

1896 - 07

Southampton County Chancery

Jaynor, Thomas vs. Fooks, Sr. J. W.

"To Comply with"
Contract

To, The Honorable Robert R. Prentiss, Judge of the Circuit Court of
Southampton County.

In Chancery.

Your complainant, Thomas Joyner, resident of the County of Southampton, respectfully sheweth unto the Court the following case: That he had a contract with Dr. J. W. Fooks, who is a resident of the State of *Delaware*, to haul certain lumber from the said Dr. J. W. Fooks' mill, in the County of Southampton, near Boykins, to the rail road, and to load the same on the cars of the said railroad, and that he has been engaged for sometime in the execution of the said contract, and that for a while the said Dr. J. W. Fooks, hereafter called the defendant, paid him for his work in accordance with his said contract, but during the latter part of the year 1894, the defendant began to fall behind in his settlements, and during the year 1895, he has also failed to pay your complainant the amount due him, all of which will appear by a copy of the account of the said arrearage herewith filed, marked "A", and prayed to be read as a part of this bill. From which it will appear that the said defendant owes your complainant \$139.80.

That your Complainant has requested the said defendant to pay him, and has done all in his power to get him to a settlement, but to no purpose. That the said defendant has now a small lot of sawed lumber in the County ready for shipment, which is about sufficient to pay your Orator, and that he is making every effort to dispose of the same, and your complainant is persuaded that unless an attachment issues, and the said property is seized, that there would not be anything left in this State, out of which his debt could be made. That the defendant is a resident of the State of *Delaware* and that he is now using his best efforts to ship the said lumber, or its proceeds out of this State, and thereby defeat your Complainant's claim.

In tender consideration whereof your Complainant prays,

that the said J.W.Fooks may be made a party defendant to this bill, and required to answer the same, that an attachment may issue, and the property of the said defendant be seized, and held subject to the future order of this Court; that your orators debt may be paid to him out of the proceeds of the same; that the claim of your complainant may be established as a prior lien against the said defendants property; that the attachment may be sustained, that proper accounts may be taken and enquiries directed, and all such further relief granted your Orator as the nature of his case may require, or to equity may seem meet. And your Orator will ever pray.

Prince & Co. Solicitors

Thomas Joyner

This day personally appeared before the undersigned, a Notary Public, for the County of Southampton, and State of Virginia, Thomas Joyner, and made oath that the statements as contained in the foregoing bill of complaint are true, to the best of his knowledge and belief.

Given under my hand this *9th* day of December 1895.

Richard Howard

N.P.

about 10,000 ft 6000 at Newsoms and

" 30,000 ft at Princes Mill.

Dr J H Fools

1895

In ac with Thomas Jager

		To Hauling 68000 ft Lumber from		
		mill to Newsum Va	68 00	
Aug	12	To Loading 1800 ft Lumber	1 80	
	21	" " " " "	1 80	
Sept	5	" " 1600 " " "	1 60	
	9	" " 1600 " " "	1 60	\$74.80

Total due on acct. 1894.

Int from Octo 1. 1895

65.

\$139.80

I swear to the correctness of this account of
\$139.80, Nov. 21, '95.

Thomas Jager

Sworn to before me this 21. day of November 1895.

L. A. Gay L. C.

G. W. TRUITT & CO.
LUMBER MANUFACTURERS,
CAPRON, VA.



B. F. McLenore,
Courtland,
Va.

Joyner Thomas

Vs. } Affidavit of non-residence

Forkes J. H.

1895. Nov. 21. filed

L. A. Kay C. C.

Virginia, Southampton County, to wit:

This day Thomas Joyner appeared before me, in the Clerk's Office of the Circuit Court of said County, and made oath that Dr. J. H. Fooks defendant in a suit about to be entered in the Circuit ^{Court} of Southampton County, by said Thomas Joyner plaintiff, is not a resident of this Commonwealth.

Given under my hand this 21st. Nov. 1895.

L. A. Gay C. C.

Joyour Thomas
15 } Order Publications
Footco Dr. J.H.

1896 Nov. 29. filed
L.A. Gay b.b.

Virginia:

In the Clerk's office of the Circuit Court of South-
ampton County, November 29th, 1895.

Thomas Joyner, Plaintiff
vs
Dr. J. H. Fooks, Defendant } In Chancery

The object of this suit is to establish the
Plaintiff's claim against the defendant of \$139.⁸⁰ and
to subject the defendant's ^{personal} property in the County of
Southampton to the payment of the same.

And affidavit having been ^{filed} made, that the said defendant
Dr. J. H. Fooks is a non-resident of this State, the said
Dr. J. H. Fooks is required to appear within fifteen days
after due publication of this order, in the Clerk's office
of our said Court at rules to be holden therefor and
do what is necessary to protect his interest, and it
is ordered that a copy of this order be forthwith pub-
lished once a week for four successive weeks, in the
Southampton Democrat, a newspaper printed and
published in the Town of Franklin, in the County of
Southampton, and to be posted as ^{law} the directs.

Test: L. A. Gay C. C.

Posted
Dec. 13-95

Joyner Thomas

vs { Statement of Costs

7 votes J. W.

Is he dismissed at rule

Joyner vs. Fooks

Sum. with attach 50 - Copy 25 - Rect. 18 - atty. 10 = 1.03

Rule 50 - fil. bill 15 - Do Ex. 15 - return 35 = 1.15

oath as to non-residence 15 - ^{affidavit 15} Copy or. pub. 20 = .50

post. or. pub. 20 - fil. or. pub. 20 - fil print. certificate 15 = .55

attachment bonds 75 - fil. same 15 - Dock. 18 = 1.08

Law cost 40 - fil away papers 25 = .65

Clerk paid L. N. Gay by R. Howard \$4.96

Sheriff .50

Law cost. 16.50

\$21.96

Printers acct.

Thos. Jayner

R. Howard

to

ATTACHMENT BOND.

Dr. J. H. Fooks

J. L. McLenore

p. q.

1895. Nov. 22. filed.

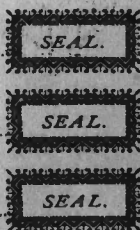
L. A. Gay L. b.

Know all Men by these Presents, That we Thomas Joyner and
R. Howard
are held and firmly bound unto Dr. J. W. Fooks
in the sum of Three Hundred dollars, to the payment whereof we bind ourselves,
our heirs, executors and administrators, jointly and severally, by these presents. We hereby waive the
benefit of our exemptions as to this obligation, and also of any claim or right to discharge any liability to
the Commonwealth, arising under this bond, or by virtue of said office, post or trust, with coupons detached
from bonds of this State. Witness our hands and seals this 21st day of November
1895.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas Thomas
Joyner
plaintiff in a suit instituted in the Circuit Court of the County of Southampton
against Dr. J. W. Fooks
defendant, has upon affidavit, made in due form of law, sued out of the Clerk's Office of the said Court an
attachment against the estate of the said Dr. J. W. Fooks
for the sum of One Hundred & Thirty nine & 80/100
Dollars being the amount claimed by the said plaintiff in the said suit.

Now, THEREFORE, If the said Thomas Joyner
shall pay all costs and damages which may be awarded against him or sustained by any person by
reason of his suing out the said attachment, then the above obligation to be void, otherwise to remain
in full force.

(Thomas Joyner) Thomas Joyner
(R. Howard) R. Howard



Executed in the presence of

J. H. Hamling

In the Clerk's Office of the Circuit Court of the County of Southampton
R. Howard the security
in the above bond, this day made oath before me _____ Clerk of
the said Court, that _____ estate _____, after the payment of all _____ debts and of such liabilities as
he _____ ha _____ incurred for others and expect _____ to have to pay, _____ worth \$ _____ the
penalty of the said bond.

Given under my hand as Clerk of the said Court this 22 day of November, 1895.

L. A. Gay

Jasper Thomas

vs. {

AFFIDAVIT FOR
ATTACHMENT.

Fooks J. W.

Filed the 29th day of Nov. 1895
L. A. Gay C. C.

In the Circuit Court of the County of Southampton

Thomas Joyner

Plaintiff

Against

Dr. J. W. Fooks

In Chancery

Defendant

J. L. McLeure atty. for on behalf of Thomas Joyner maketh oath and saith, that he believes the claim, for which the above entitled action is instituted, to be just; that he, the affiant, believes that

Thomas Joyner is entitled to and ought to recover in said action \$139.⁸⁰ (at the least), with interest thereon, to be computed at the rate of 6%

per centum per annum, from the 1st day of October, 1895, till paid; and that to the best of his belief the said defendant : Dr. J. W. Fooks

1. Is a foreign corporation, or a not a resident of this State, and has estate or debts owing to said defendant within the County of Southampton in which the action is, or sued with a defendant residing therein;

2. removing or about to remove out of this State, with intent to change domicile;

3. Is removing, or intends to remove, or has removed

his own estate, or the proceeds of the sale of his property, or a material part of such estate or proceeds, out of this State, so that process of execution on a judgment, when obtained in said action, will be unavailing;

4. converting, or about to convert, or has converted property or some part thereof into money, securities, or evidences of debt, with intent to hinder, delay or defraud creditors;

5. Has assigned or disposed of, or about to assign or dispose of estate, or some part thereof, with intent to hinder, delay, or defraud creditors:

Jas. L. McLeure atty.
for Thomas Joyner

Subscribed and sworn to before me this 29th day of November, 1895

L. A. Gay

C.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON *Dr. J. H. Fooks*

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court on the *3rd* Monday in *Dec.* next, to answer a Bill in Chancery exhibited against *him* in our said Court by *Thomas Joyner*

And this *he* shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, *L. A. Gay* T. M. HOWARD, Clerk of our said Court, at the Courthouse, this *21st* day of *November*, 189*5*, in the *12th* year of the Commonwealth.

TESTE:

L. A. Gay, C. C.