

STATE OF ALABAMA

IN THE CIRCUIT COURT - LAW SIDE

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon William M. Bagby, individually and doing business as William M. Bagby & Sons, 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 same, then and there to answer the complaint of James A. Hawkins.

Witness my hand this the 29 of November, 1961.

*Henry J. Muck*  
Clerk

JAMES A. HAWKINS,

Plaintiff,

vs.

WILLIAM M. BAGBY, individually,  
and doing business as William  
M. Bagby & Sons,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Twenty-five Thousand Dollars (\$25,000.00) as damages for that on, heretofore to-wit: November 30, 1960, the Defendant negligently permitted the Plaintiff to operate an automobile belonging to the Defendant which said automobile the Defendant had reason to believe was not safe for use on the highway and as a result of such negligence the automobile, while being driven by the Plaintiff at a point about 15 miles North of Fairhope, Alabama, on U. S. Highway 89, did leave the road and overturn and as a result of said negligence the Plaintiff was seriously injured as follows: he received a fracture of the fifth sacral vertebra, brush burns, contusions and abrasions; he suffered severe pain and mental anguish and continues to suffer

severe pain and mental anguish; his health is permanently impaired; he has been caused to lose much time from his employment, all to the damages of the Plaintiff in the above mentioned sum, hence this suit.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Twenty-five Thousand Dollars (\$25,000.00) as damages for that on, heretofore, to-wit: November 30, 1960, the Plaintiff, who was an agent, servant or employee of the Defendant acting within the line and scope of his employment, while operating an automobile furnished to him by the Defendant and belonging to the Defendant, and which said automobile was in an unsafe and hazardous condition, which condition was known to the Defendant or should have been known to him, was injured as a result of the defective and hazardous condition of said automobile in that the same was caused to leave the road on which the plaintiff was travelling and overturned. And the Plaintiff alleges that the Defendant negligently furnished him as such employee, aforesaid, said defective automobile and as a proximate consequence and result of the negligence of the Defendant, aforesaid, the Plaintiff was seriously and permanently injured as follows: he received a fracture of the fifth sacral vertebra, brush burns, contusions and abrasions; he suffered severe pain and mental anguish and continues to suffer severe pain and mental anguish, his health is permanently impaired; he has been caused to lose much time from his employment, all to the damages of the Plaintiff in the above mentioned sum, hence this suit.

CHASON & STONE

By:   
Attorneys for Plaintiff

Plaintiff demands a trial of this cause by  
a jury.

CHASON & STONE

By:   
Attorneys for Plaintiff

64-12-8-61

4956

JAMES A. HAWKINS,  
Plaintiff,  
vs.

WILLIAM M. BAGBY, individ-  
ually and doing business  
as William M. Bagby & Sons

\*\*\*\*\*  
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW  
\*\*\*\*\*  
SUMMONS AND BILL OF COMPLAINT  
\*\*\*\*\*

Filed 11-29-61  
Alice J. Luck  
clerk

CHASON & STONE  
ATTORNEYS AT LAW  
BAY MINETTE, ALABAMA

Section, St.

Received 30 day of Nov. 1961  
and on 4 day of Dec. 1961  
I served a copy of the within  
on William M. Bagby  
By service on William M. Bagby  
TAYLOR WILKINS Sheriff  
By W.O. Turner D.S.  
J. Hays  
Sheriff claims 7.00  
Ten Cents per mile Total \$ 1.00  
TAYLOR WILKINS, Sheriff  
DEPUTY SHERIFF

JAMES A. HAWKINS,	)	
Plaintiff	)	IN THE CIRCUIT COURT OF
V.	)	BALDWIN COUNTY, ALABAMA
WILLIAM M. BAGBY, Ind.,	)	AT LAW
and d/b/a WILLIAM M. BAGBY & SON,	)	CASE NO. 4956
Defendant	)	

Comes now the defendant in the above styled cause and for answer to the Bill of Complaint and the separate and several Count One and Count Two thereof, files the following separately and severally plea, One:

I, Not guilty.

Comes now the defendant in the above styled cause and for further answer to the separate and several count One of the complaint files the following separate and several plea, Two:

II. The defendant avers that at the said time and place alleged in the complaint that the plaintiff himself was guilty of negligence which proximately contributed to plaintiff alleged injury, in that the plaintiff so negligently operated the defendant's automobile at the time and place referred to in the Bill of Complaint as to cause or allow it to leave the said highway and overturn, at the time and place referred to in the complaint, wherefore, the plaintiff should have and recover nothing of the defendant.

Comes now the defendant in the above styled cause and for further answer to separate and several count two of the complaint, files the following separate and several plea, Three:

III. The defendant avers that at said time and place alleged in the complaint that the plaintiff himself was guilty of negligence which proximately contributed to plaintiff alleged injury and damages in that the plaintiff was negligent by not properly taking care of said defendant's automobile, and keeping same in good repair, wherefore the plaintiff should have and recover nothing of the defendant.

Comes now the defendant in the above styled cause and for further answer to the complaint files the following separate and several plea, Four:

IV. The defendant claims of the plaintiff the sum of to-wit: SIX HUNDRED (\$600.00) DOLLARS as damages for that heretofore on to-wit, November 30, 1960, the plaintiff so negligently operated an automobile at a point about fifteen miles North of Fairhope, Alabama, on U.S. Highway 89, that he did leave the road and over-turn, and as a result of said negligence, the defendant's automobile was bent, torn, twisted and totally demolished and that said automobile was otherwise bent, broken and torn and the defendant lost the use of for a great length of time; for all of which the defendant claims damages as aforesaid.

*John V. Duck*  
Attorney for Defendant

FILED

FEB 14 1961

ALICE J. DUCK, CLERK  
REGISTER

470

4956

JAMES A. HAWKINS, Plaintiff

v.

WILLIAM M. BAGBY, Ind., and  
d/b/a WILLIAM M. BAGBY & SON,  
Defendant

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW.

CASE NO. 4956

FROM THE LAW OFFICES OF  
JOHN V. DUCK  
FAIRHOPE, ALABAMA

JAMES A. HAWKINS,  
Plaintiff

VS

WILLIAM M. BAGBY, Ind.,  
and d/b/a WILLIAM M. BAGBY & SON,  
Defendant

} IN THE CIRCUIT COURT OF  
} BALDWIN COUNTY, ALABAMA  
} AT LAW

DEMURRERS

Comes now the Defendant in the above styled cause and demurs to the Bill of Complaint filed herein and assigns the following:

ONE That the Bill of Complaint does not state a cause of action.

TWO: That the statement in Count One "that the defendant had reason to believe was not safe for use on the highway", is a conclusion of the pleader.

THREE: That Count One fails to show any negligence on the part of said defendant.

FOUR: That the statement in Count Two which says, "which condition was known to the defendant or should have been known to him", is a mere conclusion of the pleader.

FIVE: That said Count Two fails to allege in what manner the defendant was negligent, by furnishing the plaintiff an automobile.

  
Attorney for Defendant

FILED

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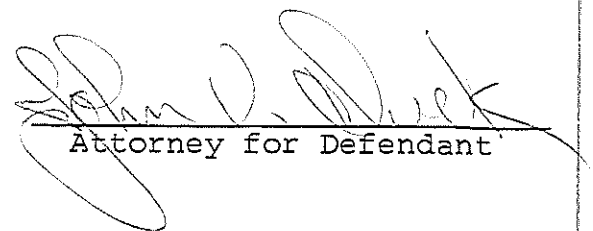
ALICE J. DUCK, CLERK  
REGISTER

JAMES A. HAWKINS	)	
	)	IN THE CIRCUIT COURT OF
Plaintiff	)	BALDWIN COUNTY, ALABAMA
-VS-	)	
	)	AT LAW.
WILLIAM M. BAGBY,	)	
individually and d/b/a	)	CASE NO. : 4956
WILLIAM M. BAGBY & SON	)	
	)	
Defendants	)	
	)	

MOTION FOR DISMISSAL

Comes now John V. Duck, Attorney for the Defendant,  
in the above styled cause, and moves the Court to dismiss the  
counter suit filed herein and for grounds thereof says that the  
Defendant has died.

**FILED**  
FEB 28 1994  
ALICE J. DUCK, CLERK  
REGISTER

  
Attorney for Defendant

JAMES A. HAWKINS	)	IN THE CIRCUIT COURT OF
Plaintiff	)	BALDWIN COUNTY, ALABAMA,
_VS-	)	AT LAW.
WILLIAM M. BAGBY	)	CASE NO.: 4956
individually and d/b/a	)	
WILLIAM M. BAGBY & SON	)	
Defendants	)	

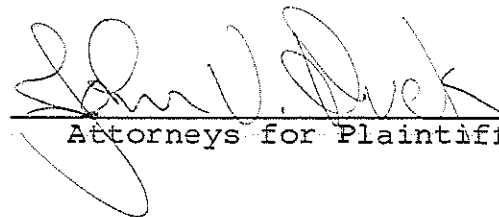
MOTION FOR DISMISSAL

Comes now John V. Duck, Attorney for the Defendant in the above styled cause, and moves the Court to dismiss the cause of action on the part of the Plaintiff for lack of prosecution.

FILED

FEB 28 1964

ALICE J. DUCK, CLERK  
REGISTER

  
Attorneys for Plaintiff



THE JORDAN CLINIC  
25 NORTH SECTION STREET  
FAIRHOPE, ALABAMA

4956

September 7, 1963

TO WHOM IT MAY CONCERN:

Mr. William Bagby is temporarily discharged from the hospital in order to attend to some vital business affairs prior to serious lung surgery.

Mr. Bagby is not physically able to appear in court, besides this would postpone the lung surgery which should be done as soon as possible.

*R.H. Johnson, M.D.*  
R.H. Johnson, M.D.

REJ/ew