



AlaFile E-Notice

38-CV-2015-900261.00

Judge: HENRY D "BUTCH" BINFORD

To: JERRY MICHAEL BLEVINS
ATTYJMBlev@LawOfficeOfJerryMBlevins.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

PATRICK HUGH SHAFFER V. BRIAN RALPH BEASLEY
38-CV-2015-900261.00

The following matter was FILED on 3/27/2017 9:50:07 AM

C001 SHAFFER PATRICK HUGH
MOTION TO VACATE OR MODIFY
[Filer: BLEVINS JERRY MICHAEL]

Notice Date: 3/27/2017 9:50:07 AM

CARLA H. WOODALL
CIRCUIT COURT CLERK
HOUSTON COUNTY, ALABAMA
P.O. DRAWER 6406
DOTHAN, AL, 36302

334-677-4859



ELECTRONICALLY FILED
3/27/2017 9:50 AM
38-CV-2015-900261.00
CIRCUIT COURT OF
HOUSTON COUNTY, ALABAMA
CARLA H. WOODALL, CLERK

STATE OF ALABAMA

Revised 3/5/08

Cas

Unified Judicial System

38-HOUSTON

 District Court
 Circuit Court

CV21

PATRICK HUGH SHAFFER V. BRIAN RALPH
BEASLEY

CIVIL MOTION COVER SHEET

Name of Filing Party: C001 - SHAFFER PATRICK HUGH

Name, Address, and Telephone No. of Attorney or Party. If Not Represented.

JERRY MICHAEL BLEVINS
7550 Halcyon Summit Drive, Suite 100
Montgomery, AL 36117
Attorney Bar No.: BLE003

 Oral Arguments Requested
TYPE OF MOTION**Motions Requiring Fee**

- Default Judgment (\$50.00)
Joinder in Other Party's Dispositive Motion
(i.e. Summary Judgment, Judgment on the Pleadings,
or other Dispositive Motion not pursuant to Rule 12(b))
(\$50.00)
- Judgment on the Pleadings (\$50.00)
- Motion to Dismiss, or in the Alternative
Summary Judgment (\$50.00)
- Renewed Dispositive Motion (Summary
Judgment, Judgment on the Pleadings, or other
Dispositive Motion not pursuant to Rule 12(b)) (\$50.00)
- Summary Judgment pursuant to Rule 56 (\$50.00)
- Motion to Intervene (\$297.00)
- Other _____
pursuant to Rule _____ (\$50.00)

*Motion fees are enumerated in §12-19-71(a). Fees
pursuant to Local Act are not included. Please contact the
Clerk of the Court regarding applicable local fees.

Local Court Costs \$ 0 _____

Motions Not Requiring Fee

- Add Party
- Amend
- Change of Venue/Transfer
- Compel
- Consolidation
- Continue
- Deposition
- Designate a Mediator
- Judgment as a Matter of Law (during Trial)
- Disburse Funds
- Extension of Time
- In Limine
- Joinder
- More Definite Statement
- Motion to Dismiss pursuant to Rule 12(b)
- New Trial
- Objection of Exemptions Claimed
- Pendente Lite
- Plaintiff's Motion to Dismiss
- Preliminary Injunction
- Protective Order
- Quash
- Release from Stay of Execution
- Sanctions
- Sever
- Special Practice in Alabama
- Stay
- Strike
- Supplement to Pending Motion
- Vacate or Modify
- Withdraw
- Other

pursuant to Rule

(Subject to Filing Fee)

Check here if you have filed or are filing contemporaneously
with this motion an Affidavit of Substantial Hardship or if you
are filing on behalf of an agency or department of the State,
county, or municipal government. (Pursuant to §6-5-1 Code
of Alabama (1975), governmental entities are exempt from
prepayment of filing fees)

Date:

3/27/2017 9:49:18 AM

Signature of Attorney or Party
/s/ JERRY MICHAEL BLEVINS

*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

**Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.



IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

PATRICK HUGH SHAFFER,)
)
Plaintiff,)
)
v.)
)
BRIAN RALPH BEASLEY,)
)
Defendant.)

Civil Action No.: CV-2015-900261

MOTION TO ALTER OR AMEND JUDGMENT

COMES NOW the Plaintiff, Patrick Hugh Shaffer, by and through his undersigned counsel, and respectfully moves the Court to alter or amend the judgment previously rendered in this cause, and in support thereof says as follows:

Relevant Procedural History

1. On May 12, 2015, Plaintiff filed his Complaint in this cause seeking damages stemming from an assault and battery committed on his person by Defendant on or about February 9, 2015.
2. On July 2, 2015, Defendant filed his Answer.
3. On February 21, 2017, a bench trial occurred at which Defendant failed to attend in-person or through counsel. The only testimony presented at trial was Plaintiff's, which was uncontroverted by other admissible evidence.
4. On February 23, 2017, the Court rendered a final judgment in favor of Defendant.

Discussion

5. Plaintiff contends that pursuant to Rule 55, *Ala.R.Civ.P.*, because Defendant failed to appear at trial in-person or through counsel, he was entitled to a default judgment against Defendant on the assault and battery claim. See *Seventh Wonder v. Southbound Records, Inc.*, 364 So.2d 1173 (Ala. 1978) (A party who fails to appear on the day the case is set for trial is in default); & *Cassioppi v. Damico*, 536 So.2d 938 (Ala. 1988) (A judgment entered after one party fails to appear at trial is treated as a default judgment).

6. Plaintiff further contends that because his trial testimony was uncontroverted by other

admissible evidence, he was entitled to an award of damages stemming from the assault and battery.

7. Plaintiff contends the Court erred in not granting him a judgment, and in not awarding appropriate damages, on the assault and battery claim.

WHEREFORE Plaintiff requests that the Court alter or amend the judgment previously entered in this cause, and grant him a default judgment against Defendant, and award him damages in the sum of \$30,000.00, on the assault and battery claim, for the reasons set forth herein.

/s/ Jerry M. Blevins
JERRY M. BLEVINS (BLE003)
Attorney for Plaintiff

OF COUNSEL:
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon:

Mr. Brian Ralph Beasley
402 Hanchey Field Road
Daleville, Alabama 36322

via electronic transmission and/or by depositing a copy of the same in the U.S. Mail, postage prepaid this the 27th day of March, 2017.

/s/ Jerry M. Blevins
Jerry M. Blevins