

HOWARD JOHNSON,	X	
Plaintiff,	X	
		IN THE CIRCUIT COURT OF
vs.	X	
		BALDWIN COUNTY, ALABAMA
JOSEPH ALLEGRI,	X	
		AT LAW
Defendant.	X	

AMENDMENT TO COMPLAINT

Comes the Plaintiff in the above styled cause and amends his Complaint heretofore filed in said cause by adding Count Three, which said Count is as follows:

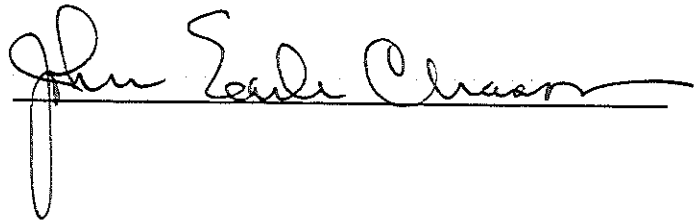
COUNT THREE:

The Plaintiff claims of the Defendant the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) as damages for that heretofore on, to-wit; the 24th day of March, 1966 at approximately 6:30 P. M. on the Defendants farm in Belforest, in Baldwin County, Alabama, the Plaintiff received a personal injury while acting as a servant or employee of such Defendant and while engaged in the service or business of such Defendant and that such injury was caused by reason of the negligence of Jerry Volovecky who was in the service or employment of the Defendant at said time and place and to whose orders or directions the Plaintiff, at the time of his injury, was bound to conform and did conform and that the injuries of the Plaintiff resulted from his having so conformed and that at said time and place the said Jerry Volovecky negligently started or caused to be started an electric motor operating a soybean auger at a time when the Plaintiff's hand was in a position where it would be injured by said auger turning and that the said Jerry Volovecky knew or in the exercise of reasonable diligence could have ascertained that injury to the Plaintiff was likely to result

from his action in starting or causing the motor to be started and as a proximate result of such negligence the Plaintiff's left hand became entangled in said auger, resulting in the loss of a part of Plaintiff's left hand, including his thumb, for which the Plaintiff claims damages in the sum above mentioned, hence this suit.

CHASON, STONE & CHASON

By:

A handwritten signature in cursive script, appearing to read "John Earl Chason", written over a horizontal line.

FILED

JUL 12, 1967

ALICE J. DUCK, CLERK
RECEIVED

HOWARD JOHNSON,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	BALDWIN COUNTY, ALABAMA
vs.	X	AT LAW
JOSEPH ALLEGRI,	X	
Defendant.	X	

AMENDMENT TO COMPLAINT

Comes the Plaintiff in the above styled cause and amends his Complaint heretofore filed in said cause by substituting therefor the following three counts, which are as follows:

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) as damages for that, heretofore on, to-wit, the 24th day of March, 1966, at approximately 6:30 P. M., on the Defendant's farm in Belforest, Baldwin County, Alabama, the Plaintiff received a personal injury while a servant or employee of the Defendant engaged in the service or business of the Defendant and that said injury was caused by reason of a defect in the condition of the ways, works, machinery or plant connected with or used in the business of the Defendant, said defect being that the soybean auger which the Plaintiff was required to use in loading soybeans was not equipped with a shield sufficient to completely cover the auger and because of such fact the Plaintiff's hand became entangled in said auger resulting in the loss of part of the Plaintiff's left hand, including his thumb, and the Plaintiff is thereby permanently disabled, he was caused to lose time from his employment, and was caused to incur hospital and medical expenses and experienced much pain and suffering, all as a proximate result of the Defendant's negligence, because of which the Plaintiff claims damages in the sum above mentioned, hence this suit.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) as damages for that, heretofore on, to-wit, the 24th day of March, 1966, at approximately 6:30 P. M., on the Defendant's farm in Belforest, Baldwin County, Alabama, the Plaintiff received a personal injury while a servant or employee of the Defendant engaged in the service or business of the Defendant and that said injury was caused by reason of a defect in the condition of the ways, works, machinery or plant connected with or used in the business of the Defendant said defect being that the building in which the Plaintiff was required to work was insufficiently lighted and because of such defect the Plaintiff's hand became entangled in a soybean auger causing him to lose part of his left hand, including his thumb, and the Plaintiff is thereby permanently disabled, he was caused to lose time from his employment, and was caused to incur hospital and medical expenses and experienced much pain and suffering, all as a proximate result of the Defendant's negligence, because of which the Plaintiff claims damages in the sum above mentioned, hence this suit.

COUNT THREE:

The Plaintiff claims of the Defendant the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) as damages for that heretofore on, to-wit, the 24th day of March, 1966 at approximately 6:30 P. M. on the Defendant's farm in Belforest, Baldwin County, Alabama, the Plaintiff received a personal injury while acting as a servant or employee of such Defendant and while engaged in the service or business of such Defendant and that such injury was caused by reason of the negligence of Jerry Volovecky who was in the service or employment of the Defendant at said time and place and to whose orders or directions the Plaintiff, at the time of his

injury, was bound to conform and did conform and that the injuries of the Plaintiff resulted from his having so conformed and that at said time and place the said Jerry Volovecky negligently started or caused to be started an electric motor operating a soybean auger at a time when the Plaintiff's hand was in a position where it would be injured by said auger turning and that the said Jerry Volovecky knew or in the exercise of reasonable diligence could have ascertained that injury to the Plaintiff was likely to result from his action in starting or causing the motor to be started and as a proximate result of such negligence the Plaintiff's left hand became entangled in said auger, resulting in the loss of a part of Plaintiff's left hand, including his thumb, and the Plaintiff is thereby permanently disabled, he was caused to lose time from his employment, and was caused to incur hospital and medical expenses and experienced much pain and suffering, all as a proximate result of the Defendant's negligence, because of which the Plaintiff claims damages in the above mentioned sum, hence this suit.

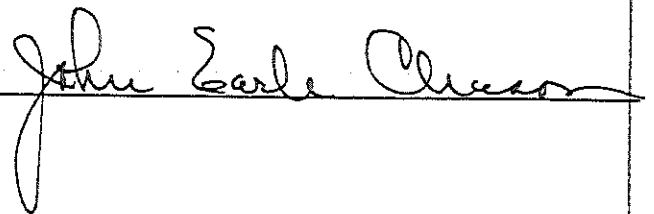
CHASON, STONE & CHASON

FILED

JULY 17, 1967

ALICE L. DUCK, CLERK
REGISTER

By:



HOWARD JOHNSON,)	
)	
Plaintiff,)	IN THE CIRCUIT COURT OF
)	
VS.)	BALDWIN COUNTY, ALABAMA
)	
JOSEPH ALLEGRI,)	AT LAW
)	NO. 7171
Defendant.)	

DEMURRER

Now comes the defendant and demurs to the complaint heretofore filed in this cause and to each and every count thereof, separately and severally, and as grounds for such demurrer assign, separately and severally, the following:

1. It does not state a cause of action.
2. The allegations of the complaint are vague, indefinite and uncertain.
3. The allegations of the complaint are vague, indefinite and uncertain in that no facts are alleged to show how or in what way the works, machinery or plant of the defendant were defective.
4. The allegations of the complaint are mere conclusions of the pleader.
5. No facts are alleged to show any negligence on the part of the defendant.
6. No facts are alleged to show any breach of duty owed by the defendant to the plaintiff.
7. No facts are alleged to show the negligent performance of any duty owed by the defendant to the plaintiff.
8. No facts are alleged to show any defect in the defendant's ways, works, machinery or plant.
9. It does not allege any defect in the ways, works, machinery or plant connected with or used in the business of the defendant was the proximate cause of the plaintiff's injuries.
10. No facts are alleged to show that the alleged defect in the ways, works, machinery or plant connected with or used in the business of the defendant arose from, or had not been discovered or remedied, owing to the negligence of the defendant or some person

in the service of the defendant and entrusted by him with the duty of seeing that the ways, works, machinery or plant were in proper condition.

11. No facts are alleged to show that the plaintiff's hand became entangled in a soybean auger as the proximate result of a defect therein or a defect in any other tool, appliance or device forming a part of the ways, works, machinery or plant of the defendant.

12. No facts are alleged to show that the plaintiff's hand became entangled in a soybean auger as the proximate result of the negligence of the defendant or of some person in his service entrusted by him with the duty of seeing that his ways, works, machinery or plant were in the proper condition.

13. No facts are alleged to show that the plaintiff's hand became entangled in a soybean auger as the proximate result of a defect therein.

14. No facts are alleged to show that the plaintiff's alleged injury was the proximate result of a defect in the defendant's soybean auger or in any other tool, appliance or device of the defendant.

J. B. BLACKBURN and
JAMES R. OWEN,
Attorneys for Defendant

CERTIFICATE OF SERVICE

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 9th day of Oct, 19 66.

[Signature]
Attorney for Defendant

By [Signature]

FILED
OCT 4 1966
ALICE I. DICK, CLERK
REGISTERED

HOWARD JOHNSON,

Plaintiff,

VS.

JOSEPH ALLEGRI,

Defendant.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

PLEA

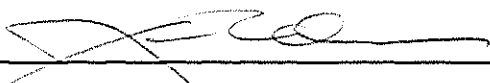
Now comes the defendant in the above styled cause and for plea to the complaint heretofore filed in said cause, the amendment to complaint and to each and every count of the complaint and amendment, separately and severally, says, separately and severally:

1. Not guilty.

2. The plaintiff was, himself, guilty of negligence at the time and place complained of in the complaint, which said negligence proximately contributed to his injuries and damages, hence he should not recover.

J. B. BLACKBURN and
JAMES R. OWEN

By


Attorneys for Defendant

FILED

JUL 24 1967

ALICE J. DUCK

CLERK
REGISTER

HOWARD JOHNSON,	X	
Plaintiff,	X	
vs.	X	IN THE CIRCUIT COURT OF
JOSEPH ALLEGRI,	X	BALDWIN COUNTY, ALABAMA
Defendant.	X	AT LAW

7171

SUBPOENA DUCES TECUM

TO: ANY SHERIFF OF THE STATE OF ALABAMA: GREETINGS:

You are hereby commanded to summon the Medical Records Librarian of Thomas Hospital in Fairhope, Alabama, at the instance of the Plaintiff in the above styled cause to prepare a copy of and submit to the Clerk or Register of the Circuit Court of Baldwin County, Alabama on or before the 22nd day of July, 1967 at the instance of the Plaintiff in the above styled cause such hospital records as are in his possession regarding the hospitalization of Howard Johnson in March and April, 1966 including records of admission, medical, hospital, occupational, disease, injury and disability histories, temperature and other charts, X-rays and written interpretations thereof, pictures, photographs, files, written orders, directions, findings and reports and interpretations of physician, doctors, surgeons, pathologists, radiologists, specialists, dentists, technicians and nurses, as well as of all employees of such hospital, forming a part of such hospital records as to the health, condition, state, injuries, sickness, disease, mental, physical and nervous disorders, duration and character of disabilities, diagnosis, prognosis, progress, wounds, cuts, contusions, lacerations, breaks, loss of blood, incisions, operations, injuries, examinations, tests, transfusions, hospitalization and duration thereof, medication, medicines, supplies,

treatment and care and the cost, expenses, fees and charges there-
for and thereof, a part of or shown on or in said hospital records
of said patient; said copy of such records to be certified as
provided in Act Number 77 of the Second Special Session of 1967
of the Legislature of Alabama and this he shall in nowise omit,
under penalties of what the law directs, and shall have you, then
and there this writ with your endorsement thereon in what manner
you have executed the same.

Witness my hand this 14 day of February, 1967.

Archie L. Luck
Clerk

Executed
July 17, 1967
By Archie L. Luck Sh.
By Randall D.S.

received 14 day of July 1967

and on 17 day of July 1967

I served a copy of the within Dub. De Se.

on Medical Records

Librarian

By service on Clara Clark

Administrator

TAYLOR WILKINS, Sheriff

By Roy Randal

G. L. Kye

STATE OF ALABAMA

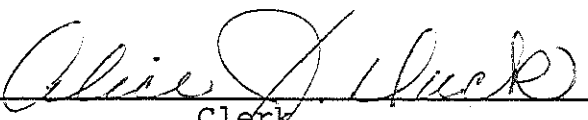
IN THE CIRCUIT COURT - LAW SIDE

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Joseph Allegri 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 same, then and there to answer the Complaint of Howard Johnson.

Witness my hand this 9th day of September, 1966.


Clerk

HOWARD JOHNSON,

X

Plaintiff,

X

vs.

X

IN THE CIRCUIT COURT OF

X

BALDWIN COUNTY, ALABAMA

X

AT LAW

JOSEPH ALLEGRI,

X

Defendant.

7/7/

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) as damages for that, heretofore on, to-wit, the 24th day of March, 1966, at approximately 6:30 P. M., on the Defendant's farm in Belle Forest, Baldwin County, Alabama, the Plaintiff received a personal injury while a servant or employee of the Defendant engaged in the service or business of the Defendant and that said injury was

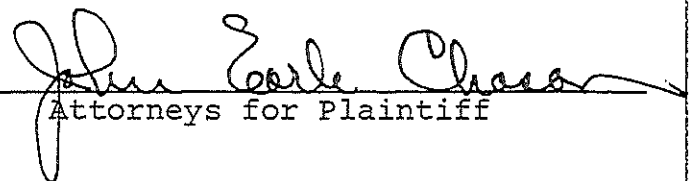
caused by reason of a defect in the condition of the ways, works, machinery or plant connected with or used in the business of the Defendant, said defect being that the soybean auger which the Plaintiff was required to use in loading soybeans was not equipped with a shield sufficient to completely cover the auger and because of such fact the Plaintiff's hand became entangled in said auger resulting in the loss of part of the Plaintiff's left hand, including his thumb, because of which the Plaintiff claims damages in the sum above mentioned, hence this suit.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) as damages for that, heretofore on, to-wit, the 24th day of March, 1966, at approximately 6:30 P. M., on the Defendant's farm in Belle Forest, Baldwin County, Alabama, the Plaintiff received a personal injury while a servant or employee of the Defendant engaged in the service or business of the Defendant and that said injury was caused by reason of a defect in the condition of the ways, works, machinery or plant connected with or used in the business of the Defendant said defect being that the building in which the Plaintiff was required to work was insufficiently lighted and because of such defect the Plaintiff's hand became entangled in a soybean auger causing him to lose part of his left hand, including his thumb, for which he claims damages in the sum above mentioned, hence this suit.

CHASON, STONE & CHASON

By


Attorneys for Plaintiff

FILED
SEP 8 1966
ALICE A. DUCK, CLERK
REGISTERED

Received 9 day of Sept 1966
and on 15 day of Sept 1966
served a copy of the within 84c
on Joseph Allegri
by service on about
(Belfort)
TAYLOR WILKINS, Sheriff
By Roy Randal D. S.

Sheriff claims 50 miles at
Ten Cents per mile Total \$ 5.00
TAYLOR WILKINS, Sheriff
By Roy Randal
DEPUTY SHERIFF

Case No. 7171

HOWARD JOHNSON,

Plaintiff,

Vs.

JOSEPH ALLEGRI,

Belfort

Defendant.

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

* * * * *

SUMMONS AND COMPLAINT

* * * * *

FILED

SEP 9 1966

ALEX J. DICK, CLERK
REGISTER

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