

VICTOR ANGLIN ROBERTS,

Plaintiff,

Vs.

ANDREW J. COOPER,

Defendant.

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Y

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE

CASE NO. \_\_\_\_\_

DEMURRER

Comes now the Defendant, Andrew J. Cooper, by his attorney of record, Kenneth Cooper, Esquire, and demurs to the complaint, and to each and every count thereof, and assigns the following reasons, separately and severally, to each and every count thereof, to-wit:

1. The complaint does not state a legal cause of action.
2. The complaint is vague.
3. The complaint is uncertain.

*Kenneth Cooper*  
ATTORNEY FOR DEFENDANT

Defendant demands a trial  
by jury in this cause.

*Kenneth Cooper*  
ATTORNEY FOR DEFENDANT

I hereby certify that I have served a copy of the foregoing DEMURRER on Hon. James W. Howell, Attorney At Law, Foley, Alabama, by depositing a copy of same in the United States Mail at Bay Minette, Alabama, addressed to him as above indicated by first class mail, postage prepaid, on this 28 day of July, 1967.

*Kenneth Cooper*  
ATTORNEY FOR DEFENDANT

FILED

JUL 31 1967

ALICE J. DUCK CLERK  
REGISTER

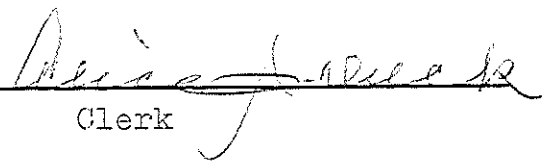
STATE OF ALABAMA                    }  
BALDWIN COUNTY                    }.....IN THE CIRCUIT COURT.....LAW SIDE

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon ANDREW J. COOPER to appear before the Circuit Court of Baldwin County, in and for said County, at the place of holding same, within thirty days (30) from the service of this summons and complaint, then and there to demur to or to plead to the complaint of VICTOR ANGLIN ROBERTS.

You are hereby commanded to execute this process instanter and make return as required by law.

WITNESS my hand this 10 day of July, 1967.

  
Clerk

\* \* \* \* \*

COMPLAINT

VICTOR ANGLIN ROBERTS,	}	
Plaintiff		IN THE CIRCUIT COURT OF
VS.		BALDWIN COUNTY, ALABAMA
ANDREW J. COOPER,		LAW SIDE
Defendant		<i>W. 7606</i>

COUNT I

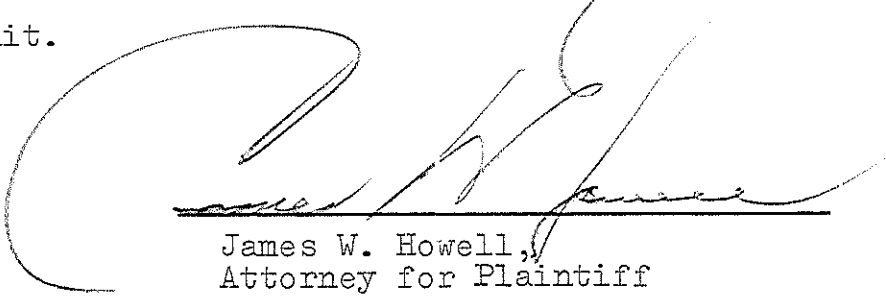
Plaintiff claims of the Defendant the sum of FIVE THOUSAND DOLLARS (\$5,000.00) as damages for that on, to-wit: July 9, 1966 at approximately 10 A.M. while operating a motor vehicle at a point along and upon Baldwin County Road No. 65, a public roadway, at or near Gulf Telephone pole number D-500, Baldwin County, Alabama, approximately 5.7 miles from the City limits of Foley, Baldwin County, Alabama, Andrew J. Cooper so negligently operated his motor vehicle so as to cause or allow it to run into, upon or against the motor vehicle which the Plaintiff, VICTOR ANGLIN ROBERTS, was then operating and as a proximate result of the negligence of the Defendant aforesaid, the Plaintiff was injured about his right hand and fingers, arms, shoulder

*E4-7-12-67*

and head; his right hand and fingers were permanently injured; he suffered numerous contusions, sprains and pains of the chest; that he lost two weeks from his labor; that he incurred certain medical doctors and hospital bills; that he suffered great pain and anguish, all to the damage of the plaintiff, VICTOR ANGLIN ROBERTS, in the aforesaid sum, hence this suit.

COUNT II

Plaintiff further claims of the Defendant, ANDREW J. COOPER, the sum of ONE THOUSAND SIX HUNDRED FIFTY NINE DOLLARS (\$1,659.00) for that heretofore on, to-wit: July 9, 1966 at approximately 10 A.M. while operating a motor vehicle at a point along and upon Baldwin County Road No. 65, a public roadway, at or near Gulf Telephone pole number D-500, Baldwin County, Alabama, approximately 5.7 miles from the City limits of Foley, Baldwin County, Alabama, Andrew J. Cooper so negligently operated his motor vehicle so as to cause or allow it to run into, upon or against the motor vehicle which the plaintiff, VICTOR ANGLIN ROBERTS, was then operating and as a proximate result of the negligence of the defendant, the motor vehicle of the plaintiff, VICTOR ANGLIN ROBERTS, was totally destroyed, all to the damage of the plaintiff, VICTOR ANGLIN ROBERTS, hence this suit.



James W. Howell,  
Attorney for Plaintiff

DEFENDANT MAY BE SERVED NEAR BON SECOUR, ALABAMA.

FILED  
JUL 10-67  
ALICE L. BUCK, CLERK  
REGISTER

No. 7606

Victor Anglin Roberts

vs.

Andrew J. Roberts  
Cooper

ceived 10 day of July 1967  
d on 12 day of July 1967  
erved a copy of the within

Andrew J. Roberts  
Cooper  
service on Andrew J. Cooper

TAYLOR WILKINS, Sheriff

By Wm Eastman D.S.

Wm Secoine

Sherriff

TAYLOR WILKINS, Sheriff

BY J.E.

86860

Turn Rt. at Taylors store go to  
Little Chiefs road - go past to  
the 3rd house on Rt made  
of Block with a carport -

Jas W. Howell

VICTOR ANGLIN ROBERTS,  
Plaintiff,  
VS.  
ANDREW J. COOPER,  
Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW NO. 7606

PETITION FOR REHEARING

TO THE HONORABLE TELFAIR J. MASHBURN, JUDGE OF THE CIRCUIT COURT  
OF BALDWIN COUNTY, ALABAMA, AT LAW:

Now comes the plaintiff in the above styled cause and  
files this petition, verified by oath, showing unto the court as  
follows:

1. That plaintiff heretofore filed a complaint in this  
cause on July 10, 1967; the said defendant filed a demurrer to the  
complaint on July 31, 1967, which said demurrer was overruled by  
this court on November 16, 1967.

2. That plaintiff had employed James W. Howell, Attorney,  
to represent him in said cause and that the said James W. Howell  
surrendered his license to practice law about the month of June,  
1968, without the knowledge of petitioner.

3. Petitioner is now informed that this cause was called  
to the attention of the court on November 21, 1968, at which time  
the court dismissed petitioner's (plaintiff's) complaint for want  
of prosecution. That petitioner did not know that his attorney,  
James W. Howell, was not practicing law at the time the case was  
dismissed and that petitioner was not notified by this court that  
the said cause would be called on November 21, 1968, and that the  
first time that petitioner was advised or had any knowledge that  
this cause had been dismissed was on January 28, 1969.

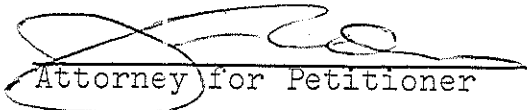
4. That petitioner was prevented from having his case  
tried by surprise, accident or mistake, without fault on his part.

5. That petitioner verily believes that he has a good  
and meritorious cause, which was heretofore set out in his complaint  
dated July 10, 1967.

6. That this petition is not filed for the purpose of hindering or delaying the said defendant, but in order that he may have his cause tried in this court.

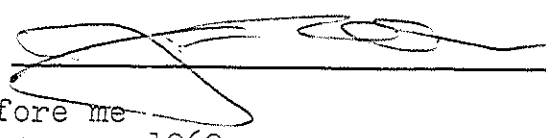
7. That this petition is brought under and by virtue of Title 7, Sections 279 and 286 of the 1940 Code of Alabama.

WHEREFORE, the premises considered, petitioner respectfully prays that this Honorable court will take jurisdiction of this petition and that upon a hearing thereof the court will set aside the order dated November 21, 1968, dismissing this cause for want of prosecution and place this said cause on the trial docket of the Circuit Court of Baldwin County, Alabama.

  
Attorney for Petitioner

STATE OF ALABAMA )  
                          \*  
BALDWIN COUNTY    )

Before me, the undersigned authority, personally appeared James R. Owen, who first being duly and legally sworn deposes and says: That he is the attorney for the petitioner in the above styled cause; that he is informed and believes and on such information and belief states that the facts contained in said petition are true and correct.

  
Sworn to and subscribed before me  
on this the 31st day of January, 1969.

  
Notary Public, Baldwin County, Alabama

FILED

FEB 4 1969

ALICE J. E.

51 - B

NOTICE

TO KENNETH COOPER, ATTORNEY FOR DEFENDANT:

You will please take notice that the foregoing petition will be called to the attention of the Honorable Telfair J. Mashburn at his office in the Courthouse of Baldwin County, Alabama, on February 18, 1969, at 9:00 o'clock A. M., at which time and place you may attend, if you so desire.

ACCEPTANCE OF SERVICE AND WAIVER

I, Kenneth Cooper, Attorney of record for the defendant in the above styled cause, hereby accept service of a copy of the foregoing petition and notice and do hereby waive all other and further service of notice of same and do consent and agree that the same be heard and determined by the court on February 18, 1969, at 9:00 o'clock A. M.

DATED this 4 day of February, 1969.

Kenneth Cooper  
Attorney for Defendant

ORDER OF COURT

The foregoing motion having been this day presented to me, the same is ordered filed in the court and is set down for hearing before me on the 18 day of February, 1969, at 9:00 o'clock A. M.

ORDERED this 4<sup>th</sup> day of Feb., 1969.

Telfair J. Mashburn  
Judge

51 C

VICTOR ANGLIN ROBERTS,	)	
	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
	)	
VS.	)	BALDWIN COUNTY, ALABAMA
	)	
ANDREW J. COOPER,	)	AT LAW NO. 7606
	)	
Defendant.	)	

AMENDED COMPLAINT

COUNT ONE

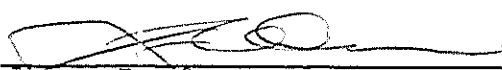
Plaintiff claims of the defendant the sum of Five Thousand Dollars (\$5,000.00) as damages for that on, to-wit: July 9, 1966, at approximately 10:00 A. M. while operating a motor vehicle at a point along and upon Baldwin County Road No. 65, a public roadway, at or near Gulf Telephone Pole number D-500, Baldwin County, Alabama, approximately 5.7 miles from the city limits of Foley, Baldwin County, Alabama, Andrew J. Cooper so negligently operated his motor vehicle so as to cause or allow it to run into, upon or against the motor vehicle which the plaintiff, Victor Anglin Roberts, was then operating and as a proximate result of the negligence of the defendant aforesaid, the plaintiff was injured about his left hand and fingers, arms, shoulder and head; his left hand and fingers were permanently injured; he suffered numerous contusions, sprains and pains of the chest; that he incurred certain medical doctors and hospital bills; that he suffered great pain and anguish, all to the damage of the plaintiff, Victor Anglin Roberts, in the aforesaid sum, hence this suit.

COUNT TWO

Plaintiff further claims of the defendant, Andrew J. Cooper, the sum of One Thousand Six Hundred Fifty-nine Dollars (\$1,659.00) for that heretofore on, to-wit, July 9, 1966, at approximately 10:00 A. M. while operating a motor vehicle at a point along and upon Baldwin County Road No. 65, a public roadway, at or near Gulf Telephone Pole number D-500, Baldwin County, Alabama, approximately 5.7 miles from the city limits of Foley, Baldwin County, Alabama, Andrew J. Cooper so negligently operated his motor



vehicle so as to cause or allow it to run into, upon or against the motor vehicle which the plaintiff, Victor Anglin Roberts, was then operating and as a proximate result of the negligence of the defendant, the motor vehicle of the plaintiff, Victor Anglin Roberts, was totally destroyed, all to the damage of the plaintiff, Victor Anglin Roberts, hence this suit.

  
James R. Owen  
Attorney for Plaintiff

**FILED**

MAR 11 1970

**ALICE J. DUCK** CLERK  
REGISTER

VICTOR ANGLIN ROBERTS,	§	IN THE CIRCUIT COURT OF
Plaintiff,	§	BALDWIN COUNTY, ALABAMA
VS.	§	LAW SIDE
ANDREW J. COOPER	§	CASE NO. <u>7606</u>
Defendant.	§	

A N S W E R

Comes now the Defendant, Andrew J. Cooper, by his attorney of record, Kenneth Cooper, Esquire, and demurs to the complaint, and to each and every count thereof, and assigns the following reasons, separately and severally, to each and every count thereof, to-wit:

1. The complaint does not state a legal cause of action.
2. The complaint is vague.

For further answer to said complaint, and to each and every count thereof the Defendant says that Plaintiff ought not to recover in this cause, for that on the occasion complained of the Plaintiff was himself guilty of negligence proximately contributing to his alleged damages, in that Plaintiff was traveling at an unlawful rate of speed, and he failed to use caution in his driving as required by law, which failure to properly operate his automobile and to operate it within the lawful rate allowed by law proximately contributed to Plaintiffs damages, hence Plaintiff ought not to recover in this suit.

CERTIFICATE OF SERVICE

I hereby certify that I have on this 23 day of Feb, 1970, served a copy of the foregoing on counsel of record for all parties to the proceeding by depositing same in United State mail postage prepaid, properly addressed to said counsel.

Kenneth Cooper  
Attorney for: Defendant

Kenneth Cooper  
ATTORNEY FOR DEFENDANT

FILED

FEB 23 1970

ALICE J. DUCK CLERK  
REGISTER

We the jury find for the Plaintiff  
and assess Damages at \$2500<sup>00</sup>

Robert R. Weston  
Foreman

7606