### COLLINS. GALLOWAY & MURPHY

ATTORNEYS AT LAW

958 DAUPHIN STREET

### MOBILE, ALABAMA 36604

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

May 3, 1965

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

JAMES H. LACKEY

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

Thomas M. Galloway

TMG/fs

cc: Hon. Sam Johnston, Jr.

# Iohnston.Iohnston & Nettles Lawyers

Fighth Moor First National Bank Annex Mobile, Alabama 36601

Aclephone 432-1811

Samuel A. Iohnston William E. Iohnston Samuel A. Iohnston, Ir. Bert S. Nettles

February 16, 1965

Mailing Address P. G. Vox 550 Mobile, Alabama

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

Sam M. Johnston, Jr

SMJjr:see encl.

FEB 16-47

## COLLINS, GALLOWAY & MURPHY

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

FRED G. COLLINS THOMAS M. GALLOWAY M. THOMAS MURPHY (1924-1956) January 18, 1965

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:

lhomas M. Ga/lloway

TMG/fs

Encl: 1 complaint

## COLLINS, GALLOWAY & MURPHY

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MOBILE, ALABAMA
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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

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

Plaintiff,

: BALDWIN COUNTY, ALABAMA

VS:

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

AT LAW

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

THOMAS M. GALLOWAY Attorneys for Plaintiff

Plaintiff respectfully demands a trial by jury in this cause.

COLLINS, GALLOWAY & MURPHY

THOMAS M. GALLOWAY Attorneys for Plaintiff

Address of Defendants:

Newport Industries

Bay Minette, Alabama

•		
STATE	OF	ALABAMA
BALI	OWIN	COUNTY
**		

Circuit Court, Baldwin County

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

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

Gorporation, Newport Division Heyden Newport Chemical Gompanytion

Defendant.....

Defendant.....

by McKenzie Tank Lines, A Corporation

Witness my hand this 19th day of January 19 65

EV-1-19-65 Which Cler

STATE OF ALABAMA Baldwin County  CIRCUIT COURT  MCKENZIE TANK LINES, A CORP.  Plaintiffs  Plaintiffs  Vs.  NEWPORT INDUSTRIES, a corp.,  NEWPORT DIVISION HEYDEN NEWPORT CHEMICAL GORPORATION  SUMMONS AND COMPLAINT  Filed  1-19  19  65  Alice J. Duck  Clerk  Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney  Received In Office  19  19  19  19  19  19  19  19  19  1			
STATE OF ALABAMA Baldwin County  CIRCUIT COURT  MCKENZIE TANK LINES, A CORP.  Plaintiffs  Vs.  NEWPORT INDUSTRIES, a corp.,  NEMPORT DIVISION HEYDEN NEWPORT CHEMICAL CORPORATION  SUMMONS AND COMPLAINT  Filed  1-19  19  65  Alice J. Duck  Clerk  Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney  Received In Office  JAM 1 1033  19  Industrial  Specific In Office  JAM 1 1033  In James In Ja	e D		
Received In Office  CIRCUIT COURT  MCKENZTE TANK LINES, A GORP.  Plaintiffs  Vs.  NEWPORT INDUSTRIES, a corp.,  NEWPORT DIVISION HEYDEN NEWPORT GHEMICAL GORPORATION  SUMMONS AND COMPLAINT  Filed  1-19  19  55  Alice J. Duck  Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney  Received In Office  19  19  58  SMERE  Sher  I have executed this summons  this	No 6364	Page	Defendant lives at
Received In Office  ### CIRCUIT COURT    MCKENZIE TANK LINES, A CORP.			
CIRCUIT COURT  MCKENZIE TANK LINES, A CORP.  Plaintiffs  VS.  NEWPORT INDUSTRIES, a corp,,  NEWPORT DIVISION HEYDEN NEWPORT CHEMICAL GORPORATION  SUMMONS AND COMPLAINT  Filed  1-19  19 65  Alice J. Duck  Plaintiff's Attorney  Plaintiff's Attorney  19  SAMIOR WILKINS  Sher  I have executed this summons  this	Baldwin Cou	inty	
MCKENZIE TANK LINES, A GORP.  Plaintiffs  Vs.  NEWPORT INDUSTRIES, a corp.,  NEWPORT DIVISION HEYDEN NEWPORT CHEMICAL GORPORATION  Defendants  SUMMONS AND COMPLAINT  Filed  1-19  19.65  Alice J. Duck  Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney  SEMPT SEMPT SEMPT SHOW SHOW SHOW SHOW SHOW SHOW SHOW SHOW	CIRCUIT C	OURT	- 1
Plaintiffs  I have executed this summons  this	MCKENZIE TANK LINES,	A GORP.	TAYLOR WILKINS
Plaintiffs  vs.  NEWPORT INDUSTRIES, a corp.,  NEWPORT DIVISION HEYDEN NEWPORT CHEMICAL GORPORATION  SUMMONS AND COMPLAINT  Filed  1-19  19 65  Alice J. Duck  Clerk  Plaintiff's Attorney  Plaintiff's Attorney  This series is this series show a copy with  Support Substitute of the support Suppo		**************************************	Sheriff
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NEWPORT INDUSTRIES, a corp.,  NEWPORT DIVISION HEYDEN NEWPORT CHEMICAL  SORPORATION  SUMMONS AND COMPLAINT  Filed  1-19  19  65  Alice J. Duck  Clerk  Plaintiff's Attorney	vs.		
NEWPORT DIVISION HEYDEN NEWPORT CHEMICAL  SORPORATION  Defendants  SUMMONS AND COMPLAINT  Filed  1-19  19  65  Alice J. Duck  Clerk  Plaintiff's Attorney  Plaintiff's Attorney  Defendants  Summons . Opt. Alice J. Duck  Support Chamical Complete Chemical Chemical Complete Chemical C	NEWPORT INDUSTRIES, a	a corp.,	
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Plaintiff's Attorney  Plaintiff's Attorney  Jaylon Welbersher			a Poso. Bu Surana
Plaintiff's Attorney  Plaintiff's Attorney  Plaintiff's Attorney	Alice J. Duck	Clerk	of the same of the
Plaintiff's Attorney  Plaintiff's Attorney  Jaylor Welbergsher		7.000	<u> </u>
Plaintiff's Attorney  Plaintiff's Attorney  Jaylor Welbergsher			
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	Plai	ntiff's Attorney	Jaylor Welbenstoriff
	Defen	idant's Attorney	We Let Doppy Sheriff
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MCKENZIE TANK LINES, A CORPORATION,

: TO THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

Plaintiff,

vs.

AT LAW

NEWPORT INDUSTRIES, A Corporation, NEWPORT DIVISION HEYDEN NEWPORT CHEMICAL CORPORATION, a Corporation, separately and severally,

Defendants.

CASE NO. 6364

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:

- The Plaintiff fails to state a cause of action.
- The Plaintiff attempts to set out the facts which would constitute negligence but as a matter of law it does not constitute negligence.
- 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

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

Attorney for Defendants

129

r Lak	ACC	CIDENT INVESTIGATION SEPCE
	Accident County Occurred in County County	Topolynot
ENT	aural miles East ( Bay Minette Baldwin County of Barrana County C	1964
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	9. Getting on or off street car.  10. Getting on or off other remote.  (Check applicable item)  (I) 1] 13. Same—turned from wrong lane.  (I) 1] 13. Disregarded traffic control.	
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director was a particle as	cas of accid	ent scera (	Residence's		e et Repet Life Th		and the second s

### 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 RECTOVAGINAL 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 BESPIRATOR 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 METEOD 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 VAABILITY OF THE LEFT EXTREMITY BECAUSE WHEN THE ABDOMINAL WALL BECAME NECROTIC THE INFECTION SPREAD SUBCUTANEOUSLY END CLOTTED BOTH GRAFTS. CIRCULATION IN THE LEG CONTINUED TO BE POOR AND LARGE ABSCESSES FORMED IN THE SOFT TISSUES DUE TO SECONDARY INVASION FROM OTHER ORGANISMS. IT WAS NECESSARY TO DRAIN THESE IN THE OPERATING ROOM.

THE WOUNDS DRAINED FOR WEEKS. HOWEVER, THE BRAINAGE 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 DISHISSAL FROM THE HOSPITAL.

DATE OF TREATMENT: SEE ATTACHED STATEMENT WHERE GIVEN: MOBILE INFIRMARY

DISPOSITION OF CASE

TAKEN HORE OR TO HOSPITAL : HOSPITAL

NAME OF POSPITAL: MOBILE INFIRMARY

SIGNES AMERICAN SILLIE

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 WAY BE NECESSARY AT A LATER DATE, IF AND WHEN ALL INFECTION COMPLETELY CLEARS UP FROM THE EXTREMITY. IN THE MEANTINE 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 ABDONINAL 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 HAS COMPLETELY HEALED, BUT SHE WILL LATER NEED PELVIC AND PERINEAL SURGERY TO CORRECT THE VACINA AND THE RECTO-VACINAL SEPTUM AND RESTORE THE SPHINCTER MECHANISM IN THE ANUS. AFTER THIS HAS BEEN COMPLETED THE COLOSTOMY WILL THEN NEED TO DE 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 WARD 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.

TOTAL BILL TO DATE: \$3.875.00

JHE/JK

Filed: 1-19-65-Delfair J. Mallburn

## 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 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					
	OUNT OF INJURY				
DATE AND HOUR OF INJURY 2/1/64	•				
PLACE AND MANNER OF OCCURRENCE THE CHILD RAN OUTTHE MOVING AUTOMOBILE.	T IN FRONT OF AN AUTOMOBILE AND WAS HIT BY				
21.00 Area 2 11.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12.00 12					