

STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon L. D. Owen, Jr., 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 Emmett Luther Rogers, as Administrator of the Estate of Janie Rogers, deceased.

Witness my hand this the 3 day of November, 1964.

*Alice J. Luck*  
Clerk

EMMETT LUTHER ROGERS, as  
Administrator of the Estate  
of Janie Rogers, deceased,

X

X

Plaintiff,

X

Vs.

X

L. D. OWEN, JR.,

X

Defendant.

X

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

6280

I.

The Plaintiff, Emmett Luther Rogers, sues as the Administrator of the Estate of Janie Rogers, deceased, and claims of the Defendant the sum of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS as damages for that heretofore on to-wit, the 3rd day of May, 1964, Janie Rogers, deceased, was riding in a vehicle which was being driven along or upon U. S. Highway 31 at a point which is approximately 1.7 miles South of the city limits of Bay Minette, Baldwin County, Alabama, which is a public highway in Baldwin County, Alabama. The Plaintiff avers that at this said time and place, the Defendant, L. D. Owen, Jr., so negligently operated the vehicle he was driving as to cause it to collide with the vehicle in which Janie Rogers was riding thereby injuring her so that she died, all to the loss of the Plaintiff in the aforesaid amount.

2.

Plaintiff claims of the Defendant the sum of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS as damages, for that heretofore on to-wit, the 3rd day of May, 1964, Janie Rogers was riding in a vehicle which was being driven along or upon U. S. Highway 31 at a point approximately 1.7 miles South of the city limits of Bay Minette, Alabama, which is a public highway in Baldwin County, Alabama. At said time and place, the Defendant, L. D. Owen, Jr., so negligently operated the vehicle he was driving so as to cause it to collide with the vehicle Janie Rogers was riding and as a proximate result thereof, Janie Rogers was killed. Your Plaintiff avers that he is the Administrator of the Estate of Janie Rogers, deceased, and brings this suit in that capacity.

WILTERS & BRANTLEY

BY:

Seamus M Brantley  
Attorney for Plaintiff

Plaintiff demands a trial by jury.

WILTERS & BRANTLEY

BY:

Seamus M Brantley  
Attorney for Plaintiff

FILED

Nov 3 1964

ALICE L. DUCK, CLERK  
REGISTER

EX-11-3-64

6280

Received 3 day of Mar 1964  
and on 3 day of Mar 1964  
I served a copy of the within

Emmett Luther Rogers  
as Adm. of the Estate of  
Janie Rogers, deceased  
on L. D. Owen, Jr.  
By service on \_\_\_\_\_  
\_\_\_\_\_

TAYLOR, WILKINS, Sheriff  
By W. O. Farmer D.  
O 9 mi

vs.

L. D. Owen, Jr.

FILED

NOV 3 1964

ALICE J. DUCK, CLERK  
REGISTER

Hers & Brantley

EMMETT LUTHER ROGERS,	:	IN THE CIRCUIT COURT
as Administrator of	:	
the Estate of Janie	:	OF BALDWIN COUNTY,
Rogers, deceased,	:	
	:	ALABAMA,
Plaintiff	:	
	:	AT LAW
vs.	:	
	:	
L. D. OWEN, JR.,	:	
	:	
Defendant.	:	Case No. 6280

D E M U R R E R

Comes now the defendant in the above-styled cause and demurs to each separate and several count of the complaint filed herein, and assigns as separate and several grounds of demurrer, the following, separately and severally:

1. For aught that appears the negligence of the defendant did not constitute a proximate cause of the death of the deceased person described in the complaint.

2. For aught that appears the defendant's negligence did not proximately cause the death of the plaintiff's decedent.

3. For aught that appears the negligence of the defendant was not a proximate cause of the injuries to or death of the plaintiff's decedent.

4. For aught that appears the negligence of the defendant was not a proximate cause of the injuries to or death of Janie Rogers.

5. For that the phrase "proximate result thereof" is vague, indefinite and uncertain.

6. For aught that appears the death of the plaintiff's decedent was the proximate result of the collision described in said count but not of the negligence of the defendant.

7. For aught that appears the phrase "proximate result thereof" does not refer to the negligence of the defendant.

8. For that sufficient facts are not set forth to show a duty on the part of the defendant to the plaintiff.

9. For that sufficient facts are not set forth to show a duty on the part of the defendant to the plaintiff's decedent.

10. For that sufficient facts are not set forth to show a duty on the part of the defendant to Janie Rogers.

11. For aught that appears the automobile in which Janie Rogers was riding was not located upon a public highway.

12. For aught that appears the automobile in which the plaintiff's decedent, Janie Rogers, was riding was not located upon a public highway.

13. For aught that appears the automobile which the defendant was driving was not located upon a public highway.

14. For that sufficient facts are not set forth to show a duty on the part of the defendant to the plaintiff's decedent because, for aught that appears, the automobile in which the plaintiff's decedent was riding was not located on a public highway.

15. For that sufficient facts are not set forth to show a duty on the part of the defendant to the plaintiff's decedent because, for aught that appears, the automobile which the defendant was driving was not located on a public highway.

16. For that negligence is alleged therein merely as a conclusion of the pleader.

17. For that sufficient facts are not set forth to show negligence on the part of the defendant.

18. For that the phrase "injuring her so that she died" is vague, indefinite, and uncertain.

19. For that the phrase "injuring her so that she died" is but a conclusion of the pleader.

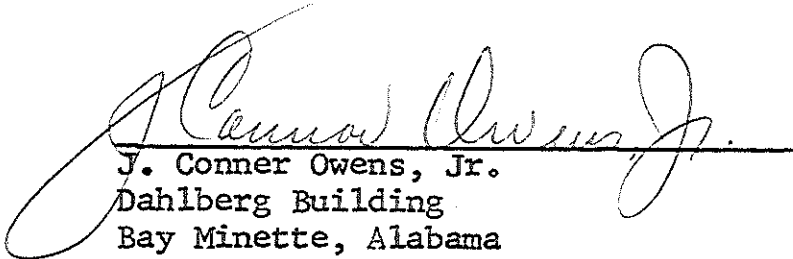
20. For that the phrase "all to the loss of the plaintiff" is vague, indefinite, and uncertain.

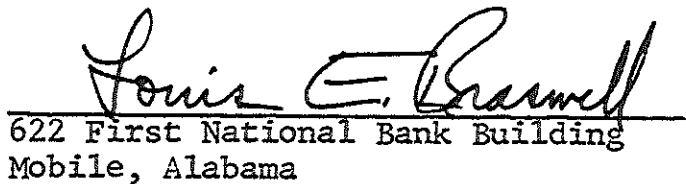
21. For that the phrase "all to the loss of the plaintiff" is an inappropriate allegation in said count.

22. For that the phrase "all to the loss of the plaintiff" is an inappropriate allegation in said count in that the damages to be recovered by said count should be punitive in nature rather than compensatory.

23. For that it does not appear with sufficient certainty wherein the defendant violated any duty which he owed to the plaintiff.

24. For that said count fails to allege the quo modo of the negligence of the defendant.

  
J. Conner Owens, Jr.  
Dahlberg Building  
Bay Minette, Alabama

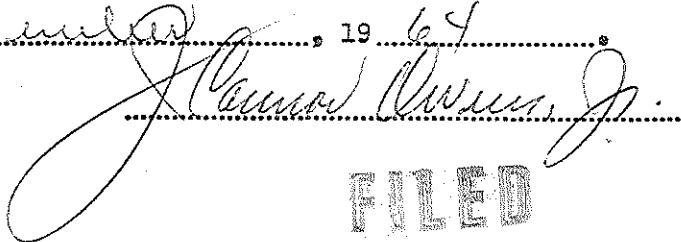
  
622 First National Bank Building  
Mobile, Alabama

Of Counsel:

HAND, ARENDALL, BEDSOLE,  
GREAVES & JOHNSTON

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing pleading to Tolbert M. Brantley, Esq., Attorney for Plaintiff by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in <sup>Bay Minette</sup> ~~Mobile~~, Alabama on this, the 25<sup>th</sup> day of November, 19 64.

  
FILED

W. L. DICK, CLERK  
REGISTER

EMMETT LUTHER ROGERS, as	X	
Administrator of the Estate	X	
of Janie Rogers, deceased,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
Vs.	X	BALDWIN COUNTY, ALABAMA
L. D. OWEN, JR.,	X	AT LAW
Defendant.	X	

# AMENDED COMPLAINT

Comes now the Plaintiff in the above styled cause and amends his Complaint to read as follows:

1.

The Plaintiff, Emmett Luther Rogers, sues as the Administrator of the Estate of Janie Rogers, deceased, and claims of the Defendant the sum of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS as damages for that heretofore on to-wit, the 3rd day of May, 1964, Janie Rogers, deceased, was riding in a vehicle which was being driven along or upon U. S. Highway 31 at a point which is approximately 1.7 miles South of the city limits of Bay Minette, Baldwin County, Alabama, which is a public highway in Baldwin County, Alabama. The Plaintiff avers that at this said time and place, the Defendant, L. D. Owen, Jr., so negligently operated the vehicle he was driving as to cause it to collide with the vehicle in which Janie Rogers was riding and as a direct and proximate result thereof, she was injured so that she died, all to the loss of the Plaintiff in the afore-said amount.

2.

Plaintiff claims of the Defendant the sum of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS as damages, for that heretofore on to-wit, the 3rd day of May, 1964, Janie Rogers was riding in a vehicle which was being driven along or upon U. S. Highway 31 at a point approximately 1.7 miles South of the city limits of Bay Minette, Alabama, which is a public highway in Baldwin County, Alabama. At said time and place, the Defendant,



L. D. Owen, Jr., so negligently operated the vehicle he was driving so as to cause it to collide with the vehicle Janie Rogers was riding and as a proximate result of said negligence, Janie Rogers was killed. The Plaintiff avers that he is the Administrator of the Estate of Janie Rogers, deceased, and brings this suit in that capacity.

WILTERS & BRANTLEY

BY:

*Samuel M Brantley*  
Attorney for Plaintiff

Plaintiff demands a trial by jury.

WILTERS & BRANTLEY

BY:

*Samuel M Brantley*  
Attorney for Plaintiff

FILED

JAN 13 1965

ALICE L. DUCK, CLERK  
REGISTER

EMMETT LUTHER ROGERS,	:	IN THE CIRCUIT COURT
as Administrator of	:	OF BALDWIN COUNTY,
the Estate of Janie	:	ALABAMA,
Rogers, deceased,	:	AT LAW
Plaintiff	:	
vs.	:	
L. D. OWEN, JR.,	:	
Defendant.	:	Case No. 6280

D E M U R R E R

Comes now the defendant in the above-styled cause and demurs to each count of the complaint filed herein, as last amended, and assigns as separate and several grounds of demurrer to each separate and several count, the following, separately and severally:

1. For aught that appears the negligence of the defendant did not constitute a proximate cause of the death of the deceased person described in the complaint.

2. For aught that appears the defendant's negligence did not proximately cause the death of the plaintiff's decedent.

3. For aught that appears the negligence of the defendant was not a proximate cause of the injuries to or death of the plaintiff's decedent.

4. For aught that appears the negligence of the defendant was not a proximate cause of the injuries to or death of Janie Rogers.

5. For that the phrase "proximate result thereof" is vague, indefinite and uncertain.

6. For aught that appears the death of the plaintiff's decedent was the proximate result of the collision described in said count but not of the negligence of the defendant.

7. For aught that appears the phrase "proximate result thereof" does not refer to the negligence of the defendant.

8. For that sufficient facts are not set forth to show a duty on the part of the defendant to the plaintiff.

9. For that sufficient facts are not set forth to show a duty on the part of the defendant to the plaintiff's decedent.

10. For that sufficient facts are not set forth to show a duty on the part of the defendant to Janie Rogers.

11. For aught that appears the automobile in which Janie Rogers was riding was not located upon a public highway.

12. For aught that appears the automobile in which the plaintiff's decedent, Janie Rogers, was riding was not located upon a public highway.

13. For aught that appears the automobile which the defendant was driving was not located upon a public highway.

14. For that sufficient facts are not set forth to show a duty on the part of the defendant to the plaintiff's

decedent because, for aught that appears, the automobile in which the plaintiff's decedent was riding was not located on a public highway.

15. For that sufficient facts are not set forth to show a duty on the part of the defendant to the plaintiff's decedent because, for aught that appears, the automobile which the defendant was driving was not located on a public highway.

16. For that negligence is alleged therein merely as a conclusion of the pleader.

17. For that sufficient facts are not set forth to show negligence on the part of the defendant.

18. For that the phrase "she was injured so that she died" is vague, indefinite, and uncertain.

19. For that the phrase "she was injured so that she died" is but a conclusion of the pleader.

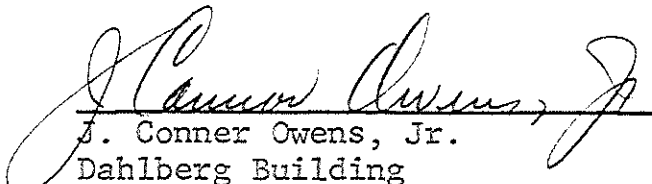
20. For that the phrase "all to the loss of the plaintiff" is vague, indefinite, and uncertain.


21. For that the phrase "all to the loss of the plaintiff" is an inappropriate allegation in said count.

22. For that the phrase "all to the loss of the plaintiff" is an inappropriate allegation in said count in that the damages to be recovered by said count should be punitive in nature rather than compensatory.

23. For that it does not appear with sufficient certainty wherein the defendant violated any duty which he owed to the plaintiff.

24. For that said count fails to allege the quo modo of the negligence of the defendant.

  
J. Conner Owens, Jr.  
Dahlberg Building  
Bay Minette, Alabama

  
622 First National Bank Building  
Mobile, Alabama

Of Counsel:

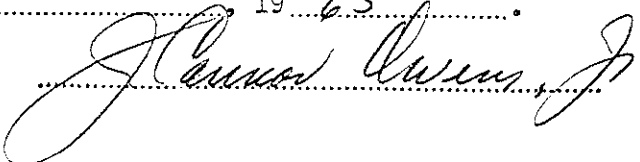
HAND, ARENDALL, BEDSOLE,  
GREAVES & JOHNSTON

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing pleading to Talbot

M. Brantley, Esq., Attorney for Plaintiff by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Bay Minette, Alabama on this, the 15 day of

January, 1965.



FILED

JAN 15 1965

ALICE L. DICK, CLERK  
REGISTER

EMMETT LUTHER ROGERS,	:	IN THE CIRCUIT COURT OF
as Administrator of	:	BALDWIN COUNTY,
the Estate of Janie	:	
Rogers, deceased,	:	
Plaintiff	:	ALABAMA,
vs.	:	AT LAW
L. D. OWEN, JR.,	:	
Defendant.	:	Case No. 6280

A N S W E R

Comes now the defendant in the above-styled cause, and for answer to each separate and several count of the complaint filed herein, as last amended, assigns the following separate and several pleas, separately and severally:

1. Not guilty.
2. The material allegations thereof are untrue.
3. At the time and place described in said count, on, to-wit, May 3, 1964, while the said Janie Rogers was riding in a motor vehicle on U. S. Highway 31 at a point which is approximately 1.7 miles south of the city limits of Bay Minette, Baldwin County, Alabama, where said highway is a public highway in Baldwin County, Alabama, said Janie Rogers was guilty of negligence in that the driver of the motor vehicle in which she was riding, Emmett Luther Rogers, was operating said motor vehicle in a negligent manner when said Janie Rogers knew or should have known in the exercise of reasonable care that said motor vehicle was being operated in a negligent manner and that said negligent operation was attended with danger, and the aforesaid

negligence of the said Janie Rogers proximately contributed to the collision and to the injuries and damages described in said count; hence, plaintiff ought not recover.

4. At the time and place described in said count, on, to-wit, May 3, 1964, when the said Janie Rogers was riding in a motor vehicle on U. S. Highway 31 at a point which is approximately 1.7 miles south of the city limits of Bay Minette, Baldwin County, Alabama, where said highway is a public highway in Baldwin County, Alabama, said Janie Rogers was negligent in that the driver of the motor vehicle in which she was riding, Emmett Luther Rogers, was under the influence of intoxicating beverages and this fact was known or should have been known in the exercise of reasonable care to said Janie Rogers when she was riding in said motor vehicle, and the aforesaid negligence of said Janie Rogers proximately contributed to the collision and to the injuries and damages described in said count; hence, plaintiff ought not recover.

5. At the time and place described in said count, on, to-wit, May 3, 1964, while said Janie Rogers was riding in a motor vehicle which was being driven on U.S. Highway 31 at a point which is approximately 1.7 miles south of the city limits of Bay Minette, Baldwin County, Alabama, where said highway is a public highway in Baldwin County, Alabama, said Janie Rogers was negligent in that she failed to keep a proper lookout for her own safety when she knew or should have

known in the exercise of reasonable care that the motor vehicle in which she was riding was being negligently operated, and the aforesaid negligence of said Janie Rogers proximately contributed to the collision and to the injuries and damages described in said count; hence, plaintiff ought not recover.

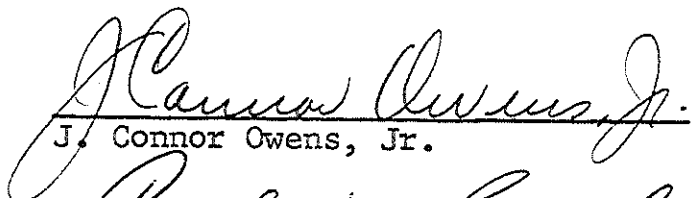


6. At the time and place described in said count, on, to-wit, May 3, 1964, on U. S. Highway 31 at a point which is approximately 1.7 miles south of the city limits of Bay Minette, Baldwin County, Alabama, where said highway is a public highway in Baldwin County, Alabama, said Janie Rogers was riding in a motor vehicle driven by Emmett Luther Rogers on said highway at said place when they were engaged in a joint enterprise in that they were going to their home together, and at said time and place the driver of said motor vehicle, said Emmett Luther Rogers, so negligently operated said motor vehicle as to cause or allow it to collide with the motor vehicle of the defendant which was being operated on said highway at said time and place, and the aforesaid negligence proximately contributed to the collision and to the injuries and damages described in said count; hence, plaintiff ought not recover.

7. At the time and place described in said count, on, to-wit, May 3, 1964, on U. S. Highway 31 at a point which is approximately 1.7 miles south of the city limits of Bay Minette, Baldwin County, Alabama, where said highway is a public highway in Baldwin County, Alabama, one of the beneficiaries of



any recovery that might be made in this suit, Emmett Luther Rogers, so negligently operated the motor vehicle in which he and said Janie Rogers were riding at said time and place as to cause or allow said motor vehicle to collide with the motor vehicle of the defendant which was on said highway at said time, and the aforesaid negligence of said Emmett Luther Rogers proximately contributed to the collision and to the injuries and damages described in said count; hence, plaintiff ought not recover.

8. At the time and place described in said count, on, to-wit, May 3, 1964, on U. S. Highway 31 at a point which is approximately 1.7 miles south of the city limits of Bay Minette, Baldwin County, Alabama, where said highway is a public highway in Baldwin County, Alabama, one of the persons who would receive a portion of any recovery that might be made in this suit, Emmett Luther Rogers, so negligently operated the motor vehicle in which he and said Janie Rogers were riding at said time and place as to cause or allow said motor vehicle to collide with the motor vehicle of the defendant which was on said highway at said time, and the aforesaid negligence of said Emmett Luther Rogers proximately contributed to the collision and to the injuries and damages described in said count; hence, plaintiff ought not recover.

  
J. Connor Owens, Jr.  
  
Paul W. Brock  
  
Louis E. Brannell

Defendant demands a trial by jury.

J. Connor Owens, Jr.  
J. Connor Owens, Jr.

Paul W. Brooks

Louis E. Brantley  
622 First National Bank Building  
Mobile, Alabama

Of Counsel:

HAND, ARENDALL, BEDSOLE,  
GREAVES & JOHNSTON

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct  
copy of the foregoing pleading to Talbert M. Brantley  
Brantley, Esq., Attorney for Plaintiff  
by depositing a copy of same in the United States mail,  
postage prepaid, addressed to said attorney at his off-  
ice in Mobile, Alabama on this, the 11<sup>th</sup> day of  
May, 19 65

J. Connor Owens, Jr.

FILED

MAY 11 1965

CLERK  
REGISTER

EMMETT LUTHER ROGERS,  
AS Administrator of  
the Estate of Janie  
Rogers, deceased,

Plaintiff,

Vs.

L. D. OWEN, JR.,

Defendant.

X  
X  
X  
X  
X  
X  
X

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

MOTION

Comes now the Plaintiff in the above styled cause and moves  
the Court to strike the Defendant's Pleas and Answers #1-8, and  
for grounds for said Motion says:

That these are immaterial pleas.

Without waiving the benefit of the foregoing Motion, the  
Plaintiff comes now and files the following demurrers to the  
Defendant's Pleas and to each of them separately and severally:

1.

The Pleas filed are no defense to this cause of action.

WILTERS & BRANTLEY

BY:

Robert M Brantley  
Attorney for the Plaintiff

FILED

MAY 18 1965

ALICE J. DICK, CLERK  
REGISTER

Accepted service  
of foregoing this  
18<sup>th</sup> day of May, 1965.  
James Owens, Jr.

HARRY J. WILTERS, JR.  
TOLBERT M. BRANTLEY

LAW OFFICES OF  
WILTERS & BRANTLEY  
P. O. BOX 327  
BAY MINETTE, ALABAMA

PHONE  
BAY MINETTE 937-6721

May 25, 1965

Mrs. Alice J. Duck  
Circuit Clerk  
Bay Minette, Alabama

Dear Mrs. Duck:

We have settled the case of Emmitt Rogers, as Administrator vs L. D. Owen, Jr., which is set for trial next week. If you will please stop all witnesses in this case.

Yours truly,

WILTERS & BRANTLEY

BY:

  
Tolbert M. Brantley

TMB/agp

*Letters  
mailed*