

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF OREGON

THE FIRST NATIONAL BANK OF ILWACO,)
)
 Complainant,)
)
 -vs-)
)
 THE ASTORIA NATIONAL BANK, W. C.)
 CRAWLEY, RECEIVER OF THE ASTORIA)
 NATIONAL BANK, and FEDERAL RESERVE)
 BANK OF SAN FRANCISCO, CALIFORNIA,)
)
 Defendants.)

No. E-8994

SUBPOENA AND RESPONDENDUM

THE PRESIDENT OF THE UNITED STATES OF AMERICA

TO

The Astoria National Bank W. C. Crawley, Receiver of the
Astoria National Bank, and Federal Reserve Bank of San
Francisco,

GREETING:

You, and each of you, are hereby commanded that you be and appear in said District Court of the United States, for the District of Oregon, at the Court room thereof, in the City of Portland, in said District, to answer the exigency of a Bill of Complaint exhibited and filed against you in our said Court, wherein

The First National Bank of Ilwaco is

complainant, and you are defendants, and further to do and receive what our said District Court shall consider in this behalf, and this you are in nowise to omit under the pains and penalties of what may befall thereon.

And this is to command you, the marshall of said District, or your Deputy, to make due service of this our Writ of Subpoena, and to make due return of the same with your proceedings thereon into this Court within twenty days from this date.

Hereof fail not.

WITNESS, the Honorable Robert S. Bean and the
Honorable John H. McNary
Judges of said court, and the Seal thereof
affixed at Portland, in said District, this
26th day of September, 1928

G. H. Marsh Clerk

(SEAL)

By F. L. Buck,
Chief Deputy Clerk

A TRUE COPY
G. H. MARSH, Clerk By:

F. L. Buck, Chief Deputy Clerk.

MEMORANDUM, pursuant to Equity Rule No. 12 of the Supreme Court of the United States:

The defendant is required to file his answer or other defense in the clerk's office on or before the twentieth day after service, excluding the day thereof; otherwise the bill may be taken pro confesso.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF OREGON

THE FIRST NATIONAL BANK OF ILWACO,)
)
Plaintiff,)
)
vs.)
)
THE ASTORIA NATIONAL BANK, W. C.)
CRAWLEY, Receiver of the Astoria)
National Bank, and FEDERAL RESERVE)
BANK OF SAN FRANCISCO, CALIFORNIA,)
)
Defendants.)

No. _____

C O M P L A I N T

Comes now the plaintiff, and for cause of suit against the defendants,
and each of them, alleges:

I.

The plaintiff is, and was at all times hereinafter mentioned, a national banking corporation, incorporated, organized and existing under and by virtue of an Act of Congress known and designated as The National Banking Act, and having its principal office and place of business at Ilwaco, Washington.

II.

The defendant Astoria National Bank is, and was at all times hereinafter mentioned, a national banking corporation, incorporated, organized and existing under and by virtue of an Act of Congress known and designated as The National Banking Act, and having its principal office and place of business at Astoria, Oregon.

III.

That the defendant Federal Reserve Bank of San Francisco, California, is, and was at all times hereinafter mentioned, a national banking corporation, incorporated, organized and existing under and by virtue of an Act of Congress

known and designated as the Federal Reserve Act, and having its principal office and place of business at San Francisco, California, having a branch office and place of business in Portland, Oregon.

IV.

That the defendant W. C. Crawley has been heretofore appointed by the United States Comptroller of Currency, the receiver of defendant Astoria National Bank, has duly qualified, and is now acting as such receiver.

V.

That on February 17th, 1928, the plaintiff had on deposit with defendant Astoria National Bank, subject to check, draft or order for payment, a sum in excess of Three Thousand (\$3,000.00) Dollars.

VI.

That on February 17th, 1928, the plaintiff forwarded to the United States National Bank of Portland, Oregon, for collection and credit, its draft on defendant Astoria National Bank, in the sum of \$3,000.00, against the funds of the plaintiff on deposit in said Astoria National Bank; that immediately upon receipt of said draft and prior to the 21st day of February, 1928, the United States National Bank of Portland, Oregon, deposited said draft with other drafts and orders for the payment of money, with the Portland Branch of defendant Federal Reserve Bank of San Francisco, California, and defendant Federal Reserve Bank of San Francisco, California, by and through its said Portland Branch, forwarded the drafts so deposited with it by the United States National Bank of Portland, Oregon, to defendant Astoria National Bank, for collection, and said drafts were received by defendant Astoria National Bank prior to the close of banking hours on February 21st, 1928.

VII.

That on February 21st, 1928, defendant Astoria National Bank had funds on deposit to its credit with the Portland Branch of defendant Federal Reserve Bank of San Francisco, California, subject to check, draft or order for payment, in excess of the sum of \$3,000.00, represented by the draft of the plaintiff herein-

above described, and in excess of the total amount of the drafts forwarded for collection to said Astoria National Bank by said Portland Branch of the Federal Reserve Bank of San Francisco, California.

VIII.

That defendant Astoria National Bank continued to transact its usual and ordinary banking business up to the close of banking hours on February 21st, 1928, in the usual and ordinary manner; that it was, and had been at all times prior to February 21st, 1928, the usual and established custom of business and dealings between defendant Astoria National Bank and defendant Federal Reserve Bank of San Francisco, California, and the Portland Branch thereof, that charges should be made by said Federal Reserve Bank against funds of defendant Astoria National Bank on deposit with said Federal Reserve Bank in accordance with written instructions of the Astoria National Bank forwarded by United States mail to the Portland Branch of Federal Reserve Bank of San Francisco, California, upon printed blanks provided by the Federal Reserve Bank for that purpose.

IX.

That on February 21st, 1928, before the close of banking hours on said date, defendant Astoria National Bank paid plaintiff's said draft for \$3,000.00 by forwarding to the Portland Branch of defendant Federal Reserve Bank of San Francisco, California, by United States mail, its written order that said draft, with other drafts therein specified, should be charged to the account of said Astoria National Bank, and by expressly authorizing defendant Federal Reserve Bank to make such charge against said account, and said draft was thereupon, and before the close of banking hours on said February 21st, 1928, duly marked "paid" by defendant Astoria National Bank, and was thereafter returned to the plaintiff, with statement of plaintiff's account, as voucher and evidence of such payment.

X.

That February 22nd, 1928, was a legal holiday, and the written authorization and letter of instructions from defendant Astoria National Bank to the Portland

Branch of defendant Federal Reserve Bank of San Francisco, California, was not delivered until the morning of February 23rd, 1928; that on February 23rd, 1928, defendant Astoria National Bank failed to open its doors or transact business, and thereafter W. C. Crawley was appointed receiver thereof by the United States Comptroller of Currency, and forthwith took possession of said bank.

XI.

That the plaintiff has made demand upon the defendants W. C. Crawley, as receiver of defendant Astoria National Bank, and upon the Portland Branch of defendant Federal Reserve Bank, for payment of said draft, but that the defendants, and each of them, have wholly refused, failed and neglected to pay the same.

XII.

That defendant Federal Reserve Bank of San Francisco, California, has refused to charge, in accordance with the written instructions and authorization of February 21st, 1922, from defendant Astoria National Bank, against the funds of Astoria National Bank on deposit with it, the amount of plaintiff's draft in the sum of \$3,000.00 hereinabove described, and has charged the same back against the United States National Bank, and that the plaintiff has been compelled to reimburse said United States National Bank with the amount thereof.

XIII.

That plaintiff has no plain, speedy or adequate remedy at law.

WHEREFORE, plaintiff prays that the funds of defendant Astoria National Bank and W. C. Crawley, as receiver of defendant Astoria National Bank, on deposit with the Portland Branch of defendant Federal Reserve Bank of San Francisco, California, be charged with the sum of Three Thousand (\$3,000.00) Dollars, and defendant Federal Reserve Bank of San Francisco, California be ordered and directed to remit the sum of \$3,000.00 so charged to the plaintiff, and that the plaintiff have such other and further relief as to the court shall seem equitable in the premises.

JOHN K. KOLLOCK
Attorney for Plaintiff.

STATE OF WASHINGTON)
) ss.
COUNTY OF PACIFIC)

I, S. C. LOCHRIE, being first duly sworn, depose and say that I am the president of The First National Bank of Ilwaco, plaintiff in the above entitled suit; and that the foregoing complaint is true as I verily believe.

S. C. Lochrie

Subscribed and sworn to before me this 20th day of September 1928.

NORMAN A. HOWERTON
Notary Public for the state of
Washington
My commission expires 2/27/31

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

I, the undersigned, attorney for plaintiff do hereby certify that I have prepared the foregoing copy of complaint and have carefully compared the same with the original thereof; that it is a correct transcript therefrom and of the whole thereof.

Portland, Oregon, dated the 25th day of September 1928.

JOHN K. KOLLOCK