.

Defendant is required to answer each and every allegation in the foregoing bill of complaint, but not under oath.

Rinkaby, Frazer & Beebe.
Solicitors for Complainant.

TILLIE P. HERDRICH, COMPLAINANT	
	IN EQUITY
VS	IN THE CIRCUIT COURT OF
	BALDWIN COUNTY, ALABAMA.
F.H. HERDRICH, DEFENDANT	

DEPOSITION OF TILLIE P. HERDRICH, A WITNESS FOR COMPLAINANT IN ABOVE STYLED CAUSE.

The said witness appeared before me at the time and place hereinafter named and after having been first duly sworn by me to speak the truth, the whole truth, and nothing but the truth, complainant testified as follows:

TILLIE P. HERDRICH.

I am the complainant in this cause and over the age of twenty-one years. I live at Fairhope, Baldwin County, Alabama, and have been living here for more than three years before this bill was filed, so am a bona fide resident. F.H. Herdrich is over the age of twenty-one years and I was married to him at Mobile on the 7th day of February, 1917. We came at once to Fairhope and I have lived here on a farm outside of the town ever since except for the occasions hereinafter mentioned. Our marriage life was not a happy one. He was much older than I, very cross and unreasonable and soon after we were married commenced to abuse me. We had only been married about a month when he flew into a rage at the breakfast table over some trivial matter and because I talked back to him rushed at me and struck me violently in the face with both fists so that both of my eyes were blackened and my face was swollen and disfigured for days. I was so frightened at this that I left him and went to some of my friends for advice. They advised me to see a lawyer and I did so. I do not now remember whether suit was filed, but I know divorce proceedings were started. While these were going on we had a hearing of some kind in the office of Mr. Herdrich's lawyer in Mobile, Mr. Mitchell. I was represented by Mr. Rickarby. Mr. Herdrich was

abusive and ugly at this time but later he sent for me to come back and on his promise of good behavior I came.. We lived together for about nine months after that time before he struck me again, though he constantly abused and threatened me. He charged me with all manner of offenses, would insult me before others and the following November he again attacked me and beat me savagely with his fists. I was very much afraid of him and from that time on we occupied separate rooms. One day he started toward me to attack me and I picked up a piece of stove wood and kept him off. I was afraid to turn my back on him when we were alone for fear he would do me some harm. I lived in constant terror and when he left me and went back to Chicago for the first time I felt safe. He has been in Chicago since May 1919 and has sent me only Twenty-five Dollars in that time and I have been compelled to live by what I could do unaided on the farm. As I said before, he is a German of violent temper, a former saloon keeper and liquor dealer and when he flies into a rage he is like a madman, so if I went back to him to live with him I fear he would kill me. Since he left Mobile I have not laid my eyes on him. The first time he beat me up I staid away from him a month and would not have gone back had I not thought he would do better and had I not been without means of support and a long ways away from my family and friends. As soon as I was hurt on both occasions I went to my friends, Mr. Bowen, Mayor of Fairhope, and Mr. E.G.Rickarby and they both saw my condition.

Lillie P. Herdrich.

CERTIFICATE.

I, Addie Nelson, commissioner named in the foregoing commission issued out of the equity side of the Circuit Court of Baldwin County, Alabama in a certain cause therein pending wherein Tillie P. Herdrich is complainant and F.H. Herdrich defendant, do hereby certify that under the power conferred upon me by such commission, I caused the said Tillie P. Herdrich who is known to me and whom I know to be the identical witness named in the commission to come before me at the Magnolia Farm in the suburbs of Fairhope on the 20th day of November, 1920 when, after being first duly sworn by me upon examination by E.G. Rickarby of counsel for complainant, testified as is hereinabove written; that her testimony was by me reduced to writing as given by her and as near as might be in the language of the witness, and ah that after her testimony had been transcribed it was read over and signed by her in my presence.

I further certify that I am not of counsel or of kin to either party to the cause or in anywise interested in the result thereof.

Witness my hand and seal as commissioner this the 20th day of November, 1920.

Addie Nelson.

Commissioner.

TILLIE P. HERDRICH
Complainant

VS

F.H. HERDRICH
Defendant

DEPOSITION OF TILLIE P. HERDRICH

COMMISSION TO TAKE DEPOSITION. [redacted] (Box 649.) MARSHALL & BRUCE CO., NASHVILLE

The State of Alabama, Baldwin **COUNTY.**

CIRCUIT COURT. Equity Division.

To Mrs Addie Nelson. Fairhope, Ala, R.F.D.

or such of you as may act herein, of Baldwin County, State of Alabama, Greeting:

KNOW YE, That we, reposing confidence in your integrity, skill, and ability have appointed you Commissioners to take the testimony of Mrs Tillie P Hardrick

material witness in a suit now pending in our Circuit Court of Baldwin County, wherein Tillie P Hardrick Plaintiff, and Frederick H Hardrick Defendant, and we hereby authorize and empower you to call and cause to come before you Mrs Tillie P Hardrick

the said witness and her deposition on the Holy Evangelists to take, as well for the complainant as for the — touching — knowledge of the matters and things in controversy in said suit, which deposition, when so taken, shall be signed by said witness and certified by such of you Commissioners as may act herein; and you are further commanded, the deposition, when so taken, with this commission, to return under your hands and seals to the Clerk of said Court, with all convenient speed, and any one or more of you Commissioners, are authorized to act alone in the premises.

Witness my hand, this 20th day of Nov 1912

Witness' Fees, - - - $

Commissioners' Fees, $ T M Nelson Clerk.

No.....

The State of Alabama, Baldwin County.

CIRCUIT COURT, Equity DIVISION.

Willie P. Freeman

vs. Plaintiff,

Frederick H. Freeman

Defendant.

COMMISSION TO TAKE DEPOSITION ON SET INTERROGATORIES.

Issued this 24th day of Nov 1972

R. R. Duncan Clerk.

WITNESSES:

Ira Willis P. Freeman

MARSHALL & BRUCE CO., NASHVILLE

DIRECTIONS:

TO THE COMMISSIONERS IN EXECUTING AND RETURNING THE COMMISSION.

1. If the time and place of executing the commission are not named therein, the Commissioners will subpoena the witness to appear before them at such time and place as they may appoint, and administer the oath to witness.

2. Either the Commissioners, witness, or some impartial persons, must reduce the answer of witness to writing, as near as may be in the language of the witness.

3. State the caption of the cause at the beginning, and then the following heading or title:

By virtue of the Commission hereto annexed, issued from the office of the Clerk of the Circuit Court of_____ County, State of Alabama, we, the Commissioners therein named, have called and caused to come before us the said A B, the witness named in said commission, on this_____day of_____191__, at the_____; and having duly cautioned and sworn the said witness to speak the truth, the whole truth, and nothing but the truth, A B, the said witness, deposeth and saith as follows:

First.—To first interrogatory he saith:

Second.—To second interrogatory he saith:

First.—To first cross-interrogatory he saith:

4. When the deposition is finished, it must be subscribed by the witness and certified as follows:

We, C D and E F, the Commissioners in said commission named, do hereby certify that the foregoing testimony and answers, taken down and written by us in the words of the witness, A B, were read over to him; that he assented, swore to, and subscribed the same in our presence, at the time and place herein mentioned: that we have personal knowledge of the personal identity of said witness [or, if unacquainted with the witness, that proof hath been made before us of the identity of the said witness]; that we are not of counsel or kin to either of the parties to said cause, nor interested in the event thereof. And we inclose the said testimony, together with said commission and the interrogatories, direct and cross, to the said Clerk of the Circuit Court whence the same emanated, as our full execution of said commission.

Given under our hands and seals, this_____day of_____191__

_____[L. S.]

_____[L. S.]

Next unite the commissions, interrogatories, and answers together, with wafers or tape; second, envelope all, sealed with three seals; third, write each Commissioner's name across each seal; and, fourth, write on the envelope the names of the parties and witnesses, and direct it thus:

C D *v.* E F — DEPOSITION OF A B	*To*.....*Esq.*, CLERK OF THE CIRCUIT COURT. ....*County, Ala.*

☞ **The package may by sent by mail or private conveyance.**

RICKARBY & FRAZER
LAWYERS
1008-1010 VAN ANTWERP BUILDING
MOBILE, ALABAMA

MOBILE, ALA.
JAN 21
10-30P
1920

Hon. John D. Leigh,

Brewton,

Alabama.

STEVENS, McCORVEY & McLEOD
ATTORNEYS AT LAW
503-7 CITY BANK BUILDING
MOBILE, ALA.

THOMAS M. STEVENS.
GESSNER T. McCORVEY.
WILLIAM McLEOD.
DAVID B. GOODE.
C.M.A. ROGERS.

June 24th, 1920.

Hon. J. D. Leigh,

Brewton, Alabama.

Dear Judge Leigh:-

We enclose herewith memorandum brief in reply to the brief of Messrs. Rickarby & Frazer in the case of Herdrich vs. Herdrich, the same being in support of our motion to dissolve attachment.

Yours very truly,

Stevens McCorvey McLeod

DBG:ERB

ELLIOTT G. RICKARBY MELL A. FRAZER

RICKARBY & FRAZER
LAWYERS
1008-1010 VAN ANTWERP BUILDING
MOBILE, ALABAMA

April 10, 1920.

Mr. T. W. Richerson,
Register,
Bay Minette, Alabama.

Dear Sir:-

HERDRICH VS. HERDRICH: With this we are handing you bill of complaint in this cause, which we will ask that you forward to Judge Leigh at Brewton, together with our letter to him and the decree which we have drawn up for his signature. When this attachment is signed, please place same in the hands of the sheriff, requesting him to make a seizure, which he can do without difficulty as the only personal property consists of a horse, calf and some poultry, which can be left with Mrs. Herdrich as bailee.

We have also prepared a duplicate copy of the bill, which should be sent at once without waiting for the return of the attachment, to Mr. Herdrich, whose address is 4752 Kenmore Avenue, Chicago, Illinois, under the provisions of the Act of Septemver 18, 1915, Acts of 1915, page 604. Mr. Beebe will hand you the necessary postage for this purpose.

As we understand it, this attachment will also have to be advertised in the usual manner. In sending the copy of the bill, please also enclose a copy of the interrogatories to the defendant, which you will also find enclosed, for which your authority will be Code Section 4050. If you desire, when the registry receipt comes back, we will prepare for you the return to be made upon the original bill and upon the interrogatories.

Please get these papers to Judge Leigh as soon as possible, as we anticipate a man sized scrap in this case.

Sincerely,

Rickarby Frazer & Beebe.

R:T

RICKARBY & FRAZER
LAWYERS
1008-1010 VAN ANTWERP BUILDING
MOBILE, ALABAMA

MOBILE
JUN 24
530 PM
1920
ALA.

U.S. POSTAGE
2 CENTS

Hon. John D. Leigh,
Brewton,
Alabama.

STEVENS, McCORVEY & McLEOD
ATTORNEYS AT LAW
505-7 CITY BANK BUILDING
MOBILE, ALA.

MOBILE
JUN 24
730 PM
1920
ALA.

U.S. POSTAGE

Hon. J. D. Leigh,

Brewton, Alabama.

C O P Y

TILLIE P. HERDRICH Complainant.	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY,
vs.	)	ALABAMA.
FREDERICK H. HERDRICH Respondent.	)	NO. 228. IN EQUITY.

This cause was submitted on Respondent's motion to discharge and dissolve the attachment hereto issued and was taken and held under consideration by the Court. The Court having duly considered the motion and the several matters therein contained is of the opinion that the motion is well taken and made and should be sustained.

It is therefore ordered, adjudged and decreed by the Court that said motion be and the same is hereby granted and that said attachment be and the same is hereby vacated, discharged, annulled, dissolved and held for naught, and that the property levied on under said writ of attachment be and the same is hereby released and discharged from said levy free from any and all liens that may have been fostered thereon by reason of the issuance or levy of said writ.

Ordered and decreed out of term time, out in open court, this the 17th day of September, 1920.

John D Leigh
Judge of the Circuit Court for
Baldwin County, Alabama.

C O P Y

ELLIOTT G. RICKARBY MELL A. FRAZER

RICKARBY & FRAZER
LAWYERS
1008-1010 VAN ANTWERP BUILDING
MOBILE, ALABAMA

June 24, 1920.

Hon. J. D. Leigh,
Brewton, Alabama.

Dear Sir:-

HERDRICH VS. HERDRICH: You will remember that when in your city some days ago I brought up from Bay Minette the file in this case and stated that I would write you about a motion that is pending.

This is a special appearance filed by Messrs. Stevens, McCorvey & McLeod for the respondent for the purpose of dissolving the attachment through which the suit was instituted, and both sides have agreed that this should be submitted. The motion itself states the respondent's grounds, and I am enclosing a short brief in response, copy of which is, of course, sent to opposing counsel.

There was a motion for reference made in this cause in which opposing counsel accepted service, but we have agreed with these gentlemen not to insist on this or consider their action on this motion an appearance, holding further action until your ruling on this motion, which we trust you will be able to take up at an early date.

Respectfully,

Elliott G. Rickarby.

CC: to Mr. Goode.

R:T