

1909-01

Southampton County Chancery

Abbitt & Persons vs. Firs, E. L. et al

"Attachment"
against real property
to effect a judgment

Firs, Mahel A.

1907-
Hitt and Person
vs Bill in Chancery
Lure, et al.

1907- James H. Hille
vs M. Lemoore & Co.

Remondy July 1909

E. FRANK STORY
ATTORNEY AT LAW
COURTLAND, VIRGINIA

TO THE HONORABLE ROBERT R. PRENTIS, JUDGE OF THE CIR-
CUIT COURT OF SOUTHAMPTON COUNTY, VIRGINIA:

Humbly complaining, your complainants, John D.
Abbitt and J. W. Person, late partners and trading as Abbitt
and Person, sheweth unto the Court, the following case.

That E. L. Fiers, at this time a resident of South-
ampton County, Virginia, is indebted to your said complainants
in the sum of One Hundred and Seventy-Eight & 88/100 (\$178.88)
Dollars, evidenced by a certain negotiable note, bearing date
April the 16th, 1906, due and payable on the 16th day of
October, 1906, with interest from that date, signed by the
said E. L. Fiers, to and in favor of your said complainants,
all of which will more fully appear from the said note, filed
with this bill, marked "Exhibit A" and prayed to be read as
a part of same.

Your complainants further show unto the Court,
that the said E. L. Fiers has an interest, as remainderman,
after the death of his father, Richmond T. Fiers, in a certain
tract or parcel of land lying situate and being in Newsoms
Magisterial District, Southampton County, Virginia, known as
"the Fiers farm, at Sunbeam, Virginia", containing five hun-
dred (500) acres, more or less.

Your complainants aver and charge, that the said
E. L. Fiers is contemplating, and is at this time about to
remove out of this State, with intent to change, permanently,
his residence, and is also removing his effects out of this
State, and that unless attachments issue whereby the property
which he now possesses be held to await the judgment of the
Court, when same shall have been rendered, nothing will re-
main to satisfy the debt due to your complainants.

In tender consideration whereof, and for as much as
your complainants are without remedy in the premises, save

by the aid of a Court of Equity, where matters of this kind are alone and properly cognizable to the end thereof, that justice may be done, they pray that the said E. L. Fiers and Mabel A. Fiers, may be made parties defendant to this bill, and required to answer same, though answer under oath is hereby expressly waived; that the aforesaid debt of your complainants against the said E. L. Fiers, may be fully ascertained and decreed against him by the Court, with the force and effect of a judgment; that an attachment in equity may issue against the real and personal property of the said debtor; that all necessary inquiries may be made, accounts taken, orders and decrees made, and such other, further, general and special relief be granted your complainants, as the nature of their case may require, or to equity shall seem meet.

Notice is hereby given that the Court will be asked to allow reasonable Attorney's fee to plaintiff's counsel conducting this cause.

And your complainants will ever pray, etc.

JOHN D. ABBITT AND J. W. PERSON, LATE
PARTNERS AND TRADING AS ABBITT AND
PERSON

By

their Attorney.

P. q.

STATE OF VIRGINIA,

{to-wit:

Southampton County, {

This day personally appeared before me, Ruth M. Owens, a notary public in and for the county aforesaid, in the State of Virginia, E. Frank Story, Agent and Attorney, for John D. Abbitt and J. W. Person, late partners and trading as Abbitt and Person, and made oath that the statements contained in the foregoing bill, in so far as made from his own knowledge are true, and so far as made upon information

derived from others, he believes them to be true. My
commission expires on the 2nd day of August, 1910.

Given under my hand this 4th day of January, 1907.

Ruth M. Owens.

NOTARY PUBLIC.

The Commonwealth of Virginia,

To the Sheriff of the County of Southampton Greeting:

WHEREAS John D Abbott and J H Perron
late partners trading as Abbott & Perron.

instituted in our Circuit Court of the County of Southampton, a certain action of
Chancery against

E L Fiers and Mabel A. Fiers

which action is now pending in the said Court: And there having been filed in the Clerk's Office
of our said Court an affidavit that the claim of said plaintiff asserted in the said suit is believed to
be just, that the affiant believes the plaintiff entitled to or ought to recover \$178.88

at the least, with interest thereon to be computed after the rate of six per
centum per annum from the 16 day of October, 1906, till payment, and that to
the best of the said affiant's belief the said defendant:

1. is a foreign corporation, or is not a resident of this State, and ha no estate
of debts owing to said defendant within the State of Virginia in which the
action is, or is sued with a defendant residing therein:
2. is removing, or about to remove out of this State, with intent to change his domicile:
3. is removing, or intend to remove, or ha s removed from Virginia

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. is converting, or is about to convert, or ha s converted any property, or some
part thereof, into money, securities, or evidences of debt, with intent to hinder, delay or defraud
creditors;
5. He is assigned or disposed of, or is about to assign or dispose of, any estate, or
some part thereof, with intent to hinder, delay or defraud any creditors;

Therefore we command you, that you attach the estate of the said E. L. Fiers
debt or claim for the amount of the said
One hundred Seventy Eight & 88/100 Dollars with interest thereon, as afore-
said, and the costs, and that you secure such estate so attached in your hands, or so provide that
the same may be forthcoming and liable to further proceedings thereupon to be had before our said
Court, on the 1st day of the next January term thereof; and that you make return hereof
at the rules to be held in Clerk's office of our said Court, on the 1st Monday in January 1907
(or to the said Court on the first day of the next term thereof) how you have executed the same.
And have then there this writ.

Witness, B. F. McLenore Clerk of our said Court, at the court-house
this 4th day of January, 1907, in the 13th year of the Commonwealth.

B. F. McLenore C. C.

The Plaintiff designate

as being in possession of effects of, or being indebted to the defendant.

Form No. 243.

Ad illt person

vs.

ATTACHMENT.

Steno tal.

1st January 1907

E. L. Fiers

p. 9.

Executed in Southampton County, Virginia, this 7th day of January, 1907, by delivering a true copy of this attachment to E. L. Fiers, Mabel A. Fiers and R. T. Fiers, in person.

J. T. Quirk Sept 1907

LEVIED ON THE FOLLOWING REAL ESTATE OF THE DEFENDANT, E. L. FIERS, TO-WIT:

All of his, the said E. L. Fiers, interest, whether vested or contingent, in fee-simple or remainder, in and to that certain tract or parcel of land lying situate and being in Newsoms Magisterial District, Southampton County, Virginia, known as "the Fiers farm, at Sunbeam, Virginia", and is the same on which the said E. L. Fiers has been residing recently, containing about five hundred (500) acres, more or less; this 7th day of January, 1907.

J. L. Gillette
SHERIFF OF SOUTHAMPTON COUNTY,
VIRGINIA.

The Commonwealth of Virginia,

To the Sheriff of the County of Southampton Greeting:

WHEREAS

John R. Abbit and J. M. Green.
late partners, trading as Abbit & Green

instituted in our Circuit Court of the County of Southampton a certain action of
Chancery against
E. R. Fries and Mabel Fries

which action is now pending in the said Court: And there having been filed in the Clerk's Office of our said Court an affidavit that the claim of said plaintiff asserted in the said suit is believed to be just, that the affiant believes the plaintiff s entitled to or ought to recover \$178.88/100 at the least, with interest thereon to be computed after the rate of six per centum per annum from the 16th day of October, 1906, till payment, and that to the best of the said affiant's belief the said defendant:

1. is a foreign corporation, or is not a resident of this State, and has no estate of debts owing to said defendant within the State of Virginia in which the action is, or is sued with a defendant residing therein:

2. is removing, or about to remove out of this State, with intent to change his 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. is converting, or is about to convert, or has converted his property, or some part thereof, into money, securities, or evidences of debt, with intent to hinder, delay or defraud his creditors;

5. Has not assigned or disposed of, or is about to assign or dispose of, his estate, or some part thereof, with intent to hinder, delay or defraud his creditors;

Therefore we command you, that you attach the estate of the said E. R. Fries debt or claim for the amount of the said One Hundred Seventy-Eight & 88/100 Dollars with interest thereon, as aforesaid, and the costs, and that you secure such estate so attached in your hands, or so provide that the same may be forthcoming and liable to further proceedings thereupon to be had before our said Court, on the 1st day of the next January term thereof; and that you make return hereof at the rules to be held in Clerk's office of our said Court, on the 1st Monday in January 1907 (or to the said Court on the first day of the next term thereof) how you have executed the same. And have then there this writ.

Witness, B. F. M. Leasure Clerk of our said Court, at the court-house this 4th day of January, 1907, in the 131 year of the Commonwealth.

B. F. M. Leasure, C. C.

The Plaintiff designate

J. T. Whitley,

as being in possession of effects of, or being indebted to the defendant.

E. L. Fiers

Therefore the said J. T. Whitley is hereby required to appear before our Circuit Court at the January, 1907 term thereof and disclose in writing what sums he is indebted to the said E. L. Fiers, and what effects of the said defendant he has in his hands.

B. F. McLemore

Form No. 243.

28.

ATTACHMENT.

To

term, 1907

p. q.

Executed in Southampton County, Virginia, this 16th day of January, 1907, by delivering a true copy hereof to J. T. Whitley, in person.

J. L. Gillette

Bar

J. T. Whitley

LEVIED ON THE FOLLOWING REAL ESTATE OF THE DEFENDANT, E. L. FIERS, TO-WIT:

All of his, the said E. L. Fiers, interest, whether vested or contingent, in fee-simple or remainder, in and to that certain tract or parcel of land lying situate and being in Newsoms Magisterial District, Southampton County, Virginia, known as "the Fiers farm, at Sunbeam, Virginia," and is the same on which the said E. L. Fiers has been residing recently, containing about five hundred (500) acres, more or less; this 4th day of January, 1907.

J. L. Gillette,

SHERIFF OF SOUTHAMPTON COUNTY, VIRGINIA.

A Copy:

Dece.

B. F. McLemore

TO THE CIRCUIT COURT OF SOUTHAMPTON COUNTY, VIRGINIA:

The undersigned, J. T. Whitley, on whom a garnishee has been served, in the chancery suit pending in the said Court, short styled Abbitt and Person vs. Fiers et als. designating him as being indebted to E. L. Fiers, one of the defendants therein, respectfully reports to Court:

That he is indebted to the said E. L. Fiers, in the sum of not less than Eight Hundred (\$800.00) Dollars, evidenced by a bond, secured by a deed of trust on real property in Southampton County, Virginia.

Respectfully submitted.

J. T. Whitley

STATE OF VIRGINIA, {
Southampton County, {to-wit:

I, Ruth M. Owens, a notary public in and for the county aforesaid in the State of Virginia, do hereby certify that the above statement of J. T. Whitley was subscribed and sworn to before me in my County aforesaid, this 16th day of January, 1907. My commission expires on the 2nd day of August, 1910.

Given under my hand this 16th day of January, 1907.

Ruth M. Owens

NOTARY PUBLIC.

Abbit and Person
-vs- Exhibit A-
Fiers, et al.



\$178 88

No. 3754
Franklin, Va.

Dec 16

4/16 1906

(6) Six months

days after date I promise

to pay to the order of Miss Abbie L. Linn

one hundred & Seventy Eight & 88/100

Dollars

at the Merchants & Farmers Bank, Franklin, Va.

without effect, for value received; and we, the maker and endorser, hereby waive the benefit of the Home-
stead Exemption as to this contract.

E. L. Fiers

THE FALBOMER COMPANY, BALTO

Abbitt & Person
(or) Statement Rules
Fears et al.

John D. Abbitt & J. W. Person
late partners trading as
Abbitt & Person

27

Stat: Rules

E. L. Fiers and Mabel A. Fiers.

1907. Jan'y 3rd - process issued to 1st Jan'y Rules

" 1st " Rules: process returned Executed.

Bill & Exhibits filed.

Decree nisi.

1907. 2nd Jan'y Rules: Bill taken for confessed
and Cause set for hearing

L. Fiers, to-wit:

All of his, the said E. L. Fiers, undivided one-sixth interest, as remainderman after the death of his father, R. T. Fiers, in and to that certain tract or parcel of land lying situate and being in Newsoms Magisterial District, Southampton County, Virginia, known as "the Fiers farm, at Sunbeam, Virginia", and is the same on which the said E. L. Fiers, has been residing recently, containing about five hundred (\$500) acres, more or less; this ~~12~~ day of February, 1907.

x L. F. Binkopf Deputy
for J. L. Gillette, Sheriff.

THE PLAINTIFFS DESIGNATE J. T. WHITLEY,
AS BEING IN POSSESSION OF EFFECTS OF, OR BEING
INDEBTED TO THE DEFENDANT, E. L. FIERS:

Therefore, the said J. T. Whitley, is hereby required to appear before our Circuit Court, at the Court House, in Courtland, Virginia, on the 18th day of March, 1907, that being the first day of the next term of our said Circuit Court, and then and there, disclose on oath, in what sum he, the said J. T. Whitley, is indebted to the said E. L. Fiers, and what effects of the said defendant he has in his hands.

D. F. McLenore
Clerk.

Fiers

1907-2-20 Feby Rules

Abbitt and Person
vs *Spain Day*

Executed in Southampton County, Virginia, this 9th day of February, 1907, by delivering a true copy of this summons, together with the indorsements on the back hereof, to E. L. Fiers, Jesse T. Whitley and R. T. Fiers, and not finding the within named, Mabel A. Fiers, at her usual place of abode, I delivered a copy of the within summons, together with the indorsement hereon, to E. L. Fiers, husband of the said Mabel A. Fiers, at her usual place of abode, in Southampton County, Virginia, and at the same time and place, explained to him the purport thereof.

L. F. Binkopf Deputy
for J. L. Gillette, Sheriff.

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON *E. P. Fiers and J. McAlister*

A. Fiers

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 *February* 190*7*

~~next~~, to answer a Bill in Chancery exhibited against *them*
in our said Court by *E. D. Abbott and J. H. Person*
late partners and trading as Abbott
and Person

And this *they* shall in nowise omit under penalty of law. And have then there this
writ.

Witness, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this
7 day of *February*, 190*7*, in the *31* year of the Commonwealth.

Teste :

B. F. McLeMore, C. C.

Robert Persons

THE COMMONWEALTH OF VIRGINIA

VS. Spanish

Fiers et als,

1907-1 Jury Rules,

Executed January

5th, 1907 by deliv =

ering a true copy

of the within writ

on E. L. Fiers +

Mabel A. Fiers -

J. F. Bishop, Dapt

for J. L. Smith

Teste:

C. C.

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON.....

Mabel A. Fiers

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 *1st* Monday in *January* 1907

next, to answer a Bill in Chancery exhibited against *Thum*
in our said Court by *John D. Abbott and J. H.*

Persons late Partners and Trading
as Abbott & Persons

And this *Bill* shall in nowise omit under penalty of law. And have then there this
writ.

Witness, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this
3rd day of *January*, 1907, in the *13th* year of the Commonwealth.

Teste:

B. F. Mclemore, C. C.