

COLLINS, GALLOWAY & MURPHY
ATTORNEYS AT LAW
958 DAUPHIN STREET
MOBILE, ALABAMA 36604

FRED G. COLLINS
THOMAS M. GALLOWAY
M. THOMAS MURPHY (1924-1956)
JAMES H. LACKEY

May 3, 1965

P. O. BOX 4492
TELEPHONE
432-0568
AREA CODE 205

Hon. Alice Duck, Clerk
Circuit Court
Baldwin County Court House
Bay Minette, Alabama

In re: McKenzie Tank Lines, Inc.
vs: Newport Industries, et al
Case No. 6364

Dear Mrs. Duck:

Would you please request the Court to dismiss the
above styled matter at the request of the Plaintiff as this
matter has now been settled.

Would you please forward the Court costs bill to Mr.
Sam Johnston, Jr., the Attorney for the Defendants at P. O
Box 550, Mobile, Alabama.

Very truly yours,

COLLINS, GALLOWAY & MURPHY

By: 

Thomas M. Galloway

TMG/fs

cc: Hon. Sam Johnston, Jr.

Johnston, Johnston & Nettles
Attorneys

Eighth Floor First National Bank Annex

Mobile, Alabama 36601

Telephone 432-1811

Samuel A. Johnston

William F. Johnston

Samuel A. Johnston, Jr.

Bert S. Nettles

Mailing Address

P. O. Box 550

Mobile, Alabama

February 16, 1965

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

Re: McKenzie Tank Lines

vs.

Newport Industries, A
Corporation, Newport Division
Heyden Newport Chemical
Corporation, a Corporation,
separately and severally.

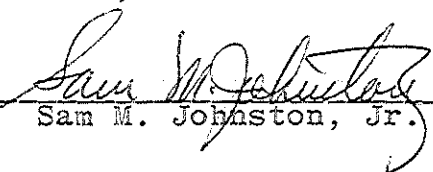
Dear Mrs. Duck:

I am enclosing herein a demurrer filed on behalf
of the defendant in the above matter. You will note
that I have sent a copy of same to Mr. Tom Galloway
of this city. Kindly acknowledge.

Yours very truly,

JOHNSTON, JOHNSTON & NETTLES

BY


Sam M. Johnston, Jr.

SMJjr:see
encl.

FILED

FEB 16-65

ALICE DUCK, CLERK
REGISTER

COLLINS, GALLOWAY & MURPHY

ATTORNEYS AT LAW
817 FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA
HEMLOCK 2-0568

January 18, 1965

FRED G. COLLINS
THOMAS M. GALLOWAY
M. THOMAS MURPHY (1924-1956)

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

In re: McKenzie Truck Lines
vs: Newport Industries

Dear Mrs. Duck:

I enclose herewith a complainant to be filed in your Court. This complaint must be shown as filed by January 19, 1965. Your immediate attention to this matter is greatly appreciated.

Best of personal regards.

Very truly yours,

COLLINS, GALLOWAY & MURPHY

By: 

Thomas M. Galloway

TMG/fs
Encl: 1 complaint

COLLINS, GALLOWAY & MURPHY

ATTORNEYS AT LAW
817 FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA
HEMLOCK 2-0568

January 18, 1965

FRED G. COLLINS
THOMAS M. GALLOWAY
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Mrs. Alice Duck, Clerk
Circuit Court
Baldwin County Court House
Bay Minette, Alabama

In re: McKenzie Truck Lines
vs: Newport Industries

Dear Mrs. Duck:

I enclose herewith a complainant to be filed in your Court. This complaint must be shown as filed by January 19, 1965. Your immediate attention to this matter is greatly appreciated.

Best of personal regards.

Very truly yours,

COLLINS, GALLOWAY & MURPHY

By: _____
Thomas M. Galloway

TMG/fs
Encl: 1 complaint

7/2/65

McKENZIE TANK LINES, A : IN THE CIRCUIT COURT OF
CORPORATION,

Plaintiff,

: BALDWIN COUNTY, ALABAMA

VS:

NEWPORT INDUSTRIES, A
Corporation, NEWPORT DIVISION : AT LAW
HEYDEN NEWPORT CHEMICAL
CORPORATION, A Corporation,
separately and severally,

Defendants.

: CASE NO. 63 44

COUNT ONE

Plaintiff claims of the Defendant FOUR THOUSAND FIVE HUNDRED AND 00/100 (\$4,500.00) DOLLARS, for this that heretofore and on, to-wit, the 20th day of January 1964, the Plaintiff's tractor and trailer was delivering resin to the Defendant's place of business in Bay Minette, Alabama, and while said tractor and trailer was stopped at the Defendant's place of business, a place where said tractor and trailer had a right to be for the purpose of unloading resin, an agent, servant or employee of the Defendant while acting within the line and scope of his employment did so negligently attempt to unload the resin by using a torch to heat the line in the trailer which torch caused the resin and truck to catch on fire, and as a direct and proximate result of the aforesaid negligence of an agent, servant or employee of the Defendant while acting within the line and scope of his employment the trailer of the Plaintiff was caused to catch on fire and be damaged in the amount aforesaid, hence this suit.

COLLINS, GALLOWAY & MURPHY

By:

Thomas M. Galloway
THOMAS M. GALLOWAY

Attorneys for Plaintiff

Plaintiff respectfully demands a trial by jury in this
cause.

COLLINS, GALLOWAY & MURPHY

By:

Thomas M. Galloway
THOMAS M. GALLOWAY
Attorneys for Plaintiff

Address of Defendants:

Newport Industries

Bay Minette, Alabama

FILED

JAN 19 1965

WILLIAM S. SHERK
CLERK

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 6364

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon _____

Newport Industries, A Corporation, Newport Division Heydon Newport Chemical Corporation,
A Corporation, Separately and Severally

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed

in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against Newport Industries, a

Corporation, Newport Division Heydon Newport Chemical Corporation
Separately and Severally Defendant.....

by McKenzie Tank Lines, A Corporation

....., Plaintiff.....

Witness my hand this.....19th.....day of.....January.....19 65

EX-1-19-65 Anis J. Duck Clerk

No. 6364

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

MCKENZIE TANK LINES, A CORP.

Plaintiffs

vs.

NEWPORT INDUSTRIES, a corp.,

NEWPORT DIVISION HEYDEN NEWPORT CHEMICAL
CORPORATION

Defendants

SUMMONS AND COMPLAINT

Filed 1-19 19... 65

Alice J. Duck

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED

Received In Office

JAN 16 1965

19.....

TAYLOR WILKINS

SHERIFF

Sheriff

I have executed this summons

this Jan 19 1965

by leaving a copy with

Newport Industries a Corp.
by service: J. S. Stinson
Plant Manager
Newport Division Heyden
Newport Chemical Corp.
a Corp. by service
on:

J. S. Stinson
Plant Manager

Taylor Wilkins Sheriff

W. C. Zell Sheriff

on:

| | | |
|--|---|-------------------------|
| McKENZIE TANK LINES, A CORPORATION, | : | TO THE CIRCUIT COURT OF |
| Plaintiff, | : | BALDWIN COUNTY, ALABAMA |
| | : | |
| vs. | : | AT LAW |
| NEWPORT INDUSTRIES, A Corporation, NEWPORT DIVISION | : | |
| HEYDEN NEWPORT CHEMICAL CORPORATION, a Corporation, | : | |
| separately and severally, | : | CASE NO. 6364 |
| Defendants. | | |

Come the Defendants in the above styled cause separately and severally and demur to the Plaintiff's complaint on the following separate and several grounds:

1. The Plaintiff fails to state a cause of action.
2. The Plaintiff attempts to set out the facts which would constitute negligence but as a matter of law it does not constitute negligence.
3. The Plaintiff fails to set out which defendant the agent, servant or employee who allegedly committed the negligence was acting for.

JOHNSTON, JOHNSTON & NETTLES
Attorneys for Defendants

BY

Sam M. Johnston, Jr.
Sam M. Johnston, Jr.

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

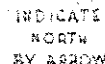
This 16th day of February, 1965

Sam M. Johnston, Jr.
Attorney for Defendants

FILED
FEB 17 1965
ALBANY, N.Y.
CLERK

| CITY | | Accident Occurred in | | City or town | | County | | Date | | Time of accident | |
|--|--|-----------------------------|--|---|--|--------|--|-----------------|--|------------------|--|
| CITY | | Accident Occurred in | | City or town | | County | | Date | | Time of accident | |
| RURAL | | Accident Occurred in | | City or town | | County | | Date | | Time of accident | |
| Accident Occurred on | | U.S. 31 | | Give name of street or alley or highway number, (U. S., State, County). If no highway number, identify by name. | | | | Day of the week | | Saturday | |
| At intersection with | | Eastwood Drive (Gravel St.) | | Give name of street or alley or highway number, (U. S., State, County). If no highway number, identify by name. | | | | Date | | Feb. 1 1964 | |
| Not at intersection | | | | Give name of street or alley or highway number, (U. S., State, County). If no highway number, identify by name. | | | | Hour | | 12:30 P.M. | |
| Standard | | 1 Daylight saving | | | | | | | | | |
| Accident type: <input checked="" type="checkbox"/> Pedestrian <input type="checkbox"/> Other motor vehicle <input type="checkbox"/> R.R. train <input type="checkbox"/> Street car <input type="checkbox"/> Animal-drawn vehicle <input type="checkbox"/> Bicycle <input type="checkbox"/> Fixed object | | | | | | | | | | | |
| Involved: <input type="checkbox"/> Animal (ridden, herded, unattended) <input type="checkbox"/> Overturned in roadway <input type="checkbox"/> Ran off roadway <input type="checkbox"/> Other non-collision (fell from veh., fire, etc.) <input type="checkbox"/> Other (explain in Remarks) | | | | | | | | | | | |
| Vehicle No. 1: 1960 Corvair 4-Door, Year and Make, Direction: South, On: U.S. 31, Street name, highway No., alley, driveway, etc., Driven by: Paul Clark, Name, Address: Rt. 2 Dozier, Ala., Color: White, Day: 5, Month: 10, Year: 04, F, Driving experience: 21, Driver's license: 2163615, State: Ala., Number, Chauffeur's Operator's: Regular, Describe type, such as regular, junior, etc., Occupation: Housewife, Owned by: Paul Clark, Address: Rt. 2 Dozier, Ala., Speed before accident: 50 m.p.h., Speed at moment of accident: 40 m.p.h., Distance vehicle traveled after impact: 150 Feet, Lawful speed: 40 m.p.h., Maximum safe speed under conditions prevailing: 40 m.p.h. | | | | | | | | | | | |
| Vehicle No. 2: 1960 Corvair 4-Door, Year and Make, Direction: North, E. W. etc., On: U.S. 31, Street name, highway No., alley, driveway, etc., Driven by: Paul Clark, Name, Address: Rt. 2 Dozier, Ala., Color: White, Day: 5, Month: 10, Year: 04, F, Driving experience: 21, Driver's license: 2163615, State: Ala., Number, Chauffeur's Operator's: Regular, Describe type, such as regular, junior, etc., Occupation: Housewife, Owned by: Paul Clark, Address: Rt. 2 Dozier, Ala., Speed before accident: 50 m.p.h., Speed at moment of accident: 40 m.p.h., Distance vehicle traveled after impact: 150 Feet, Lawful speed: 40 m.p.h., Maximum safe speed under conditions prevailing: 40 m.p.h. | | | | | | | | | | | |
| Damage to all property other than vehicles: None | | | | | | | | | | | |
| Total No. of persons injured: 1, Name: Debra Jones, Age: 6, Sex: F, Color: W, Address: Bay Minette, Ala., Was person killed? No, Driver: No, Veh. Passenger: No, Pedestrian: No, Other: No, Taken to: Mobile Infirmary, By whom: Thrasher Ambulance | | | | | | | | | | | |
| Total No. of persons killed or injured: 1, Name: Debra Jones, Age: 6, Sex: F, Color: W, Address: Bay Minette, Ala., Was person killed? No, Driver: No, Veh. Passenger: No, Pedestrian: No, Other: No, Taken to: Mobile Infirmary, By whom: Thrasher Ambulance | | | | | | | | | | | |
| Witnesses: Name: Jo Ann Jones, Address: Bay Minette, Ala., Where was witness: Standing on shoulder of road, Name: Reba Clark, Address: Rt. 2 Dozier, Ala., Where was witness: Pass. in Veh. #1 | | | | | | | | | | | |
| Acts of Pedestrian: 1. Crossing at intersection—without signal, 2. Same—against signal, 3. Same—no signal, 4. Same—diagonally, 5. Crossing not at intersection, 6. Getting on or off street car, 7. Walking in roadway (check two), 8. Standing in safety zone, 9. Getting on or off street car, 10. Getting on or off other vehicle, 11. Working in roadway, 12. Playing in roadway, 13. Hitchhiking or vehicle, 14. N.Y. in roadway | | | | | | | | | | | |
| Movement of Vehicles: Vehicle 1, 2, 3, 1. Making right turn, 2. Making left turn, 3. Making "U" turn, 4. Going straight ahead, 5. Slowing or stopping, 6. Starting from traffic lane, 7. Starting from parked position, 8. Stopped in traffic lane, 9. Parked, 10. Backing, (Check applicable item), 1. Overtaking, 2. Avoiding vehicle, object or pedestrian, 3. Shifting | | | | | | | | | | | |
| Violations Indicated: Vehicle 1, 2, 3, 1. Exceeding lawful speed, 2. Did not have right of way, 3. On wrong side of road, 4. Drove through safety zone, 5. Passing standing street car, 6. Passing on hill, 7. Passing on curve, 8. Cutting in, 9. Failing to signal or improper signal, 10. Improper turn—wide right turn, 11. Same—cut corner on left turn, 12. Same—turned from wrong lane, 13. Disregarded traffic control, (See Traffic Control Schedule), 14. Improper starting from parked position, 15. Other improper driving (explain), 16. No improper driving indicated | | | | | | | | | | | |

DRAW HEAVY LINES TO SHOW
MAIN ROADS, SIDE-ROADS, DRIVEWAYS, ETC.

[illegible]

DESCRIPTION OF INJURY

FRACTURED SKULL; LACERATION OF FACE; CEREBRAL CONCUSSION; MULTIPLE LARGE LACERATIONS OF BODY; RUPTURED LIVER; RUPTURED SPLEEN; RUPTURED STOMACH; MULTIPLE PERFORATIONS OF SMALL BOWEL; MULTIPLE PERFORATIONS OF MESENTERY AND VESSELS; FRACTURE OF PELVIS WITH SEPARATION OF SYMPHYSIS; AVULSION AND LACERATION OF VAGINA; LACERATION OF RECTO-VAGINAL SEPTUM WITH AVULSION OF SPHINCTER; AVULSION OF ABDOMINAL MUSCLES FROM LEFT PELVIC BONE; THROMBOSES (2) OF LEFT COMMON FEMORAL ARTERY; & FRACTURE OF FEMUR ON THE LEFT.

TREATMENT

ON THE DAY OF ADMISSION SHE WAS TAKEN IMMEDIATELY TO THE OPERATING ROOM AND A VENESECTION WAS DONE AND THE PATIENT WAS CROSS MATCHED FOR WHOLE BLOOD. UNDER GENERAL ANESTHESIA THE ABDOMEN WAS OPENED AND THE RUPTURED LIVER WAS REPAIRED, THE RUPTURED SPLEEN WAS REMOVED, THE RUPTURED STOMACH WAS REPAIRED, MULTIPLE PERFORATIONS OF THE SMALL BOWEL AND MESENTERY WERE REPAIRED. SINCE SHE HAD MASSIVE PELVIC INJURY WITH DAMAGE TO THE RECTO-VAGINAL SEPTUM WHICH COULD NOT BE CORRECTED AT THIS TIME A SIGMOID COLOSTOMY WAS DONE TO DIVERT THE FECAL STREAM. THE TWO AREAS OF THROMBOSES IN THE FEMORAL ARTERY WERE REPAIRED. THE UPPER AREA WAS REPAIRED BY EXCISION AND REPLACEMENT WITH A SAPHENOUS VEIN GRAFT. THE OTHER AREA WAS EXCISED AND A SAPHENOUS PATCH GRAFT WAS PUT IN PLACE. AT THAT TIME ORTHOPEDIC TRACTION WAS APPLIED BY DR. CRAMPTON HARRIS TO THE LEFT LOWER EXTREMITY. TRACHEOSTOMY WAS SUBSEQUENTLY NECESSARY. AND SHE WAS ON THE RESPIRATOR FOR THE BETTER PART OF THE NEXT WEEK. BRONCHOSCOPY WAS NECESSARY ON AT LEAST ONE OCCASION DURING THIS FIRST POSTOPERATIVE WEEK.

THE ABDOMINAL MUSCLES WHICH HAD BEEN AVULSED FROM THE LEFT PELVIC BONE HAD APPARENTLY LOST THEIR BLOOD SUPPLY WHEN THE INFERIOR EPIGASTRIC WAS TORN AWAY AND THIS WHOLE SEGMENT OF THE ABDOMINAL WALL BEGAN TO SLOUGH OUT. APPROXIMATELY A WEEK AFTER HER ADMISSION IT WAS NECESSARY TO TAKE HER TO THE OPERATING ROOM AND DEBRIDE THIS ENTIRE NECROTIC AREA OF THE ABDOMINAL WALL. A MILLER-ABBOTT TUBE WAS PASSED DOWN THE ENTIRE SMALL BOWEL AND INTO THE COLON THRU A JEJUNOSTOMY AFTER THE METHOD OF WHITE. ANOTHER GASTROSTOMY WAS MADE FOR SUCTION, AND A HUGE FLAP OF SKIN AND FATTY TISSUE WAS ELEVATED FROM THE ENTIRE RIGHT ABDOMEN AND FLANK AND BROUGHT ACROSS AND CLOSED WITH WIRE TO WHAT WAS LEFT OF THE ABDOMINAL WALL ON THE LEFT SIDE. THIS HELD SATISFACTORILY AND THEN GRANULATIONS FORMED OVER THE SPLINTED INTESTINE. THERE WAS SOME QUESTION LATER OF VIABILITY OF THE LEFT EXTREMITY BECAUSE WHEN THE ABDOMINAL WALL BECAME NECROTIC THE INFECTION SPREAD SUBCUTANEOUSLY AND CLOTTED BOTH GRAFTS. CIRCULATION IN THE LEG CONTINUED TO BE POOR AND LARGE ABSCESSSES FORMED IN THE SOFT TISSUES DUE TO SECONDARY INVASION FROM OTHER ORGANISMS. IT WAS NECESSARY TO DRAIN THESE IN THE OPERATING ROOM.

DEBBIE JONES

THE WOUNDS DRAINED FOR WEEKS. HOWEVER, THE DRAINAGE GRADUALLY DIMINISHED AND THE CIRCULATION SEEMED TO AT LEAST BECOME ESTABLISHED TO WHERE GANGRENE WAS NO LONGER IMMINENT IN THE LEG. AT THIS TIME IT WAS FELT THE LEG SHOULD BE SPLINTED IN A CAST AND THIS WAS DONE BY DR. CRAMPTON HARRIS. IT WAS NECESSARY TO REMOVE THE MILLER-ABBOTT TUBE UNDER GENERAL ANESTHESIA JUST PRIOR TO HER DISMISSAL FROM THE HOSPITAL.

DATE OF TREATMENT: SEE ATTACHED STATEMENT

WHERE GIVEN: MOBILE INFIRMARY

DISPOSITION OF CASE

TAKEN HOME OR TO HOSPITAL: HOSPITAL

NAME OF HOSPITAL: MOBILE INFIRMARY

DATE OF DISCHARGE: 5/22/64

PROGNOSIS AND PERMANENCY OF INJURY

THE PROGNOSIS CONCERNING THE FUTURE VIABILITY OF THE LEFT LEG IS STILL IN QUESTION. THE LEG SEEMS TO BE VIABLE AT THIS TIME AND IT MAY BE THAT SOME OTHER DEFINITIVE ARTERIAL PROCEDURE MAY BE NECESSARY AT A LATER DATE, IF AND WHEN ALL INFECTION COMPLETELY CLEARS UP FROM THE EXTREMITY. IN THE MEANTIME THE KNEE IS STIFF BUT SHE AT LEAST HAS HER OWN LEG. THE SEPARATION OF THE PELVIC SYMPHYSIS IS STILL IN EFFECT AND WAS NOT AFFECTED BY THE USUAL ORTHOPEDIC MEASURES WHICH WERE USED POSTOPERATIVELY TO TRY TO CORRECT THIS. THERE IS MARKED SCARRING OF THE ABDOMINAL WALL AND OF COURSE THERE IS SOME MUSCULAR WEAKNESS IN THE ABDOMINAL WALL, HOWEVER, THE CHILD IS ABLE TO SIT UP AND PULL HERSELF UP IN BED AND HANDLE HERSELF RATHER EXCEPTIONALLY WELL. THE PELVIC AREA WAS COMPLETELY HEALED, BUT SHE WILL LATER NEED PELVIC AND PERINEAL SURGERY TO CORRECT THE VAGINA AND THE RECTO-VAGINAL SEPTUM AND RESTORE THE SPHINCTER MECHANISM IN THE ANUS. AFTER THIS HAS BEEN COMPLETED THE COLOSTOMY WILL THEN NEED TO BE CLOSED. DUE TO POOR HEALING, GENERAL SEPSIS AND OTHER ASSOCIATED CONDITIONS, THERE IS MORE SCARRING IN SOME OF THE AREAS THAN ONE WOULD LIKE AND IT MAY BE THAT SOME OF THE SCARS MAY LATER HAVE TO BE EXCISED AND CLOSED UNDER PLASTIC PROCEDURES.

ESTIMATED DISABILITY: THIS WILL BE EXTREMELY HARD TO EVALUATE AND A GREAT DEAL OF THIS WILL DEPEND ON WHAT HAPPENS TO THE LEFT LEG, BUT I WOULD EXTIMATE AT LEAST TWO YEARS.

DEGREE OF PERMANENT IMPAIRMENT: THIS WILL ALSO DEPEND ULTIMATELY FOR THE MOST PART ON THE FUNCTION OF THIS LEG. PROBABLY PERINEAL ANATOMY AND BOWEL FUNCTION CAN BE RESTORED AT A LATER DATE.

DATE: 18 July 64

SIGNED: James R. Brown, M.D.

TOTAL BILL TO DATE: \$3,875.00

JHE/JK

Filed: 1-19-65-

Felipe J. Maldonado

64-720 TB

PHYSICIAN'S REPORT

NAME OF PATIENT DEBBIE JONES OCCUPATION CHILD
ADDRESS RT. 2 Box 53 TELEPHONE _____
CITY AND STATE BAY MINETTE, ALA. AGE 6 RACE W SINGLE ☒ MARRIED ☐
DATE OF FIRST EXAMINATION 2/1/64 WHO PRESENT _____
PLACE OF FIRST EXAMINATION EMERGENCY ROOM OF THE MOBILE INFIRMARY
EVIDENCE OF OLD INJURIES NONE
OF DISEASE NONE
OF INTOXICATION NONE
PATIENT RECEIVED FIRST AID OR OTHER PRIOR TREATMENT FOR THIS INJURY FROM DR. GASTON-BAY MINNETTE, ALA.

PATIENT'S ACCOUNT OF INJURY

DATE AND HOUR OF INJURY 2/1/64
PLACE AND MANNER OF OCCURRENCE THE CHILD RAN OUT IN FRONT OF AN AUTOMOBILE AND WAS HIT BY
THE MOVING AUTOMOBILE.