

BEN F. SUTTON

VS

LEO KEITH et al

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. 5723

TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW:

I, Mrs. Agnes Baggett, Secretary of State, hereby certify that on
I sent by certified mail in an envelope addressed as follows:

September 25, 1963

Leo Keith
Ellisville, Miss

"Certified Mail—
Return Receipt Requested
Deliver to Addressee Only"

bearing sufficient and proper prepaid postage, a notice bearing my signature and the Great Seal of the State of Alabama in words and figures as follows:

" Leo Keith
Ellisville, Miss.

You will take notice that on September 25, 1963 the Sheriff of Montgomery County, Alabama, served upon me, in my official capacity, summons and complaint in a case entitled: BEN F. SUTTON, Plaintiff VS LEO KEITH, et al, Defendants

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW
Case No. 5723 a true copy of which summons and complaint is attached hereto
and the said service upon me as Secretary of State of the State of Alabama has the force and
effect of personal service upon you.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 25 th
day of September, 1963

Enclosure (1)

(Signed) Mrs. Agnes Baggett
Secretary of State"

I further certify that the notice above set out which was so mailed in the envelope addressed as above set forth had attached to it a true copy of the summons and complaint in the above-styled cause.

I further certify that on October 1, 1963 I received the return card, showing
receipt by the designated addressee of the aforementioned matter at Ellisville, Miss
on Sept. 30, 1963

WITNESS MY HAND and the Great Seal of the State of Alabama this the 1st day
of October, 1963

Mrs. Agnes Baggett
Mrs. Agnes Baggett
Secretary of State

Enclosures: Return Receipt Card and copy
of Summons and Complaint.

Hon. J. R. Owen
110 Court House Sq.
Bay Minette, Ala.

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Frank Kelly and Leo Keith 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 Ben F. Sutton.

WITNESS my hand, this 24 day of September, 1963.

Alice J. Luck
Clerk

The address of the defendant, Frank Kelly, is 314 Lake Street, Troy, Alabama.

The address of the defendant, Leo Keith, is Ellisville, Mississippi, and he may be served by service of three copies hereof on the Secretary of State for the State of Alabama.

* * * * *

BEN F. SUTTON,

Plaintiff,

VS.

FRANK KELLY and LEO KEITH,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

5723

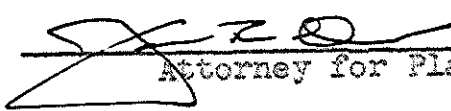
COMPLAINT

COUNT ONE

The plaintiff claims of the defendants FIVE THOUSAND DOLLARS (\$5,000.00) damages for that heretofore on to-wit, June 27, 1963, the defendants, Frank Kelly and Leo Keith, so negligently operated motor vehicles in Baldwin County, Alabama, at a point on U. S. Highway 31 at a point approximately 4 miles South of Bay Minette, Alabama, so as to cause them to run into, upon or against each other and as a proximate result of the negligence of the said defendants the motor vehicle being operated by the defendant, Leo Keith, was caused to run into, upon or against the automobile of the

plaintiff which was parked at a service station operated by the plaintiff and at a place where the automobile had a right to be and as a proximate result of the negligence of the said defendants plaintiff's automobile was completely demolished; the plate glass window in the service station by plaintiff was broken and the said building in which he carried on his said business was rendered unfit to use for business for a long period of time all to plaintiff's damage as aforesaid.

Plaintiff avers that all of his said damage was the proximate result of the negligence of the defendants, Frank Kelly and Leo Keith, at said time and place, hence this suit.


Attorney for Plaintiff

FILED

SEP 24 1933

ALICE J. DUCK, CLERK
REGISTER

INGE, TWITTY & DUFFY

LAWYERS

MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

THOS. E. TWITTY
FRANCIS H. INGE (1902-1959)
RICHARD H. INGE
THOS. E. TWITTY, JR.
JAMES J. DUFFY, JR.
SYDNEY R. PRINCE, III

MAILING ADDRESS:

P. O. BOX 1109
MOBILE, ALA.

CABLE ADDRESS:
TWINING

TELEPHONE:
HEMLOCK 3-5441

October 15, 1963

Honorable Alice J. Duck, Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: Ben F. Sutton vs Frank Kelly, et al-
At Law No. 5723
American Oil Company vs Frank
Kelly, et al - At Law No. 5722

C
O
P
Y

Dear Mrs. Duck:

We are appearing on behalf of defendant, Frank Kelly, in
these suits.

We have prepared an answer to the complaint in each case,
and you will find the original and one copy of each answer enclosed for filing.
Please acknowledge receipt and filing of the enclosed pleadings on the attached
carbon of this letter.

With kindest regards,

Cordially,

Thomas E. Twitty, Jr.
for
INGE, TWITTY, DUFFY & PRINCE

TET, Jr. /gp
cc: Mr. James Owens
Bay Minette, Alabama
Attorney for Plaintiffs

FILED

OCT 16 1963

ALICE J. DUCK, CLERK
REGISTER

Alice J. Duck

BEN F. SUTTON,

Plaintiff,

vs.

FRANK KELLEY and LEO
KEITH,

Defendants.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5723

MOTION TO STRIKE

Comes now the Defendant, Leo Keith, in the above styled cause, by his attorneys, and moves this Honorable Court to strike from the Complaint heretofore filed against him, the allegation that "the said building in which he carried on his said business was rendered unfit to use for business for a long period of time all to Plaintiff's damage as aforesaid", and as grounds for said motion assigns, separately and severally, the following:

1. The complaint claims speculative damages.
2. The complaint claims damages not recoverable as a matter of law.

Respectfully submitted,

CHASON & STONE

By: 

Attorneys for Defendant, Leo Keith

The Defendant Leo Keith respectfully

demands a trial of this cause by a jury.

CHASON & STONE

By: 

Attorneys for Defendant, Leo Keith

FILED

OCT 14 1961

ALICE J. DUCK, CLERK
REGISTER

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

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WITNESS my hand, this 24 day of September, 1963.

Alice J. Luck
Clerk

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The address of the defendant, Leo Keith, is Ellisville, Mississippi, and he may be served by service of three copies hereof on the Secretary of State for the State of Alabama.

* * * * *

BEN F. SUTTON,)	
)	
Plaintiff,)	IN THE CIRCUIT COURT OF
)	
VS.)	BALDWIN COUNTY, ALABAMA
)	
FRANK KELLY and LEO KEITH,)	AT LAW
)	
Defendants.)	5723

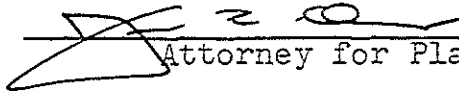
C O M P L A I N T

COUNT ONE

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plaintiff which was parked at a service station operated by the plaintiff and at a place where the automobile had a right to be and as a proximate result of the negligence of the said defendants plaintiff's automobile was completely demolished; the plate glass window in the service station by plaintiff was broken and the said building in which he carried on his said business was rendered unfit to use for business for a long period of time all to plaintiff's damage as aforesaid.

Plaintiff avers that all of his said damage was the proximate result of the negligence of the defendants, Frank Kelly and Leo Keith, at said time and place, hence this suit.


Attorney for Plaintiff

FILED

SEP 24 1963

ALICE L. DUCK, CLERK
REGISTER

EX-9-25-63
10-5-63

3
6

1917
RECEIVED IN OFFICE
SEP 25 1963
M. S. BUTLER, Sheriff

Executed by serving.....3.....copies of
the within on Eugene Baggett
Secretary of State of The State of
Alabama.

This the 25 day of Sept 1963

Sheriff of Montgomery County
M. S. Butler,

By J. P. [Signature] D. S.

The Sheriff claims.....2.....
miles at 10c per mile for a total
of \$.....20.....
M. S. Butler, Sheriff
Montgomery County, Ala.

Received. this day
of 19.....
.....
..... Sheriff

Executed By Serving A Copy of the within
On each of the within Named with
This 500 of Oct 1963
Deputy Davis Sheriff
By Deputy

5723

Ben F. Sutton,
Pltf.

vs.

Frank Kelly & Leo
Keith,
Depts

FILED
SEP 24 1963
ALBANY, N.Y. CLERK
IN COURT

BEN F. SUTTON,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
)	AT LAW
vs)	
)	
FRANK KELLY and LEO KEITH,)	CASE NO. 5723
Defendants.)	
)	

ANSWER

Comes now, Defendant, Frank Kelly, and for answer to the Plaintiff's complaint and each count thereof, separately and severally, says as follows:

1. Not guilty
2. The allegations thereof are untrue.

INGE, TWITTY, DUFFY & PRINCE

By *Thomas E. Twitty, Jr.*
Attorneys for Defendant, Frank
Kelly

FILED
OCT 17 1963
ALICE L. DUCK, CLERK
REGISTER