

JACOB H. LOGAN, Plaintiff, v. **EUGENE MEYER**, Agent for Vietor & Huber,
Defendant.

ARGUED APRIL 26, 1915. DECIDED MAY 10, 1915.

Dossen, C. J., Johnson and Witherspoon, JJ.

1. Where a party uses all diligence in effecting his appeal and is prevented by means beyond his control, this court will grant the necessary assistance when applied for in due time.
2. If no answer is filed the defendant is understood to deny the truth of the facts stated in the complaint and to rest on that defense only.
3. A certificate given by one party to another in a business relation is evidence to the extent of what is therein contained.
4. A certificate certifying the correctness and balance of one's account is not a promissory note, but an open admission of indebtedness and is evidence of high grade.
5. All admissions made by a party, etc., is evidence against -himself.

Mr. Justice Witherspoon delivered the opinion of the court:

Debt—Writ of Certiorari. This case was tried at the November term of the Circuit Court of the second judicial circuit, law division, Grand Bassa County, A. D. 1913.

The jury being empanelled, after deliberation had, returned a verdict entitling defendant in certiorari to recover from plaintiff in certiorari the sum of seven hundred and ninety-six dollars; upon this verdict judgment was rendered by the judge of the lower court, for the said sum with costs and interest, to which the plaintiff in certiorari being dissatisfied excepted, but before effecting his appeal, the presiding judge on account of illness left the county. Plaintiff in certiorari, therefore applied to His Honor the Chief Justice of the Supreme

Court for the issuance of the writ of certiorari commanding the judge of the lower court to forward a complete transcript of the records in the case so that this court may review said proceedings and render such decision as law and evidence may demand.

After a careful examination of the records, we find that there is but one question to be solved which will in our opinion set clear before the contending parties the law governing the case at issue.

We notice that the plaintiff in certiorari failed to file an answer to the complaint of defendant in certiorari in the court below, hence he is understood to deny the truth of the facts stated in the complaint and to rest on that defense only. (Lib. Stat., ch. V, sec. 6.)

The plaintiff in certiorari sets up in his application for the writ of certiorari and in his arguments before this court that the admission made by him in the lower court in a certain certificate certifying the correctness of his account with plaintiff below should not be allowed or admitted as evidence against him, but that the account book from which the account filed was taken, constitutes the best evidence in the case. He further attempted throughout his brief to show to the court that this certificate is a note of hand or promissory note, which reads as follows:

"Grand Bassa, June 3, 1912.

I hereby certify that my account with Messrs. Vietor & Huber balances today with an amount of \$796.00 (seven hundred ninety-six dollars) and that this amount is correct.

Jacob H. Logan.

Witness:

A. J. Preston (Stamp Actg.)"

The court fails to see any form of an obligation in the form of a note of hand or promissory note in this particular paper offered as evidence; on the other hand we find it to amount to an open voluntary admission of the defendant in certiorari of his indebtedness to plaintiff in certiorari to the amount of seven hundred and ninety-six dollars.

In our opinion there can be no better evidence offered in such cases. All admissions made by a party, etc., are evidence against himself. (Lib. Stat., ch. X, sec. 13.)

This court is of the opinion that the judgment of the lower court should be affirmed and it is so ordered.

P. J. L. Brumskine, for plaintiff in certiorari.

C. B. Dunbar, for defendant in certiorari: