

No. 3886

You are invited to attend and cross-examine.

Attorney for Plaintiff

SECRET

MAY 27 1960

ALICE J. DUCK, CLERK
REGISTER

J. CONNOR OWENS, JR.
ATTORNEY AT LAW
101 COURT HOUSE SQUARE
BAY MINETTE, ALABAMA

May 27, 1960

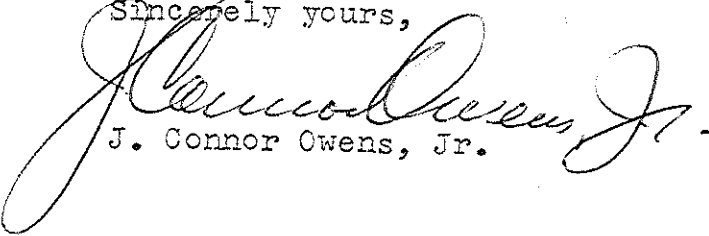
Mrs. Alice J. Duck, Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama

Dear Mrs. Duck:

Subject: Mrs. L. T. Lane vs. C. N. Northcutt

This is with reference to the above styled matter and to enclose notices of the taking of the deposition of Mr. and Mrs. Northcutt. Will you please issue subpoenas for their attendance on Wednesday, June 15, 1960 at 10:00 a.m. at the courthouse in accordance with the enclosed notices.

Sincerely yours,


J. Connor Owens, Jr.

JCO/be

MRS. L. T. LANE,)	IN THE CIRCUIT COURT OF
)	BALDWIN COUNTY, ALABAMA
PLAINTIFF)	
VS)	AT LAW
C. M. NORTHCUTT,)	NO. 3886
DEFENDANT)	

PLEAS

Comes now the Defendant in the above styled cause and amends his pleas to read as follows:

1. Not Guilty

2. The allegations of the Complainant are untrue.

3. No consideration was given for the check sued on.

4. There was a failing of consideration.

5. For further answer to the Plaintiff's Complaint, the Defendant says: that there was a condition on the check sued on, this condition being as follows: One of the Defendant's sons owed the Plaintiff rent money, the Defendant gave the Plaintiff a post dated check for this amount. It being fully understood and agreed between the Plaintiff and Defendant that the check would be presented for payment only when the Defendant's son had given the Defendant sufficient money to cover this check, and when the Defendant had given the Plaintiff notice that this was done. The Defendant says further that his son has not given him the money to cover the check to date, and the Defendant had not given the Plaintiff the aforesaid notice, hence, he is not liable.

WILTERS & BRANTLEY

Filed
9-9-60

BY *Sam J. Wilters*
Attorneys for the Defendant

MRS. L. T. LANE,

PLAINTIFF

VS

C. M. NORTHCUTT,

DEFENDANT

PLEAS

FILED

SEP 01 1960

ALICE J. DUCK, CLERK
IN REGISTER

MRS. L. T. LANE,

Plaintiff,

VS.

C. M. NORTHCUTT,

Defendant.

IN THE

CIRCUIT COURT OF BALDWIN COUNTY,

ALABAMA. IN EQUITY.

JUNE 15, 1960

C. M. NORTHCUTT, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
Examination by Mr. Owens.

Q. Is your name C. M. Northcutt?

A. Yes sir.

Q. You are the defendant in a suit brought by Mrs. L. T. Lane,
vs. C. M. Northcutt?

A. Yes sir.

Q. Presently pending in the Circuit Court of Baldwin County,
Alabama?

A. Yes sir.

Q. In which the Plaintiff claims of the defendant \$1,386.00 due from
the defendant by check drawn by him on the Central Baldwin Bank,
Robertsdale, Alabama, in favor of Mrs. Lane, on the 10th day
of December, 1958. Did you execute such a check, sir?

A. Yes sir.

Q. Was this check paid?

A. No sir.

Q. Is there any reason -- You filed a plea of not guilty - is there any reason why the check should not have been paid?

A. Several.

Q. Will you please state the reasons?

A. Well, in the first place I didn't owe her anything.

Q. You didn't owe Mrs. Lane anything?

A. No sir, and I never have owed her a dime. Now shall I just tell it like it is?

Q. Yes, that is what I want you to do?

A. I went to see Mrs. Lane and leased some land from her for one of my boys and he farmed there - farmed this land for two years. The first year he paid the rent; the second year was the year that the bean crop got rained out.

Q. What year was that?

A. '58 and he didn't have enough money left to pay the rent, because the man that he gets the seed and fertilizer from, he sells beans back to the same man and naturally he takes the expenses out first. In the meantime, Mrs. Lane had turned her business over to her son-in-law, Mr. Shumack. I might add there was never any lease or rent note or anything like that.

Mr. Shumack didn't know anything about the deal until about two or three years after it was made, before he entered the picture, but he kept running over to the house during bean harvest time wanting the money and Mrs. Lane said she had turned her business over to Mr. Shumack to handle for her, and the boy couldn't pay it because they were not through harvesting the beans. He would come three or four times a week; several times there wouldn't be anybody home but Billy's wife and he be came an little abusive with her, due to the fact, I think that he seemed to be in a mild state of intoxication usually when he came over there and to keep the situation from getting too bad down there, he was up at my house and he said he had moved to Florida and on his way to Florida and to keep from having to make another trip back he wanted me to give him a check and I said, "why should I give you a check - I don't owe her anything" and he said, " I can't get hold of your son this evening and I don't want to make another trip up here and if you will give me a check, when the boy settles up on the beans he can give you back your money" and I thought it over and I said, "Okay, but it will have to be a post-dated check and when the boy settles up on the beans if he

does not have any money it won't be any good, but I will give you a pre-dated check and notify you ~~when~~ to put it through the bank, and that is what I did, but instead of going to Florida he spent the next week around Mr. Mike Juliania's place, pestering him about when they were going to have a settlement until Mr. Juliania had to ask him to stay a way from there due to his condition and the way he was bothering him, and when they finally had a settlement on the beans there was no money and the boy couldn't pay the rent out of the beans, so they went to see Mrs. Lane and offered to pay \$200.00 a month out of the milk check and she said that it was agreeable--

Q. Don't go into what she said. Confine your remarks to what you did with reference to the check?

A. That's about it.

Q. Did you stop payment on the check?

A. No.

Q. You didn't stop payment on the check?

A. No sir.

Q. You didn't instruct them not to present it?

A. No -- You mean the Lanes?

Q. Yes?

A. ~~No sir, I didn't instruct them not to present it and I didn't~~

instruct them to present it either.

Q. When was this check given to them?

A. Well approximately the very latter part of November or the first of December; I don't remember exactly the date.

Q. Who else was present when you had this discussion with him?

A. My wife.

Q. That was the discussion with relation to the terms under which you gave him the check?

A. That's right.

Q. You stated that you were not liable at all for any sum?

A. I never owed the lady a dime in my life.

Q. Where do your ^{sons} ~~xxxx~~ farm?

A. Well the farm - they farm in Mobile County and in Baldwin County.

Q. Which one of your sons was liable under the agreement?

A. Well before I make a statement that either one was liable you should hear the rest of the story --

MR. WILTERS: I object to the question on the ground that it is irrelevant, incompetent and immaterial and not the issue before the Court.

Q. Go ahead?

A. Well I could not get up here and say anybody was liable for

anything.

Q. You have no knowledge at all of this - of them farming anything in Mobile?

A. Yes sir.

Q. What area?

A. One of them farmed Mrs. Lane's land.

Q. Which one was that?

A. Dewey.

Q. What is the name of your other son?

A. C. M. Northcutt, Jr.

Q. Did you have any interest in those beans?

A. Absolutely not any whatever/

Q. Did you farm at all in Mobile County?

A. Yes sir.

Q. Where did you farm ~~on xxxxxxxx~~ in Mobile County?

A. Mrs. Barber's place.

Q. Where is that located?

A. Six or seven miles from Mrs. Lane's land.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Wilters.

Q. When you gave the check, Mr. Northcutt, to Mrs. Lane's son-in-law, I believe you say that you told him to hold the check

and not cash it until you instructed him to do so?

A. That's right.

Q. And as soon as the boys paid you the money you would notify him to cash the check?

A. Yes sir.

Q. It was predated - a predated or post dated check?

A. Yes sir.

Q. Did you ever instruct this man that you gave the check to to cash it?

A. No sir.

ON RE-DIRECT EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Owens.

Q. What period of the year were your sons cutting those beans?

A. Well they started in the fall - I would say October and it was a very rainy fall and we finally finished cutting beans there in December.

Q. About what time in December?

A. I don't remember - about the first week in December, I think.

Q. Before December 10th?

A. Well I just couldn't say I don't remember the exact date we finished.

Q. In your best judgment you finished up at the end of the first

week in December?

A. The best I remember it could vary a week either way.

Q. Where were your sons' beans sold?

A. I would not know he tends to that.

Q. You said this one - what was his name?

A. Dewey.

Q. Were they sold through Mike Juliania?

A. I wouldn't know about that; he sells his beans and I sell mine

Q. Where do you sell your beans?

A. Some to Mr. Juliania and some to the oil mill and some to the Southern Cotton Oil Company in Pensacola.

Q. You don't have any idea whatever where your son Dewey sold his beans?

A. I will just let you ask Dewey that.

Q. I am asking you that?

MR. WILTERS: We object. He has already said that he didn't know.

Q. You don't have the slightest idea?

A. I don't run Dewey's business.

MRS. C. M. NORTHCUTT, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

Examination by Mr. Owen.

Q. Will you state your name, please mam?

A. Mrs. Florence Northcutt.

Q. Are you the wife of C. M. Northcutt?

A. Yes sir.

Q. He is the defendant in this suit by Mrs. L. T. Lane about a check?

a. Yes sir.

Q. Will you tell us what you know of the circumstances surrounding the giving of the check?

A. Well we had started out the door to get in the car and Mr. Shumack drove up and my husband went on over to talk to him and I sat down on a little bench in the car port just a short distance from where they were and I heard the discussion about the check I heard him ask Corte to give him the check and Corte said, "Why should I give you a check, I don't owe you anything" and he said: "I am on my way to Florida and to keep from coming back up here, it would save me a lot of trouble if you would give it to me and let your son pay you" and he said "if I give you one it would have to be predated until after they have a settlement and then we can tell more about it then," and he said, "Okay" so he gave him the check. Pre-dated check and told him that he would notify him when to cash it - he couldn't tell until after they had a settlement and if there was anything to make it good or not -
~~depending on whether the boy had the money to give him the~~

money to put in the bank to take care of the check.

C E R T I F I C A T E:

I hereby certify that the foregoing is a true and correct transcript of the Deposition of C. M. Northcutt and Mrs. Florence Northcutt taken by me on June 15, 1960, in the case of Mrs. L. T. Lane vs. C. M. Northcutt, under Act 375 of the 1955 Session of the Legislature of Alabama.

This the 1st day of September, 1960.

Notary Public

DIAMOND, ENGEL & LATTOF

ATTORNEYS AT LAW

610-613 VAN ANTWERP BUILDING

P. O. BOX 432

MOBILE, ALABAMA

ROSS DIAMOND, JR.
MYLAN R. ENGEL
MITCHELL G. LATTOF

TELEPHONE
HEMLOCK 2-6691

June 26, 1959

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

Re: Mrs. L. T. Lane -vs-
C. M. Northcutt

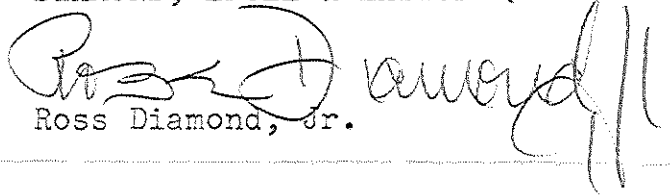
Dear Sir:

Enclosed you will find Complaint with copy which I will appreciate your accepting for filing. I will also appreciate being advised when you have the Sheriff's return on service.

Your cooperation is appreciated.

Sincerely yours,

DIAMOND, ENGEL & LATTOF


Ross Diamond, Jr.

RDjr:pl

Enclosure

ms. L. J. Lane vs. C. M. Northcutt

JURY LIST * FALL SESSION
SEPTEMBER 12, 1960

- ~~1. Boykie, William E., Laborer, Robertsdale~~
- ~~2. Bryant, Woodrow, Farmer, Stockton~~
- ~~3. Emmons, Isaac, Farmer, Silverhill~~
- ~~4. Bauer, John, Farmer, Summerdale~~
- ~~5. Clark, H. L., Brookley Field, Bay Minette~~
- ~~6. Allegri, V. J., Jr., Farmer, Belforest~~
- ~~7. Lovell, M. A., Jr., Farmer, Loxley~~
- ~~8. Biland, Clarence S., Millman, Bay Minette~~
- ~~9. Cooper, Quitman, Bldg. Supply Dealer, Gulf Shores~~
- ~~10. Daring, Rudolph A., Merchant, Foley~~
- ~~11. Davidson, Jerry, Ala. Power Co., Bay Minette~~
- ~~12. Durant, Joe C., Farmer, Bay Minette~~
- ~~13. Durant, Percy N., Merchant, Bay Minette~~
- ~~14. Dutcher, Wilson, Jeweler, Fairhope~~
- ~~15. Dvorak, Joseph, Merchant, Silverhill~~
- ~~16. Dyass, Albert, Merchant, Stapleton~~
- ~~17. Laurendine, Leonard, Farmer, Mag. Spgs.~~
- ~~18. Lyrene, George A., Farmer, Silverhill~~
- ~~19. Malone, T. E., Merchant, Fairhope~~
- ~~20. Mason, Jimmy, Salesman, Fairhope~~
- ~~21. Mathews, Charles H., Furniture, Bay Minette~~
- ~~22. McKensie, Elroy, Jr., Farmer, Fairhope~~
- ~~23. Mitchel, Fred, Jr., Service Station, Stapleton~~
- ~~24. Mosley, A. A., Builder, Stapleton~~
- ~~25. Murphy, William R., Plant Manager, Robertsdale~~
- ~~26. Owen, L. D., Jr., Merchant, Bay Minette~~
- ~~27. Pearson, Donald, Farmer, Robertsdale~~
- ~~28. Roberts, Howard, Civil Service, Stapleton~~
- ~~29. Simon, Arthur, Farmer, Belforest~~
- ~~30. Simon, A. D., Farmer, Daphne~~
- ~~31. Schroeder, Walter, Painter, Elberta~~
- ~~32. Sheldon, Edward, Brick Layer, Fairhope~~
- ~~33. Stripling, Fred, Television Repair, Robertsdale~~
- ~~34. Straka, Fred, Trucker, Robertsdale~~
- ~~35. Suddith, Jack, Office Manager, Bay Minette~~
- ~~36. Trawick, Walter, Laborer, Bay Minette~~
- ~~37. Vasut, Charles F., Television Repair, Robertsdale~~
- ~~38. Waters, Orville, Clyde, Merchant, Bay Minette~~
- ~~39. Sewell, Devore, Businessman, Loxley~~
- ~~40. Lund, Geoffrey, Chemist, Spanish Fort- Daphne~~
- ~~41. Nelson, R. Cooper, Jr.~~

41
12
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17

P XXXX / XX /

D XXXX / XX /

HARRY J. WILTERS, JR.
TOLBERT M. BRANTLEY
ASSOCIATE;
PHYLLIS S. NESBIT

LAW OFFICES OF
WILTERS & BRANTLEY
P. O. BOX 327
BAY MINETTE, ALABAMA

P. O. BOX 337
ROBERTSDALE, ALABAMA

PHONES
BAY MINETTE 5151
ROBERTSDALE WI 7-4682

July 27, 1959

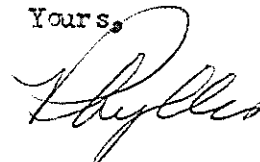
Mrs. Alice J. Duck
Circuit Clerk
Baldwin County
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Land vs Northcutt, No. 3886, at law

Enclosed you will find our demurrer to the complaint in the above styled cause. Please see that it is properly recorded and the Plaintiff's attorneys notified.

Yours,



(Mrs.) Phyllis S. Nesbit
Attorney at Law
Robertsdale, Alabama

Encl.

MRS. L. T. LANE

Plaintiff,

vs.

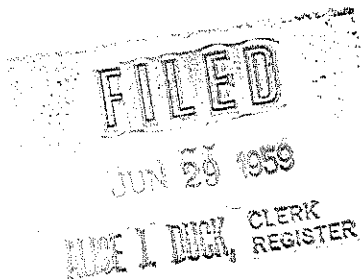
C. M. NORTHCUTT

Defendant.

* IN THE CIRCUIT COURT OF
*
* BALDWIN COUNTY, ALABAMA.
*
* AT LAW.
*
* CASE NO. 3886
*

COUNT ONE

The Plaintiff claims of the Defendant the sum of, to-wit,
ONE THOUSAND THREE HUNDRED EIGHTY-SIX AND NO/100 (\$1,386.00)
DOLLARS, due by check drawn on Central Baldwin Bank of
Robertsdale, Alabama, by the Defendant on, to-wit, December 10th,
1958 and payable to the Plaintiff in which said check was not
honored by said bank on account of insufficient funds of said
Defendant.



DIAMOND, ENGEL & LATTOF
Attorneys for Plaintiff

BY: 

Defendant resides at Robertsdale, Alabama.

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No.-----

-----TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon C. M. Northcutt

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-----

-----C. M. Northcutt-----, Defendant---

by-----Mrs. L. T. Lane-----

-----, Plaintiff---

Witness my hand this 29th-----day of June-----19-59

Alice J. Lane Clerk

No. 3886

Page _____

The State of Alabama
Baldwin County

CIRCUIT COURT

MRS. L. T. LANE

Plaintiffs

vs.

C. M. NORTHCUTT

Defendants

Summons and Complaint

Filed 6-29-59 19__

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

6/29 1959

_____, Sheriff

I have executed this summons

this 6-30 1959

by leaving a copy with

C. M. Northcutt

Sheriff claims 40 miles at

Ten Cents per mile Total \$ 4.00

TAYLOR WILKINS, Sheriff

BY

Edleigh Steadman
DEPUTY SHERIFF

Taylor Wilkins Sheriff

Edleigh Steadman Deputy Sheriff

MRS. L. T. LANE
Plaintiff
vs
C. M. NORTHCUTT
Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW
CASE NO. 3886

DEMURRER

Comes now the Defendant in the above styled cause and demurs to the Plaintiff's complaint and for grounds thereof says:

1.

The complaint does not state a cause of action.

2.

The complaint fails to allege the check has been unpaid.

3.

The complaint fails to allege the check was for valuable consideration.

4.

The complaint fails to allege the check was due and unpaid.

WILTERS AND BRANTLEY

BY: Phyllis S. Nesbit

Attorneys for Defendant

The Defendant demands trial by jury.

WILTERS AND BRANTLEY

BY: Phyllis S. Nesbit

Attorneys for Defendant

Filed
7-28-59

3886

Jury

STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT
AT LAW

CASE NO. 3886

MRS. L. T. LAND

Plaintiff

VS

C. M. NORTHCUTT

Defendant

DEMURRER

FILED
JUL 28 1959
AUGUST 1, 1959
CLERK
REGISTER

MRS. L. T. LANE	*	IN THE CIRCUIT COURT OF
Plaintiff	*	BALDWIN COUNTY, ALABAMA
vs	*	AT LAW
C. M. NORTHCUTT,	*	CASE NO. 3886
Defendant.	*	

AMENDMENT TO COMPLAINT:

Comes the Plaintiff in the above styled cause and amends her complaint by adding a second Count thereto as follows:

COUNT TWO

The Plaintiff claims of the Defendant the sum of ONE THOUSAND THREE HUNDRED EIGHTY SIX and no/100 (\$1,386.00) DOLLARS, due from the Defendant by a check drawn by him on the Central Baldwin Bank, Robertsdale, Alabama, in favor of Plaintiff for ~~said amount, on the 10th day of December, 1958, which was duly~~ presented and payment refused, which said sum of money, with interest thereon, is due and unpaid.

DIAMOND, ENGEL & LATTOF
Attorneys for Plaintiff

BY

Rex Diamond

Filed
9-22-59

SEP 27 1959

SEP 22 1964
ALICE J. DUCK, CLERK
REGISTER

3884



MRS. L. T. LANE

PLAINTIFF

VS

C. M. NORTHCUTT

DEFENDANT

)
) IN THE CIRCUIT COURT OF

)
) BALDWIN COUNTY, ALABAMA,

)
) AT LAW

)
) CASE NO. 3886

Comes now the Defendant in the above styled cause and for answer
to the Complaint and each count thereof separately and severally says:

1.

He is not guilty of the matters alleged therein.

FILED

OCT 17 1959

ALICE L. BAKER, CLERK

Wilters & Brantley

BY: *Sam J. Wilters, Jr.*

Attorneys for the Defendant

3886

MRS. L. T. LANE

PLAINTIFF

VS

C. M. NORTHCUTT

DEFENDANT

ANSWER

FILED
OCT 17 1959
MURIEL DUCK, Clerk