

DONALD C. HANKS,

X

Plaintiff,

X

IN THE CIRCUIT COURT OF

vs.

X

BALDWIN COUNTY, ALABAMA

RELPS B. SUTTON,

X

AT LAW

NO. 6560

Defendant.

X

MOTION

Comes now the Plaintiff in the above styled cause and moves, separately and severally, to strike Pleas 3, 4 and 5 contained in the Amended Answer heretofore filed by the Defendant in the above styled cause and shows unto the Court the following grounds in support of said motion:

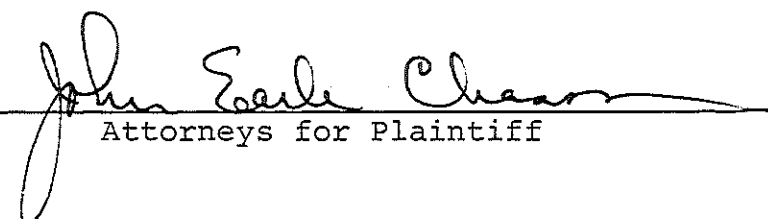
1. That said Pleas are unnecessarily prolix, irrelevant, frivolous and unnecessarily repetitious.

2. That said Pleas are defective in that they attempt to set forth damages suffered by the Defendant in a plea of contributory negligence.

3. That Plea 5 of said Amended Complaint attempts to set forth a cause of action which, on its face, is barred by the statute of limitations of one year.

CHASON, STONE & CHASON

By:


Attorneys for Plaintiff

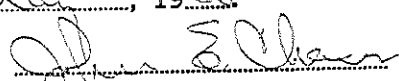
FILED

CERTIFICATE OF SERVICE

MAY 30 1966

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 30th day of May, 1966.

ALICE L. DICK, CLERK
REGISTER



STATE OF ALABAMA

BALDWIN COUNTY

X

X

IN THE CIRCUIT COURT - AT LAW

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Relps B. Sutton to appear within thirty days from the service of this writ in the Circuit Court, to be held for said court at the place of holding the same, then and there to answer the complaint of Donald C. Hanks.

WITNESS my hand, this 23 day of June, 1965.

Allice L. Murrick
Clerk

DONALD C. HANKS,

Plaintiff,

vs.

RELPS B. SUTTON,

Defendant.

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

6560

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that heretofore on, to-wit: February 5, 1965, the Plaintiff was riding as a passenger in a motor vehicle on Alabama Highway 31 at a point 4.7 miles South of Stapleton in Baldwin County, Alabama, at which time and place the Defendant so negligently operated a motor vehicle as to cause or allow the same to run into, upon or against the automobile in which the Plaintiff was riding as a passenger and as a proximate consequence of said negligence, the Plaintiff was injured in that his jaw was broken in several places, his nose and cheek bone were broken or crushed, his skull was fractured and he lost most of his teeth; his wrist was broken and one leg dislocated; he received multiple lacerations of the

face, head and arms and he suffered severe internal injuries and a concussion to his brain; the Plaintiff has been caused to suffer much physical pain and mental anguish and will continue to suffer much physical pain and mental anguish in the future; the Plaintiff was hospitalized as a result of his said injuries and has been caused to spend large sums of money and will be caused to spend large sums of money in the future for hospital and medical expenses; the Plaintiff was permanently injured; for all of which the Plaintiff claims damages as aforesaid.

The Plaintiff avers that all of his said injuries and damages came as a proximate consequence of the said negligence of the Defendant.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Seventy-five Thousand Dollars (\$75,000.00), as damages, for that heretofore on, to-wit: February 5, 1965, the Plaintiff was riding as a passenger in a motor vehicle on Alabama Highway No. 31 at a point 4.7 miles South of Stapleton, in Baldwin County, Alabama, at which said time and place the Defendant so wilfully and wantonly operated a motor vehicle as to cause the same to run into, upon and against the automobile in which the Plaintiff was riding as a passenger, thereby wilfully and wantonly injuring the Plaintiff in that his jaw was broken in several places, his nose and cheek bone were broken or crushed, his skull was fractured and he lost most of his teeth; his wrist was broken and one leg dislocated; he received multiple lacerations of the face, head and arms and he suffered severe internal injuries and a concussion of his brain; the Plaintiff has been caused to suffer much physical pain and mental anguish and will continue to suffer much physical pain and mental anguish in the future; the Plaintiff was hospitalized as a result of his said injuries and has been caused to spend large sums of money and will be caused to spend large sums of money in the future for hospital

and medical expenses; the Plaintiff was permanently injured; for all of which the Plaintiff claims damages as aforesaid.

The Plaintiff avers that all of his said injuries and damages came as a proximate consequence of the said wilfulness and wantonness of the Defendant.

CHASON, STONE & CHASON

By: John Earle Chason
Attorneys for Plaintiff

Plaintiff demands a trial of this cause by jury.

CHASON, STONE & CHASON

By: John Earle Chason
Attorneys for Plaintiff

FILED
JUN 23 1965
ALICE L. DICK, CLERK
REGISTER

Executed
June 23, 1965

DONALD C. HANKS,
Plaintiff,

vs.

RELPS B. SUTTON,
Defendant.

SUMMONS AND COMPLAINT

DONALD C. HANKS,
Plaintiff,

vs.

RELPS B. SUTTON
Defendant.

Received 23 day of June 1965
and on 23 day of June 1965
served a copy of the within O & C
on Relps B. Sutton

y service on _____

TAYLOR WILKINS, Sheriff

By W. A. Zeller
Wm

SUMMONS AND COMPLAINT

FILED

JUN 23 1965

Alice L. Duck, Clerk
RECORDED

CHASON, STONE & CHASON
ATTORNEYS AT LAW
P. O. Box 120
BAY MINETTE, ALABAMA

Ok the jury ~~find~~ in favor of
the plaintiff and fix the damages
at \$1600.00
Thelma Durant

DONALD C. HANKS	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
vs	X	BALDWIN COUNTY, ALABAMA
RELPS B. SUTTON	X	AT LAW NO. 6560
Defendant	X	

- Comes the defendant in the above styled cause and demurs to the complaint filed in said cause and to each count thereof separately and severally and to each phase of each count thereof as follows:

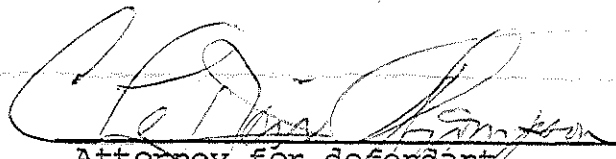
1. As to Count one, said plaintiff fails to allege that the automobile in which he was a passenger had a right to be at the place at the time complained of and on the occasion complained of when said accident occurred.

2. As to Count two of said complaint, said plaintiff fails to allege that the automobile in which he was a passenger had a right to be at the place complained of at the time complained of when the occasion complained of occurred.

3. That said complaint fails to state a cause of action.

4. That Count one of said complaint fails to allege the time of day or night on which the said occasion complained of occurred.

5. That Count two of said complaint fails to allege the time of day or night on which the said occasion complained of occurred.


 Attorney for defendant.

FILED

JUL 18 1985

ALICE L. DUCK, CLERK
 REGISTER

DONALD C. HANKS

Plaintiff

vs

RELPS B. SUTTON

Defendant

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 6560

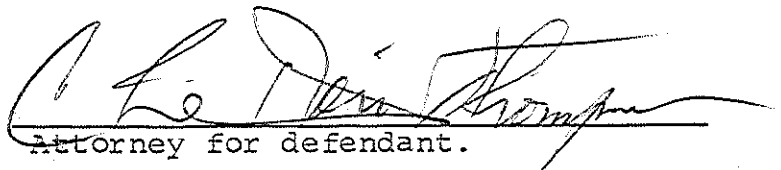
Comes the defendant in the above styled cause and for answer to the complaint filed in said cause shows unto this Honorable Court as follows:

1. As to Count 1, not guilty.
2. As to Count 2, not guilty.

FILED

FEB 17 1966

ALICE J. DUCK, CLERK
REGISTER


Attorney for defendant.

DONALD C. HANKS	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
vs	X	BALDWIN COUNTY, ALABAMA
RELPS B. SUTTON	X	AT LAW NO. 6560
Defendant	X	

Comes the defendant in the above styled cause and amends his answer heretofore filed to said complaint filed in said cause and for amended answer shows unto this Honorable Court as follows:

1. As to Count 1, not guilty.
2. As to Count 2, not guilty.

3. For further answer to Count one, the defendant says the plaintiff ought not to recover in this case for that on the occasion complained of the said Donald C. Hanks was himself guilty of negligence which contributed proximately to the injuries complained of in said complaint, in that having obtained said automobile in Florida for the purpose of an evening's company with one, Betty Dove Gee, that being on a joint venture for the evening with the said Betty Dove Gee who was driving said automobile under said plaintiff's control and direction in which car said plaintiff was riding, negligently allowed said driver to endeavor to pass an automobile proceeding in the same direction as the said plaintiff was proceeding up a hill and around a curve at the time when said defendant was approaching, all of which occurred on Alabama Highway 31 at a point approximately 4.7 miles South of the Community of Stapleton in Baldwin County, Alabama, said plaintiff thereby allowing his said partner in the joint venture to proceed Northward at said point on the left side of said highway causing said automobile to run into, upon or against said automobile which said defendant was driving and as a proximate consequence of said contributory negligence, the said defendant was injured, in that portions of his face were lacerated and crushed, his chest was crushed, and his left arm, left hip and left leg were broken; wherefore, said plaintiff ought not to recover.

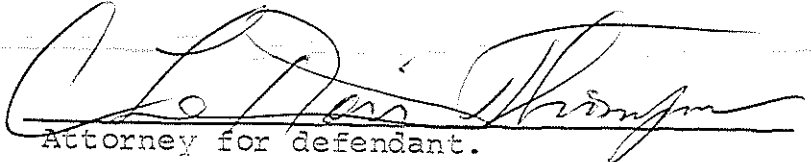
4. For further answer to Count two, the defendant says the plaintiff ought not to recover in this case for that on the occasion complained of the said Donald C. Hanks was himself guilty of

negligence which contributed proximately to the injuries complained of in said complaint, in that having obtained said automobile in Florida for the purpose of an evening's company with one, Betty Dove Gee, that being on a joint venture for the evening with the said Betty Dove Gee who was driving said automobile under said plaintiff's control and direction in which car said plaintiff was riding, negligently allowed said driver to endeavor to pass an automobile proceeding in the same direction as the said plaintiff was proceeding up a hill and around a curve at the time when said defendant was approaching, all of which occurred on Alabama Highway 31 at a point approximately 4.7 miles South of the Community of Stapleton in Baldwin County, Alabama, said plaintiff thereby allowing his said partner in the joint venture to proceed Northward at said point on the left side of said highway causing said automobile to run into, upon or against said automobile which said defendant was driving and as a proximate consequence of said contributory negligence, the said defendant was injured, in that portions of his face were lacerated and crushed, his chest was crushed, and his left arm, left hip and left leg were broken; wherefore, said plaintiff ought not to recover.

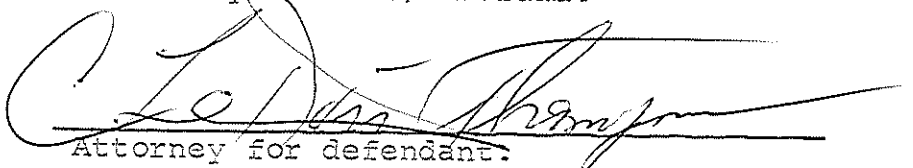
5. Comes the defendant and without in any way confessing plaintiff's claim or demand as a defense to the action of the plaintiff, says:

That at the time said action was commenced, the plaintiff was indebted to the defendant in the sum of One Hundred Thousand (\$100,000.00) Dollars for this, that on to-wit, February 5, 1965, while said plaintiff was on a joint venture with one, Betty Dove Gee at a point 4.7 miles South of Stapleton in Baldwin County, Alabama, said automobile being operated by the said Betty Dove Gee under said plaintiff's control and direction, said plaintiff negligently allowed said driver to endeavor to pass an automobile proceeding in the same direction as the said plaintiff, while plaintiff's said driver was proceeding up a hill and around a curve at the time and said defendant was approaching and the said plaintiff allowed said driver to continue proceeding on the left side of said highway, causing said automobile to run, into, upon or against said automobile which defendant was driving and as a proximate consequence

of said plaintiff's negligence, said defendant was injured, in that portions of his face were lacerated and crushed, his chest was crushed, his left hip and left leg were broken and said defendant was permanently injured to defendant's damage as assessed which the defendant hereby offers to set off against the demand of the plaintiff and he claims judgment for the excess.


Attorney for defendant.

I hereby certify that I have this 26th day of May, 1966, mailed a copy of the foregoing amended answer to Honorable John Earle Chason, attorney for plaintiff, by U. S. mail, postage prepaid to his address in Bay Minette, Alabama.


Attorney for defendant.

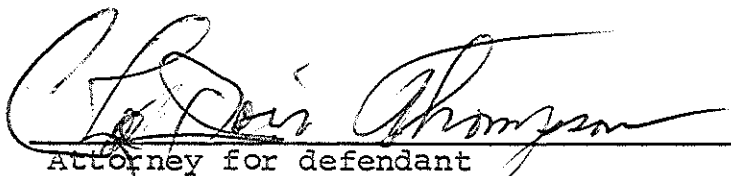
FILED
MAY 26 1966
ALICE J. DICK, CLERK
REGISTER

DONALD C. HANKS	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
vs	X	BALDWIN COUNTY, ALABAMA
RELPS B. SUTTON	X	AT LAW NO. 6560
Defendant	X	

Comes the defendant in the above styled cause and propounds the following interrogatories to the plaintiff, Donald C.

Hanks:

1. State your name.
2. Are you the Donald C. Hanks, plaintiff in said cause?
3. Did you know Betty Gee in her lifetime?
4. Were you riding in an automobile operated by Betty Gee at the time and place complained of in the action filed by you against Relps B. Sutton?
5. State, if you know, who was the owner of said automobile.
6. State, if you know, the address of the owner of said automobile.
7. Was said automobile a rental car?
8. State, if you know, who rented said automobile.
9. Did you drive the said automobile from Pensacola into Baldwin County?
10. If your answer to the foregoing question is "yes", state where you came in said automobile to Baldwin County.
11. State when you placed the said Betty Gee behind the wheel of said automobile giving the time and place, if you know.
12. State the time that you and the said Betty Gee departed Bay Minette in the said automobile if you did leave Bay Minette.
13. State where you went together in said automobile.
14. State the time, day or night that you and the said Betty Gee began your return trip toward Bay Minette in said automobile.
15. State, if you had anything to eat and the place where you ate.
16. State if you had anything to drink and what kind of beverage and how much.

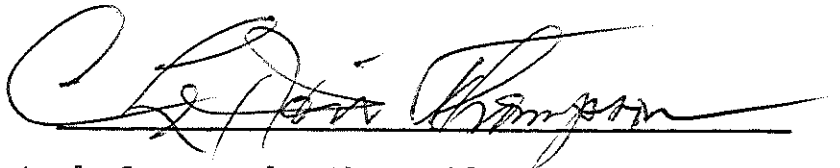

Attorney for defendant

STATE OF ALABAMA

BALDWIN COUNTY

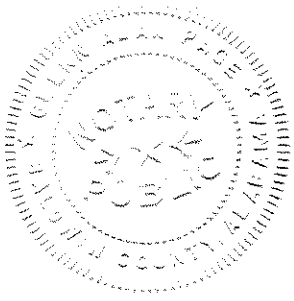
Before me, the undersigned Notary Public, in and for said State and County, personally appeared C. LeNoirThompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. LeNoir Thompson and I am one of the attorneys of Record for the defendant in the above entitled cause, and as such, I am authorized to make this affidavit. I further state that the answer of the plaintiff to the foregoing interrogatories will, if truthfully made, be material evidence for the defendant on the trial of said cause.



Subscribed and sworn to before me by the said C. LeNoir Thompson on this the 9th day of July, 1965.


Notary Public, Baldwin County, Alabama



FILED
JUL 13 1965
ALICE A. DICK, CLERK
REGISTER

I do hereby accept service of a copy of the foregoing interrogatories on this the 13th day of July, 1965.

John Earle Chason

DONALD C. HANKS,

Plaintiff,

vs.

RELPS B. SUTTON,

Defendant.

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 6560


INTERROGATORIES PROPOUNDED TO DEFENDANT

Comes now the Plaintiff, Donald C. Hanks, by his Attorneys, and an affidavit having been made by John Earle Chason, one of the attorneys of record for the Plaintiff, and propounds the following interrogatories to the Defendant, Relps B. Sutton:

1. Please state your name, age and address.
2. Were you driving a motor vehicle on U. S. Highway No. 31 at a point approximately 4.7 miles South of Stapleton in Baldwin County, Alabama, on the night of February 5, 1965?
3. If your answer to the last preceding interrogatory was yes, was such automobile, at said time and place, involved in an accident with another vehicle?

CHASON, STONE & CHASON

By:


Attorneys for Plaintiff

STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned authority in and for said County in said State, personally appeared John Earle Chason, who is known to me, and who, after being by me first duly and legally sworn, did depose and say under oath as follows:

That his name is John Earle Chason and that he is one

of the attorneys of record for Donald C. Hanks who is the Plaintiff in that certain action now pending in the Circuit Court of Baldwin County, Alabama, wherein Relps B. Sutton is the Defendant. That the answers to the interrogatories propounded above, if well and truly made, will be material testimony and evidence for the Plaintiff in said cause.

Done this 11th day of February, 1966.

John Earle Chason

Sworn to and subscribed before me
this 11th day of February, 1966.

Marie B. Bryant
Notary Public, Baldwin County, Alabama

Service accepted for Relps Sutton
This Feb 11 - 66

C. LeDesa Thompson
Attorney for
Relps Sutton

FILED
FEB 11 1966
ALICE I. DICK, CLERK
REGISTER

Hank is Sultan JURY LIST - MARCH 6, 1967 - SPRING SESSION

1. Ball, Johnnie Ruth, Bookkeeper, Bay Minette
2. Baskin, Lavon, --- Bay Minette
3. Benik, Edward, Farmer, Belforest
4. Benton, Thomas H., Farmer, Gulf Shores
5. Cooper, Claude, Farmer, Rosinton
6. Pierce, Arthur, Insurance, Fairhope
7. Porter, Darrell Lee, Utility Man, Summerdale
8. Mannich, Arthur, Merchant, Fairhope
9. Matthews, Reid, Furniture Store Oper., Robertsdale
10. Clemmons, W. P., Carpenter, Fairhope
11. Cleveland, Lyle F., Nurseryman, Foley
12. Dyma, Charles, Merchant, Foley
13. Crawford, Harry E., Operator, Elberta
14. Campbell, Acie, Farmer, Rosinton
15. Bush, Robson, Farmer, Bay Minette
16. Hesse, Henry W., Linesman, Foley
17. Harris, Guy H., Merchant, Foley
18. Hastie, Joe H., Merchant, Stockton
19. McGowan, Randolph, Jr., Store Keeper, Bay Minette
20. McMillan, Raymond N., Farmer, Stockton
21. Sanders, William G., Real Estate, Gulf Shores
22. Spader, Aubrey, Office, Robertsdale
23. Spivey, Roy, --- Bon Secour
24. Stripline, Fred, Television Repair, Robertsdale
25. Thompson, Robert W., Merchant, Foley
26. Vanson, Cecil, Civil Service, Stapleton
27. White, John R., Utilities Man, Foley
28. Parker, Floyd B., Millman, Stockton
29. Nall, Wilber C., Farmer, Bon Secour
30. Sanders, E. Frank, Banker, Foley
31. Koehler, Frank, Farmer, Lillian
32. Beverly, Marvin, Laborer, Robertsdale
33. Blair, Dorothy L., --- Stapleton
34. Boeschen, Sarah, --- Bay Minette
35. Nall, Glenn, Merchant, Robertsdale
36. Crosby, James W., Bookkeeper, Foley
37. Long, Volton, Electrician, Foley
38. Bryars, Ewing E., Reserve Fleet, Bay Minette
39. Weeks, William, Laborer, Magnolia Springs
40. Earls, Doris K., --- Bay Minette
41. Durnock, George, Cabinet Maker, Fairhope
42. Durant, Wilma W., --- Bromley,
43. Durant, Percy N., Merchant, Bay Minette
44. ---, ---, ---, ---
45. Jones, Sanford, Newport, Bay Minette
46. Flowers, John B., Farmer, Gulf Shores
47. Akers, Redus M., Insurance, Bay Minette
48. Fuller, David, Motel, Spanish Fort, Daphne
49. Minote, Sherman R., Butcher, Robertsdale
50. Hankins, C. E., Farmer, Robertsdale
51. Duck, Jos. Wilfison, Brookley Field, Bay Minette

P XXXXX XXXXX X

D XXXXX XXXXX E

DONALD C. HANKS,

Plaintiff,

vs.

RELPS B. SUTTON,

Defendant.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 6560

ANSWERS TO INTERROGATORIES

Comes now the Plaintiff, and for answer to the interrogatories heretofore propounded to him by the Defendant, says as follows:

1. Donald C. Hanks.
2. Yes.
3. Yes.
4. Yes.
5. Mouldon Ford Company.
6. Pensacola, Florida.
7. Yes.
8. Donald C. Hanks.
9. Yes.
10. Bay Minette, Alabama.
11. 9:00 P. M., February 5, 1965 about two miles before we were run into.
12. Approximately 8:15 P. M., February 5, 1965.
13. Drive-in restaurant between Bay Minette and Spanish Fort.
14. About 8:50 P. M., August 5, 1965.
15. Yes; the drive-in restaurant.
16. Cokes.


Donald C. Hanks

Filed
9-16-65
Alvin French
clerk

STATE OF GEORGIA


FULTON COUNTY

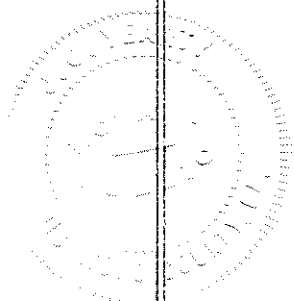
Before me, the undersigned authority, in and for said County and State, personally appeared Donald C. Hanks, who after being by me first duly and legally sworn did depose and say as follows:

My name is Donald C. Hanks. I have read the foregoing answers to interrogatories heretofore propounded to me and the same are true and correct.


Donald C. Hanks

Sworn to and subscribed before
me this 13th day of August, 1965.


Notary Public, Fulton County, Georgia
Notary Public, Richmond County, Ga.
My Commission expires 1968



DONALD C. HANKS

Plaintiff

vs

RELPS B. SUTTON

Defendant

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 6560

ANSWERS TO INTERROGATORIES

Comes now, Relps B. Sutton, defendant in the above styled cause, and for answer to the interrogatories heretofore propounded to the defendant in the above styled cause, being first duly sworn to speak the truth, the whole truth, and nothing but the truth, deposes and says as follows:

1. To the First Interrogatory, my name is:

Relps B. Sutton, 33 years of age, 205 Mango Street, Bay Minette, Alabama.

2. To the Second: Yes

3. To the Third: Yes. Said automobile came over on my side of the road colliding with me.

Relps B. Sutton
Relps B. Sutton

Sworn to and subscribed before me this 29 day of
March, 1966.

[Signature]
Notary Public, Baldwin County, Alabama.

FILED

MAR 29 1966

ALICE J. DUCK, CLERK
DUCK, REGISTER