

as a Cross-Complaint against three (3) non-defendants, wherein they set forth four (4) defenses to the Petition. Also, said Defendants filed a Motion to strike certain allegations of the Petition as well as a Motion to add additional parties, Roy C. McCall, Jr., Industrial Products, Inc., and Cane Mountain Holding Corporation, such parties necessary to a complete determination or settlement of the questions involved in the action and to avoid a multiplicity of actions. The Petitioner subsequently filed an Amended Reply to the Counterclaim of the Gossetts and their Cross-Complaint against Cane Mountain Holding Corporation.

#2  
The first defense entered in the Answer and Counterclaim was that the instant Petitioner was not the real party in interest and therefore not entitled to bring the action. The second defense alleged that the Petitioner "stood in the shoes" of the original Plaintiff and moving party, (the original moving party was Industrial Products, Inc., a third-party defendant herein) and was estopped from asserting its claim against the Gossetts and estopped from taking any action on the Judgment Roll resulting from the Order of the Court dated February 11, 1970, by reason of representations and statements made to the Gossetts by the original moving party, Industrial Products, Inc., as represented by its stockholder and officer, C. J. Peterson, Jr. (C. J. Peterson, Jr. is a third-party defendant in this action). The fourth defense alleged that the original moving party, Industrial Products, Inc., assigned the Judgment Roll to Roy C. McCall, Jr., who in turn assigned said judgment to third party defendant, Cane Mountain Holding Corporation, which corporation agreed with the Gossetts that Cane Mountain Holding Corporation would accept the sum of Thirty Thousand and 00/100 (\$30,000.00) Dollars in full payment of the indebtedness of said Defendants, such constituting a novation whereby the original debt was discharged by the creation of a new obligation of Thirty Thousand and 00/100 (\$30,000.00) Dollars.

The third defense and Counterclaim by the Gossetts alleged a conspiracy on the part of C. J. Peterson, Jr., Roy C. McCall Jr., Cane Mountain Holding Corporation, and Industrial Products, Inc., to unlawfully deprive the Gossetts of their property. At the second hearing before me on January 9, 1978, the Gossetts conceded that the depositions taken at the direction of the Court did not substantiate their allegations of a conspiracy and counsel for the Gossetts stated to the Court that the Gossetts would consent to an Order of Dismissal on the Counterclaim and such will be herein dismissed. The first hearing held in this matter was held before me on October 14, 1978, upon Motion made by the Petitioner to strike certain