

17

18

19

20 *D. L. Lee*

21

22

23

24

25

26

27

28

29

30

31

32

ms. [squiggle] *Cush*

---

*David Lee*

*Filed in office* *Cush*

*Aug 12 1903*

*M. W. Howard CLK*

*Relay*

I certify that this is an exact photocopy of the original unaltered document which is on deposit at the Kentucky Department for Libraries and Archives, Public Records Division

Source: *HARLAN CIRCUIT COURT #1903 BX 108 BDL 6*

Staff Person: *STEVE SHACKERFORD*

Date: *8-17-01*

S. H. Lee vs

Plaintiffs

vs.

} Answer of David Lee.

David Lee vs

Defendants

The defendant David Lee for his separate answer herein denies that the Commonwealth of Kentucky issued to said Stephen Lee a patent for any part of the land described in the petition herein which is covered by the boundaries herein after described now claimed by this defendant; denies that plaintiff S. H. Lee, Mahinda Cooper, Samuel Hensley, Erns S. Howard, Sallie Scott and John Lee or either or any of them are now or were the owners or in possession of any part of either of the boundaries of land described in the petition that conflicts with or is a part of the boundary here set out; denies that said Stephen Lee deceased ever owned or had in his possession any part of either of said tracts of land that is within the boundary herein claimed by this defendant; denies that said Sheriff or anyone at any time levied upon or sold or attempted to levy upon or sell any part of said land herein claimed by this defendant or any part of either of said boundaries described in the petition that lies with the said boundary herein described, or that same or any part thereof was

1 levied upon, advertised for sale, appraised  
2 or sold by any Sheriff or any person  
3 under execution or at all; or that said  
4 W<sup>m</sup> Turner Sr. or any one else bid on  
5 any part of said land or at any sale  
6 or in any manner became the pur-  
7 chaser of same or any part thereof  
8 or gave any bond for the payment of  
9 same or any part thereof, or ever  
10 paid anything therefor, or ever trans-  
11 ferred in writing or otherwise his bid  
12 or any bid for any of said land to said  
13 John Fee <sup>and Noble Smith</sup> or any one else or had any  
14 such bid on any of said land herein  
15 described; denies that said deed of Con-  
16 veyance from said Sheriff to said John  
17 Fee and Noble Smith conveyed any title  
18 or was intended to convey any title to  
19 any part of said land herein claimed  
20 by this defendant or that said Sheriff  
21 put said Fee and Smith or either in  
22 possession of any part of said land  
23 or that either of them or any one but  
24 this defendant ever had possession  
25 of same or any part thereof; denies that  
26 said Noble Smith conveyed any part of  
27 said land herein claimed by defendant  
28 to said John Fee or any one else; denies  
29 that said John Fee ever conveyed said  
30 land or any part thereof to Dudley  
31 Wilson or any one else; denies that said  
32 execution in favor of W<sup>m</sup> Turner Sr. was

said Stephen Lee or the petition <sup>rather</sup> or other  
papers or any of said papers have been  
lost from the Clerk's office or that there  
is no way of supplying said records; den-  
that said alleged records are equal or  
equivalent to any executory contract  
or title bond for a deed to said land; den-  
that plaintiffs or either or any of them are  
or ever were entitled to have said land  
or any part thereof conveyed to them or to  
have the legal title or any title conveyed  
to any one or that defendants or any of them  
~~are now~~ except this defendant, are now  
holding or at any time held the legal  
title to the land herein claimed by him  
or any part thereof and he denies that  
he at any time held or now holds said  
title or any title in trust for plaintiffs  
or either of them.

Defendant David Lee says he is now and  
for many years last past has been the  
owner and in the actual possession  
of the following described tract of land  
which lies in Harlan County Kentucky on  
the north side of the Bush Mountain on  
the head of Browns Creek and bounded  
as follows: Beginning at two poplars  
at the foot of said Mountain thence N  
74 E 32 poles to a white oak and maple  
thence N 85 E 74 poles to a birch and beech  
thence N 51 E 24 poles to a black gum and  
Maple, thence E 26 poles to two beeches, thence


S 77 E 60 poles to a maple, white oak and chest-  
nut thence S 13 W 70 poles to a stake thence S.  
86 W 200 poles to a stake, thence N 18 E 70 poles  
to the beginning, containing 100 acres, that  
the boundary as above described conflicts  
with the boundary of 400 acres as described  
in the petition, that said boundary as  
set out in the petition covers and em-  
braces about twenty acres of the land  
owned by defendant above described  
but he cannot definitely describe  
said 20 acres; he says he acquired title  
to said land in this way; that on March  
12, 1844 said Stephen Lee deceased under  
a warrant from the Hallam County Court  
caused an entry to be made in the County  
surveys books of said county, describing  
said 400 acre tract of land mentioned  
in the petition and said 100 acre tract  
herein described and thereby appropriated  
said two tracts of land, <sup>said 100 acres was first entered</sup> and said County  
surveyor first surveyed said 100 acres  
and then surveyed said 400 acres which  
survey was made on said date that he then  
made out a plat and certificate of said survey  
and recorded same in his book; and forwarded  
the original plat and survey with copy of  
said order of said Court to the Register of  
Land office; that after said plat and cer-  
tificate was made said Stephen Lee sold  
and by written assignment thereof he  
transferred to this defendant said 100

acres of land herein described and  
 thereoft<sup>r</sup> on July 2, 1845, the Common-  
 wealth of Kentucky issued and delivered  
 to this defendant as assignee of said  
 Stephen Lee a patent for said land;  
 that he then took actual possession  
 thereof and has held same from that  
 time to the present and is still in  
 the actual possession of the whole of  
 said tract of land holding and claiming  
 same as his own to the full extent of  
 said patent boundary which is and has  
 been during said time well marked  
 and defined which holding has been  
 actual adverse open continuous and  
 peaceable for more than thirty years  
 next prior to the institution of this  
 suit.

Wherefore defendant David Lee  
 prays that plaintiffs petition be  
 dismissed for his cost and for  
 all proper relief.

H. C. Llay, Atty for  
 Deft. David Lee.

The foregoing statements are true as  
 I believe.

David<sup>tho</sup> Lee, Jr. 

Subscribed and sworn to before me  
 this 11th day of August 1909.

J. D. Lee Deputy County  
 Court Clerk.

S. P. Lee, Etc., Plaintiffs.

Vs) PETITION IN EQUITY:

David Lee, Etc., Defendants.

Filed in my office summons and 25  
*to Paulin Sec. & 2 copies with summons & copy*  
*certific*  
copies issued, warning order made.

This June 10th, 1903. *W. F. Hall*

*McKoward*

Clerk Harlan Circuit Court.

W. F. Hall, Attorney  
For the plaintiffs.

HARLAN CIRCUIT COURT:

S. F. Lee, Malinda Cooper,  
Samuel Hensley, Enos S. Howard,  
Sallie Scott and John Fee

Plaintiffs.

-vs-

PETITION IN EQUITY:

David Lee, Granville Smith,  
Elizabeth Smith, Nancy Miracle,  
Rachel Shackelford, widow,  
Polly Miracle, George Fee,  
Henderson Fee, Hiram Fee,  
David Fee, Wash Osborn,  
Polly Osborn, Abner Fee, Jr.,  
Josephus Hensley, Jerusha Hensley,  
Silas Fee, Wilson Hensley,  
Lucratia Hensley, James Fee,  
Wash Fee, Minerva Fee,  
Lilie Fee, Gillie Fee, Bascom Fee,  
Ballard Fee, Charlotte Fee,  
Sallie Fee and Annie Fee,  
Minerva Middleton, Benjamin Howard,  
Nancy Howard, James Howard, Robert Listenbee,  
Catherine Listenbee, Jasper Jones, Joicy Jones,  
Jasper Daniel, Margaret Daniel, Lucy Middleton, widow,  
Jane Hensley, Hiram Fee, Jr., Boyd Fee, Sarah Kelly,  
William Kelly, James Kelly, Polly Kelly, and  
"Unknown defendants; Unknown heirs at law of  
Stephen Lee, deceased",

Defendants.

The plaintiffs state that on the 12th day of March, 1844,  
one Stephen Lee surveyed and on the \_\_\_ day of \_\_\_, 1844, the  
Commonwealth of Kentucky, issued to him a patent for 400 acres of  
land, lying and being in the County of Harlan on Lee's Branch of  
Martins Fork and bounded as follows, to wit: Beginning on the Laurel  
Branch at a white oak and poplar; thence N 82 W 94 poles to a chest-  
nut and maple; thence S 64 W 34 poles to three chestnuts; thence S  
71 W 39 poles to a black gum; thence South 85 W 74 poles to a poplar  
and cucumber; thence South 30 poles to a white oak; thence S 27 W 26  
poles to a cucumber; thence S 15 W 20 poles to a sugar tree; thence  
S 8 E 60 poles to a sourwood, maple and white oak; thence S 55 E 22  
poles to two black gums; thence S 70 E 30 poles to three chestnut  
oaks; thence S 47 E 120 poles to a stake; thence S 20 W 50 poles to  
a stake; thence N 85 W 200 poles to a stake; thence N 14 E 440 poles  
to a stake; thence East 210 poles to a stake; thence S 8 E 130 poles  
to the beginning.



-2-

That on the third day of April, 1837, the said Stephen Lee surveyed and on the 2nd day of July, 1845, the Commonwealth of Kentucky issued a patent to the said Stephen Lee for the following tract and boundary of land, lying and being on Martins Fork of Cumberland River in Harlan County, Kentucky, beginning on the North side of said fork on the foot of a ridge, at a black gum, beech and sourwood; thence running with the lines of a 100-acre survey of Andrew Lee on the open side, S 58 W 92 poles to a white oak; thence S 54 W 58 poles to a black oak and poplar and dogwood; thence S 88 W 62 poles to a stake; thence N 50 E 142 poles to a stake; thence N 68 E 91 poles to a stake; thence S 58 poles to the beginning, containing 50 acres, more or less. The plaintiffs state that the deceased Stephen Lee was the owner of said 400-acre patent and said 50-acre patent and the said two tracts of land in his possession until the beginning of the year 1866 at which time the said Stephen Lee became largely indebted to one Wm Turner, Sr. in the sum of \$155.36 with the accrued interest from the date Nov. 1st, 1856, at which time and on the \_\_\_\_ day of \_\_\_\_ 1866, the said William Turner, Sr. brought his suit in the Harlan Circuit Court against the said Stephen Lee to recover the above named sum, that is, to recover judgment against him for said sum, process in said cause was duly issued and was duly executed on the deft., Stephen Lee and at the April Term of the Harlan Circuit Court 1866, the said William Turner, Sr. recovered a judgment against the said Stephen Lee for the sum of \$155.36 with interest thereon at the rate of 6% per annum from the first day of Nov., 1856, an execution was adjudged to issue for said sum thereon; on the 26th day of April 1870 execution was issued in said cause on said judgment in favor of said

-3-

in that action, who then owned the same; and thereafter on the 6th day of June, 1870, caused the said tract of land to be appraised by two disinterested housekeepers of Harlan County for the purpose of making sale thereof under said judgment and execution to satisfy said judgment debt, interest and cost and on the 6th day of June, 1870 having duly advertised said land for sale as required by law did on that advertise and sell said land above described to the highest and best bidder therefor, whereupon William Turner, Sr., being the highest and best bidder, bought said tract of land at the price of \$102.50 and the same was knocked off to him for his said bid and he gave bond for the payment of the said sum as the law requires in such cases; that thereafter and on the \_\_\_ day of \_\_\_ 187\_\_ said William Turner, Sr., for a valuable consideration \$\_\_\_\_\_ cash in hand paid, in writing which was duly signed by him and delivered to John Fee transferred his said bid and purchase of said property to the said John Fee one of the plaintiffs above and to Noble Smith and the said Stephen Lee, failing to redeem said tract of land from the purchase of said William Turner, Sr. of said John Fee and Noble Smith until the 10th day of July, 1876, when on that day A. L. Coldiron, Deputy Sheriff for A. L. Howard, Sheriff of Harlan County, executed, signed, acknowledged and delivered to said John Fee and Noble Smith his deed of conveyance, conveying to said Fee and Smith the title to the tract of land above described from said Stephen Lee and said Sheriff put said Fee and Smith in possession thereof; that on January 30th 1877, Noble Smith for the sum of \$75, all of which has been paid, executed signed, acknowledged and delivered to John Fee, his deed of conveyance conveying to him the said tract of land above described

, parts and parcels conveyed each of the above named two tract of land to Dudley Wilson and to others and the said land is severalty in seperate and in different tracts, by proper deeds and conveyances passed to and became the property of the plaintiffs, Stephen F. Lee Melinda Cooper, Samuel Hensley, Enos S. Howard and Sallie scott and they are now the owners and in possession of the lands embraced within and held under the said 400-acre Patent and the said 50-acre patent, holding the same in seperate and dsitinct tracts among whom there is no confusion about their respective boundaries so held; that John Fee, their co-plaintiff, conveyed the title immediately or mediately to the persons who conveyed the same to the plaintiffs herei except the plaintiff, John Fee. Now the plaintiffs state that the execution which issued in favor of the said William Turner, Sr., against Stephen Lee also the petition and all other papers filed including the process have been lost from the Clerk's Office of the Harlan Circuit and after diligent search therefor <sup>n</sup> was not be found; that the Sheriff's return of the execution made June 6th, 1870, show a sale of the land, but what land is not definitely or distinctly states, to William Turner, Sr.; that said return failed to show a levy of the execution on said land, but they allege that said execution was levied on the land above set forth as required by law; that the return on said execution, as found in the Sheriff's return book, does not describe the land sold; but they allege that the land above set forth were the lands sold by said Sheriff as herein described; that there is no record of the appraisment of the said two tract of land preserved, but they allege that said tracts of land were duly appraised as required by law. They further state that the Sheriff deed by A. L. Coldiron, Deputy Sheriff, to John Fe and Noble Smith

Granville Smith." These plaintiffs state that their respective deeds to the boundaries they respectively own running the title back to John<sup>Fee</sup> and the Sheriff's sale herein above set forth and the records of the Harlan Circuit Court made in the suit of William Turner, Sr. vs Stephen Lee and the said Sheriff's deed to said John Fee and Noble Smith constitute the muniments of title of these plaintiff to said land; that the proceedings of said sale on account of the lost, records, which they have no way of supplying, are sufficient i Law and in Equity, and they are equal and equivalent to a good and valid executory contract or title bond for a deed to said land from the decd. Stephen Lee for said tract of land. That the plaintiffs here allege that they are entitled to have said boundary of land conveyed to them or to have the <sup>l</sup>egal title by proper deeds duly executed conveyed to Plaintiff, John Fee, from the defendants herein who are children, grand-children, great-grand-children, heirs and only heirs at Law of said Stephen Lee, decd.; that the defendants herein are holding the legal title to said two tracts of land in trust for these plaintiffs; that in Law and in Equity the title to said two tracts of land above described and which these plaintiffs except plaintiff claim can be passed to them through the channel of the deeds which they hold and which connect them with John Fee, can and will properly pass to them <sup>when</sup> the Court's Master Commissioner shall execute his deed of conveyance in due and proper form conveyi the legal title to said land from the defendants herein to the plaintiff, John Fee. That they desire the legal title to said lands conveyed to the plaintiff, John Fee, that same may and will immediately enure and pass to them.

They further state the defendant, David Lee was a son and ar heir, that Rachel Shackelford, Nancy Miracle, Polly Miracle and El

-5-

\_\_\_\_\_187\_\_ departed this life and left George Fee, Henderson Fee, Hiram Fee, David Fee, Wash Osborn, Polly Osborn, Amanda Fee, and her husband, Abner Fee, Jr. and Minerva Middleton, now widowed, her children, heirs and only heirs at law; that Hiram Fee above named was a son and an heir of the decd. Jennie Fee, who departed this life on the \_\_\_day of \_\_\_188\_\_ and left as his children, heirs and only heirs at law Hiram Fee, Boyd Fee, Sarah Kelly, daughter who intermarried with William Kelley, Polly Jane Kelly a daughter and an heir, who intermarried with James Kelly, that said Hiram Fee left two other children and heirs whose names and place of residence these plaintiffs cannot after diligent inquiry ascertain, they are here sued as "Unknown defendants," that Amanda Fee above named on the \_\_\_of May 1903 departed this life intestate domiciled in Harlan County and she left as her children, heirs and only heirs the following named persons, Jerusha Hensley, a daughter who intermarried with her co-deft. Josephus Hensley, Silas Fee a son, Lucretia Hensley who intermarried with her co-deft. Wilson Hensley, James Fee, a son, now 17 years old, Wash Fee a son, now 15 years old, Minerva Fee a daughter over 14 years old, Lillie Fee, a daughter under 14 years old, Gillie Fee a daughter, under 14 years old, Bascom Fee a son under 14 years old, Ballard Fee a son under 14 years old, Charlotte Fee a daughter under 14 years old, Sallie Fee a daughter under 14 years and Annie Ethel Fee a daughter under 14 years old; that the last above named seven infant defendants are under 14 years old, they have no statutory guardian, curator or committee they are each now in the care and custody of Abner Fee, Jr. defendant herein who is their father, that Minerva Howard who was a daughter and an heir at law of

Middleton, a widow woman, Jane Hensley a widow woman and John Howard, that the last named person John Howard departed this life on the \_\_\_ day of \_\_\_ 189 \_\_\_, that said John Howard, left two or more children whose names and place of residence are unknown to these plaintiffs that they cannot obtain/after diligent inquiry, they are here sued as "Unknown defendants"; that defendants Wash Osborn and Polly Osborn are non-residents of the State of Kentucky and now absent therefrom they reside in Lee County, Va. and Hagan, Lee Co., Va. is the name of a post-office kept nearest to their place of residence; that Granville Smith and Elizabeth Smith, are non-residents of the State of Kentucky and now absent therefrom, they reside in Lee County, Virginia and Douglass, Lee Co., Va., is the name of the Post Office kept nearest to their place of residence, that defendants, J. Jones and Joicy Jones are non-residents of the State of Kentucky and they are now absent therefrom, they reside in Lee County, Virginia and Ewing, Lee Co., Va., is the name of a post-office that is kept nearest to their place of residence, that said Stephen Lee as plaintiffs verily believe left other heirs, whose names and places of residence are both unknown to the plaintiffs, they are here sued as unknown depts.

and plaintiffs allege, that they are each and all non-residents of the State of Kentucky. *That Sarah Kelly, Wm Kelly, Polly J. Kelly + Jas. Kelly are non-residents of the State of Ky. and their place of residence + post-office address is unknown.*

WHEREFORE, the plaintiff s pray that a warning order be made against the above named non-resident defendants, and that a practicing attorney of this Bar be appointed to correspond with and defend for them; that a guardian ad litem be appointed to represent and defend for the above named infant defendants; the plaintiffs further pray that upon final hearing of this case that a judgment be rendered decreeing a conveyance of the legal title from the above named defendants to John Fee, one of the plaintiffs herein, that an order be made adjudging that the title enure and pass to the other plaintiffs set forth in the petition, that the Court's Master Commissioner be ordered and directed to execute said conveyance forthwith upon the rendition of the judgment herein; they pray for all

necessary orders and for all proper relief.

W. F. Hall

Attorney for the plaintiffs.

S. F. Lee, one of the plaintiffs herein says he believes the statements made in the foregoing petition are true and correct.

attest A. C. Sharp

S. F. Lee  
mark

Sworn to before me this the 10th day of June, 1903, by S. F. Lee.

A. C. Sharp

Examiner for Harlan County.

Harlan Circuit Court.

S. F. Lee, Etc.,

Plaintiffs.

-vs-

WARNING ORDER.

David Lee, Etc.,

Defendants.

The Defendants, Granville Smith, Elizabeth Smith, Wash Sarah Kelly, Wm Kelly, Polly Jane Kelly and James Kelly Osborn, Polly Osborn, J. Jones, Joice Jones, Unknown defendants, Unknown heirs at Law of Stephen Lee, decd., are each warned to appear in this Court in 30 days after this date and answer the Petition filed against them herein by Stephen Lee, Etc.,, and Gust Turner a regular practicing attorney of this Court is appointed to correspond with and defend for the said non-resident, defendants, and he accepts the appointment.

Given under my hand this the 10th day of June, 1903.

W. Howard

Clerk Harlan Circuit Court:

HARLAN CIRCUIT COURT:

S. F. Lee, Etc.,

Plaintiffs.

-vs-

ORDER APPOINTING GUARDIAN AD LITEM:

David Lee, Etc.,

Defendants.

The plaintiffs having filed herewith an affidavit which is set forth in their verified petition showing that James Fee, Wash Fee, Minerva Fee, Lilleie Fee, Gillie Fee, Bascom Fee, Ballard Fee, Charlotte Fee, Sallie Fee and Annie Ethel Fee are each and all infants under 21 years old and that they have no statutory guardian, curator or committee it is now ordered by me that Garth Turner a regular practicing attorney of this Court be, and he is hereby appointed guardian ad litem to represent the interest and defend for the above named infant defendants, who accepts the appointment herein.

Given under my hand this the 17 day of July 1903.

W. W. Howard  
Clerk Harlan Circuit Court.



.....  
S. F. Lee, Etc., Plaintiffs.

Vs) DEPOSITIONS FOR PLAINTIFFS

David Lee, Etc., Defendants.  
.....

Received from A. C. Tharp, Ex-  
aminer and filed in my office.

This the 20th day of July, 1903.

*M. W. Howard*

Clerk Harlan Circuit Court.  
////////////////////////////////////

THE DEPOSITION OF S. F. Lee taken at the Law Office of W. F. Hall in the Town of Harlan County, Kentucky on the 18th day of July, 1903 to be read as evidence in an action pending in the Harlan Circuit court wherein S. F. Lee and others are plaintiff and David Lee and others are defendants. The witness being duly sworn by me states as follows:

Q.1- State your name, age, residence and occupation? Are you the S. F. Lee, plaintiff in the above styled case?

Ans. My name is Stephen F. Lee, I am 54 years old, I live on Martins Fork in Harlan County, Kentucky, I am a farmer by occupation. I am the S. F. Lee, who is plaintiff in this action.

Q. 2- State if you claim to own a boundary of land within and held under a 400-acre Patent surveyed for and patented in the name of Stephen Lee in the year of 1844 on Lee's Branch of Martins Fork, the boundary of which patent is set out as the first boundary in your petition in this case. If you claim a boundary of the land, you will state how you got it and you will further state, or rather you will cause the boundary copied in this your deposition as a part thereof?

Ans. Yes, I claim to own a boundary of land from the above mentioned patent boundary, I bought the same from one Ison Lawson about the year 1891 and have had the following boundary, which is the boundary that I claim under the above mentioned patent, in possession since that time: "Beginning on a small dogwood and poplar

near the upper bench on the South side of the Black Mountain; North 28 East to the top of the Black Mountain; thence with the top of the Black Mountain to the top of the Leading Ridge; thence with the top of the Leading Ridge down the said mountain near the mouth of the Bad Place Branch; thence Somewhat West up the Branch on the East side near the branch, near the coal bank; thence a cross a small point to a small dreen; thence North 28 East to the beginning, on the dogwood and poplar, the beginning corner."

Q. 3- State if you know who Ison Lawson got the land from and from whom did his grantor get it; state all you know about how the title came?

Ans. Ison Lawson got the land from Dudley Wilson, it was

to him from said Wilson conveyed by deed as I understand, and John Fee, Sr. conveyed the land to Dudley Wilson in a good deed larger boundary than the one that I hold, that is, the boundary of land conveyed by John Fee to Dudley Wilson embraced other lands in addition to the lands that I claim to own and which is described above. None of the defendants has ever claimed any part of the land embraced in the petition to my knowledge or belief, and they do not claim it now. I live on this boundary of land, and have lived there for about 14 years.

And further the deponent saith not.

D. J. Lee

Also the deposition of Enos<sup>S.</sup>/Howard taken at the same time and place for the purpose and in the action stated in the caption.

Witness duly sworn states as follows.

Q. 1- State your name, age and place of residence, and you will further state whether or not you are the Enos S. Howard, one of the plaintiffs in this action?

Ans. My name is Enos S. Howard, I am 33 years old, I live on Martins Fork in Harlan County, Kentucky; I am the same Enos S. Howard as is mentioned as plaintiff herein.

Q. 2- State if you claim to own a boundary of land within and held under a 400-acre patent which was made in the name of Stephen Lee on Lees Fork of Martins Fork of Cumberland River and in a 50-acre survey and patent made in the name of the said Stephen Lee on Martins Fork of Cumberland River in Harlan County, the said two patent boundaries being set out in your original petition in this case, if you do, you will give the boundary in substance that you claim within these two patents?

Ans. Yes sir, I own a boundary of land on the waters of Martins that is within and held under the two patents above named, the boundary of land that I claim is as follows: Beginning on the point of a ridge between Tacketts Hollow and the Orchard Hollow on chestnut; thence with the leading ridge to the top of the Black Mountain; thence with the top of the mountain to the dividing ridge be-

tween the Orchard Hollow and the Rough Branch; thence down the main ridge to the branch, Lees Branch,;thence with the conditional line between John Fee and Dudley Wilson to the beginning. I have a deed from Jonathan Hensley's heirs for this tract of land; John Fee, Sr. sold and conveyed this same boundary of land to Jonathan Hensley by deed about 22 or 23 years ago. Jonathan Hensley held this tract of land in possession, he and his said heirs, until it was sold to me about 6 years ago, since then I have held it in my possession. I have paid all the purchase money due on the land. No one of the defendants, so far as I know, set up any claim to this tract of land or to any part of the 400-acre patent to my knowledge, nor do any of them claim any part of the 50-acre patent.

And further the deponent saith not.

*Enas H. Howard*

Also the deposition of Lewis Hensley taken at the same time and place for the purpose and in the action stated in the caption.

Witness duly sworn states as follows:

Q. 1) State your name, age, residence and occupation? Are you acquainted with the parties to this suit?

Ans. Lewis Hensley is my name, I am 60 years<sup>old</sup> and a farmer by occupation, I live on Catorns Creek in Harlan County, Kentucky; I am acquainted with most of the parties to this suit, some of them I am not personally acquainted with.

Q. 2- Are you acquainted with the 400-acre patent and a 50-acre Patent that were made in the name of Stephen Lee, Sr. in his life time, the 400-acre patent was surveyed March 12th, 1844, was thereafter patented to said Stephen Lee, lying and being on Lees Branch of Martins Fork in Harlan County, Kentucky. The 50-acre patent was surveyed on the 2nd day of July, 1845, or rather was the said land patented on that day, and surveyed on the 3rd day of April 1837, lying on Martins Fork of Cumberland River in Harlan County, Ky.

The said lands constituting the home farm and adjacent land to the Home Farm of the said Stephen Lee?

Ans. Yes sir, I am acquainted with the land, where old Stephen Lee lived, both places.

Q. 3- State if you remember when or about when the said two tracts of land were sold by A. L. Howard Sheriff of Harlan County at Harlan Court House in Harlan Town by his Deputy Sheriff, A. L. Coldiron? Do you know who were the appraisers, who appraised the said tract of land for the said Sheriff, if you do, you will state fully who they were and what was done with the respect to appraising the land?

Ans. I think to the best of my recollection the land above referred to was sold in the year 1870 or about that time by A. L. Coldiron who was at that time a Deputy Sheriff. I remember to have seen the advertisements up for the sale of the land and myself and Philip Daniel appraised the land. Philip Daniel wrote the appraisal and we fixed what we considered was the reasonable fair cash value of the land and signed up the appraisal for the said deputy Sheriff, he then sold the land: My understanding was that old Wm Turner, Sr. bid off the land for his debt, which he held against old Stephen Lee. Turner conveyed the same to Noble Smith and John Fee and Smith thereafter conveyed his interest to the said John Fee. We appraised the land in the 400-acre survey and in the 50-acre survey at \$300, if I remember correctly. Philip Daniel, the other appraiser is now dead. My understanding was that Turner's debt was settled in this way.

Q. 4- State where you were reared and where you have always lived, where is old Stephen Lee at this time, if he is dead, about when did he die?

A. From the time I was 15 years old I have been reared in Harlan County on the waters of Catrons Creek and on Martins Fork and in the neighborhood of these two tracts of land. Old Stephen Lee is dead, he died not many years after the sale of this land.

Q. 5- Since the sale of the said lands by the Sheriff as above set out by you, and since the death of the said Stephen Lee, Sr., have any of the heirs of the said Stephen Lee ever claimed any part of these two tracts of land?

Ans. No that I have any knowledge of. After John Fee bought the land he claimed it; he afterwards sold it to Dudley Wilson, Jonathan Hensley, and probably to some others, I cannot give all their names and how the land was conveyed just now; any way, no one but John Fee and the persons claiming under him has claimed this land or any part of it for the last 30 years.

And further the deponent saith not.

*Attest. A.C. Sharp.*

*Lewis <sup>his</sup> Hensley*  
*mark*

The taking of these depositions is now adjourned until Monday July the 20th, 1903.

*A.C. Sharp.*

Examiner for Harlan County.

Met pursuant to adjournment this the 20th day of July, 1903.

Examiner of Harlan County.

Also the deposition of John Fee taken at the same place and at the time mentioned in the adjourning order and for purpose and in the action mentioned in the caption.

Witness duly sworn states as follows:

Q. 1- State your name, age, residence and occupation?

Ans. My name is John Fee, I am 88 years old, I reside on Catrons Creek in Harlan County, Kentucky, I am a farmer by occupation

Q. 2- Are you acquainted with the parties to this suit and with the land in controversy in this suit and did you know old Stephen Lee, Sr. in his life time? And are you the John Fee, *plaintiff*

Ans. I am acquainted with about all of the parties to this suit I am also acquainted with the land in controversy in this suit; I was acquainted with old Stephen Lee, Sr. in his life time I am the John Fee, *plaintiff* in this suit.

I am the John Fee

Q. 3- State if you were acquainted with William Turner, Sr. and with Noble Smith and with A. L. Coldiron? Where are they each at this time?

Ans. I was well acquainted with all three of the men, William Turner, Sr. and Noble Smith are both dead, A. L. Coldiron lives down at the mouth of the Poor Fork in this County.

Q. 4- In the life time of said Stephen Lee, do you know any thing about William Turner, Sr. having a debt against him and obtaining a judgment thereon and causing his land, to wit: the land in controversy in this suit mentioned and described in the petition, levied on under an execution which issued from said judgment and having said land sold to satisfy the same, if you do you will state all about the said sale, who became the purchaser of the land and to whom was it deeded, if sold at the said Sheriff's sale?

Ans. William Turner, Sr. sometime between 1850 and 1860 had a debt against old Stephen Lee, I do not remember the exact amount of the debt, but he brought a suit against old Stephen Lee and obtained a judgment against him for the amount of the debt in the Harlan Circuit Court. He had an execution to issue on the judgment and levied on all the land he owned up on Martins Fork except the land that he had sold before that and deeded away to Philip Lee and Granville Smith. The 400-acre survey was levied on and a 50-acre survey, that is all the land he owned on Martins Fork was levied on and was sold by A. L. Coldiron, who was a deputy Sheriff for A. L. Howard, I was present at the sale at Harlan Court House. This land was cried off and sold by A. L. Coldiron to the highest bidder. William Turner, Sr. bid off the land, he was the highest bidder at the price of \$102. and some cents. After he bid it off, he let me and Noble Smith have the land, that is, he sold it to us and A. L. Coldiron on the 10th day of July, 1876, made me and Noble Smith a deed of conveyance conveying the said land to us. The deed does not exactly describe the land that was sold, but all the land that Stephen Lee owned up on Martins Fork including the two surveys above named was appraised and sold at the sale and bought by William Tur -

ner, Sr. and by William Turner, Sr. sold to me and Noble Smith and at his direction the land was conveyed to us. After that and on the 30 day of January, 1877, Noble Smith made me a deed to his interest in the land, that is, he made me a deed to his one half interest in said land. The deed which A. L. Coldiron, Deputy Sheriff made to me and Noble Smith is recorded in Deed Book "G" at page 261, the deed which Noble Smith made to me for his one half interest is recorded in Deed Book "K", page 535. I deeded a part of this land to Dudley Wilson and a part to Jonathan Hensley. I have deeded away this land in both surveys and I do not claim any of it at this time and it is my desire that the parties owning it shall have a good title for it.

Q. 4- State if you know all of the heirs of old Stephen Lee Sr., and whether or not your wife was a daughter and an heir of old Stephen Lee, Sr.?

Ans. My wife whose name was Jane Lee, was a daughter of old Stephen Lee, Sr., she is now deceased. I was acquainted with all of the children of old Stephen Lee, Sr. I have heard their names read from the petition. The defendants named in the caption are the children, grand-children, great-grand-children, heirs and heirs of Stephen Lee. There were a few of the young grandchildren and some few of his great-grand-children that I could not name at this time, but their names are true and correct as read over from the petition. A great many of them are non-residents of the State of Kentucky at this time, and I do not know exactly where they all live.

Q. -5- After you bought the land and it was conveyed to you by the Deputy Sheriff did Stephen Lee Sr. in his life time or any of his heirs after his death ever set up any claim to the land or any part of it?

Ans. Neither he nor his heirs ever claimed any part of the above mentioned land that I ever knew of. After we bought it a tool a deed to it from the said Deputy Sheriff. A. L. Coldiron.



Q. 6- Please cause the boundaries which you purchased at that sale copied in this your deposition.

Ans. The boundary of the 400-acre patent is as follows:

BEGINNING on the Laurel ranch at a white oak and poplar; thence N 82 W 94 poles to a chestnut and maple; thence S 64 W 34 poles to three chestnuts; thence S 71 W 38 poles to a black gum; then South 85 W 74 poles to a poplar and cucumber; thence South 30 poles to a white oak; thence S 27 W 26 poles to a cucumber; thence S 15 W 20 poles to a sugar tree; thence S 8 E 60 poles to a sourwood; maple and white oak; thence S 55 E 22 poles to two black gums; thence S 70 E 30 poles to three chestnuts, oaks; thence S 47 E 120 poles to a stake; thence S 20 W 50 poles to a stake; thence N 85 W 200 poles to a stake; thence N 14 E 440 poles to a stake; thence East 210 poles to a stake; thence S 8 E 130 poles to the beginning.

The 50-acre patent is bounded as follows:

BEGINNING on the North side of said fork on the foot of a ridge at a black gum, beech and sourwood; thence running with the line of a 100-acre survey of Andrew Lee on the open side; S 58 W 92 poles to a white oak; thence S 54 W 58 poles to a black oak and poplar and dogwood; thence S 88 W 62 poles to a stake; then N 50 E 142 poles to a stake; thence N 68 E 91 poles to a stake; thence South 58 poles to the beginning.

Q. 7- State where the said land above described was sold, who appraised the land, if you know who appraised it and did William Turner, Sr. direct the Sheriff A. L. Coldiron in writing to convey the above lands to you and Noble Smith by deed?

Ans. It was sold at the Court house door in Harlan Town Harlan County, Kentucky, on a County Court day, I do not remember who appraised the land. I not remember exactly whether Turner directed the Sheriff in writing to make us a deed for the land, but I think that he did direct him in writing to convey it to us.

And further the deponent saith not.

*Attest, A.C. Tharp*  
State of Kentucky )  
County of Harlan )

*John Fee, Sr.*  
mark

I, A. C. Tharp, Examiner for Harlan County in the State aforesaid, do certify that that the depositions of S. F. Lee, Enos S. Howard, Louis Hensley and John Fee, Sr. were taken before me at the Law Office of W. F. Hall in the Town of Harlan, Harlan County, Kentucky on the day and date mentioned in the caption and the adjourn

-9-

ing orders; that each of said witnesses were duly sworn before giving them, that they were read to and subscribed by them in my presence and written by me in their presence. The witness and the plaintiff attorney were alone present during the taking of said depositions.

Given under my hand this the 20th day of July, 1903.

A.C. Sharp  
Examiner for Harlan County.

Fees of Examiner \$5.00

Attest. A.C. Sharp, Ex. H.C.

F. Lee, Etc., Plaintiffs.

VS JUDGMENT:

David Lee, Etc., Defendants.

*Entered*

Book 6 - 438

Aug 20 - 1909,

501

S. F. Lee, Malinda Cooper,  
Samuel Hensley, Enos, S. Howard,  
Pattie Howard, Sallie Scott  
And John Fee,.....Plaintiffs.

-VS-

JUDGMENT:

*David Fee*  
~~David Fee~~, Granville Smith,  
Elizabeth Smith, Nancy Miracle,  
Rachel Shackelford, widow, Polly  
Miracle, George Fee, Henderson Fee,  
Hiram Fee, David fee, Wash Osborn  
Polly Osborn, Abner Fee, Jr., Josephus  
Hensley, Jerusha Hensley, Silas Fee,  
Wilson Hensley, Lucretia Hensley, James  
Fee, Wash Fee, Minerva Fee, Lillie Fee,  
Gillie Fee, Bascom Fee, Ballard Fee, Charlotte Fee,  
Sallie Fee, Annie Fee, Minerva Middleton, Benjamin Howard  
Nancy Howard, James Howard, Robert Listenbee, Catherine  
Listenbee, Jasper Jones, Joicy Jones, Jasper Daniel,  
Margaret Daniel, Lucy Middleton widow, Jane Hensley,  
Hiram Fee, Jr., Boyd Fee, Sarah Kelley, William Kelly,  
James Kelley, Polly Kelly and Unknown defendants,  
Unknown heirs at law of Stephen Lee, deceased.....Defendants.

The defts. David fee, Nancy Miracle, Rachel Shackelford,  
Polly Miracle, George Fee, Henderson fee, Hiram Fee, David Fee, Abn  
Fee Jr. Josephus Hensley, Jerusha Hensley, Silas fee, Wilson Hensle  
Lucretia Hensley, James Fee, Wash Fee, Minerva Fee, Minerva Middlet  
Benjamin Howard, Nancy Howard, James Howard, Robert Listenbee, Cath  
erine Listenbee, Jasper Daniel, Margaret Daniel, Lucy Middleton, Ja  
Hensley, Hiram Fee, Jr., Boyd Fee, <sup>✓</sup> each and all being duly served  
with process in this case as required by law and defendants Granvil  
Smith, Elizabeth Smith, Wash Osborn, Polly Osborn, Jasper Jones,  
Joicy Jones, Sarah Kelly, William <sup>Kelly</sup> Polly Jane Kelley, James Kelle  
and Unknown defndants, unknown heirs at law of Stephen Lee, decd.  
each and all being before the Court by warning order made ~~and~~ more  
than 60 days before this term of the Court and the non-resident's  
atttonrye, George B. Turner, having filed his answer for the said  
non-resident defendants; and the said George B. Turner having filed  
his answer for the infant defendants as their guardian ad litem; an  
the defendants each and all as above herein set forth being now be-  
fore the Court and the defendants served with process, to wit: ~~David~~

Nancy Miracle, Rachel Shackelford, Polly Miracle, George Fee, Henderson Fee, Hiram Fee, David Fee, Abner Fee, Jr., Josephus Hensley, Jerusha Hensley, Silas Fee, Wilson Hensley, Lucretia Hensley, James Fee, Wash Fee, Minerva Fee, Minerva Middleton, Benjamin Howard, Nancy Howard, James Howard, Robert Listenbee, Catherine Listenbee, Jasper Daniel, Margaret Daniel, Lucy Middleton, Jane Hensley, Hiram Fee, Jr. and Boyd Fee, failing to answer or plead the petition is taken for confessed as against them, and this cause is now submitted for the Court's consideration, opinion and judgment upon the pleadings, proof and exhibits on file; and the Court having considered the pleadings, proof and exhibits on file and being advised is of opinion that the plaintiffs have shown themselves entitled to the relief sought, being of opinion that the two tracts of land hereinafter set out were patented to Stephen Jee, Sr. and being further of opinion that said two tracts of land were in the life time of said Stephen Jee and which he was the owner thereof levied upon by A. L. Coldiron, Deputy Sheriff for A. L. Howard, Sheriff of Harlan County, Kentucky, by an execution which issued from the Harlan Circuit Court Clerk's Office on the \_\_\_ day of \_\_\_ 1870, in the case of William Turner, Sr. plaintiff vs Stephen Jee, defendant, and that said land was levied on by said deputy Sheriff on the \_\_\_ day of May, 1870 and that on the 6th day of June, 1870, the said deputy Sheriff having caused said land duly appraised, by two disinterested house-keepers of Harlan County for the purpose of making sale thereof under said execution, and having duly advertised said lands for sale as required by law, did at the Court house on the said day, June, 6th, 1870 expose the same for sale to the highest bidder, and William Turner, Sr. being the highest and best bidder purchased said two tracts of land at the price of \$102. 50 and that said Turner duly paid off and discharged the purchase price bid for said land by him and that he, the said Turner, for a valuable consideration transferred his said bid to Noble Smith and John Fee, and that said A. L. Coldiron, Deputy Sheriff in consideration thereof conveyed the said tracts of land to the said Noble Smith

and John Fee, which deed is recorded in the Harlan County Court Clerk's office and further opinion that said Noble Smith by his deed conveyed his undivided one-half interest in said land to the said John Fee. Now the Court is further of opinion that the steps above herein set forth were taken and that the equitable title to said lands passed to the plaintiff as set forth in the petition, but the record being lost from the Clerk's office in the suit of William Turner, plaintiff vs Stephen Lee, defendant, and the deed executed by A. L. Coldiron, deputy Sheriff to John Fee and Noble Smith being defective in that said deed is not self explanatory in describing what land was sold or in setting out any of the steps taken in said sale, it is now ordered and adjudged by the Court that the plaintiffs are entitled to the relief sought, that is, they are entitled to have the legal title to said tracts of land conveyed to the plaintiff, John Fee, in order to perfect the title to said tracts of land in said John Fee that same may pass and enure to the other plaintiffs whose names are forth in the caption, it is ordered and adjudged by the Court that <sup>A.C.</sup> H. H. Howard, <sup>Special</sup> Master Commissioner forthwith and immediately prepare and report to this Court for its examination and approval a deed conveying to the plaintiff, John Fee, all the title interest and claims of the defendants herein as heirs at law of Stephen Lee, deceased, to the tracts of land hereinafter set forth, the said heirs being as follows: David Lee, Granville Smith, Elizabeth Smith, Nancy Miracle, Rachel Shackelford, widow, Polly Miracle, George Fee, Henderson Fee, Hiram Fee, David Fee, Wash Osborn, Polly Osborn, Abner Fee, Jr., Josephus Hensley, Jerusha Hensley, Silas Fee, Wilson Hensley, Lucretia Hensley James Fee, Wash Fee, Minerva Fee, Lillie Fee, Gillie Fee, Bascom Fee, Ballard Fee, Charlotte Fee, Sallie Fee, Annie Fee, Minerva Middleton, Benjamin Howard, Nancy Howard, James Howard, Eobert Listenbee, Catherine Listenbee, Jasper Jones, Joicy Jones, Jasper Daniel, Margaret Daniel, Lucy Middleton, widow, Jane Hensley, Hiram Fee, Jr. Boyd Fee, Sarah Kelley, William Kelley, James Kelley, Polly Kelley and Unknown defendants, unknown heirs at law of Stephen Lee, deceased. The said two tracts of land are described as follows:

Lying and being in the County of Harlan on the waters of Martins Fork  
First Tract:

Lying and being on the Lees Branch of Martins Fork.  
Beginning on the Laurel Branch at a white oak and poplar; thence N  
82 W 94 poles to a chestnut and a maple; thence S 64 W 34 poles to  
three chestnuts; thence S 71 W 38 poles to a black gum; thence S 85  
W 74 poles to a poplar and cucumber; thence South 30 poles to a white  
oak; thence S 27 W 26 poles to a cucumber; thence S 15 W 20 poles  
to a suagr tree; thence S 8 E 60 poles to a sourwood, maple and white  
oak; thence S 55 E 22 poles to two black gums; thence S 70 E 30 poles  
to three chestnut oaks; thence S 47 E 120 poles to a stake; thence  
S 20 W 50 poles to a stake; thence N 85 W 200 poles to a stake; thence  
N 14 E 440 poles to a stake; thence East 210 poles to a stake; thence  
S 8 E 130 poles to the beginning, containing 400 acres, more or less.

Second Tract: *Original map of the Lees Branch of Martins Fork*  
Lying and being on said Martins Fork of Cumberland

River in Harlan County, Kentucky and bounded as follows:  
BEGINNING on the North side of said fork on the foot of a ridge  
at a black gum, beech and sourwood; thence running with the lines of  
a 100-acre survey of Andrew Lee on the open side S 58 W 92 poles to  
a white oak; thence S 54 W 58 poles to a black oak and poplar and  
dogwood; thence S 88 W 62 poles to a stake; thence N 50 E 142 poles  
to a stake; thence N 68 E 91 poles to a stake; thence South 58 poles  
to the beginning, containing 50 acres, more or less.

It is adjudged that the plaintiff pay the cost of this ac-  
tion including an attorney's fee of \$\_\_\_\_\_ which is allowed George B.  
Turner attorney for the non-resident and Unknown defendants and guar-  
dian ad litem for the infant defendants herein.

Came also on this same day *AC Sharp special* H. H. Howard, Master Commission-  
er of the Harlan Circuit Court and presented a deed of conveyance from  
the above named defendants herein to John Fee for the tracts of land  
described in this judgment, which deed was examined and approved by  
the Court and so endorsed by the Judge thereof, was acknowledged by  
said Commissioner in open Court, and the said deed was ordered to be  
transmitted by the Clerk of the Harlan Circuit Court to the Clerk of  
the Harlan County Court, duly certified for record. And this cause  
is now stricken from the docket.

\*

The defendant David Lee, having filed his answer in this case setting up a claim to a 100-acre boundary of land which laps upon the boundary of land first above described in this judgment to the extent of about 20 acres, it is adjudged ~~per agreement of the parties, plaintiffs and David Lee, defendant,~~ that this judgment do not affect the issues made and to be made in the answer of David Lee, and that said judgment do not adjudge a conveyance of the title to any part of the lap of said 100-acre Patent on the said 400-acre Patent, and that said Master Commissioner's deed do not convey or attempt to convey from the defendant David Lee, any part of said lap to the plaintiffs above named.

~~It is further ordered by the Court that the~~  
~~exceptions~~ And this cause will be continued for further ad-

judication on the issues made by the answer of David Lee and subsequent pleadings to be filed.

*And on the whole case for the conveyance of the legal title to said John Lee for the land in the lap of said 100 acre patent on the said 400 acre patent*



S. F. Lee, Etc.

David Lee  
 vs) **ORDER:**  
 David Lee, et al.,  
 Plaintiffs,  
 vs.  
 S. F. Lee, et al.,  
 Defendants.

Cause No. 106  
 Judge [unclear]

That the said S. F. Lee, et al.,  
 Defendants, did unlawfully  
 and wrongfully  
 convert and  
 wrongfully  
 convert the said  
 property of the said  
 Plaintiffs, to the  
 use and benefit of  
 the said Defendants,  
 and in violation of  
 the law.

And that the said  
 Defendants, did  
 wrongfully  
 convert the said  
 property of the said  
 Plaintiffs, to the  
 use and benefit of  
 the said Defendants,  
 and in violation of  
 the law.

And that the said  
 Defendants, did  
 wrongfully  
 convert the said  
 property of the said  
 Plaintiffs, to the  
 use and benefit of  
 the said Defendants,  
 and in violation of  
 the law.

David Lee, et al.,  
 Plaintiffs,  
 vs.  
 S. F. Lee, et al.,  
 Defendants.

S. F. Lee/ Etc.,.....Plaintiffs.

-VS-

ORDER:

David Lee, Etc.....Defendants.

Came this day Gerge B. Turner attorney for the non-resident defendants, Granville Smith, Elizabeth Smith, Wash Osborn, Polly Osborn, J. Jones, Joice Jones, Sarah Kelley, W. M. Kelley, Polly Jane Kelley, Jan Kelley, James Kelley, and Unknown defendants unknown heirs at Law of Stephen Lee, decd. and filed his answer and report herein. Came also the said George B. Turner Guardian Ad Litem fr the infant defendants herein, James Fee, Wash Fee, Minerva Fee, Lillie Fee, Gillie Fee, Bascom Fee, Ballard Fee, Charlotte Fee, Sallie Fee and Anna Ethel Fee, and filed his answer as said guardian. Came also the plaintiffs and filed a general demurrer to the separate wnswr of David Lee and the same is submitted on the said demurrer.

NOT RECORDED

HARLAN CIRCUIT COURT:

S. F. Lee, Etc.,.....Plaintiffs.

-VS-

ANSWER OF GUARDIAN AD LITEM:

David Lee, Etc.,.....Defendants.

George B. Turner states that he has been appointed guardian ad litem in the above styled case to defend for and represent the interest of James Fee, Wash Fee, Minerva Fee, Lillie Fee, Gillie Fee, Bascom Fee, Ballard Fee, Charlotte Fee, Sallie Fee and Anna Ethel Fee, infant defendants named in the caption in the above styled cause. He states that he is a practicing attorney of the Harlan Circuit Court, that his said wards above named are all very young and of tender years ; that he has consulted with their father with regard to any defense they might have to the petition in the above styled cause and as he is informed there is no defense that could properly be made for them ; that he has examined the record in this case, and he sees no defense that he could make for them. He therefore denies each and every allegation in the petition that is contrary to their interest and admits as true only such allegations as would be their interest and he calls on the plaintiff for full proof establishing their claim against his said wards.

WHEREFORE, he asks the Court to fully protect their interest and guard their rights and to render such judgment in the premises as will be proper, equitable and right; he asks that his said wards be adjudged to pay no cost in the case.

*George B. Turner*  
Guardian ad litem.

S. F. Lee, Etc., Plaintiffs.

Vs) ANSWER OF GUARDIAN AD  
LITEM.

David Lee, Etc., Defendants.

Filed in my office this the  
13 day of July, 1903.

*W. H. Howard* C.H.C.C

S. F. Lee, Etc., Plaintiffs.

Vs) ANSWER OF NON-RESIDENT'S:

David Lee, Etc., Defendants.

Filed in my office this the

13 day of July, 1903.

*M. Howard* C.H.C.C.

HARLAN CIRCUIT COURT:

S. F. Lee, Etc.,.....Plaintiffs.

-VS-

ANSWER OF NON-RESIDENT'S ATTORNEY:

David Lee, Etc.,.....Defendants.

George B. Turner, states that he is a regular practicing attorney of the Harlan Circuit Court; that he has been appointed Non-resident's attorney for to correspond with and defend for the defendants, Granville, Smith, Elizabeth Smith, Wash Osborn, Polly Osborn, J. Jones, Joicy Jones, Sarah Kelley, W. M. Kelley, Polly Jane Kelley, James Kelley and unknown defts. unknown heirs at law of Stephen Lee, decd. He states that he has written to the said non-resident defts. whose P. O. address is given in the petition; but he has received no answer from the defts. or any of them; that he has carefully inspected the record in the case with a view to see whether or not there is any defense that is proper or necessary to be made on that can be made for and on behalf of the said non-resident defts. That he sees no defense that he could make that would be to their interest or benefit, he therefore denies each and evry allegation in the petition contrary to their interest and admits as true only such as are to thier interest. He calls on the plaintiffs for full and satisfactory proof establishing <sup>their</sup> ~~his~~/claim to the property described in the petition.

Wherefore, he asks the Court to fully protect the interest and rights of the said non-resident defts. and to render such judgment in the premises as is equitable and just; he asks for all proper relief.

*Geo. B. Turner*

Attorney for Non-residents.

Harlan Circuit Court.

S. H. Lee vs Plaintiffs  
vs. Demurrer.

David Lee vs Defendants

The defendant David Lee demurs to the petition herein because same does not state facts sufficient to constitute a cause of action.

H. C. Blay, Atty for  
Def David Lee

S. H. Lee vs Jeff  
vs. Order

David Lee vs Jeff

This day came defendant David Lee and produced and filed his separate answer and filed exceptions to the deposition taken herein

~~taken~~

1908.

S. L. Lee vs

Exceptions to  
Depositions

David Lee vs

Filed in open Court  
Aug. 12 1903  
M. Howard @K

Clay



Hartford Circuit Court.

S. L. Lee vs

Plaintiff

vs.

Exceptions to Depositions

David Lee vs

Defendants

Comes the defendant David Lee and excepts to the deposition of S. L. Lee Erwin S. Howard, Lewis Hensley, and John Lee taken herein at the law office of W. F. Hall on July 18<sup>th</sup> and 20<sup>th</sup> 1903 and objects to the reading of either of said depositions or any part of either, on the trial of this cause or as evidence herein, on the following grounds:

1<sup>st</sup> This defendant had no notice of the time or place of the taking of either of said depositions.

2<sup>nd</sup> Said depositions and each question and answer therein is incompetent.

3<sup>rd</sup> The witness John Lee is plaintiff in this suit and did not give his deposition until after Lewis Hensley, a witness for plaintiff, who is not a party to this action had first given his deposition herein.

H. C. Llay, Atty  
for deft David Lee

S. F. Lee, Etc/

Vs) ORDER.

David Lee, Etc.,

Exhibit

No. 6 - 438 -

Aug. 20, 1903.

S. F. Lee, Etc.,

Vs) ORDER:

David Lee, Etc.,

Exhibit

No. 6 - page 437

Aug. 20, 1903.

Handwritten notes and signatures on the right side of the second document, including a vertical list of numbers and names.

S. F. Lee, Etc.,

Plaintiffs.

-VS-

ORDER:

David Lee, Etc.,

Defendants.

---

The regular Master Commissioner H. H. Howard being absent from Harlan County, temporarily on business, it is ordered by the Court that A. C. Tharp be and he is hereby appointed this Court's Special Master Commissioner to execute a deed in the above styled cause from the defendants therein to the plaintiff, John Fee, and his appointment as such will cease upon the execution of said deed.

---

S. F. Lee, Etc.,.....Plaintiffs.

-VS-

ORDER:

David Lee, Etc.,

Defendants.

The Court having considered the defendant David Lee's demurrer to the plaintiff's petition it is ordered that the same be overruled and the Court having considered the exceptions filed by David Lee to the plaintiff's deposition taken in said cause, it is ordered that said exceptions be overruled.

*but the defendants will not be bound on the trial of the issues unless they appear and the plaintiffs*

---

S. F. Lee &c, Plffs.

Vs Dammed.

David Lee &c, Defs.

Filed in open Court  
this 13<sup>th</sup> day of Aug 1903

M. W. Howard clerk

W. F. Hall, for plffs.

S. F. Lee &c.

vs } notice.

David Lee &c.

I accept service  
of the within notice  
this the 17<sup>th</sup> day  
of July, 1903.

Geo. B. Turner  
Atty for non-misdcts.

Attest.

A. C. G. Hair

HARLAN CIRCUIT COURT

S. F. Lee, Etc.,.....Plaintiffs.

-VS)

DEMURRER:

David Lee, Etc.,.....Defendants.

The plaintiffs demur to the separate answer of David Lee because the same does not state facts sufficient to constitute a defense in this case.

WHEREFORE they pray judgment of the Court on this their demurrer.

*W. F. Hall*

Attorney for Plaintiffs.

HARLAN CIRCUIT COURT:

S. F. Lee, Etc.,.....Plaintiffs.

-VS-

NOTICE.

David Lee, Etc.,.....Defendants.

The non-resident defendants, Granville Smith, Elizabeth Smith, Wash Osborn, Polly Osborn, J. Jones, Joicy Jones, Sarah Kelley, An Kelley, Polly Jane Kelley and James Kelley and Unknown debts. by their attorney, George B. Turner, and the infant defendants, Jas. Fee, Wash Fee, Minerva Fee, Lillie Fee, Gillie Fee, Bascom Fee, Ballard Fee, Charlotte Fee, Sallie Fee and Annie Ethel Fee, by their attorney George B. Turner, will take notice that at the Law Office of W. F. Hall in the Town of Harlan, Harlan County, Kentucky, on the 18th day of July, 1903, the plaintiffs will proceed to take the depositions of witnesses to be read on behalf of the plaintiffs in the trial of the above styled cause; the taking will be continued from day to day, Sunday excepted until through. This July 17, 1903.

*W. F. Hall atty for P. Lee*