

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 7374

J. D. SMITH, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY, ALABAMA
v. : AT LAW
JESSE DENMAN, :
Defendant. : CASE NO. 7374

A N S W E R

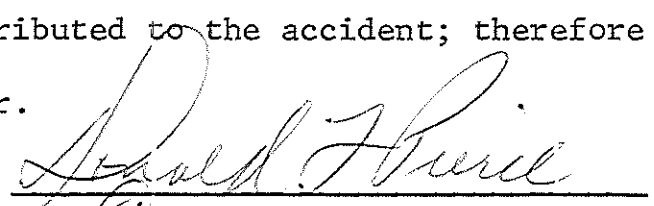
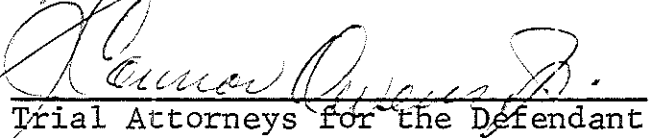
Comes now the defendant in the above-styled cause and for separate and several answer to each count of the complaint heretofore filed, defendant sets down and assigns separately and severally, the following separate and several pleas:

1. Not guilty.

2. At the time and place alleged in the complaint, to-wit: April 29, 1966, while plaintiff's minor son was operating an automobile on and along U. S. Highway 98, at a point at or near its intersection with the entrance to Lake Forest Estates Subdivision, both of said highways being public roads in Baldwin County, Alabama, plaintiff's minor son did so negligently operate such automobile at said time and place so as to cause or allow it to run into upon or against the automobile being operated then and there by the defendant and as a proximate and direct result thereof plaintiff's minor son contributed to the accident; therefore plaintiff ought not recover.

Of Counsel:

HAND, ARENDALL,
BEDSOLE, GREAVES & JOHNSTON



Trial Attorneys for the Defendant

Defendant demands a jury trial.

Donald F. Hurst

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing Answer to James R. Owen, Esq., and M. A. Marsal, Esq., attorneys for the plaintiff, by depositing a copy of same in the United States mail, postage prepaid, addressed to Messrs. Owen and Marsal at their respective offices on this the 30 day of August, 1967.

Donald F. Hurst

FILED

AUG 31 1967

ALICE J. BECK CLERK
REGISTER

J. D. SMITH,	:	IN THE CIRCUIT COURT OF
Plaintiff	:	BALDWIN COUNTY, ALABAMA
vs.	:	AT LAW
JESSE DENMAN,	:	CASE NO. _____
Defendant.	:	
		<u>D E M U R R E R</u>

Comes now the defendant, Jesse Denman, and demurs to the plaintiff's complaint filed herein and each count thereof, separately and severally, and for separate and several grounds of demurrer, sets down and assigns, separately and severally, the following:

1) That it does not state facts sufficient to constitute a cause of action against this defendant.

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

3) For that it is vague, indefinite and uncertain, in that it does not apprise this defendant with sufficient certainty against what act or acts of negligence defendant is called on to defend.

4) For that it does not appear with sufficient certainty what duty, if any, this defendant may have owed to the plaintiff.

5) For that it does not appear with sufficient certainty wherein this defendant violated any duty owed by defendant to the plaintiff.

6) For that it does not sufficiently appear that this defendant owed any duty to the plaintiff which defendant negligently failed to perform.

7) For that the averments set up, if true, do not show any liability on the part of the defendant.

8) For that the pleader sets out in what said negligence consisted, and the facts so set out do not show negligence.


9) For that there does not appear sufficient causal connection between this defendant's said breach of duty and plaintiff's injuries and damages.

10) No facts are alleged to show that plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of this defendant.

11) It is not alleged with sufficient certainty where said accident occurred.

12) For aught that appears, plaintiff had no right to be where plaintiff was at the time and place of said accident

13) It is not alleged that the negligence complained of proximately caused the accident and the injuries and damages complained of.



Trial Attorney for Defendant

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

FILED
FEB 27 1937
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

539

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing Demurrer to M. A. Marsal, Esq., Attorney for Plaintiff by depositing a copy of same in the United States Mail, postage prepaid, addressed to Mr. Marsal, at his office in Mobile, Alabama on this, the 25 day of February, 1967.

Donald F. Pierce

FILED
FEB 27 1967
FBI - MOBILE

J. D. SMITH	*	IN THE CIRCUIT COURT
Plaintiff	*	OF MOBILE COUNTY
-VS-	*	ALABAMA
JESSE DENMAN	*	AT LAW
Defendant	*	CASE NO. <u>21485</u>

The Plaintiff claims of the Defendant the sum of FIVE THOUSAND & 00/100 (\$5,000.00) DOLLARS, *damages* for heretofore and on, to-wit, the 29th day of April, 1966, the Defendant did negligently operate an automotive vehicle on and along U. S. Highway 98 at or near Lakewood Estate Subdivision, said highway being a public road in Baldwin County, Alabama, as to run upon, over or against the automotive vehicle the Plaintiff's minor son was operating at the time and place aforesaid, and as a direct and proximate result of the Defendant's negligence, the Plaintiff's minor son was severely injured and the Plaintiff was caused to expend medical expenses for the treatment and care of his minor son, all for which the Plaintiff sues.

M. A. Marsal
M. A. MARSAL, Attorney for Plaintiff

Plaintiff demands a trial by jury

M. A. Marsal
M. A. MARSAL, Attorney for Plaintiff

Defendant may be served:

Daphne, Baldwin County, Alabama

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

JAN 3 11 21 AM '67

332

John Marshall
CLERK

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

JESSE DENMAN

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,
at the place of holding the same, then and there to answer the complaint of _____

J. D. SMITH

WITNESS: John E. Mandeville, Clerk of said Court, this 3rd day of JANUARY, 19 67

Attest: John E. Mandeville
Clerk

SHERIFF'S RETURN

Received _____ day of _____, 19____ and on _____ day
of _____, 19____, I served a copy of
the within _____ on _____

by service on _____

RAY D. BRIDGES, SHERIFF

By _____ D.S.

REC'D. SHERIFF DEPT.
MOBILE COUNTY, ALA.

JAN 3 3 26 PM '67

BY

5

10

day of

Jan 67

67

I served a copy of the within

on Jesse Denman

By service on

Samuel Daphne

TAYLOR WILKINS, Sheriff

By

Roy Randal

D.

Sheriff claims

54

miles

Ten Cents per mile Total \$

5.40

TAYLOR WILKINS, Sheriff

BY

Roy Randal

DEPUTY SHERIFF

No.

21485 C

JUDGE

DOCKET

CIVIL DIVISION

CIRCUIT COURT

MOBILE COUNTY

J. D. SMITH

VS.

Complaint and Summons

JESSE DENMAN

Issued 3rd day of JANUARY, 19 67

Defendant's Address

Daphne, Baldwin County, Alabama

M. A. MARSAL

Plaintiff's Attorney

J. D. SMITH, : IN THE CIRCUIT COURT OF
Plaintiff : MOBILE COUNTY, ALABAMA
vs. : AT LAW
JESSE DENMAN, :
Defendant. : CASE NO. 21485 -C

PLEA IN ABATEMENT

Comes now the defendant in the above-styled cause, Jesse Denman, and appearing specially and solely for pleading in abatement, and for no other purpose, pleads in abatement, and as grounds for the abatement of such action, says as follows:

1. That the accident which is the basis of this suit occurred on or about April 29, 1966 in Baldwin County, Alabama on U. S. Highway #98, and that the defendant, Jesse Denman was at that time, and is at the present time, a resident citizen of Baldwin County, Alabama, making his home in Daphne, Alabama.

The venue of said action is then proper in the Circuit Court of Baldwin County, Alabama and is not proper in the Circuit Court of Mobile County, Alabama in view of the fact that the defendant resides in Baldwin County, Alabama and that the automobile accident which is the basis of the suit occurred in Baldwin County, Alabama.

WHEREFORE, the premises considered, defendant pleads that this cause should be abated as to him and that his costs be allowed for the making of this Plea in Abatement or that the Court transfer said cause to the Circuit Court of Baldwin County, Alabama where venue is proper, or enter such other order and grant such other relief which is appropriate in matters of abatement.

Donald H. Burrell
Trial Attorney for Defendant

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

STATE OF ALABAMA:
COUNTY OF MOBILE:

Before me, the undersigned Notary Public, in and for said County in said State personally appeared Jesse Denman who, being known to me, and being by me first duly sworn on oath deposes and says that the facts set forth in the foregoing Plea in Abatement are true and correct.

Jesse Denman
Jesse Denman

Subscribed and sworn to before me on this 21 day of January, 1967.

Mary B. Luritt
Notary Public, Mobile County, Alabama

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing pleading to M. G. Marshall, 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 Mobile, Alabama on this, the 1st day of January, 1967.

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

FEB 1 4 51 PM '67

John Marshall
CLERK

FRIDAY, FEBRUARY 10, 1967

J.D. SMITH)	
CAFFEY -vs- 21485)	PLEA IN ABATEMENT SUSTAINED, CASE
JESSE DENMAN)	ORDERED TRANSFERRED TO BALDWIN
)	COUNTY

This day in open Court came the parties by their attorneys, and defendant's Plea in Abatement filed February 1, 1967, in this cause, coming on to be heard, and being argued by counsel and understood by the Court;

It is ordered and adjudged by the Court that Defendant's said Plea in Abatement filed February 1, 1967, in this cause be, and the same is hereby sustained, and Case ordered transferred to Baldwin County, Alabama.

Minute Book 34

Page 814

STATE OF ALABAMA, }
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

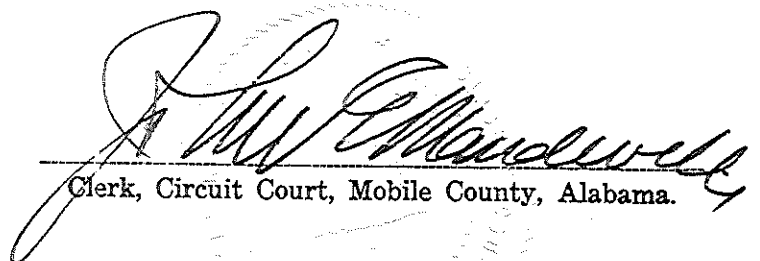
as rendered by the said Circuit Court on the 10th day of February, 1967, in the cause
entitled No. 21485 - J.D. SMITH

_____, Plaintiff,
— versus — JESSE DENMAN

Defendant, (~~Together with the cancellation thereof~~), as the same remains of record in this office in
Minute Book No. 34, Page No. 814

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office
in the City of Mobile, Alabama, on this the 13th day of February, 1967

ATTEST:


Clerk, Circuit Court, Mobile County, Alabama.