

4056

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon DALE CALVIN HUSCHKA and CYNTHIA Z. HUSCHKA to appear within thirty days from the service of this writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the Complaint of MARTIN W. WILLIAMSON.

WITNESS my hand this 18 day of November, 1959.

W. J. ...

Defendants' address: Clerk.
3610 Chambord Lane
Mobile, Alabama

EN-11-20-59

MARTIN W. WILLIAMSON,
Plaintiff,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

vs.

DALE CALVIN HUSCHKA and
CYNTHIA Z. HUSCHKA,
Defendants.

AT LAW.

COUNT ONE:

The Plaintiff claims of the Defendant, Cynthia Z. Huschka, the sum of TWENTY THOUSAND DOLLARS (\$20,000.00) as damages for that heretofore, on, to-wit, November 7, 1959, the Defendant, Cynthia Z. Huschka, was operating an automobile over and along U. S. Highway 90 in Baldwin County, Alabama, traveling in a Westerly direction, at a point approximately ten yards East of the East end of the Tensaw River bridge, and at said time and place the said Defendant, Cynthia Z. Huschka, so negligently operated the said automobile as to cause an automobile in which the Plaintiff was riding to be forced into the path of a third automobile, causing a collision between the automobile in which the Plaintiff was riding and the third automobile; and Plaintiff avers that as a proximate consequence of the negligence of the Defendant, Cynthia Z. Huschka, he was severely injured and damaged as follows: three of his left ribs were broken, a bone in his left leg was fractured, he was bruised and lacerated, he was made sick, sore and nervous and will

continue to be sick, sore and nervous for a long period of time; he has been forced to spend much time and money for medical expenses in and about the treatment of his injuries; he has suffered and is suffering excruciating mental pain and anguish; his health and physical stamina were permanently impaired, hence this suit. Plaintiff further avers that all of his injuries and damages set forth above were proximately caused by the negligence of the Defendant, Cynthia Z. Huschka, in that the said Defendant negligently operated said automobile at the said time and place of the said collision.

COUNT TWO:

The Plaintiff claims of the Defendant, Dale Calvin Huschka, the sum of TWENTY THOUSAND DOLLARS (\$20,000.00) as damages for that heretofore, on, to-wit, November 7, 1959, the Defendant, Cynthia A. Huschka, who was then and there an agent, servant or employee of the Defendant, Dale Calvin Huschka, acting within the line and scope of her authority as such agent, servant or employee, was operating an automobile over and along U. S. Highway 90, in Baldwin County, Alabama, traveling in a Westerly direction at a point approximately ten yards East of the East end of the Tensaw River Bridge, and at said time and place the said Cynthia Z. Huschka, who was then and there an agent, servant or employee of the Defendant, Dale Calvin Huschka, acting within the line and scope of her authority as such agent, servant or employee, so negligently operated the said automobile as to cause an automobile in which the Plaintiff was riding to be forced into the path of a third automobile, causing a collision between the automobile in which the Plaintiff was riding and the third automobile; and Plaintiff avers that as a proximate consequence of the negligence of the said agent, servant or employee of the said Defendant, Dale Calvin Huschka, he was severely injured and damaged as follows: three of his left ribs were broken, a bone in his left leg was fractured, he was bruised and lacerated and he was made sick, sore and nervous and will continue to be sick, sore and nervous for a long period of time; he has been forced to spend much time and money for medical expenses in and about the treatment of his injuries; he has suffered and is

suffering excruciating mental pain and anguish; his health and physical stamina were permanently impaired, hence this suit. Plaintiff further avers that all of his injuries and damages set forth above were proximately caused by the negligence of the Defendant, Cynthia Z. Huschka, an agent servant or employee of the Defendant, Dale Calvin Huschka, who was then and there acting within the line and scope of her authority as such agent, servant or employee, in that the said Cynthia Z. Huschka negligently operated said automobile at the time and place of the said collision.

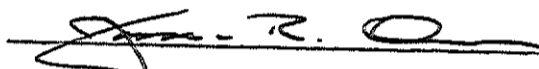
COUNT THREE:

The Plaintiff claims of the Defendant, Cynthia Z. Huschka, the sum of FORTY SIX HUNDRED FIFTY DOLLARS (\$4650.00) as damages for that, heretofore, on, to-wit, November 7, 1959, the said Defendant was operating an automobile over and along U. S. Highway 90 in Baldwin County, Alabama, traveling in a Westerly direction at a point approximately ten yards East of the East end of the Tensaw River Bridge, and at said time and place, the Defendant, Cynthia Z. Huschka so negligently operated the said automobile as to cause the Plaintiff's automobile to be forced into the path of a third automobile, causing a collision between the automobile of the Plaintiff and the third automobile, and Plaintiff avers that as a proximate consequence of the negligence of the Defendant, Cynthia Z. Huschka, the automobile of the Plaintiff was completely demolished and was made a total loss, and of no further value, hence this suit.


COUNT FOUR:

The Plaintiff claims of the Defendant Dale Calvin Huschka, the sum of FORTY SIX HUNDRED FIFTY DOLLARS (\$4650.00) as damages for that heretofore, on, to-wit, November 7, 1959, Cynthia Z. Huschka, who was then and there an agent, servant or employee of the Defendant, Dale Calvin Huschka, acting within the line and scope of her authority as such agent, servant or employee, was operating an automobile over and along U. S. Highway 90 in Baldwin County, Alabama, traveling in a Westerly direction at a point approximately ten yards East of the East end of the Tensaw River Bridge, and

at said time and place the said agent, servant or employee of the said Defendant, Dale Calvin Huschka, so negligently operated the said automobile as to cause the Plaintiff's automobile to be forced into the path of a third automobile, causing a collision between the automobile of the Plaintiff and the third automobile; and Plaintiff avers that as a proximate consequence of the negligence of the said Cynthia Z. Huschka, who was then and there an agent, servant or employee of the Defendant, Dale Calvin Huschka, acting within the line and scope of her authority as such agent, servant or employee, the automobile of the Plaintiff was complete demolished and made a total loss, hence this suit.


Attorney for Plaintiff.

Plaintiff demands a trial
of said cause by a Jury.


Attorney for Plaintiff.

FILED
NOV 18 1950
ALICE J. DICK, CLERK
REGISTER

1811 114000 132

SUMMONS AND COMPLAINT

MARTIN W. WILLIAMSON,

Plaintiff,

vs.

DALE CALVIN HUSCHKA and CYNTHIA
Z. HUSCHKA,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

FILED
NOV 18 1959
ALICE J. DUCK, CLERK
REGISTER

JAMES R. OWEN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

EXECUTED

This 20 day of Nov, 1959

by serving a copy of the within on
Dale Calvin Huschka
RAY D. BRIDGES, Sheriff

By N. Thompson D.S.

EXECUTED

This 20 day of Nov, 1959

by serving a copy of the within on
Cynthia Z. Huschka
RAY D. BRIDGES, Sheriff

By N. Thompson D.S.

MARTIN W. WILLIAMSON

Plaintiff

VS

DALE CALVIN HUSCHKA AND
CYNTHIA Z. HUSCHKA

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4056

Comes now the Defendant, individually and separately and severally and hereby demur to Count One of the complaint and assign as grounds therefor, the following, separately and severally, and allege as follows:

ONE

The complaint is vague and indefinite and fails to state a cause of action.

TWO

The complaint fails to allege an action upon which relief might be granted.

THREE

The complaint attempts to set out negligence in quo moto without alleging sufficient facts upon which to substantiate the charge of negligence.

FOUR

The Plaintiff fails to allege a duty owing to the Plaintiff by the Defendants.

FIVE

The Count does not allege a cause of action against each Defendant.

SIX

The Count fails to allege that the accident occurred upon or along a public highway in Baldwin County, Alabama.

SEVEN

There is amisjoinder of parties Defendant in the Count.

EIGHT

There is a misjoinder of actions in the Count.

The Defendants now individually and separately and severally demur to Count Two of the complaint and assign as grounds therefor, the following, separately and severally, and allege as follows:

O N E

The complaint is vague and indefinite and fails to state a cause of action.

T W O

The complaint fails to allege an action upon which relief might be granted.

T H R E E

The complaint attempts to set out negligence in quo moto without alleging sufficient facts upon which to substantiate the charge of negligence.

F O U R

The Plaintiff fails to allege a duty owing to the Plaintiff by the Defendants.

F I V E

The Count does not allege a cause of action against each Defendant.

S I X

The Count fails to allege that the accident occurred upon or along a public highway in Baldwin County, Alabama.

S E V E N

There is amisjoinder of parties Defendant in the Count.

E I G H T

There is amisjoinder of actions in the Count.

Comes now the Defendant, individually and separately and severally and hereby demur to Count Three of the complaint and assign as grounds therefor, the following, separately and severally, and allege as follows:

O N E

The complaint is vague and indefinite and fails to state a cause of action.

T W O

The complaint fails to allege an action upon which relief might be granted.

T H R E E

The complaint attempts to set out negligence in quo moto without alleging sufficient facts upon which to substantiate the charge of negligence.

F O U R

The Plaintiff fails to allege a duty owing to the Plaintiff by the Defendants.

F I V E

The Count does not allege a cause of action against each Defendant.

S I X

The Count fails to allege that the accident occurred upon or along a public highway in Baldwin County, Alabama.

S E V E N

There is a misjoinder of parties Defendant in the Count.

E I G H T

There is a misjoinder of actions in the Count.

Comes now the Defendant, individually and separately and severally and hereby demur to Count Four of the complaint and assign as grounds therefor, the following, separately and severally, and allege as follows:

O N E

The complaint is vague and indefinite and fails to state a cause of action.

T W O

The complaint fails to allege an action upon which relief might be granted.

T H R E E

The complaint attempts to set out negligence in quo moto without alleging sufficient facts upon which to substantiate the charge of negligence.

F O U R

The Plaintiff fails to allege a duty owing to the Plaintiff by the Defendants.

F I V E

The Court does not allege a cause of action against each Defendant.

S I X

The Court fails to allege that the accident occurred upon or along a public highway in Baldwin County, Alabama.

S E V E N

There is a misjoinder of parties Defendant in the Count.

E I G H T

There is a misjoinder of actions in the Count.

Wherefore, these Defendants pray the court to sustain their demurrer to the complaint to each and every Count thereof and that the complaint be dismissed at the cost of Plaintiff.

RESPECTFULLY SUBMITTED:

MOORE & SHINAULT

By: George J. Moore
George J. Moore

CHASON & STONE

By: John Chason
John Chason

ATTORNEYS FOR DEFENDANTS

FILED

DEC 18 1959

ALICE M. DUCK, Clerk

Filed: _____

Clerk

DEMURRER

* * * * *

MARTIN W. WILLIAMSON,
Plaintiff,

vs.

DALE CALVIN HUSCHKA and
CYNTHIA Z. HUSCHKA,
Defendants.

* * * * *

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 4056

* * * * *

FILED
DEC 18 1959
ALICE J. DUCK, Clerk

MARTIN W. WILLIAMSON,	X	
	X	IN THE CIRCUIT COURT OF
Plaintiff,	X	
	X	BALDWIN COUNTY, ALABAMA
vs.	X	
	X	AT LAW CASE NO:
DALE CALVIN HUSCHKA	X	
and CYNTHIA Z. HUSCHKA,	X	
Defendants.	X	

P L E A S

Come now the Defendants, and without waiving their Demurrer to the Bill of Complaint heretofore filed, but always insisting there- to, now, for answer to the complaint herein, say as follows:

1. They are not guilty of the matters and things alleged therein.
2. For further answer to the complaint herein, these De- fendants say that at the time and place complained of that the Plain- tiff acting by and through his agent, Eugene H. Wood, IV, who was then and there acting within the line and scope of his agency, was guilty of negligence which proximately contributed to the injuries complained of for that his said agent so negligently operated the motor vehicle of the Plaintiff at the time and place complained of, as to cause or allow the same to run into, upon and against the motor vehicle being then and there operated by the Defendant Cynthia Z. Huschka, hence the Plaintiff should not recover.
3. For further answer to the complaint, Defendant Dale Huschka says that at the time and place complained of, the Plaintiff who was then and there acting by and through his agent, servant or employee, Eugene H. Wood, IV, who was then and there acting within the line and scope of his employment as such, so negligently operated the automobile in which the Plaintiff was riding as to cause or allow the same to run into, upon and against the automobile of Defendant and as a proximate consequence of the negligence of the Plaintiff aforesaid the Defendant's automobile was badly bent, and broken and damaged in the amount of to-wit: \$300,00; and this Defendant's wife, an occupant of Defendant's automobile, was caused to suffer great

physical injury, pain and suffering, all of which caused this Defendant to suffer the loss of consortium with his wife for a period of not less than three consecutive months immediately following the accident, and will cause him to suffer the loss of said consortium with his said wife, for time to time in the future, over a period of not less than one year from the time of said accident, thus causing severe and great mental anguish and damage to this Defendant in the said loss, all as a proximate consequence of the aforesaid negligence of the Plaintiff, in the amount of, to-wit: \$3,000.00, and the Defendant Dale Huschka claims judgment for the said sums of \$300.00 and \$3,000.00 from the Plaintiff in this cause by way of recoupment.

4. For further answer to the complaint, this Defendant Cynthia Z. Huschka says that at the time and place complained of the Plaintiff who was then and there acting by and through his agent, servant or employee, Eugene H. Wood, IV, who was then and there acting within the line and scope of his employment as such, so negligently operated the motor vehicle in which the Plaintiff was riding as to cause or allow the same to run into, upon and against the automobile then and there being operated by this Defendant and as a proximate consequence of the negligence of the Plaintiff aforesaid, this Defendant was caused to suffer grave, serious and permanent personal injury in this: she suffered great shock and mental anguish; her nervous system was greatly damaged, shocked and impaired; she was caused to delay corrective surgery which had already been scheduled to be performed upon her and which was necessary to maintain her health and her life, the delay being for not less than one year after the time of the said accident; she was caused to suffer injuries which have resulted in her being in such physical condition that her health and life is in constant danger, in this that she is now highly susceptible to fatal heart attack, to high blood pressure which will result in strokes, etc. and to the disease of uremia, any or all of which can and could cause practically instant death; she was caused to suffer great loss of weight, loss of appetite and extreme fatigue; she was caused to suffer and to incur great medical expenses and is required to take great amounts of costly medications; she was caused to suffer great loss of sleep and has been required, on medical advice, to adopt a routine of strict rest and quiet; she

was caused to suffer great loss of earnings from her private sewing practice; she will be caused to suffer additional expenses in medical care and treatments; all as a proximate consequence of the negligence of the Plaintiff, as aforesaid, wherefore this Defendant claims judgment from the Plaintiff herein in the amount of \$20,000.00 by way of recoupment.

Respectfully submitted,

MOORE & SHINAULT

and

CHASON & STONE

By: 

Attorneys for Defendants

MARTIN W. WILLIAMSON,

Plaintiff,

vs.

DALE CALVIN HUSCHKA ET AL.

Defendants

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

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PLEAS

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FILED
APR 14 1960
ALICE S. DUCK, CLERK
BAY MINETTE, ALABAMA

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA