

State of Kansas vs. Knights of the Ku Klux Klan

Section 7, Pages 181 - 210

Kansas Supreme Court case number 24.729 demonstrates how the State of Kansas as the plaintiff was represented by Charles B. Griffith attempted to eliminate the Ku Klux Klan as the defendant from Kansas. The State of Kansas claimed the Klan was a foreign corporation doing business in the state without permission under Kansas foreign corporation laws and was therefore breaking state law.

Creator: Kansas Supreme Court

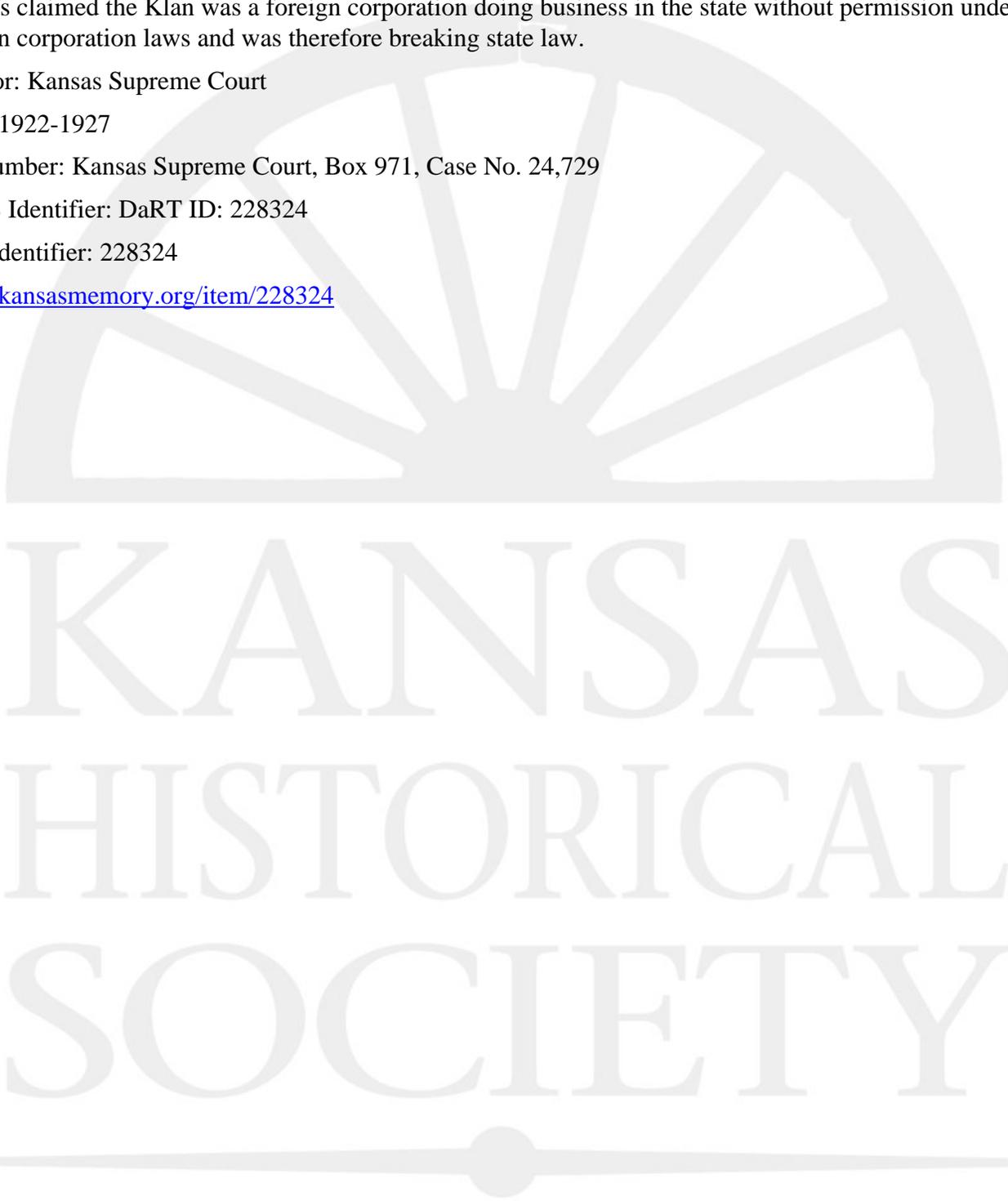
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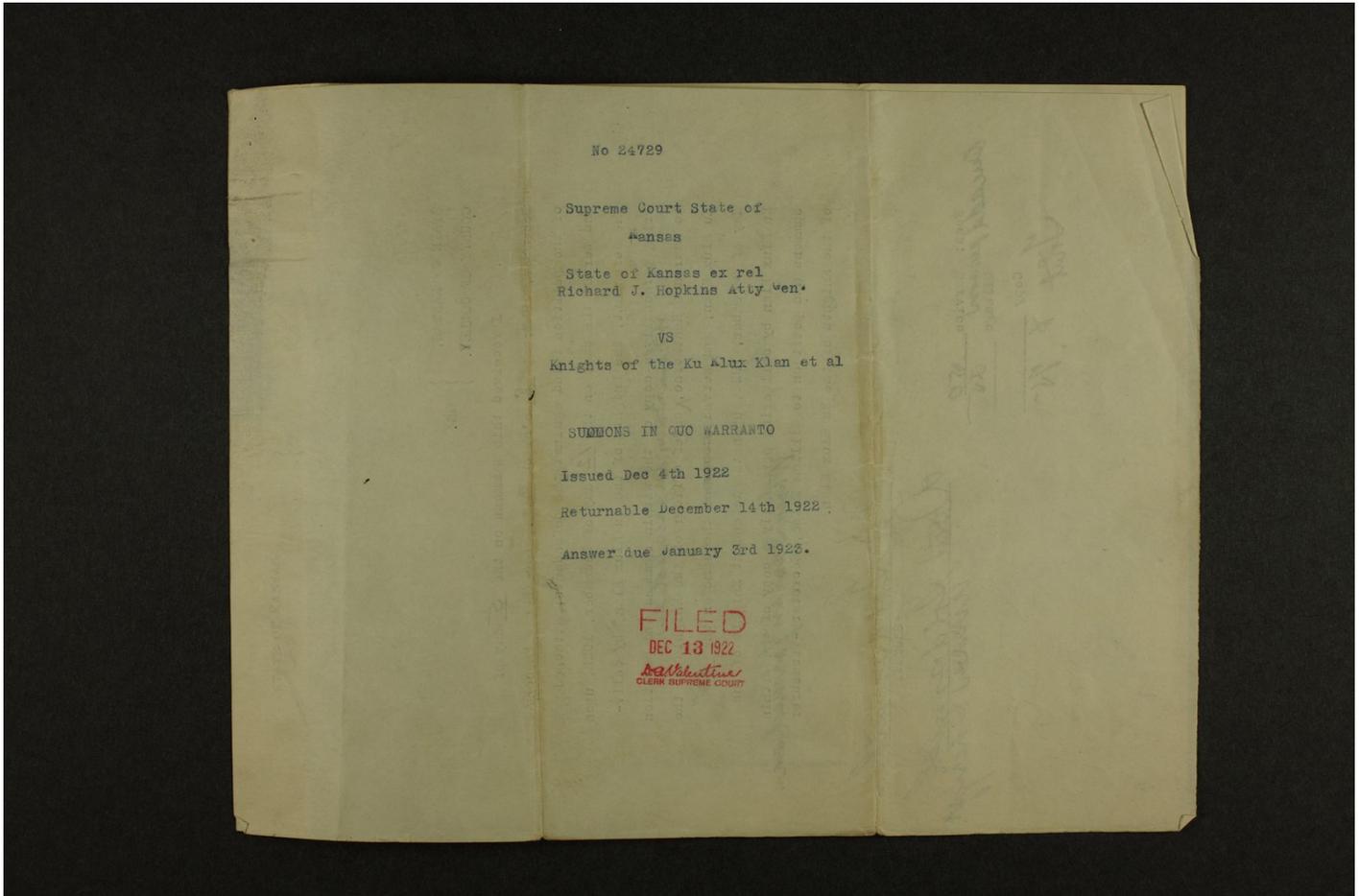
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State of Kansas vs. Knights of the Ku Klux Klan



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AMENDED SHERIFF'S RETURN.

STATE OF KANSAS,)
) SS.
COUNTY OF COWLEY.)

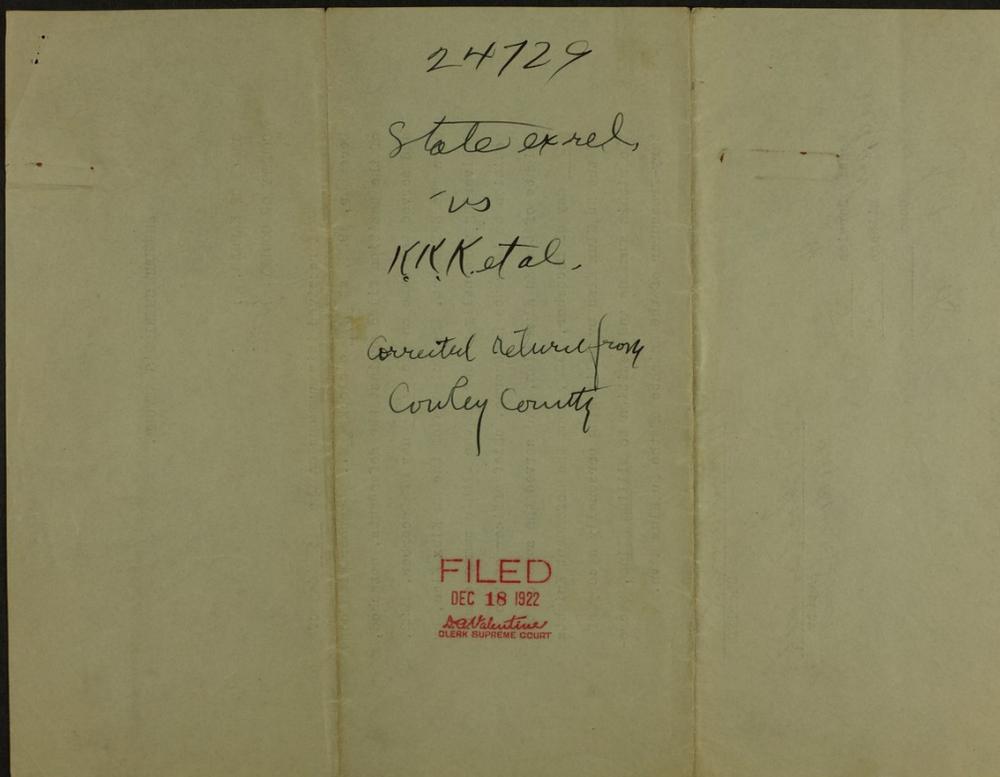
I received this summons on the 5 day of December, 1922, at 8 o'clock A.M., together with copy of the petition filed against the defendants, attached, and served the same on the 12th day of December, 1922, upon the defendant, the Knights of the Ku Klux Klan, by delivering personally a copy of the within summons and petition to Lawrence Henthorne, chief officer of the Knights of the Ku Klux Klan, and served the same on the 12th day of December, 1922, upon the defendant Knights of the Ku Klux Klan by delivering personally a copy of the within summons and petition to William Milne, Secretary-Treasurer of the Knights of the Ku Klux Klan.

C. H. Anderson
Sheriff

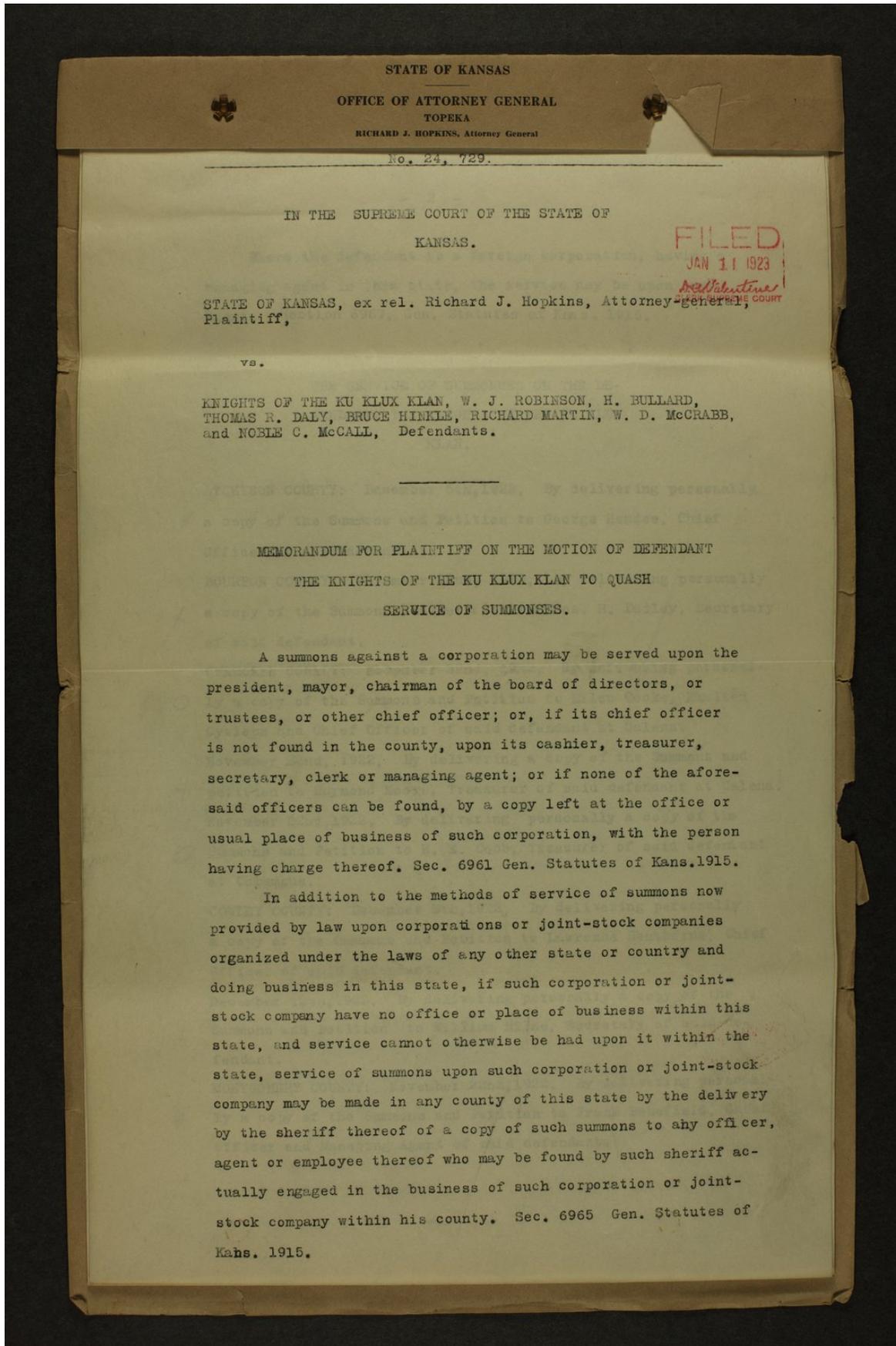
Paul Anderson
Deputy
Under Sheriff

Fees: Service 50
Mileage 25
Copy _____
Total 75

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Where the defendant is a foreign corporation, having a managing agent in this state, the service may be upon such agent. Section 6967, Gen. Statutes of Kans. 1915.

THE SERVICE OF SUMMONSES ON THE DEFENDANT, THE KNIGHTS OF THE KU KLUX KLAN.

ATCHISON COUNTY: December 5th, 1922, By delivering personally
+ a copy of the Summons and Petition to George Hendee, Chief Officer of said defendant.

BOURBON COUNTY: November 22nd, 1922, By delivering personally
+ a copy of the Summons and Petition to Thos. R. Dailey, Secretary of said defendant.

CHEROKEE COUNTY: November 22nd, 1922, By delivering personally
o ly a copy of the Summons and Petition to Miles Cooke, Exalted Cyclops and Chief Officer of said defendant at Galena.

November 22nd, 1922, By delivering a copy of the Summons and
+ petition to Raymond Moore, Treasurer of said defendant at Galena.

November 22nd, 1922, By delivering personally a copy of the
o Summons and Petition to H. E. Cobb, Treasurer of said defendant at Columbus.

COWLEY COUNTY: December 5th, 1922, By delivering personally
+ a copy of the Summons and Petition to Lawrence Henthorne, Chief Officer of said defendant.

December 12th, 1922, By delivering personally a copy of the
+ Summons and Petition to William Milne, Secretary of said defendant.

MONTGOMERY COUNTY: November 22nd, 1922, By delivering personally
+ ly a copy of the Summons and Petition to Frank Benefield, Chief Officer and Managing Agent of said defendant.

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November 30th, 1922, By delivering a copy of the Summons and
○ Petition to George West, Secretary of said defendant at Coffeyville.

November 23rd, 1922, By delivering personally a copy of the
○ Summons and Petition to Bruce Hinkle, Exalted Cyclops and Chief Officer of said defendant at Coffeyville. (*Liberty*)

November 23rd, 1922, By delivering personally a copy of the
○ Summons and Petition to W. D. McCrabb, Secretary of said defendant at Coffeyville.

SEDGWICK COUNTY: November 22nd, 1922, By delivering a copy of the
+ Summons and Petition, personally, to Ellis Cookson, Treasurer of said defendant.

Hoyt Andrews, Exalted Cyclops and Chief Officer, not found in Sedgwick County.

MEMORANDUM OF SERVICE UPON INDIVIDUAL DEFENDANTS IN THE
CASE AGAINST THE KNIGHTS OF THE KU KLUX KLAN, ET AL.

BOURBON COUNTY: November 22nd, 1922, By delivering personally a copy of the Summons and Petition to Thomas R. Dailey.

December 1st, 1922 ~~December 1st, 1922~~, On the defendant, H. Bullard, by leaving a copy of the Summons and Petition at his usual place of residence in Bourbon County, Kansas.

COWLEY COUNTY: November 23rd, 1922, By delivering personally a copy of the Summons and Petition to Noble C. McCall.

November 25th, 1922, On the defendant, W. J. Robinson, by leaving a copy of the Summons and Petition at his usual place of residence.

MONTGOMERY COUNTY: November 23rd, 1922, By delivering personally a copy of the Summons and Petition to Bruce Hinkle.

November 23rd, 1922, By delivering personally a copy of the Summons and Petition to W. D. McCrabb.

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EVIDENCE TO OVERTURN THE RETURN OF THE SHERIFF OF SERVICE
OF THE SUMMONS SHOULD BE DETAILED, CLEAR AND CONVINCING.

"We have made this reference to that case, not for the purpose of deciding that the return of the sheriff's is not open to question in matters of his personal knowledge, but to prevent any misunderstanding as to the extent of that decision. A second reason why we think that case not authority for reversing, but rather for affirming, the ruling, is, that the question, in whatever cases it may arise, is one of evidence. There the district court found from the evidence against the return, and set it aside. We affirmed its findings upon the evidence. Here it finds in favor of the return, and upon that question of fact we must sustain its findings. Looking at it in the light of the evidence, and the ruling of the court cannot be disturbed. On the one hand it is the return of the sheriff, a disinterested party, and a sworn officer, which, if not conclusive, is the strongest kind of evidence. On the other, the denial of one witness, Mrs. Starkweather, corroborated to some extent by the testimony of her husband, both interested witnesses. The sheriff might on the 27th have given the two copies to Mr. Starkweather, and then on the 28th given one to Mrs. S., so that Mr. S.'s testimony only partially corroborates. At any rate, there is not enough testimony adverse to the return of the officer to warrant us in reversing the ruling of the district court, and it must be affirmed."

Starkweather v. Morgan, 15 Kans. 274, 276, 277.

"Under all the authorities, the proof required to controvert a sheriff's return must be clear and convincing."

Goddard v. Harbour, 56 Kans. 744, 749.

"It will be observed that the affidavit of Mr. Freeman on the question of agency is very general in terms. The specific statement is: 'But affiant avers that said W. Kinney was not at the time of such pretended service, had never theretofore been, and is not now, an officer or agent of said company'. This is but the statement of Mr. Freeman's conclusion. It is not a detailed statement of what Kinney's duties to the corporation were. The court was not given the facts as Mr. Freeman understood them, from which it could have arrived at a conclusion; instead of doing this the affiant gave his conclusion, and he may have believed that Kinney was not, as he expressed it, the 'agent of said company'. He may have believed that it required the appointment of the board of directors to constitute Kinney a managing agent of the company, and being secretary he knew this had never been done. The affidavit of Smith was a detailed statement of the acts performed by Kinney for the company, from which the court below concluded that Kinney was the managing agent of the company, within the meaning of the section of the statute authorizing the service of summons on a managing agent of a foreign corporation, and in this we think the court was correct."

Federal Betterment Company vs. Reeves, 73 Kans. 107, 114,
115.

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"In the affidavit in support of the motion attacking the service it was stated that at the time the copy of the summons was delivered to him Yager was not the managing agent of the defendant. This statement, however, must from the context be interpreted as a mere conclusion of law--an interpretation of the consequences deemed to follow from the president's proclamation. It is fairly to be assumed that if any other basis existed for challenging his capacity--for instance if the matter were affected by some subsequent order of the postmaster-general--the facts in that respect would have been specifically stated. We conclude that the motion to set aside the service was properly overruled."

Brackville vs. Telephone Company, 107 Kans. 130, 133.

"Upon grounds of public policy, the return of the officer, even though not regarded as conclusive, should be deemed strong evidence of the facts as to which the law requires him to certify, and should be ordinarily upheld, unless opposed by clear and satisfactory proof."

Jensen v. Crevier, 33 Minn. 372, 373; 23 N. W. 541.

"If the service was made by Mr. Bakke as stated in the original affidavit of service and further explained in his second affidavit, filed in opposition to the motion, then clearly there was a good service. There is no contradiction of these affidavits, except the following generalization in the defendant's affidavit: 'Affiant further deposes and says that no personal summons and complaint was ever made upon him, and that he had no knowledge of the pendency of this action until the above-described notice was received'. The notice referred to was one mailed to defendant by plaintiff's attorney a few days before the date of defendant's affidavit.

"Such a general statement is evasive and wholly insufficient to prove that the affidavit of service was false. The defendant contents himself with stating his conclusion that there had been no personal service. His ideas of what constitutes such service may be utterly erroneous. He does not state the evidentiary facts upon which he bases his denial of service, and he does not attempt to explain or deny the facts and circumstances sworn to by Mr. Bakke."

Marin v. Potter, 15 N. D. 284, 286; 107 N. W. 970.

In some courts, the practice in contesting the return of a sheriff upon a summons is that a plea shall be filed and evidence taken under the plea, and the matter is not considered on affidavits.

Sherill v. Railway Company, 161 Mich. 495; 126 N.W. 830.

Workingmen's Mutual Protective Association v. Swanson,
43 Ind. Ap. 379; 87 N. E. 688.

That is the rule also, in New Jersey, and we quote from the opinion in the following New Jersey case on that point:

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"As was pointed out by the Supreme Court, in Baldwin v. Flagg, 43 N. J. L. 495, the proper practice to support motions (or, rather, as they should be, rules) of this character in courts of law, is by depositions taken under rule, or in accordance with the rules of the Supreme Court, and not by ex parte affidavits, as was done in this case. If depositions had been taken in this case, doubtless cross-examination would have sifted out and developed facts which would have enabled the court to say with much more certainty than is now possible whether there was or was not such an actual change of residence when the son went away to college as to deprive his father's residence, even while the son was actually there on vacation, of the character of the latter's "usual place of abode" within the meaning of the act of assembly. Under the ex parte affidavits, however, consisting as they did largely of conclusions resulting from facts rather than a statement of the facts themselves, the Supreme Court was unable to say with any certainty that the writ had not been properly "served". Upon the denial of the motion the son filed his answer to the complaint, in which he set up a defence on the merits, and while he protested against the legality of the service of the summons upon him and alleged facts to show that the alleged service was in fact no service at all, he went to trial on the merits and did not offer any proof of the facts upon which he relied to attack the legality of the service. Under these circumstances, we think he is in no position to ask a reversal of the judgment against him at the hands of this court on the ground that he has not been properly served with process."

Missell v. Hayes, 86 N. J. L., 348, 351, 352; 91 Atl. 322.

~~Allegations in a verified petition which are mere conclusions of law, although they might be sufficient as allegations are incompetent as testimony.~~

State vs. the Missouri Kansas & Texas Ry. Co. 77 Kans.774.

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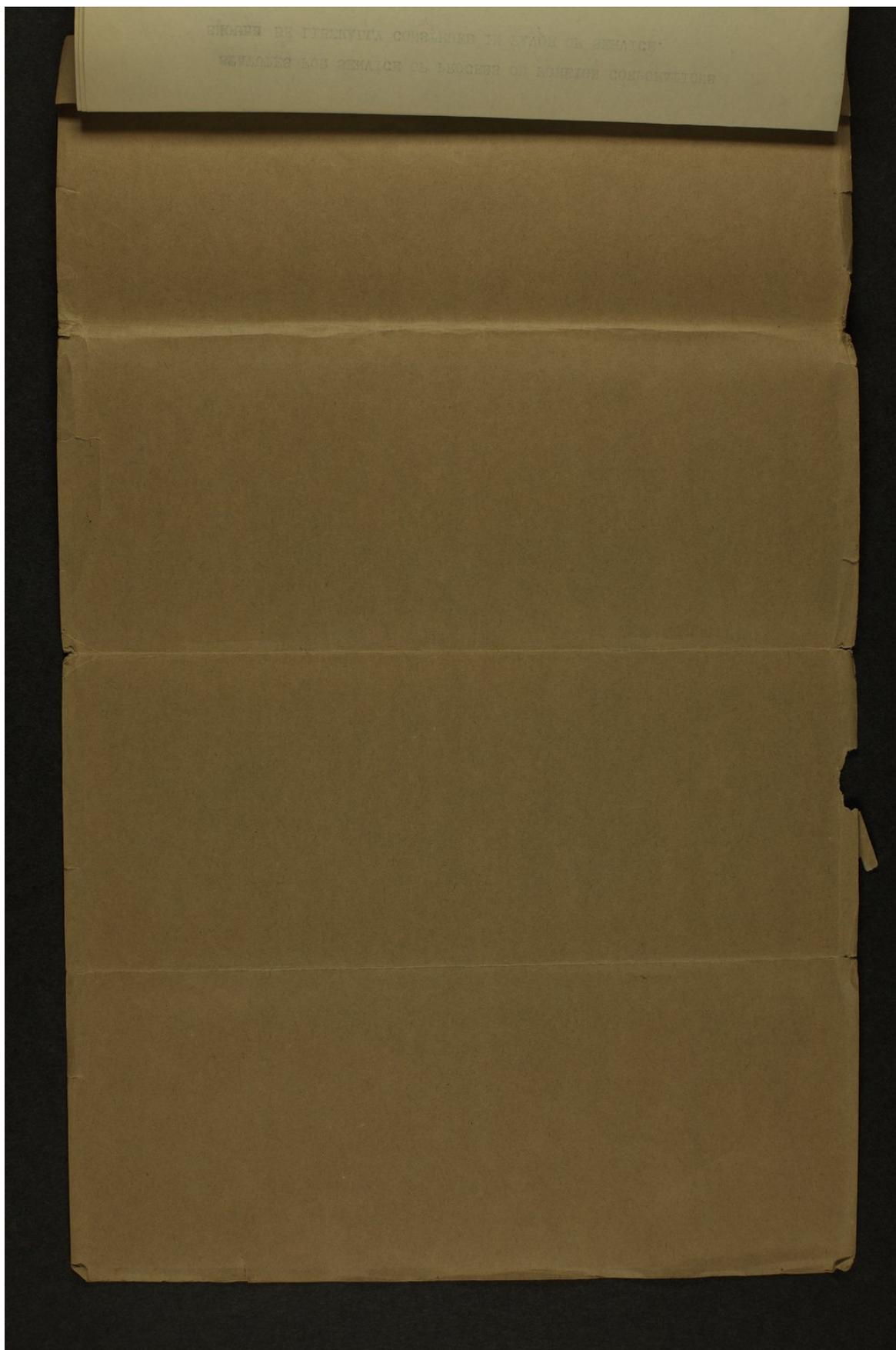
STATUTES FOR SERVICE OF PROCESS ON FOREIGN CORPORATIONS
SHOULD BE LIBERALLY CONSTRUED IN FAVOR OF SERVICE.

"Statutes which provide for service of process on foreign corporations should be liberally construed for the accomplishment of the purpose intended, namely, that of bringing such persons into court. They are permitted to enter the state by comity only, and in the methods of subjecting them to the jurisdiction of the courts they cannot insist upon a technical or strict construction in their favor. If, therefore, the non-resident defendant corporation had a managing agent in the county of Neosho, where the action was brought, service could have been had on the corporation by serving the summons on such managing agent in that county. The question then is, Was W. Kinney the managing agent of the defendant? This is a question of fact, and it must be determined from the affidavits of Freeman and Smith."

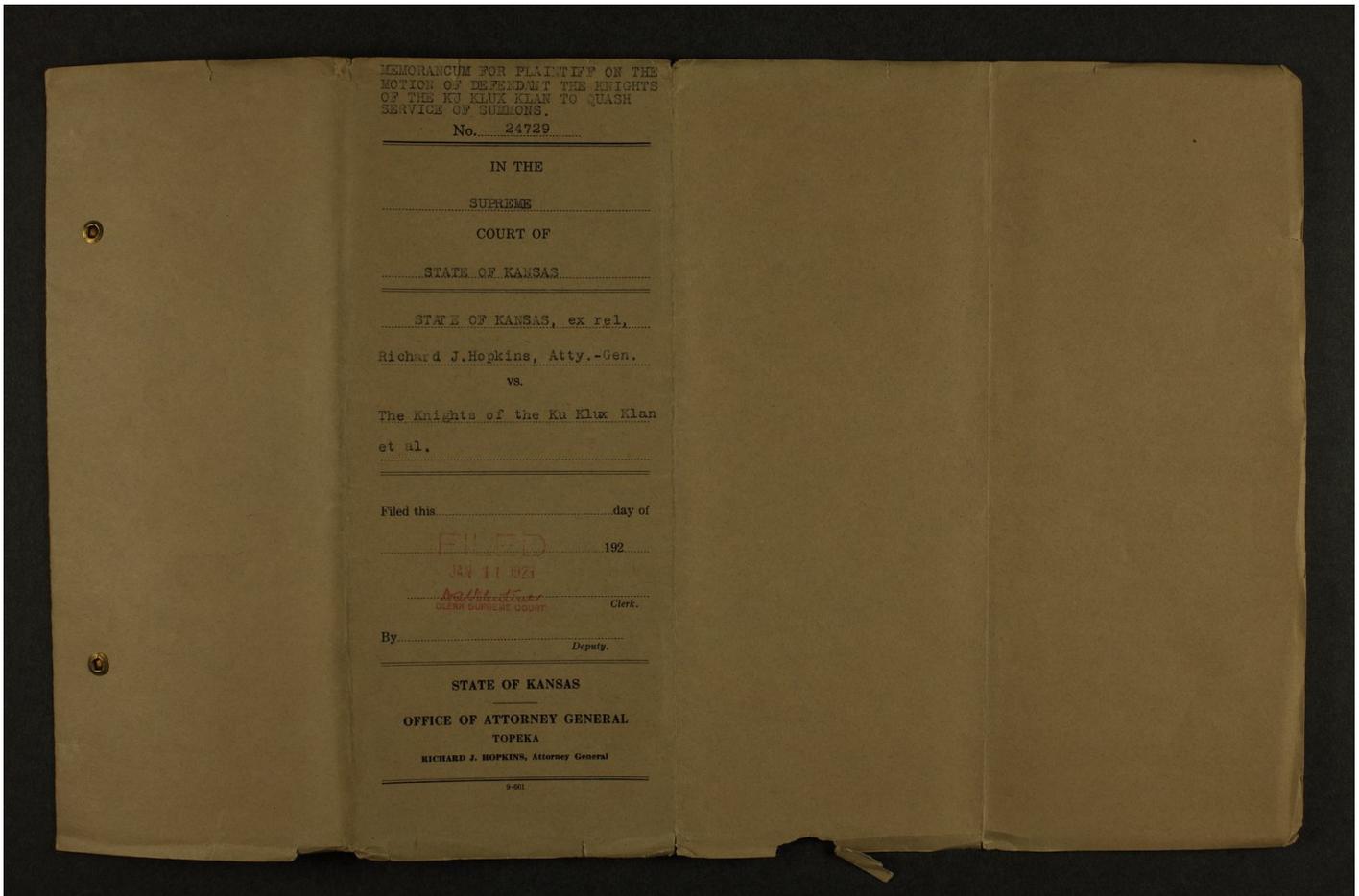
Federal Betterment Company v. Reeves, 73 Kans. 107,
114.

Charles B. Griffith
John S. Egan
Russell Wadley
Attys for Plff

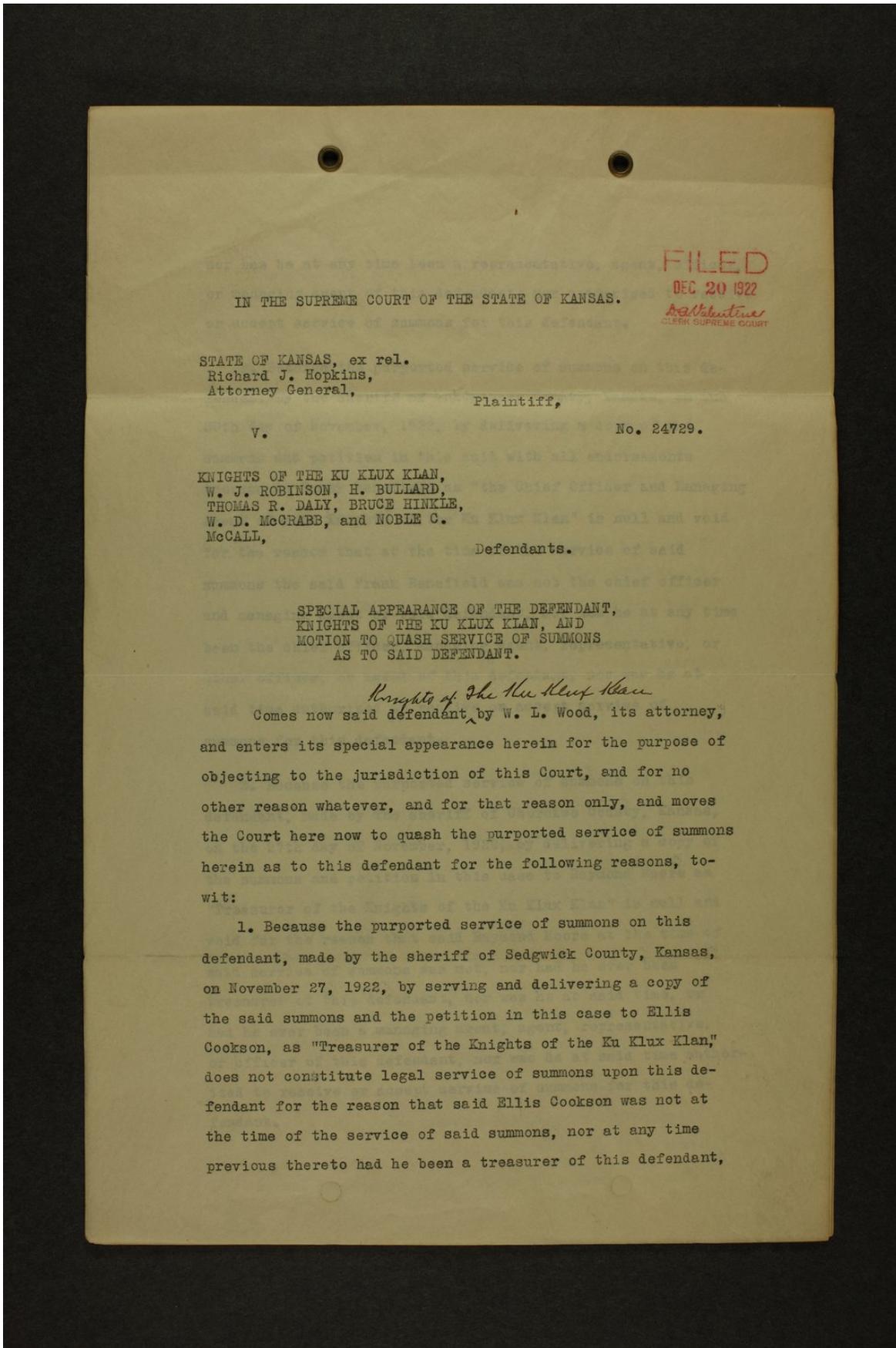
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nor has he at any time been a representative, agent, officer, or managing agent of this defendant, nor authorized to receive or accept service of summons for this defendant.

2. Because the purported service of summons on this defendant by the sheriff of Montgomery County, Kansas, on the 30th day of November, 1922, by delivering a copy of the summons and petition in this suit with all endorsements thereon to Frank Benefield as "the Chief Officer and Managing Agent of said Knights of the Ku Klux Klan" is null and void for the reason that at the time of the service of said summons the said Frank Benefield was not the chief officer and managing agent of this defendant, nor has he at any time been the chief officer, managing agent, representative, or other officer, or agent of this defendant, nor was he at said time authorized to receive or accept service of summons for this defendant.

3. Because the purported service of summons on this defendant, made by the sheriff of Cherokee County, Kansas, on the 27th day of November, 1922, by delivering a copy of the summons and petition in this case to Raymond Moore as "Treasurer of the Knights of the Ku Klux Klan" is null and void for the reason that said Raymond Moore at the time of said service of summons was not, nor had he ever been treasurer of this defendant, nor was he at said time, or had he ever been a managing agent, agent, representative, or officer of this defendant, nor was he at said time authorized to receive or accept service of summons for this defendant.

in this case, made by the sheriff of Bourbon County, on the 21st day of November, 1922, by delivering a copy of the summons and petition in this case to Thomas B.

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of service of process of summons for this defendant.
of summons of process of this defendant, nor authorized to receive
nor was he or she ever seen to receive or accept service of process.

4. Because the purported service of summons upon this defendant by the sheriff of Cowley County, Kansas, by delivering a copy of said summons and the petition in this case to Lawrence Henthorne as "Chief Officer of the Knights of the Ku Klux Klan," and by delivering a copy of said summons and petition to William Milne as "Secretary-Treasurer of the Knights of the Ku Klux Klan" is null and void for the reason that at the time of the service of said summons said Lawrence Henthorne was not the chief officer of this defendant, nor was the said William Milne secretary-treasurer of this defendant, nor were said individuals, or either of them, at the time of the service of said summons, or at any other time a general agent, agent, representative, or officer of this defendant, nor authorized to receive or accept service of summons for this defendant.

5. Because the purported service of summons on this defendant by the sheriff of Cowley County, Kansas, on the 23rd day of November, 1922, by delivering to Noble C. McCall and W. J. Robinson copy of the summons and petition in this case is null and void as against this defendant for the reason that neither of said individuals at the time of the service of said summons and petition, or at any other time was an officer, agent, representative, or managing agent of this defendant, nor was either of them at said time authorized to receive or accept service of summons for this defendant.

6. Because the purported service of summons on this defendant in this case, made by the sheriff of Bourbon County, on the 23rd day of November, 1922, by delivering a copy of the summons and petition in this case to Thomas R.

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Daly as "Secretary of the Knights of the Ku Klux Klan" and upon H. Bullard is null and void as to this defendant for the reason that neither of said individuals was at the time of the service of said summons, or at any other time, secretary of this defendant, nor a representative, agent, officer, or managing agent of this defendant, nor was either of them at said time authorized to receive or accept service of summons for this defendant.

7. Because the purported service of summons on this defendant by the sheriff of Atchison County, Kansas, on the 5th day of December, 1922, by delivering a copy of the summons and petition in this case to George Hendee as "Chief Officer of the Knights of the Ku Klux Klan" is null and void as to this defendant, because said George Hendee was not at the time of the service of said summons upon him, nor had he ever been chief officer of this defendant, nor an agent, representative, officer, or general agent of this defendant, nor was he authorized at said time to receive or accept service of summons for this defendant.

W. L. Wool
Attorney for said Defendant.

STATE OF KANSAS,)
COUNTY OF SHAWNEE) ss.

George C. McCarron, being duly sworn, on his oath deposes and says that he is the Agent of the defendant, Knights of the Ku Klux Klan, above mentioned, and that he has read the allegations of fact contained in the foregoing motion, and that said allegations are true.

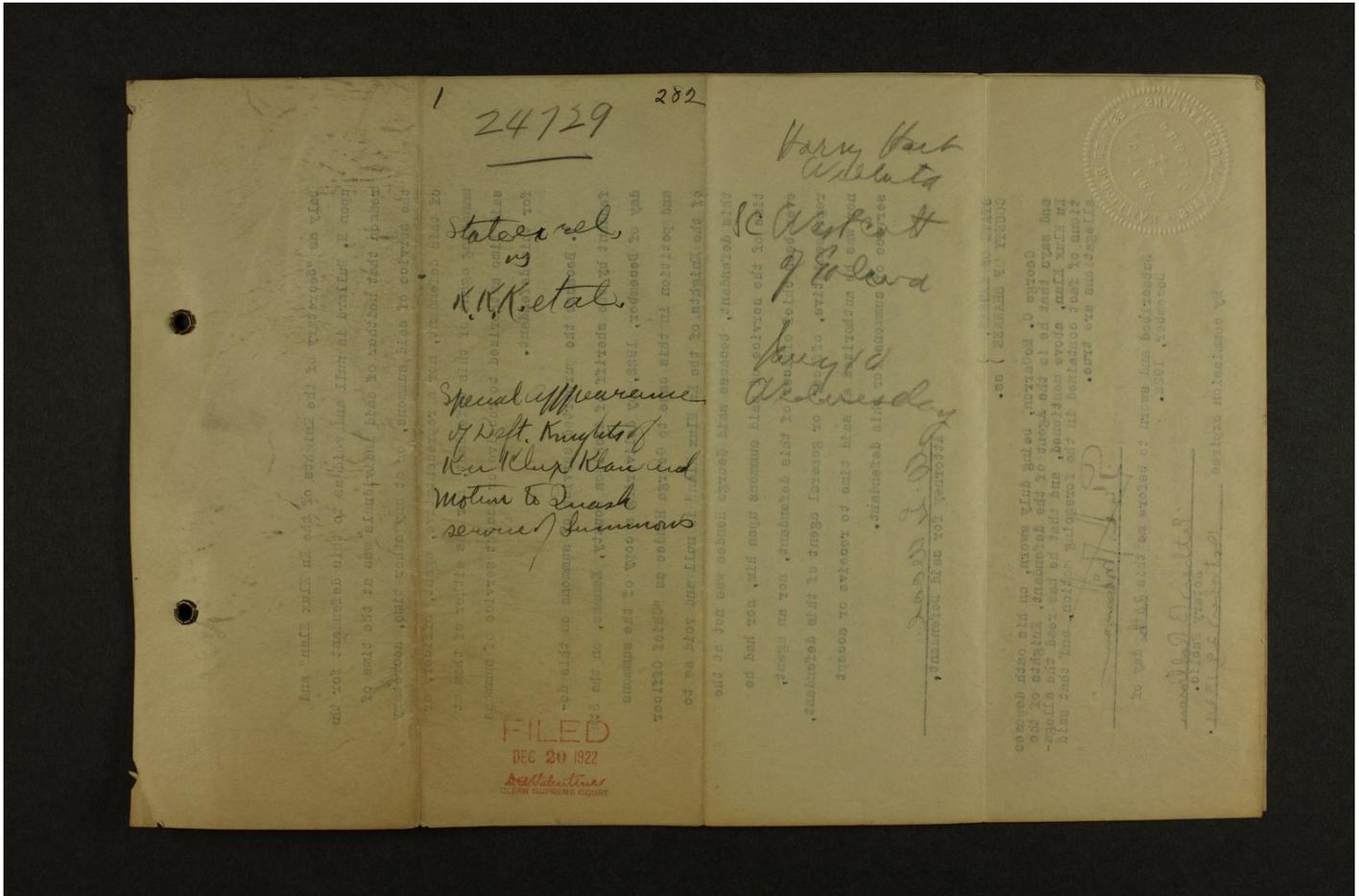
George C. McCarron
Subscribed and sworn to before me this 20th day of
December, 1922.

My commission expires

Ethel B. Rollman
Notary Public.

October 29, 1924.

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IN THE SUPREME COURT OF THE STATE OF KANSAS.

THE STATE OF KANSAS, EX REL.
RICHARD J. HOPKINS, ATTORNEY
GENERAL,

Plaintiff,

v.

No. 24729.

THE KNIGHTS OF THE KU KLUX KLAN,
W. J. ROBINSON, H. BULLARD,
THOMAS R. DALY, BRUCE HINKLE,
W. D. McCRABB and NOBLE C.
McCALL,

Defendants.

B R I E F .

SERVICE OF SUMMONS ON FOREIGN CORPORATIONS.

I.

A corporation is a citizen of the state granting its charter, and, as a general rule, cannot be sued in an action in personam in the courts of another state without its consent. The rule is well stated by the Supreme Court of this state as follows:

"By the rules of comity between states, corporations chartered in one of them may be admitted to do business in the others, but unless so admitted they are not subject in personam to the jurisdiction of the courts outside the domicile of their creation." *Life Association v. Boyer*, 62 Kansas 31; 106 Kansas 574.

The defendant, Knights of the Ku Klux Klan, has not been admitted to do business in Kansas, and has not consented to be sued in this state. Not being organized or operated for pecuniary profit, and not doing business for pay, it is exempt under Section 2176, General Statutes of Kansas 1915, from the requirements of the laws of Kansas relative to

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foreign corporations other than those mentioned in Section 2176 supra.

II.

If a foreign corporation which by the laws of our state is required to take out a certificate of authority before commencing business here should, nevertheless, engage in the transaction of business in this state, or if a foreign corporation exempt under the provisions of Section 2176 from the statutory requirements relative to the transaction of business by foreign corporations within the state should engage in business in the state, such foreign corporation could, of course, be sued here and brought within the jurisdiction of our courts, provided legal service of summons could be had upon them within this state. The business transacted, however, would, in order to subject the foreign corporation to the jurisdiction of our courts, have to be of such character as would constitute in legal parlance "doing business in the state". Whether a corporation is doing business in the state, so as to be suable therein, or so as to render it subject to service of process, is a federal question. *Peterson v. Chicago, Rock Island & Pacific RR. Co.*, 205 U. S. 364, *Conley v. Mathewson Alkali Works*, 190 U. S. 406.

In the recent case of *Banks Grocery Company v. Kelley-Clarke Company*, reported in 243 Southwestern 879, it is held that, "As a general proposition, a corporation cannot be sued in any state other than that of its origin unless it is doing business in such other state, and no state has the power to authorize suits against foreign corporations, or the service of summons upon them, unless they are doing business within the state." The subject of what constitutes "doing business

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in the state" is discussed quite extensively in a recent article published in The Central Law Journal, and many authorities illustrative are cited and commented upon. The article is found in Vol. 25, No. 21, at page 371.

It follows from the foregoing considerations that before the courts of Kansas could acquire jurisdiction in personam over the defendant foreign corporation, it must be made to appear that the corporation is actually engaged in the transaction of business in this state within the definition of that term, as shown by the authorities above cited. It is in clear recognition of the rule as above stated that the laws of this state have provided for the service of summons in just such cases. Section 6965, General Statutes of Kansas 1915, provides for the service of summons on a foreign corporation found engaged in the actual transaction of business in this state. The section reads as follows:

"In addition to the methods of service of summons now provided by law upon corporations or joint-stock companies organized under the laws of any other state or country and doing business in this state, if such corporation or joint-stock company have no office or place of business within this state, and service cannot otherwise be had upon it within the state, service of summons upon such corporation or joint-stock company may be made in any county of this state by the delivery by the sheriff thereof of a copy of such summons to any officer, agent or employee thereof who may be found by such sheriff actually engaged in the business of such corporation or joint-stock company within his county."

Since the jurisdiction of the court in all such cases depends upon the fact that the foreign corporation is actually engaged in doing business within the state, the law relative to the service of summons upon it very properly provides that such service can be made only on an "officer, agent or employee thereof who may be found by such sheriff actually engaged in

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the business of such corporation * * * within his county."

The law very properly makes this finding of the sheriff a necessary part of the service since, under the general law of the land, no foreign corporation could be subjected in personam to the jurisdiction of the courts of a state other than that of its origin, except upon a state of facts precisely such as the statute requires the sheriff to find before he can make a legal service of summons on such corporation under the provisions of Section 6965, supra.

In this particular case service was attempted to be procured upon the defendant foreign corporation in several counties within this state, but in each case the sheriff fails to state facts sufficient to constitute a valid service. In no return of any sheriff in this case is it shown that the service of summons was made on an officer, agent or employee of the defendant foreign corporation actually engaged in the business of such corporation within his county. It was suggested by the attorney general upon the hearing that this particular objection to the sufficiency of the service is not pointed out in the motion to quash. The objection, however, was brought to the attention of the court upon the hearing of the motion. This being an original case in this court, the practice doubtless would be the same as in any other court of original jurisdiction, and where the service, as in this case, is challenged as invalid and insufficient, and the particular objection is pointed out at the hearing, it will not be ignored because not particularly pointed out in the motion to quash.

The defendant foreign corporation in order to avoid the necessity for filing a new motion to quash, and to provide against any possible technical objection to the sufficiency of the motion already filed, respectfully asks leave of the

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court at this time to amend its motion to quash by setting out as one of the reasons therefor, that the sheriffs returns in each and every instance fail to show that the service of summons in this case was made upon any officer, agent or employee of the defendant foreign corporation found actually engaged in the business of such corporation within his county.

III.

There are other sections of our statutes providing various methods for the service of summons upon foreign corporations. These sections are - 6967, 6943 and 2139, General Statutes of Kansas 1915. While the plaintiff might have availed himself of the method provided in either of these sections, he chose to proceed under Section 6955, and there is no attempt to bring the service within the provisions of any other section. However, in order to meet any contingency the defendant foreign corporation has produced proof at this hearing showing that none of the persons, through whom service of summons was attempted to be made upon this defendant, were representing this defendant either as managing agent, agent, officer, or in any other capacity whatsoever. Upon the facts, therefore, the service of summons would have been bad whichever section of the statutes the plaintiff might have chosen to follow.

For the reasons stated we respectfully submit that the motion to quash this service should be sustained.

William L. Wood
John S. Mean
Attorneys for the Defendant,
Knights of the Ku Klux Klan.

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No. 24729

State, Ex. Rel.
vs
Knights of the Ku Klux
Klan

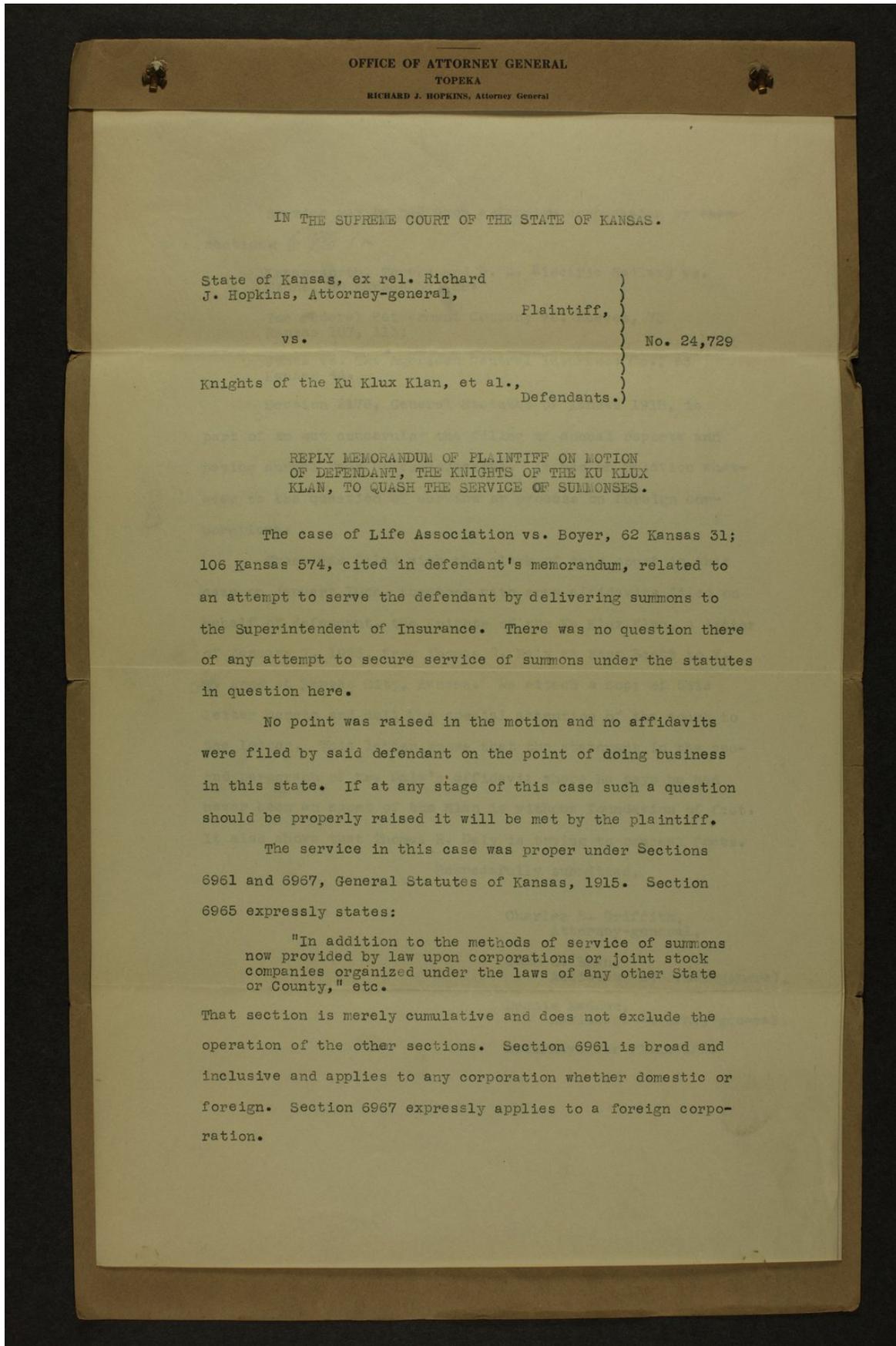
Warrant Bined on
Motion to Quash.

FILED
MAY 11 1923
KANSAS
COURT

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OFFICE OF ATTORNEY GENERAL
TOPEKA
RICHARD J. HOPKINS, Attorney General

IN THE SUPREME COURT OF THE STATE OF KANSAS.

State of Kansas, ex rel. Richard J. Hopkins, Attorney-general,)
Plaintiff,)
vs.) No. 24,729
Knights of the Ku Klux Klan, et al.,)
Defendants.)

REPLY MEMORANDUM OF PLAINTIFF ON MOTION
OF DEFENDANT, THE KNIGHTS OF THE KU KLUX
KLAN, TO QUASH THE SERVICE OF SUMMONSES.

The case of Life Association vs. Boyer, 62 Kansas 31; 106 Kansas 574, cited in defendant's memorandum, related to an attempt to serve the defendant by delivering summons to the Superintendent of Insurance. There was no question there of any attempt to secure service of summons under the statutes in question here.

No point was raised in the motion and no affidavits were filed by said defendant on the point of doing business in this state. If at any stage of this case such a question should be properly raised it will be met by the plaintiff.

The service in this case was proper under Sections 6961 and 6967, General Statutes of Kansas, 1915. Section 6965 expressly states:

"In addition to the methods of service of summons now provided by law upon corporations or joint stock companies organized under the laws of any other State or County," etc.

That section is merely cumulative and does not exclude the operation of the other sections. Section 6961 is broad and inclusive and applies to any corporation whether domestic or foreign. Section 6967 expressly applies to a foreign corporation.

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Service may be had upon a foreign corporation by ~~that~~
section 696 lx

Leavenworth, Topeka and S. W. Electric Railway vs.
Stone, 60 Kansas 57, 59;

The Federal Betterment Company vs. Reeves, 73
Kansas 107, 113;

Jones vs. The American Central Insurance Co., 83
Kansas 44.

Section 2176, General Statutes of Kansas 1915, is
part of an act concerning the filing of annual reports and
paying annual fees by corporations. It has no relation what-
ever to the question of service or process on foreign cor-
porations.

There was filed with the clerk of this court in this
case on January 10th, together with some affidavits filed on
behalf of defendant, the Knights of the Ku Klux Klan, a letter
of January 7, 1923, from Thomas R. Daly at Fort Scott to W.
A. Wood at Kansas City, Kansas. We attach a copy of this
letter hereto and call the special attention of the court to
the letter. This letter shows that the statement in the sec-
ond paragraph of Mr. Daly's affidavit where he says he had
never been an agent of the Klan is without foundation of fact.
It also shows that Thomas R. Daly is trying to conceal facts.

Respectfully submitted,

Charles E. Griffith,
Attorney-general,

John G. Egan,
Assistant Attorney-general,

Dennis Madden,
Assistant Attorney-general,

Attorneys for Plaintiff.

State of Kansas vs. Knights of the Ku Klux Klan

Mr. W. L. Wood,
Kansas City, Kansas

Dear Sir:

I found your letter together with the affidavit here on my desk upon my return to the office.

I am inclosing the affidavit as per your instructions in this mail. I however do not know about this which is stated in the 2nd paragraph in which it states that I never had been an agent etc. I have been called to the local county attorneys office here before the Supreme court summons was served on me and they seemed to have considerable information here as to the meeting places and our office. I don't believe that they can prove anything though. The county attorney however who called me to his office through instructions which they got from Topeka. The attorney whom I was before is out of office at the present time, having gone out of office today.

Thought that probably it would be a good thing for me to tell you of this, as they will probably spring it on you at Topeka. There was nothing signed here in regards to any statement. Although they tried to get me to sign to several of their statements.

Hopeing that our cause might meet with the best of success, believe me to be,

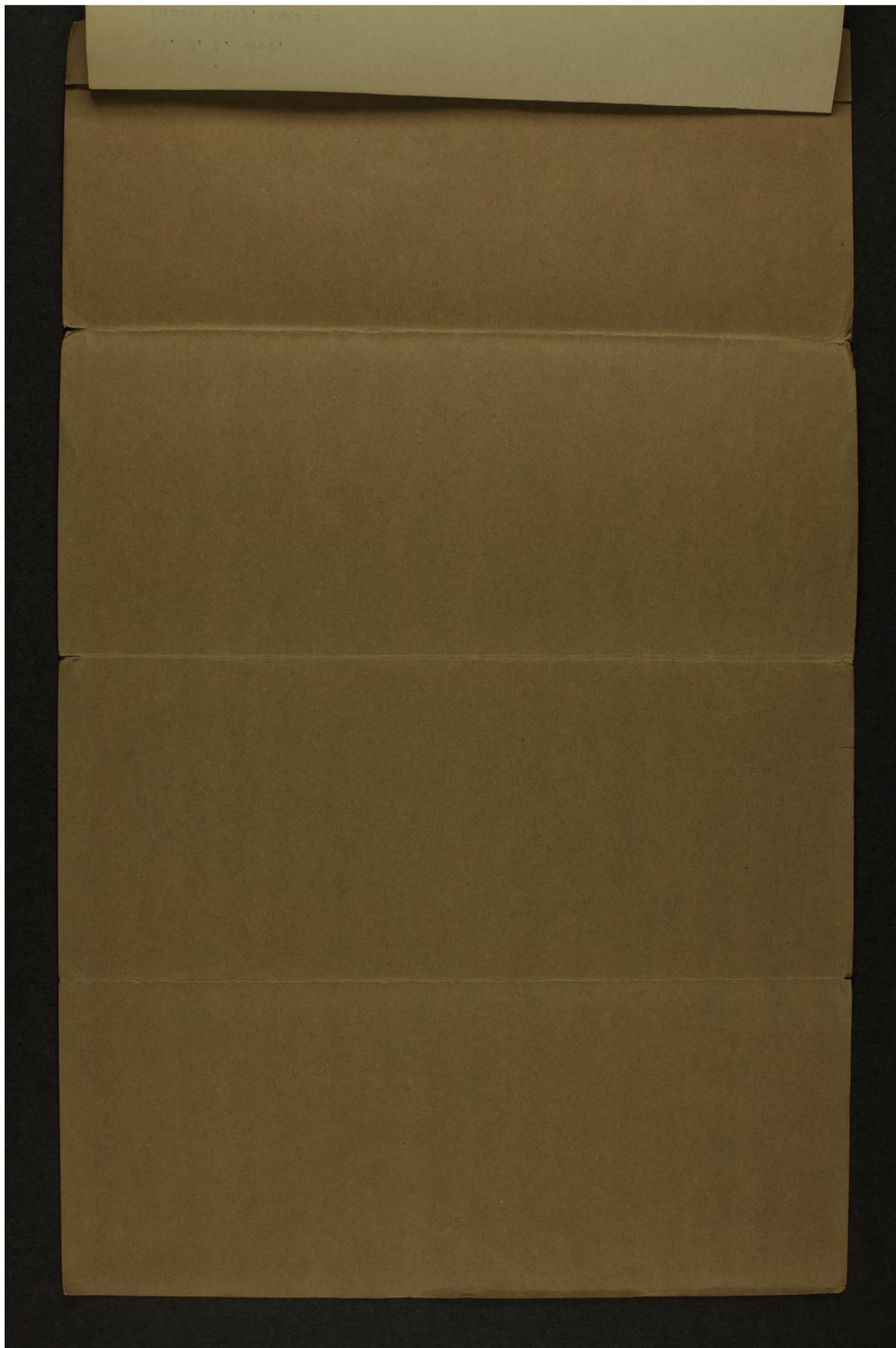
Sincerely yours, ITSUB.

Thomas R. Daly.

Endorsed: 24729, Letter of Thos. R. Daly to W. L. Wood

Filed Jan. 10, 1923.
D. A. Valentine
Clerk Supreme Court.

State of Kansas vs. Knights of the Ku Klux Klan



State of Kansas vs. Knights of the Ku Klux Klan

No. 24,729

IN THE
SUPREME
COURT OF
STATE OF KANSAS.

State of Kansas, ex rel. Richard
J. Hopkins, Attorney-general,
Plaintiff,
vs.
Knights of the Ku Klux Klan,
et al., Defendants.

Reply memorandum of Plaintiff
on Motion to Quash Service of
Summons.
Filed this _____ day of _____
192__

FILED
JAN 12 1927
Clerk.

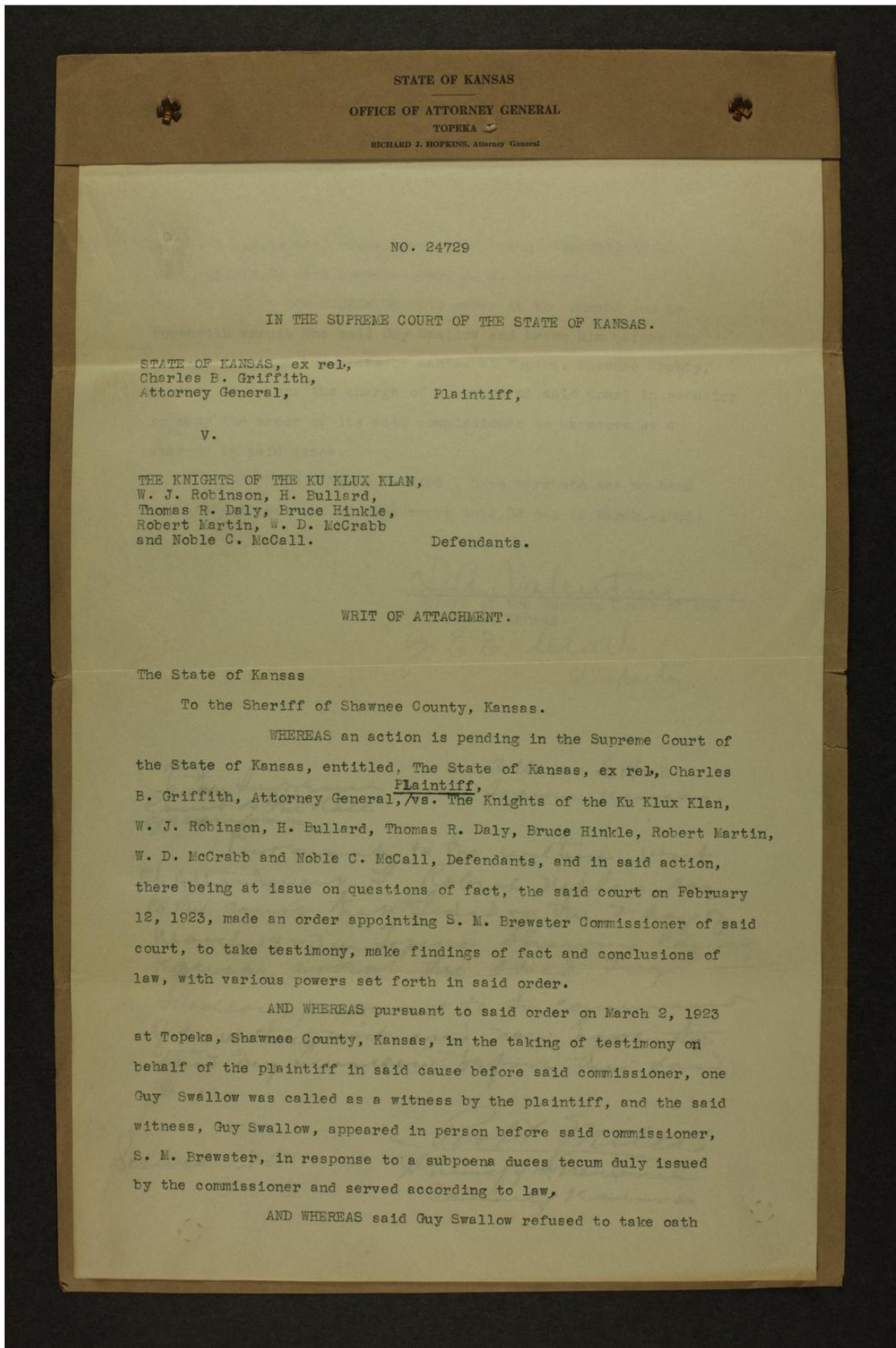
By _____
Deputy.

STATE OF KANSAS
OFFICE OF ATTORNEY GENERAL
TOPEKA
RICHARD J. HOPKINS, Attorney General

9-661

STATE OF KANSAS

State of Kansas vs. Knights of the Ku Klux Klan



STATE OF KANSAS

OFFICE OF ATTORNEY GENERAL
TOPEKA

RICHARD J. HOPKINS, Attorney General

NO. 24729

IN THE SUPREME COURT OF THE STATE OF KANSAS.

STATE OF KANSAS, ex rel,
Charles B. Griffith,
Attorney General, Plaintiff,

v.

THE KNIGHTS OF THE KU KLUX KLAN,
W. J. Robinson, H. Bullard,
Thomas R. Daly, Bruce Hinkle,
Robert Martin, W. D. McCrabb
and Noble C. McCall. Defendants.

WRIT OF ATTACHMENT.

The State of Kansas

To the Sheriff of Shawnee County, Kansas.

WHEREAS an action is pending in the Supreme Court of the State of Kansas, entitled, The State of Kansas, ex rel, Charles B. Griffith, Attorney General, Plaintiff, vs. The Knights of the Ku Klux Klan, W. J. Robinson, H. Bullard, Thomas R. Daly, Bruce Hinkle, Robert Martin, W. D. McCrabb and Noble C. McCall, Defendants, and in said action, there being at issue on questions of fact, the said court on February 12, 1923, made an order appointing S. M. Brewster Commissioner of said court, to take testimony, make findings of fact and conclusions of law, with various powers set forth in said order.

AND WHEREAS pursuant to said order on March 2, 1923 at Topeka, Shawnee County, Kansas, in the taking of testimony on behalf of the plaintiff in said cause before said commissioner, one Guy Swallow was called as a witness by the plaintiff, and the said witness, Guy Swallow, appeared in person before said commissioner, S. M. Brewster, in response to a subpoena duces tecum duly issued by the commissioner and served according to law,

AND WHEREAS said Guy Swallow refused to take oath

State of Kansas vs. Knights of the Ku Klux Klan

as a witness in said cause, such oath being attempted to be administered by said commissioner, S. M. Brewster,

NOW THEREFORE this order is to command you to forthwith arrest the said Guy Swallow and bring him before the Supreme Court of the State of Kansas at Topeka, Shawnee County, Kansas, to answer the charge of contempt of said court in refusing to obey the order of its said commissioner to be sworn as a witness in said cause.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said court this 2d day of March, 1923.

D.A. Valentine
Clerk of the Supreme Court of the
State of Kansas.

G. E. E. Elarh
Deputy

To the Supreme
Court of the State
of Kansas

Topeka, Kansas.
2d March 1923.

Pursuant to the within writ of attachment I, Robert Miller, say to the court that I did on the 2 day of March 1923 in Topeka Shawnee County Kansas arrest the said Guy Swallow, pursuant to the command of the within writ, and now have the said Guy Swallow before this said court

Service .75-

Robert Miller
Sheriff Shawnee
County Kansas