

CASE NO. 35681 -

WELBILT CORPORATION, a corporation

VS.

MATTHEWS FURNITURE CO.

STATE OF ALABAMA )

COUNTY OF MOBILE )

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

*True*  
I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the enclosed is a full, true and correct transcript of the orders, minutes and proceedings had in the above entitled cause and the enclosed papers Number One (1) through Four (4), inclusive are the original pleadings filed in this Court in the above entitled cause.

*John E. Mandeville*  
\_\_\_\_\_  
CLERK, CIRCUIT COURT, MOBILE COUNTY, ALABAMA

TO Mrs. Eunice Blackmon, Clerk  
Circuit Court of Baldwin County  
Baldwin County Courthouse  
Bay Minette, Alabama 36507

**FEIBELMAN & SILVER, ATTORNEYS**  
2103 FIRST NATIONAL BANK BUILDING  
P. O. BOX 2082, MOBILE, ALA. 36601  
TELEPHONE 205/433-1597

SUBJECT: Welbilt Corporation vs. Matthews Furniture Co., Case #9891 DATE: December 21, 1972

**MESSAGE**

FOLD 

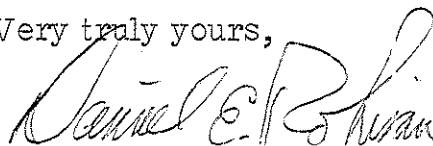
Dear Eunice:

Please deliver this letter and docket sheet and motion for this case to Judge Mashburn. I think this will satisfy him and protect your position.

Very truly yours,

PLEASE REPLY TO ►

SIGNED:



**REPLY**

Daniel E. Robison

DATE:

SIGNED:

DETACH YELLOW COPY — SEND WHITE AND PINK COPIES WITH CARBONS INTACT

LOT # 583461



FORM NO. PK100U-3

AVAILABLE FROM BUSINESS ENVELOPE MANUFACTURERS, INC. • BRONX, N.Y. • KNOXVILLE, TENN. • MELROSE PARK, ILL. • ANAHEIM, CALIF.

THIS COPY FOR PERSON ADDRESSED

FEIBELMAN & SILVER  
ATTORNEYS AT LAW  
2103 FIRST NATIONAL BANK BUILDING  
MOBILE, ALABAMA 36601

HERBERT P. FEIBELMAN, JR.  
IRVING SILVER  
DANIEL E. ROBISON

P. O. BOX 2082  
TELEPHONE 205 433-1597  
205 438-9717

December 21, 1972

Honorable Telfair Mashburn  
Judge, Circuit Court of Baldwin County  
Baldwin County Courthouse  
Bay Minette, Alabama 36507

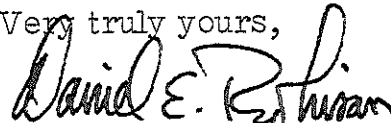
Re: Welbilt Corporation  
Vs: Matthews Furniture Company

Dear Judge Mashburn:

The Clerk of the Court said that I needed Wilson Hayes' consent to present our motion to amend nunc pro tunc before the January motion docket.

Wilson has already agreed, as evidenced by his letter attached to our motion and by a conversation I had with him in the Courthouse on December 13. I am sending a carbon copy of this letter to Wilson. We would appreciate your granting our motion, so it won't clutter the motion docket.

Since the filing of the above motion, we have received an additional check (which has not yet cleared) from Mr. Matthews. Therefore, the credit should be \$1,200.00 and the reduced balance should be \$637.99.

Very truly yours,  
  
Daniel E. Robison

DER/srr

cc: Mr. Wilson Hayes

FEIBELMAN & SILVER  
ATTORNEYS AT LAW  
2103 FIRST NATIONAL BANK BUILDING  
MOBILE, ALABAMA 36601

HERBERT P. FEIBELMAN, JR.  
IRVING SILVER

P. O. BOX 2082  
TELEPHONE 205 433-1597

April 20, 1972

Circuit Court of Baldwin County  
Baldwin County Courthouse  
Bay Minette, Alabama 36507

Re: Welbilt Corporation  
Vs: Matthews Furniture  
Case No. 9891

Gentlemen:

I received in this morning's mail a postcard indicating that the above case had been dismissed April 13 and court costs taxed against our client.

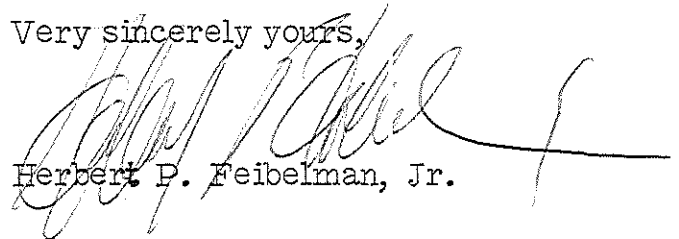
On April 11, Mr. Wilson Hayes and I made an agreement to pass the case for settlement. He made an offer to my client which I had to get authorized. I have not yet received this authorization. I hope that my client will authorize this settlement; but, if they do not, I surely cannot accept it without their authorization.

Therefore, I feel that the dismissal was premature; and I should appreciate your setting aside such dismissal and placing the matter back on either the disposition docket or a docket of cases passed generally.

Please be kind enough to call me collect and advise me if this is satisfactory. If not, I will file whatever motion appears appropriate.

Thanking you in advance, I am,

Very sincerely yours,



Herbert P. Feibelman, Jr.

HPF/ldw  
cc: Mr. Wilson Hayes

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WELBILT CORPORATION, a  
corporation,

Plaintiff

vs.

MATTHEWS FURNITURE CO.,

Defendant

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

§

§ CASE NO. 9891

MOTION TO AMEND NUNC PRO TUNC

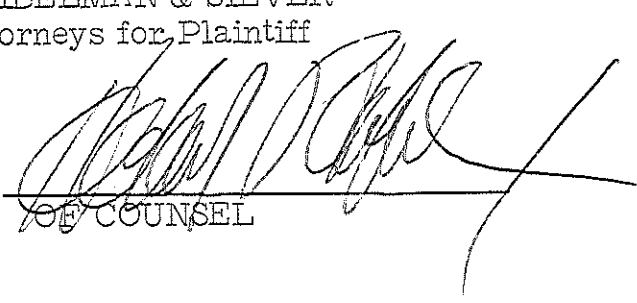
Comes now Plaintiff in the above captioned matter and represents and shows unto this Honorable Court as follows:

1. That the above case was set for trial before Your Honor on October 11, 1972. Very shortly before that case and on October 10, 1972, the undersigned attorney for the Plaintiff and the Honorable Wilson Hayes, the attorney for the Defendant agreed on a settlement, the substance of such agreement being set forth in a telephone memorandum made by the attorney for the Plaintiff and attached hereto as an exhibit.
2. Honorable Wilson Hayes confirmed such agreement by his letter to the undersigned dated October 11, 1972, picture copy of which is attached hereto as an exhibit.
3. Subsequent to such agreement, Defendant paid the sum of SIX HUNDRED AND NO/100 (\$600.00) DOLLARS but did not paid the second installment, thereby causing the agreed amount to revert to the original sum sued for and leaving a balance of ONE THOUSAND TWO HUNDRED THIRTY-SEVEN AND 99/100 (\$1,237.99) DOLLARS plus court costs.
4. Subsequent thereto, the undersigned received a cost bill from this Honorable Court in the amount of FIFTY AND 30/100 (\$50.30) DOLLARS which was duly paid.
5. On, to-wit, the 17th day of November, 1972, the undersigned wrote to the Sheriff's Department seeking a levy on Defendant's property in satisfaction of said judgment, a picture copy of said letter being attached hereto as an exhibit.
6. On, to-wit, the 12th day of December, 1972, the undersigned's office called the Sheriff's Department to inquire as to said levy and was informed that they never received it. Upon further checking with the Circuit Court office, the undersigned's office was informed that such judgment entry was never made and that the case had been dismissed on, to-wit, October 11, 1972.

7. Plaintiff says that such dismissal was a clerical error and was contrary to the agreement made between Plaintiff's counsel and Defendant's counsel and that the docket sheet should be amended to reflect a judgment on October 11, 1972 in the amount of ONE THOUSAND EIGHT HUNDRED THIRTY-SEVEN AND 99/100 (\$1, 837.99) DOLLARS, which such judgment should show a credit of SIX HUNDRED AND NO/100 (\$600.00) DOLLARS leaving a balance due and owing of ONE THOUSAND TWO HUNDRED THIRTY-SEVEN AND 99/100 (\$1,237.99) DOLLARS.

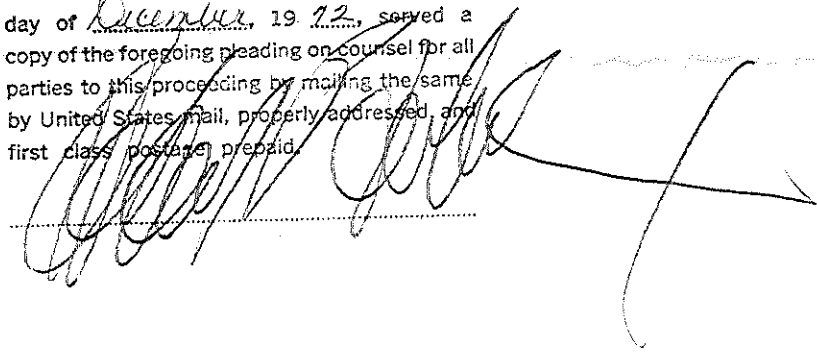
WHEREFORE, the premises considered, Plaintiff respectfully prays that this Honorable Court amend the records of this Honorable Court to reflect a judgment in the above captioned case in favor of Plaintiff and against Defendant in the amount of ONE THOUSAND EIGHT HUNDRED THIRTY-SEVEN AND 99/100 (\$1, 837.99) DOLLARS; that this Honorable Court issue execution on said judgment (with a credit given thereon in the amount of SIX HUNDRED AND NO/100 (\$600.00) DOLLARS); and Plaintiff prays for such other, further and different relief as to Your Honor may seem meet and proper, the premises considered.

FEIBELMAN & SILVER  
Attorneys for Plaintiff

By:   
OF COUNSEL

**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 12th  
day of December, 19 72, served a  
copy of the foregoing pleading on counsel for all  
parties to this proceeding by mailing the same  
by United States mail, properly addressed, and  
first class postage prepaid.



**FILED**

**DEC 13 1972**

**EUNICE B. BLACKMON** CIRCUIT  
CLERK

October 12, 1972

MEMO TO: Welbilt Furniture vs. Matthews Furniture

Talked to Wilson Hayes October 10. We agreed that a judgment in the full amount would be entered October 11 in the Circuit Court of Bay Minette. We further agreed that he would pay us \$600.00 now which he represented as having in his office. We further agreed that, if he pay another \$600.00 prior to November 15, we would cancel the judgment upon payment thereof. If not, we would have a judgment for the full amount less the \$600.00 he had paid. I communicated this to Mr. Miller with Welbilt and he authorized it.

HPF



WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

October 11, 1972

Mr. Herbert P. Feibelman, Jr.  
Attorney at Law  
P. O. Box 2032  
Mobile, Alabama 36601

Re: Welbilt Corporation v  
Matthews Furniture Co.

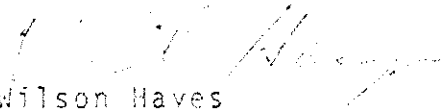
Dear Burt:

Enclosed is a check for \$500 in partial  
settlement of Welbilt Corporation Versus Matthews  
Furniture Company.

As per our agreement I am having Judge  
Mashburn enter a judgment by consent in this case.  
We agree that execution of the judgment will be with-  
held until November 20, 1972 and that if, by that time,  
the additional \$500 is paid on the \$1200 settlement,  
the judgment will be marked fully satisfied.

With kind regards, I am

Yours very truly,

  
Wilson Hayes

Enc.

November 17, 1972

Sheriff's Department of Baldwin County  
Baldwin County Courthouse  
Bay Minette, Alabama 36507

Re: Welbilt Corporation  
Vs: Matthews Furniture Company  
Circuit Court Case No. 9891

Gentlemen:

I should appreciate it if you would levy on the assets of the Defendant for the balance due on this judgment in the amount of \$1,237.97 plus court costs. The Defendant's store is located at 250 East First Street, Bay Minette. Such levy should be made upon a sufficient amount of the stock of merchandise, equipment, fixtures, cash register, and cash therein to satisfy the above judgment.

Thanking you, I am,

Very sincerely yours,

HPF/law  
cc: Mr. Wilson Hayes

Herbert P. Feibelman, Jr.

FEIBELMAN & SILVER

ATTORNEYS AT LAW

2103 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA 36601

HERBERT P. FEIBELMAN, JR.

IRVING SILVER

P. O. BOX 2082

TELEPHONE 205 433-1597

July 5, 1972

Circuit Court of Baldwin County  
Baldwin County Courthouse  
Bay Minette, Alabama 36507

Re: Welbilt Corporation  
Vs: Matthews Furniture Co.  
Case No. 9891

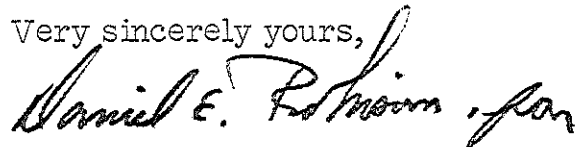
Gentlemen:

Wilson Hayes and I had worked out a settlement on this matter. However, the parties were unable to finalize it.

Therefore, I should appreciate it if you would set this matter for trial at your early convenience.

Thanking you, I am,

Very sincerely yours,



Herbert P. Feibelman, Jr.

HPF/lbw

cc: Mr. Wilson Hayes

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW

CASE NO. 35681 -

\*\*\*\*\*  
FEIBELMAN & SILVER  
BY: Herbert P. Feibelman

\*\*\*\*\*  
WELBILT CORPORATION, a corporation

\*\*\*\*\*  
N.J.

VS. Suit for \$1,837.99 due by account.

WILSON HAYES  
Attorney at Law  
P.O. Box 300  
Bay Minette, Ala. 36507

MATTHEWS FURNITURE CO.

JURY

\*\*\*\*\*  
PLEADINGS, PROCESS, ETC, \* FILING DATE \*  
\*\*\*\*\*  
1. Complaint & Summons \* 5-31-71 \*  
2. Itemized, Verified \*  
Statement of Account \* 5-31-71 \*  
3. Plea in Abatement \* 6-11-71 \*  
4. Demand for Jury \* 6-17-71 \*  
\* \* \* \* \*

\*\*\*\*\*  
\* C & S served on Matthews Furniture Co. on June 7, 1971 by service on  
\* Buck Matthews.  
\*\*\*\*\*

June 18, 1971 - Plea in Abatement sustained; case ordered transferred  
to Circuit Court of Baldwin County.  
/s/ Hubert P. Robertson

43-432

**FILED**

JUN 22 1971

EUNICE B. BLACKMON CIRCUIT CLERK

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.  
In Witness whereof I have hereunto set my hand and attached my Official Seal as such Clerk of said Court at Mobile, Mobile County, Alabama, on this the 21st day of June 19 71.

*John E. Mandeville* Clerk

89  
PAGE 438  
TDA

**THE STATE OF ALABAMA**  
MOBILE COUNTY

**CIRCUIT COURT**

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

MATTHEWS FURNITURE CO.

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,  
at the place of holding the same, then and there to answer the complaint of

WELBILT CORPORATION, a corporation

WITNESS: John E. Mandeville, Clerk of said Court, this 31st day of May, 19 71

Attest:

John E. Mandeville  
Clerk

**SHERIFF'S RETURN**

Received \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and on \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, I served a copy of  
the within \_\_\_\_\_ on \_\_\_\_\_

by service on \_\_\_\_\_

RAY D. BRIDGES, SHERIFF

By \_\_\_\_\_ D.S.

No. 35681 R

Judge [Signature] DOCKET

CIVIL DIVISION

**CIRCUIT COURT**  
MOBILE COUNTY

WELBILT CORPORATION, a  
corporation

VS. } Complaint and Summons

MATTHEWS FURNITURE CO.

Issued 31st day of May, 19 71

Defendant's Address

250 East First Street  
Bay Minette, Alabama

HERBERT P. WEIBELMAN, JR.  
Plaintiff's Attorney

TAYLOR WILKINS, SHERIFF OF BALDWIN  
COUNTY, ALABAMA, CLAIM \$1.50 EACH  
FOR SERVING 1 PROCESS(S) AND  
TRAVEL EXPENSE ON EACH OF \$ 0  
PROCESS(S) OR A TOTAL OF \$ 1.50

Received 3 day of June, 19 71  
and on 7 day of June, 19 71  
I served a copy of the within  
on Matthews Furniture Co.  
By service on Rock Matthews

TAYLOR WILKINS, Sheriff  
By W. G. Zolner

WELBILT CORPORATION,  
a corporation,

Plaintiff,

vs.

MATTHEWS FURNITURE CO.,

Defendant

:

:

:

:

IN THE CIRCUIT COURT OF

MOBILE COUNTY, ALABAMA

AT LAW

CASE NO. 35681

COUNT ONE

Plaintiff claims of the Defendant the sum of ONE THOUSAND EIGHT HUNDRED THIRTY-SEVEN AND 99/100 (\$1,837.99) DOLLARS, due from said Defendant by account on, to-wit, the 14th day of December, 1970, which sum of money, with interest thereon, is still due and unpaid. This suit is filed on an itemized statement of the account, verified by the affidavit of a competent witness, which is attached to the original complaint and made a part hereof.

FEIBELMAN & SILVER  
Attorneys for Plaintiff

By: 

Of Counsel

Defendant may be served at: 250 East First Street, Bay Minette, Alabama.

STATE OF ALA. MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON

MAY 31 8 10 AM '71

  
CLERK

VOL

68 439





WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

June 8, 1971

Mr. John E. Mandeville  
Clerk, Circuit Court  
Mobile County  
Mobile, Alabama 36602

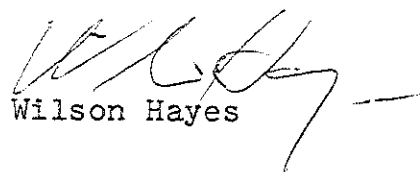
Re: Welbilt Corp. Vs. Matthews  
Furniture Co., Case #35681

R

Dear Sir:

Please file the enclosed Plea in Abatement.

Yours very truly,

  
Wilson Hayes

WH/ms  
Enc.

WELBILT CORPORATION,  
a Corporation,

Plaintiff,

Vs.

MATTHEWS FURNITURE CO.,

Defendant.

§

IN THE CIRCUIT COURT OF

§

MOBILE COUNTY, ALABAMA

§

AT LAW

§

§

NUMBER: 35681


PLEA IN ABATEMENT

Comes now Defendant, Matthews Furniture Co., in the above styled cause and makes his appearance in this cause specially and only for the purpose of making the following plea:

1. Plaintiff ought not to have and maintain the above styled cause for that Defendant is now and was at the time of the filing of this cause a resident of Baldwin County, Alabama.

2. Plaintiff ought not to have and maintain its suit in the above styled cause for that Defendant is domiciled in Bay Minette, Baldwin County, Alabama and that Plaintiff well knows this fact, that the said address given for service is Defendant's address in Baldwin County, Alabama.

3. Plaintiff ought not to have and maintain the above styled cause for that Defendant does not do business in Mobile County, Alabama.

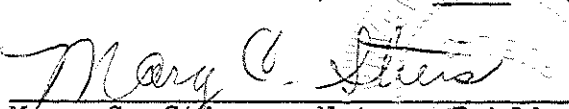
  
Attorney for Defendant  
Wilson Hayes

STATE OF ALABAMA  
BALDWIN COUNTY

Before me, Mary C. Stiers, personally appeared Wilson Hayes, Attorney for Defendant in the above styled cause who, being known to me and being duly sworn deposes and says he has read the foregoing plea in its entirety and knows it to be true and without error.

  
Wilson Hayes

Sworn to and subscribed before me this the 8th day of June, 1971.

  
Mary C. Stiers, Notary Public  
Baldwin County, Alabama

**CERTIFICATE OF SERVICE**

do hereby certify that I have on this 8th day of June, 1971 served a copy of the foregoing pleading on Matthews Furniture Co. by mailing the same by first class postage prepaid.

  
VOL 68 PAGE 444

JUN 11 7 57 AM '71

STATE OF ALABAMA  
BALDWIN COUNTY  
NOTARY PUBLIC  
M. C. STIERS

  
CLEAR

WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

June 16, 1971

Mr. John E. Mandeville  
Clerk, Circuit Court  
Mobile County  
Mobile, Alabama 36602

Re: Welbilt Corp. Vs. Matthews  
Case #35681 *CR*

Dear Sir:

Please file the enclosed Jury Demand.

Yours very truly,

*Wilson Hayes*  
Wilson Hayes

WH/ms  
Enc.

WELBILT CORPORATION,  
a Corporation,

Plaintiff,

Vs.

MATTHEWS FURNITURE CO.,

Defendant.

§

IN THE CIRCUIT COURT OF

§

MOBILE COUNTY, ALABAMA

§

AT LAW

§

§

NUMBER: 35681

Comes now Defendant in the above styled cause and  
demands trial by Jury.

W. H. Hayes  
Attorney for Defendant  
Wilson Hayes

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 15<sup>th</sup> day of June,  
1971, served a copy of the foregoing pleading on counsel for all  
Parties to this proceeding by mailing the same by United States  
Mail, properly addressed, with first class postage prepaid.

W. H. Hayes

FRIDAY, JUNE 18, 1971

WELBILT CORPORATION, a Corporation	)	PLEA IN ABATEMENT SUSTAINED,
	)	CASE ORDERED TRANSFERRED TO
ROBERTSON        -vs-    35681	)	CIRCUIT COURT OF BALDWIN
	)	COUNTY
MATTHEWS FURNITURE CO.	)	

This day in open Court came the parties by their attorneys, and defendant's Plea in Abatement filed June 11, 1971, to the complaint in this cause, coming on to be heard and being argued by counsel and understood by the Court;

It is ordered and adjudged by the Court that defendant's said Plea in Abatement filed June 11, 1971, to the complaint in this cause be, and the same is hereby sustained, and case ordered transferred to the Circuit Court of Baldwin County, Alabama.

Minute Book 43

Page 432

STATE OF ALABAMA, }  
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby  
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

as rendered by the said Circuit Court on the 18th day of June, 19 71, in the cause  
entitled No. 35681 - WELBILT CORPORATION, a Corporation

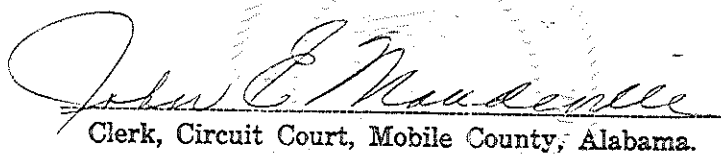
\_\_\_\_\_, Plaintiff,

— versus — MATTHEWS FURNITURE CO.

Defendant, (~~To be removed upon execution of order~~), as the same remains of record in this office in  
Minute Book No. 43, Page No. 432

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office  
in the City of Mobile, Alabama, on this the 21st day of June, 19 71.

ATTEST:

  
Clerk, Circuit Court, Mobile County, Alabama.