

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 Bryan-Smith Oil Company, Inc., a Corporation.

WITNESS my hand, this 10 day of July, 1963.

Alice J. Clark  
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.

\* \* \* \* \*

BRYAN-SMITH OIL COMPANY, INC.,	)	
A CORPORATION,	)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
	)	
VS.	)	
	)	AT LAW
FRANK KELLY and LEO KEITH,	)	5627
Defendants.	)	

C O M P L A I N T  
COUNT ONE

The Plaintiff claims of the Defendants Eighty-five Hundred Dollars (\$8500.00) 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 four 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 gasoline pumps

and a service station owned by the Plaintiff and as a proximate result of the said negligence the said gasoline tanks were completely demolished; the asphalt driveway of the Plaintiff was cut, burned and damaged; the plate glass window in the service station of the Plaintiff was broken and the said building 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 its 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

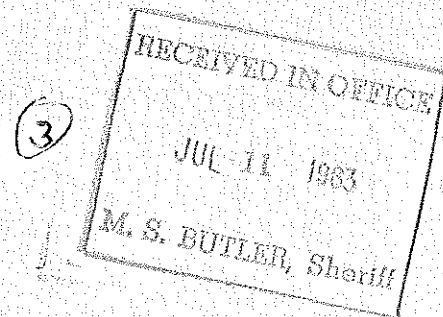
JUL 10 1963

CLERK  
REGISTER

EX - 7-12-63

7-18-63

Mont. Co. 1319



Executed by serving 3 copies of  
the within on Agnes Braggitt  
Secretary of State of The State of  
Alabama.

This the 12 day of July 1963

Sheriff of Montgomery County

M. S. Butler,

By J. R. Owen D. S.

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

COMPLAINT  
5627

BRYAN-SMITH OIL COMPANY, INC.,  
A CORPORATION,

Plaintiff,

VS.

FRANK KELLY and LEO KEITH,  
Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

FILED  
JUL 10 1963  
JAMES R. OWEN

JAMES R. OWEN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

Executer by serving a copy on Frank Kelley this 18th day of July 1963

James R. Owen  
SHERIFF - PIKE COUNTY ALA.

July 16, 1963

BRYAN-SMITH OIL COMPANY, INC.,  
A CORPORATION, Plaintiff  
VS  
LEO KEITH, et al, Defendants

IN THE CIRCUIT COURT OF BALDWIN  
COUNTY, ALABAMA AT LAW

CASE NO. 5627

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

I, Mrs. Agnes Baggett, Secretary of State, hereby certify that on July 12, 1963  
I sent by certified mail in an envelope addressed as follows:

"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 July 12, 1963 the Sheriff of Montgomery  
County, Alabama, served upon me, in my official capacity, summons and complaint in a  
case entitled: BRYAN-SMITH OIL COMPANY, INC., A CORPORATION, Plaintiff VS  
LEO SMITH, et al, Defendants

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW  
Case No. 5627 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 12  
day of July 1963

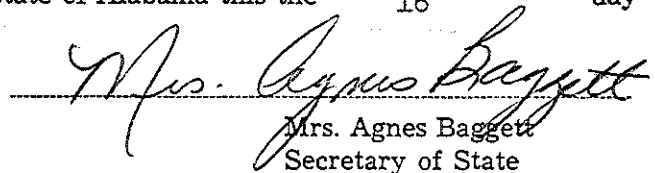
Enclosure (1)

(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 July 16, 1963 I received the return card, showing  
receipt by the designated addressee of the aforementioned matter at Ellisville Miss.  
on 7-15-63

WITNESS MY HAND and the Great Seal of the State of Alabama this the 16 day  
of July 1963

  
Mrs. Agnes Baggett  
Secretary of State

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

cc: Hon. James 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 Bryan-Smith Oil Company, Inc., a Corporation.

WITNESS my hand, this 10 day of July, 1963.

Allice J. Duck  
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.

\* \* \* \* \*

BRYAN-SMITH OIL COMPANY, INC., )  
A CORPORATION, )  
Plaintiff, )  
VS. )  
FRANK KELLY and LEO KEITH, )  
Defendants. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW  
5627

C O M P L A I N T

COUNT ONE

The Plaintiff claims of the Defendants Eighty-five Hundred Dollars (\$8500.00) 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 four 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 gasoline pumps

and a service station owned by the Plaintiff and as a proximate result of the said negligence the said gasoline tanks were completely demolished; the asphalt driveway of the Plaintiff was cut, burned and damaged; the plate glass window in the service station of the Plaintiff was broken and the said building was rendered unfit for use for business for a long period of time all to Plaintiff's damage as aforesaid.

Plaintiff avers that all of its 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.

FILED

JUL 10 1923

ALICE J. DUCK, CLERK  
REGISTER

  
Attorney for Plaintiff

INGE, TWITTY, DUFFY & PRINCE

LAWYERS

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

36601

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.  
36601

CABLE ADDRESS:

TWINING  
TELEPHONE  
HEMLOCK 3-5441

July 3, 1964

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

Re: Bryan-Smith Oil Company, Inc. vs  
Frank Kelly and Leo Keith  
At Law 5627


Dear Mrs. Duck:

Enclosed you will please find the answer of defendant, Frank Kelly, to the plaintiff's complaint as amended in this cause.

I am enclosing two extra copies for service upon Lyons, Pipes and Cook and James R. Owen, attorneys for the plaintiff.

With kindest regards,

Cordially,

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

TET, jr:s  
enclosures

cc: Lyons, Pipes & Cook  
Attn: Mr. Sage Lyons  
Mr. James R. Owens

July 22, 1963

BRYAN-SMITH OIL COMPANY, INC.,  
A CORPORATION, Plaintiff  
VS  
LEO KEITH, et al, Defendants

IN THE CIRCUIT COURT OF BALDWIN  
COUNTY, ALABAMA AT LAW

CASE NO. 5627

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

I, Mrs. Agnes Baggett, Secretary of State, hereby certify that on July 16, 1963  
I sent by certified mail in an envelope addressed as follows:

"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.

"CORRECTED NOTICE"

You will take notice that on July 12, 1963 the Sheriff of Montgomery County, Alabama, served upon me, in my official capacity, summons and complaint in a case entitled: BRYAN-SMITH OIL COMPANY, INC., A CORPORATION, Plaintiff VS LEO KEITH, et al, Defendants

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW  
Case No. 5627 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 16  
day of July 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 July 22, 1963 I received the return card, showing receipt by the designated addressee of the aforementioned matter at Ellisville Miss.  
on 7-19-63

WITNESS MY HAND and the Great Seal of the State of Alabama this the 22 day  
of July 1963

*Mrs. Agnes Baggett*  
Mrs. Agnes Baggett  
Secretary of State

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

cc: Hon. James R. Owen  
110 Court House Sq.  
Bay Minette, Ala.



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

August 5, 1963

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

Re: Bryan-Smith Oil Company, Inc. v.  
Frank Kelly and Leo Keith  
Case No. 5627

Dear Mrs. Duck:

Enclosed you will find the original and two copies of  
Pleas which we wish to file on behalf of Defendant, Frank Kelly, in  
this cause.

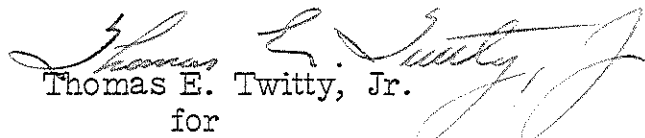
Please return the enclosed carbon of this letter indi-  
cating that these Pleas have been filed so that we may have it for our  
file.

My copy of the complaint is not too legible and I would  
appreciate your advising me of the name and address of the Plaintiff's  
attorney and also the name and address of the attorney for Defendant,  
Leo Keith, at your convenience.

With much appreciation for your courtesies,

With kindest personal regards,

Cordially,

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

TET, Jr.:lfg

Enclosures

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

ALICE J. DUCK, CLERK  
REGISTER

Defendants

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

CASE NO. 5627

ANSWER OF DEFENDANT, FRANK KELLY, TO AMENDED  
COMPLAINT

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

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

INGE, TWITTY, DUFFY & PRINCE

By: Shane L. Lundy  
Attorney for Defendant, Frank Kelly

FILED  
JUL 6 1964  
ALICE J. DICK, CLERK  
REGISTER

BRYAN-SMITH OIL COMPANY,  
INC., A Corporation,

Plaintiff,

vs.

FRANK KELLEY and LEO  
KEITH,

Defendants.

§

§

§

§

§

§

§

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5627

MOTION TO STRIKE

Comes now the Defendant, Leo Keith, in the above styled cause, by his attorneys, and moves to strike that portion of the complaint heretofore filed against him in which it is alleged that "said gasoline tanks were completely demolished" and that portion of the complaint in which it is alleged that "the said building was rendered unfit to use for business for a long period of time", and as grounds therefor assigns, separately and severally, the following:

1. The complaint fails to allege that this Defendant ran into, upon or against any gasoline tanks which were the property of the Plaintiff.

2. The damages claimed as a result of a building being rendered unfit to use for business for a long period of time are merely speculative.

3. The portion of the complaint which claims damages as a result of a building allegedly being rendered unfit to use for business for a long period of time claims damages which are not recoverable as a matter of law.

4. That portion of the complaint which claims damages as a result of a building allegedly being rendered unfit to use for

business for a long period of time claims damages which are not recoverable as a matter of law in that the complaint fails to allege that the Plaintiff operated a business in such building.

Respectfully submitted,

CHASON & STONE

By: 

The Defendant Leo Keith demands a trial of this cause by a jury.

CHASON & STONE

By: 

Attorneys for Leo Keith

FILED

JUL 26 10

ALICE J. DUCK, CLERK  
REGISTER

BRYAN-SMITH OIL COMPANY,  
INC., a corporation,

Plaintiff,

vs.

FRANK KELLY and LEO KEITH,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

CASE NO. 5627

.....

PLEAS

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

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

INGE, TWITTY & DUFFY

By *James L. Twitty*  
Attorneys for Defendant Frank Kelly

FILED

AUG 7 1933

WILLIAM I. DICK

CLERK  
REGISTER

BRYAN SMITH OIL COMPANY,  
INC., a Corporation,

Plaintiff,

VS.

FRANK KELLY and LEO KEITH,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

5627

AMENDED COMPLAINT

Now comes the plaintiff in the above styled cause and amends the complaint heretofore filed in said cause so that, as amended, the said complaint will read as follows:

"COUNT ONE

The plaintiff claims of the defendants Eighty-five Hundred Dollars (\$8500.00) 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 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 plaintiff's service station building and gasoline pumps and as a proximate result of the said negligence of the said defendants the said gasoline tanks were completely demolished; the asphalt driveway of the plaintiff was cut, burned and damaged; the plate glass window in the service station of the plaintiff was broken and the said fixtures within the service station building were caused to catch on fire and were burned, smashed, broken and damaged, and the plaintiff was caused to expend large sums of money for the repair thereof; the said service station building was rendered unfit to use for business for a long period of time all to plaintiff's damages aforesaid.

Plaintiff avers that all of its 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."

LYONS, PIPES & COOK and JAMES R. OWEN

By *[Signature]*  
Attorneys for Plaintiff

FILED

MAY 5 1964

ALICE L. DUCK, CLERK  
REGISTER

POST OFFICE DEPARTMENT OFFICIAL BUSINESS		PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE \$300	
REGISTERED		CERTIFIED MAIL	
INSURED NO.		CITY, ZONE AND STATE	
SECRETARY OF STATE		MONTGOMERY, ALABAMA	
JUL 22 1963		JUL 19 1963	

POD Form 3811 April 1962

POST OFFICE DEPARTMENT OFFICIAL BUSINESS		PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE \$300	
REGISTERED		CERTIFIED MAIL	
INSURED NO.		CITY, ZONE AND STATE	
SECRETARY OF STATE		MONTGOMERY, ALABAMA	
JUL 16 1963		JUL 13 1963	

POD Form 3811 April 1962



BRYAN-SMITH OIL COMPANY, INC. VS LEO KEITH

INSTRUCTIONS TO DELIVERING EMPLOYEE

☒ Deliver ONLY to addressee

☐ Show address where delivered

(Additional charges required for these services) 5627

RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Leo Keith

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DELIVER TO ADDRESSEE ONLY

DATE DELIVERED

SHOW WHERE DELIVERED (only if requested)

7-19-63

CSB-16-71548-9-GPO

BRYAN-SMITH OIL CO. VS LEO SMITH, et al

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Deliver ONLY to addressee

☐ Show address where delivered

(Additional charges required for these services) 5627

RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Leo Keith

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DELIVER TO ADDRESSEE ONLY

DATE DELIVERED

SHOW WHERE DELIVERED (only if requested)

7-15-63

CSB-16-71548-9-GPO