

JOHN C. ETHERIDGE

Plaintiff

VS.

SHELDON C. LOWE

Defendant

I IN THE CIRCUIT COURT OF

I MOBILE COUNTY, ALABAMA

I

I CIVIL DIVISION

I CASE NO. 5582

The Plaintiff claims of the Defendant TEN THOUSAND (\$10,000.00) DOLLARS as damages for in that heretofore and on, to-wit, December 3, 1961, the Defendant did so negligently operate a motor vehicle on U. S. Highway 31, at a point, to-wit, at or near its intersection with Highway 57, at which point the said highway 31 is a public highway in Baldwin County, Alabama, so as to cause the same to run into, upon and against the automobile which the Plaintiff was driving upon the said highway 31, a public highway in Baldwin County, Alabama, and as a direct and proximate result of the Defendant's negligence, as aforesaid, the vehicle which the Plaintiff was driving, as a bailee, was badly bent, broken and otherwise damaged, the Plaintiff suffered personal injury in that he was made sick, lame and sore, he suffered a fractured dislocation of his left hip, he suffered fracture of his right ribs, he suffered lacerations and contusions about his entire body, and he was caused to expend money in and about the treatment of his injuries, he was caused to lose time from his employment, he has been caused great pain and mental anguish and will be caused to suffer pain and mental anguish in the future; all for which he sues.



LEON DUKE

Attorney for the Plaintiff

The Plaintiff demands that this case be tried by Jury.

Leon Duke

LEON DUKE

Attorney for the Plaintiff

Defendant may be served at:

General Delivery, Bay Minette, Alabama

JOHN C. ETHERIDGE

Plaintiff

VS

SHELDON C. LOWE

Defendant

IN THE CIRCUIT COURT

MOBILE COUNTY, ALABAMA

CIVIL DIVISION

CASE NO. 8522

...

Comes now the Defendant in the above styled cause by his attorney, WILSON HAYES, and makes his appearance in this cause specially and only for the purpose of making the following plea;

I

Plaintiff ought not to have and maintain his suit in above styled cause for that Defendant is now and has been a resident of Baldwin County, Alabama for five years next preceding the cause of action.

II

Plaintiff ought not to have and maintain his suit in this cause for that Defendant is not now and never has been a resident of Mobile County, Alabama for five years next preceding the cause of action.

III

Plaintiff ought not to have and maintain his suit in the above styled cause for that the alleged accident complained of took place wholly within the boundaries of Baldwin County, Alabama.

IV

Plaintiff ought not to have and maintain his suit in the above styled cause for that the location where the alleged collision complained of in the Plaintiff's complaint is and was at the time of said collision wholly within Baldwin County, Alabama.

V

Plaintiff ought not to have and maintain his suit in the above styled cause for that it affirmatively appears from

the Plaintiff's complaint that the venue of said cause of action lies in Baldwin County and not Mobile County, Alabama.

Sheldon C. Lowe
Defendant

Wilson Hayes
Attorney for Defendant

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Wilson Hayes, a Notary Public in and for said State of Alabama at Large personally appeared Sheldon C. Lowe, the Defendant in the above styled cause who, being known to me and being duly sworn deposes and says:

I have read the foregoing plea in its entirety and know it to be true and without error.

Sheldon C. Lowe

Sworn to and subscribed before me on this the ____ day of November, 1962.

Wilson Hayes
Notary Public,

This is a copy of the

Plea in Abatement

which was filed in this cause

on Nov. 26 1962

Very respectfully,
John T. McQuillie,
Clerk, Circuit Court
Mobile County, Ala.

JOHN C. ETHERIDGE,

Plaintiff

Vs.

SHELDON C. LOWE,

Defendant

I

I

I

I

IN THE CIRCUIT COURT

OF MOBILE COUNTY,

ALABAMA


CIVIL DIVISION

CASE NO. 8522

Comes now the Plaintiff in the above styled cause and under Authority of Act No. 76 of the Alabama Legislature 1961, moves this Honorable Court to transfer this cause to the Circuit Court of Baldwin County, Alabama, and as grounds for said motion assigns the following:

1. The Defendant has filed a plea in abatement setting out, under oath, that he is a resident of Baldwin County Alabama.

2. The Defendant further avers that this cause of action arose in Baldwin County, Alabama.


LEON G. DUKE

JOHN C. ETHERIDGE,
Plaintiff,
Vs.
SHELDON C. LOWE,
Defendant.

IN THE CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA
AT LAW
Case No. 8522

I, ALICE J. DUCK, Clerk of the Circuit Court of Baldwin County, Alabama, do hereby certify that I have, on this the 4 day of December, 1962, received from JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, a complete transcript of all records and proceedings, in the case entitled JOHN E. ETHERIDGE versus SHELDON C. LOWE, as per order of Court transferring said cause to said Circuit Court of Baldwin County, Alabama.

ATTEST:

Alice J. Duck
CLERK, CIRCUIT COURT, BALDWIN COUNTY, ALABAMA.

Filed December 5, 1962
John E. Mandeville, Clerk

JOHN E. MANDEVILLE,
CLERK, CIRCUIT COURT
COURT HOUSE
P. O. BOX 298
MOBILE, ALABAMA

Leon Duke FD

5582

no me

-D

FILED

Dec 4 1962

ALICE J. DUCK, CLERK
REGISTER

12-17-64
Dis

December 3, 1962

STATE OF ALABAMA)
COUNTY OF MOBILE)

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA.

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby certify that the enclosed documents, numbered from One (1) to Six (6), both inclusive, contain a full, true and correct transcript of the records and proceedings had in this Court in a certain case therein lately pending wherein JOHN C. ETHERIDGE, was Plaintiff, and SHELDON C. LOWE, was Defendant.

IN WITNESS WHEREOF, I have hereunto set my hand, this the 3rd day of December, 1962.

ATTEST:

John E. Mandeville

CLERK, CIRCUIT COURT, MOBILE COUNTY, ALABAMA.

JOHN C. ETHERIDGE

Plaintiff

VS.

SHELDON C. LOWE

Defendant

X IN THE CIRCUIT COURT OF

X MOBILE COUNTY, ALABAMA

X

X CIVIL DIVISION

Baldwin Co. #

X CASE NO. 8522 5582

The Plaintiff claims of the Defendant TEN THOUSAND (\$10,000.00) DOLLARS as damages for in that heretofore and on, to-wit, December 3, 1961, the Defendant did so negligently operate a motor vehicle on U. S. Highway 31, at a point, to-wit, at or near its intersection with Highway 57, at which point the said highway 31 is a public highway in Baldwin County, Alabama, so as to cause the same to run into, upon and against the automobile which the Plaintiff was driving upon the said highway 31, a public highway in Baldwin County, Alabama, and as a direct and proximate result of the Defendant's negligence, as aforesaid, the vehicle which the Plaintiff was driving, as a bailee, was badly bent, broken and otherwise damaged, the Plaintiff suffered personal injury in that he was made sick, lame and sore, he suffered a fractured dislocation of his left hip, he suffered fracture of his right ribs, he suffered lacerations and contusions about his entire body, and he was caused to expend money in and about the treatment of his injuries, he was caused to lose time from his employment, he has been caused great pain and mental anguish and will be caused to suffer pain and mental anguish in the future; all for which he sues.



LEON DUKE

Attorney for the Plaintiff

The Plaintiff demands that this case be tried by Jury.

Leon Duke

LEON DUKE

Attorney for the Plaintiff

Defendant may be served at:

General Delivery, Bay Minette, Alabama

Filed October 22, 1962
John E. Mandeville, Clerk

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

SHELDON C. LOWE

to appear within thirty days from service of this process, in the Circuit Court of Mobile County Alabama, at the place of holding the same, then and there to answer the complaint of

JOHN C. ETHERIDGE

WITNESS: John E. Mandeville, Clerk of said Court, this 22nd day of October, 19 62

Attest:

John E. Mandeville
Clerk

SHERIFF'S RETURN

Received 30 day of Oct., 19 62 and on 14 Day
of Nov., 19 62, I served a copy of
the within A+C on Sheldon C. Lowe
by service on _____

Ray D. Bridges
RAY D. BRIDGES, SHERIFF

By W. C. Talbert D.S.
O m i

mail

No. 8522

JUDGE _____ DOCKET

CIVIL DIVISION

CIRCUIT COURT
MOBILE COUNTY

JOHN C. ETHERIDGE

VS. }

Complaint and Summons

SHELDON C. LOWE

Issued 22nd day of October, 19 62

Defendant's Address

General Delivery
Bay Minette, Alabama

Leon Duke

Plaintiff's Attorney

CIRCUIT COURT

MOBILE COUNTY

FILED

JOHN C. ETHERIDGE

Plaintiff

VS

SHELDON C. LOWE

Defendant

IN THE CIRCUIT COURT

MOBILE COUNTY, ALABAMA

CIVIL DIVISION

CASE NO. 8522 - *Exon*

.-.-.-.-.

Comes now the Defendant in the above styled cause by his attorney, WILSON HAYES, and makes his appearance in this cause specially and only for the purpose of making the following plea;

I

Plaintiff ought not to have and maintain his suit in above styled cause for that Defendant is now and has been a resident of Baldwin County, Alabama for five years next preceding the cause of action.

II

Plaintiff ought not to have and maintain his suit in this cause for that Defendant is not now and never has been a resident of Mobile County, Alabama for five years next preceding the cause of action.

III

Plaintiff ought not to have and maintain his suit in the above styled cause for that the alleged accident complained of took place wholly within the boundaries of Baldwin County, Alabama.

IV

Plaintiff ought not to have and maintain his suit in the above styled cause for that the location where the alleged collision complained of in the Plaintiff's complaint is and was at the time of said collision wholly within Baldwin County, Alabama.

V

Plaintiff ought not to have and maintain his suit in the above styled cause for that it affirmatively appears from

the Plaintiff's complaint that the venue of said cause of action lies in Baldwin County and not Mobile County, Alabama.

Sheldon C. Lowe
Defendant

W. B. Hayes
Attorney for Defendant

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Wilson Hayes, a Notary Public in and for said State of Alabama at Large personally appeared Sheldon C. Lowe, the Defendant in the above styled cause who, being known to me and being duly sworn deposes and says:

I have read the foregoing plea in its entirety and know it to be true and with out error.

Sheldon C. Lowe

Sworn to and subscribed before me on this the ____ day of November, 1962.

W. B. Hayes
Notary Public,

Filed November 26, 1962
John E. Mandeville, Clerk
Copy: Leon Duke

FRIDAY, NOVEMBER 30, 1962

JOHN C. ETHERIDGE)	
)	
ERVIN	-vs-	8522) PLEA IN ABATEMENT CONFESSED
)	
SHELDON C. LOWE)	

This day in open Court came the parties by their attorneys, and plaintiff confessing the defendant's Plea in Abatement in this cause; It is ordered and adjudged by the Court that this cause be, and the same is hereby ordered transferred to the Circuit Court of Baldwin County, Alabama.

Minute Book 28

Page 1077

3 - Minute Entry of Ruling on Plea in Abatement

JOHN C. ETHERIDGE,	X	IN THE CIRCUIT COURT
Plaintiff		OF MOBILE COUNTY,
VS.	X	ALABAMA
SHELDON C. LOWE,	X	CIVIL DIVISION
Defendant	X	CASE NO. 8522 - <i>Erwin</i>

Comes now the Plaintiff in the above styled cause and under Authority of Act No. 76 of the Alabama Legislature 1961, moves this Honorable Court to transfer this cause to the Circuit Court of Baldwin County, Alabama, and as grounds for said motion assigns the following:

1. The Defendant has filed a plea in abatement setting out, under oath, that he is a resident of Baldwin County Alabama.

2. The Defendant further avers that this cause of action arose in Baldwin County, Alabama.


LEON G. DUKE

Filed November 27, 1962

John E. Mandeville, Clerk

Copy: Wilson Hayes

P. O. Box 268

Bay Minette, Ala.

FRIDAY, NOVEMBER 30, 1962

.JOHN C. ETHERIDGE)	
)	
ERVIN	-vs-	8522)
)
SHELDON C. LOWE)	

PLAINTIFF'S MOTION FILED NOVEMBER
27, 1962, FOR COURT TO TRANSFER
THIS CAUSE TO CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA - GRANTED

This day in open Court came the parties by their attorneys, and plaintiff's motion filed November 27, 1962, for Court to transfer this cause to Circuit Court of Baldwin County, Alabama, coming on to be heard and being argued by counsel and understood by the Court;

It is ordered and adjudged by the Court that plaintiff's said motion filed November 27, 1963, for Court to transfer this cause to Circuit Court of Baldwin County, Alabama, be, and the same is hereby granted.

Minute Book 28

Page 1077

5 - Minute Entry granting Plaintiff's motion to transfer cause

CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY

No. 8522

John C. Etheridge
Sheldon C. Lowe

VS.

Plaintiff
Defendant

(Act No. 740, Reg. Session Ala. Legislature 1957
Appvd. Sept. 20, 1957)
(Amend Sec. 21, Title 11, Code Ala. 1940)

BILL OF COST

(Act No. 571, Reg. Ses. Leg. 1955)
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

CLERK'S FEES	Pltff.	Deft.	SHERIFF'S FEES	Pltff.	Deft.
Suits for \$100 or less \$ 6.00			Serving Summons & Complaint \$ 1.50	1.50	
Suits for over \$100 but less than \$1,000 10.00			Serving Writ of Garnishment 1.50		
Suits for \$1,000 and over 20.00	20.00		Serving Sci Fa.-Notices 1.50		
Suits in detinue, ejectment, etc. 10.00			Levying Attachment & Return 6.25		
Suits not otherwise provided 10.00			Executing Writ Possession 5.00		
Writs, Mandamus, Prohibition, etc. 15.00			Seizing personal property under Writ of Detinue 6.00		
Appeals from Court General Sessions 15.00			Serving subpoenas, each .75		
Appeals from Probate Court 20.00			Impanelling Jury .75		
Appeals from JP Courts 6.00			Taking & Approving Bond 2.00		
Appeals from State Dept of Pub. Safety, and other State Agencies 10.00			Collecting Costs Execution 1.50		
Workmen's Compensation Settle. 10.00			Serving Contempt Writ 1.50		
Garnishment on Judgment 6.00			Making Deed for Property sold 2.50		
Order of Sale, Motions to sell. 6.00			Commission, collecting money on executions, 1st \$200 5%; \$200 to \$500 4%; over \$500 3% \$		
Recording executions from State Agencies 3.00					
Cert. Copy of Record - per 100 words (3) .15	1.25				
Taking Appeal Bond .75					
Record for Supreme Court etc., per 100 words .15					
Add'l Copies of Record for Supreme Court, per 100 words .05					
Checking - including Reporters Transcript of Evidence 10.00					
Certifying Abstract in lieu of Transcript on Appeal 5.00					
Collecting Money on Judgments over 30 days old, 1/2 the percentage allowed Sheriffs \$					
Total \$ 21.25					
			RECAPITULATION		
			Clerk 21.25		
			Sheriff 1.50		
			Inferior Civil Court		
			Justice Peace fees		
			Witness fees		
			Commissioner's fees		
			Certificate of Judgment		
			Judgment		
			10% Damages		
			Interest		
			Stenographer's fees (\$10.00 Day)		
			Library fee 1.50	1.50	
			Trial Tax (County) 1.50	1.50	
			Trial Tax (State) 1.50	1.50	
			Advertise. ent		
			Garnishee's fees		

I respectfully beg to advise that if this bill for costs is not paid before 19_____, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk


STATE OF ALABAMA)
COUNTY OF MOBILE)


IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA.

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby certify that the foregoing documents numbered from One (1) to Six (6), both inclusive, contain a full, true and correct transcript of the records and proceedings had in this Court in a certain cause therein laterly pending wherein JOHN C. ETHERIDGE, was the Plaintiff, and SHELDON C. LOWE, was the Defendant, which said cause was, on the 30th day of November, 1962, by order of this Court ordered transferred to the Circuit Court of Baldwin County, Alabama.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Circuit Court at office in the City of Mobile, Alabama, this the 3rd day of December, 1962.

ATTEST:


CLERK, CIRCUIT COURT, MOBILE COUNTY, ALABAMA.



COPY

ARD/eb

Circuit Clerk

Very truly yours,

be mailed to you later.

of prosecution on the 17th day of December, 1964 and a cost bill will

The above style case was dismissed out of this Court for want

Re: John C. Etheridge
vs: Sheldon C. Lowe
Case No. 5582

Dear Sir:

Hon. Leon Duke
531 First National Bank Bldg.
Mobile, Alabama

February 2, 1965

2-3-65

C. C. LAW 34-5M-3-64

Circuit Court
Baldwin County

CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY

No. 8522 John C. Etheridge vs Sheldon C. Lowe Plaintiff
Defendant

(Act No. 740, Reg. Session Ala. Legislature 1957
Appvd. Sept. 20, 1957)
(Amend Sec. 21, Title 11, Code Ala. 1940)

BILL OF COST

(Act No. 571, Reg. Ses. Leg. 1955)
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

CLERK'S FEES	Pltff.	Deft.	SHERIFF'S FEES	Pltff.	Deft.
Suits for \$100 or less \$ 6.00			Serving Summons & Complaint \$ 1.50	1.50	
Suits for over \$100 but less than \$1,000 10.00			Serving Writ of Garnishment 1.50		
Suits for \$1,000 and over 20.00	20.00		Serving Sci Fa.-Notices 1.50		
Suits in detinue, ejectment, etc. 10.00			Levying Attachment & Return 6.25		
Suits not otherwise provided 10.00			Executing Writ Possession 5.00		
Writs, Mandamus, Prohibition, etc. 15.00			Seizing personal property under Writ of Detinue 6.00		
Appeals from Court General Sessions 15.00			Serving subpoenas, each .75		
Appeals from Probate Court 20.00			Impanelling Jury .75		
Appeals from JP Courts 6.00			Taking & Approving Bond 2.00		
Appeals from State Dept of Pub. Safety, and other State Agencies 10.00			Collecting Costs Execution 1.50		
Workmen's Compensation Settle. 10.00			Serving Contempt Writ 1.50		
Garnishment on Judgment 6.00			Making Deed for Property sold 2.50		
Order of Sale, Motions to sell. 6.00			Commission, collecting money on executions, 1st \$200 5%; \$200 to \$500 4%; over \$500 3% \$		
Recording executions from State Agencies 3.00					
Cert. Copy of Record - per 100 words .15	1.25				
Taking Appeal Bond .75					
Record for Supreme Court etc., per 100 words .15					
Add'l Copies of Record for Supreme Court, per 100 words .05					
Checking - including Reporters Transcript of Evidence 10.00					
Certifying Abstract in lieu of Transcript on Appeal 5.00					
Collecting Money on Judgments over 30 days old; ½ the percentage allowed Sheriffs \$					
Total \$	21.25				
			RECAPITULATION		
			Clerk	21.25	
			Sheriff	1.50	
			Inferior Civil Court		
			Justice Peace fees		
			Witness fees		
			Commissioner's fees		
			Certificate of Judgment		
			Judgment		
			10% Damages		
			Interest		
			Stenographer's fees (\$10.00 Day)		
			Library fee 1.50	1.50	
			Trial Tax (County) 1.50	1.50	
			Trial Tax (State) 1.50	1.50	
			Advertisement		
			Garnishee's fees		

I respectfully beg to advise that if this bill for costs is not paid before 19____, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk

27.25

November 27, 1962

Mr. Wilson Hayes
Attorney at Law
P. O. Box 268
Bay Minette, Alabama

RE: John C. Etheridge vs.
Sheldon C. Lowe - Case No.
8522 - Ervin

Dear Sir:

This letter is written to advise you that the Plea in Abatement, in the above entitled cause, in which you represent the Defendant, is set down for hearing on Friday, November 30, 1962, at 9:30 o'clock A.M., in Court Room No. 1.

This setting is made on the request of Mr. Leon G. Duke, Attorney for Plaintiff.

Respectfully submitted,

JOHN C. MANDEVILLE, Clerk
Circuit Court, Mobile
County, Alabama

February 2, 1965

Hon. John E. Mandeville,
Clerk of Circuit Court
Mobile, Alabama

Dear Sir:

Re: John C. Etheridge
vs: Sheldon C. Lowe
Case No. 5582

Please send me your cost bill in the above style cause as
of
same has been dismissed out/this court.

Very truly yours,

Circuit Clerk.

AJD/eb

COPY

Case No. 8522

JOHN C. ETHERIDGE

VS.

SHELDON C. LOWE

December 3, 1962

Originals of all pleadings sent
to Circuit Court of Baldwin
County, Alabama, for consideration of
transferring this cause to said
Court.

March 14, 1963

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

Re: Case No. 8522
JOHN C. ETHERIDGE
Vs
SHELDON C. LOWE

Dear Mrs. Duck:

In following up our telephone conversation of this afternoon, I checked with the Sheriff's office here and in our file in this office. Neither of us can find any of papers referred to.

With personal regards, I remain

Sincerely yours,

Catherine L. Eberlein

CLE/ot

HARRY SEALE

LAWYER

FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

HARRY SEALE

M. A. MARSHALL

A. J. SEALE

LEON G. DUKE

November 26, 1962

MAILING ADDRESS

POST OFFICE BOX 1318

MOBILE 2-6686

Mr. Wilson Hayes
Attorney at Law
P. O. Box 268
Bay Minette, Alabama

Re: John C. Etheridge vs. Sheldon C. Lowe
No. 8522

Dear Sir:

This will acknowledge copy of your plea in abatement in the above captioned matter. Enclosed is my motion to move to Baldwin County pursuant to the recent Act of Legislature No. 76 of the Alabama Legislature, 1961 Session.

By copy of this letter, I am requesting the Mobile Circuit Court Clerk's Office to set your plea in abatement as soon as possible so that we may attend to the removal.

Yours truly,

Leon G. Duke
LEON G. DUKE

LGD/fy

cc: Mrs. Catherine Eberlien
Clerk, Circuit Court
County Courthouse
Mobile, Alabama

8522

WILSON HAYES
LAWYER
BAY MINETTE, ALABAMA

P. O. Box 268

Telephone 937-2171

November 23, 1962

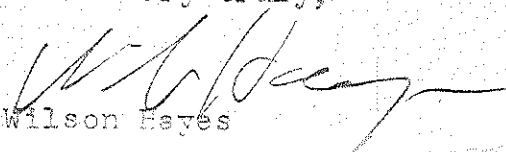
Mr. John E. Mandeville
Clerk of the Circuit Court
Mobile County
Mobile, Alabama

Re: Etheridge vs Lowe

Dear Mr. Mandeville:

Enclosed please find a Plea in Abatement in this case.
Please file them for me.

Yours very truly,


Wilson Hayes

WH/rkh
Enclosure