

July 24, 1967

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA AT LAW

ERNEST G. SMALL, Plaintiff

VS

JAMES PIRTLE, et al, Defendants

CASE NO. 7612

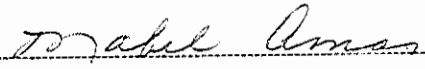
TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW

I, Mabel Amos, Secretary of State, hereby certify that on
I sent by certified mail in an envelope addressed as follows:

July 17, 1967

"James Pirtle
Route 4
Smithville, Tennessee""Certified Mail—
Return Receipt Requested
Deliver to Addressee Only"bearing sufficient and proper prepaid postage, a notice bearing my signature and the Great Seal of
the State of Alabama in words and figures as follows:"James Pirtle
Route 4
Smithville, TennesseeYou will take notice that on July 17, 1967 the Sheriff of Montgomery
County, Alabama, served upon me, in my official capacity, summons and complaint in a
case entitled: ERNEST G. SMALL, Plaintiff vs JAMES PIRTLE, et al, Defendantsin the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW
Case No. 7612 a true copy of which summons and complaint is attached hereto
and the said service upon me as Secretary of State of the State of Alabama has the force and
effect of personal service upon you.WITNESS MY HAND and the Great Seal of the State of Alabama this the 17
day of July, 1967

Enclosure (1)

(Signed) Mabel Amos
Secretary of State"I further certify that the notice above set out which was so mailed in the envelope addressed
as above set forth had attached to it a true copy of the summons and complaint in the above-styled
cause.I further certify that on Jul 24 1967 I received the return card, showing
receipt by the designated addressee of the aforementioned matter at Smithville, Tn 37166
on 7-21-67WITNESS MY HAND and the Great Seal of the State of Alabama this the 24 day
of July, 1967
Mabel Amos
Secretary of StateEnclosures: Return Receipt Card and copy
of Summons and Complaint.cc: Hon. John Chason
Chason, Stone & Chason
157 Hoyle Avenue
Bay Minette, Alabama 36507

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon James Pirtle and

Nichar E. Stapleton 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 Ernest G. Small.

Witness my hand this 11 day of July, 1967.

Clerk

ERNEST G. SMALL,

Plaintiff,

vs.

JAMES PIRTLE and
NICHAR E. STAPLETON,

Defendants.

X
X
X
X
X
X

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

Ms. 7617

COUNT ONE

The Plaintiff claims of the Defendants the sum of fifty

Thousand Dollars (\$50,000.00) as damages for that on, to-wit:

January 28, 1967, at a point on U. S. Highway 31 approximately one-
fourth of a mile west of the intersection therewith of the Busbee
Landing Road, in Baldwin County, Alabama, the Defendant, Nichar E.
Stapleton, was negligently operating an automobile in an easterly
direction on such highway at said time and place in that on the top

of such automobile he was transporting plywood which was insecurely fastened or tied to such automobile in such a manner that he knew or should have known that such plywood would blow off or become unfastened; and at said time and place a sheet of such plywood was blown off or became unfastened from the top of such automobile and was propelled or blew into or against a motor truck which was then and there being negligently driven by the defendant, James Pirtle in that he was following too closely the vehicle being then and there operated by the defendant Richard E. Stapleton and at said time the defendant James Pirtle caused or allowed the motor truck which he was then and there driving to run into or against the automobile which the Plaintiff was then and there driving on such highway in a westerly direction; and as a proximate result of the negligence of the defendant aforesaid, the Plaintiff was injured in this: he received severe head injuries and a chest injury; he received three broken ribs; an injury to his right hand which required fifty stitches; an injury to his chin which required four stitches; he received numerous contusions and multiple bruises and lacerations; he was caused to be confined in hospitals and was caused to be confined in his home for three months, he lost time from his employment; he suffered severe pain and mental anguish; he was made sick, sore and lame and he was permanently injured; he was caused to incur medical, drug and hospital expenses and will in the future be required to incur further medical and drug expenses in the care and treatment of his injuries, for all of which the Plaintiff claims damages in the sum above, hence this suit.

COUNT TWO:

The Plaintiff claims of the defendant the sum of fifty thousand dollars (\$50,000.00) as damages for that on, to-wit:

January 28, 1967, at a point on U. S. Highway No. 31 approximately one-fourth of a mile west of the intersection therewith of the Buzzee Landing Road, in Baldwin County, Alabama, the defendant

each so negligently operated motor vehicles which they were each then and there operating both in an easterly direction on and along such highway at said time and place as to cause or allow

the motor vehicle being then and there operated by the defendant

James Flittle to run into, upon or against an automobile being then

and there operated by the Plaintiff in a westerly direction along

said highway and as a proximate consequence and result of the

negligence of the Defendants aforesaid, the Plaintiff was injured

in this: he received severe headinjuries and a chest injury; he

received three broken ribs; an injury to his right hand which re-

quired fifty stitches; an injury to his chin which required four

stitches; he received numerous contusions and multiple bruises and

laceration; he was caused to be confined in hospitals and was

caused to be confined in his home for three months, he lost time

from his employment; he suffered severe pain and mental anguish,

he was made sick, sore and lame and he was permanently injured; he

was caused to incur medical, drug and hospital expenses and will

in the future be required to incur further medical and drug ex-

penses in the care and treatment of his injuries; for all of which

the Plaintiff claims damages in the sum above, hence this suit.

CHASON, STONE & CHASON

By:

Attorneys for Plaintiff

Plaintiff demands trial of this cause

by a jury.

CHASON, STONE & CHASON

By:

Attorneys for Plaintiff

James Pirtle
Route 4
Smithville, Tennessee

Richar E. Stapleton
1423 Tampa Street
Mobile, Alabama

STATE OF ALABAMA
vs
Baldwin County

◆ ◆ ◆ ◆ ◆

CEATIFICATE

THE CROCODILE

BYDWIN COUNTY, GEORGIA

FITTING

Before me, the undersigned authority, personally appeared John Chason, the Attorney of Record for the Plaintiffs in the above styled cause and after being by me first duly and legally sworn did depose and say under oath as follows:

My name is John Chason and I am the Attorney of Record for the Plaintiff in the above cause. According to the best of my knowledge, information or belief the Defendant, James Pirtle, is a non-resident of the State of Alabama, his address being Route 4, Smithville, Tennessee, and said Defendant is over the age of twenty-one years.

Sworn to and subscribed before me this
the 12th day of July, 1967.

Notary Public, Baldwin County, Alabama.

FILED

JUL 12 1967

ALICE J. DUCK CLERK
REGISTER

ERNEST G. SMALL, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY, ALABAMA
v. :
 : AT LAW
JAMES PIRTLE and :
RICHAR E. STAPLETON, :
 :
Defendants. CASE NO. 7612

D E M U R R E R

Comes now the defendant, Richar E. Stapleton, separately and severally, 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 failed to perform.

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

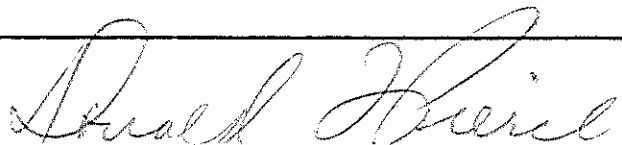
12. For aught that appears, plaintiff had no right to be where plaintiff was at the time and place of said accident.

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

14. For aught that appears from the allegations, the alleged negligence of the defendant James Pirtle was a sufficient intervening cause thereby insulating the alleged

negligence of the defendant Stapleton so that the negligence complained of on the part of this defendant is not alleged with sufficient certainty.

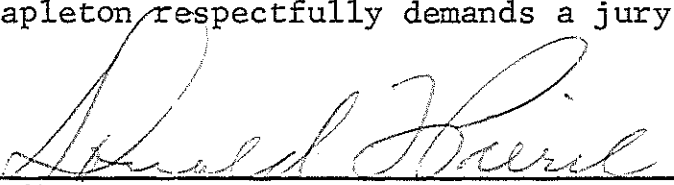
15. For aught that appears from the allegation of the complaint there is no causal connection between this defendant's alleged negligence and the plaintiff's alleged injuries and damages for that it appears from the allegations of the complaint that the defendant Pirtle was negligent at the same time and place resulting in injury and damage to the plaintiff.


Trial Attorneys for Defendant Richar
E. Stapleton

Of Counsel:

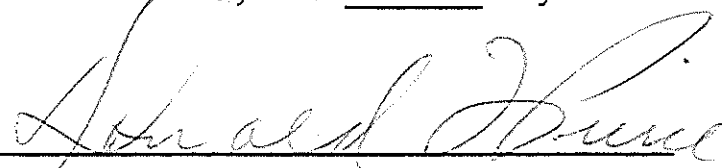
HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

Defendant Richar E. Stapleton respectfully demands a jury trial.


DONALD F. PIERCE

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing Demurrer to John Chason, Esq., attorney for plaintiff, be depositing a copy of same in the United States Mail, postage prepaid, addressed to Mr. Chason at his office in Bay Minette, Alabama on this, the _____ day of August, 1967.



FILED
AUG 9 1967
ALICE J. DICK, CLERK
REGISTER

ERNEST G. SMALL,
Plaintiff,
vs.
JAMES PIRTLE and RICHAR E.
STAPLETON,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 7612

Now comes James Pirtle, one of the Defendants in the above styled cause, and demurs to the Complaint in said cause, and to each and every count thereof, separately and severally, and as grounds therefor assigns, separately and severally, the following:

1. For that the Complaint fails to state a cause of action.
2. From aught that appears this Defendant owed no duty to the Plaintiff at the time and place complained of in the Complaint.
3. From aught that appears this Defendant has breached no duty which he owed to the Plaintiff at the time and place complained of in the Complaint.

As additional grounds for demurrer to Count One of the Complaint, this Defendant assigns, separately and severally, the following:

4. The allegation that this Defendant was " * * * following too closely the vehicle being then and there operated by the Defendant Richar E. Stapleton * * *" is but a conclusion of the pleader and no facts are alleged in support of such conclusion.
5. For that the Plaintiff alleges the quo modo of the alleged negligence of this Defendant and such allegations do not, in and of themselves, constitute actionable negligence as a matter of law.
6. For that there is no allegation that this Defendant negligently " * * * caused or allowed the motor truck which he was then and there driving to run into or against the automobile which the Plaintiff was then and there driving * * *".
7. From aught that appears the injuries and damages complained of in the Complaint were not the direct and proximate result of any negligence on the part of this Defendant.

FILED

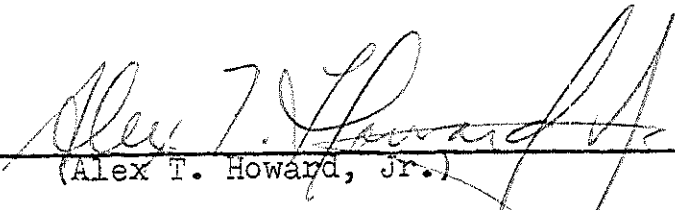
AUG 9 1967

ALICE L. DICK, CLERK
REGISTERED

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
BY Alvin J. Howard
Attorneys for the Defendant, James
Pirtle

CERTIFICATE

I, Alex T. Howard, Jr., one of the attorneys for James Pirtle, one of the Defendants in the above styled cause, hereby certify that I have served a copy of the above and foregoing Demurrer upon Mr. John Chason, one of the attorneys for the Plaintiff in said cause, by mailing a copy of same to him by First Class United States Mail, properly addressed and with postage prepaid on this 8th day of August, 1967.



(Alex T. Howard, Jr.)

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
ATTORNEYS AT LAW

NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING

PHONE 433-5561 P. O. BOX 2104

MOBILE, ALABAMA 36601

NEW

PI 01 BOX NO.
1988

C. A. L. JOHNSTONE, JR.

R. F. ADAMS, SR.

JAMES L. MAY, JR.

ALEX T. HOWARD, JR.

J. JEPHTHA HILL

CHARLES S. BAILEY, JR.

C. M. A. ROGERS, III

BROCK S. GORDON

BEN H. HARRIS, JR.

WILLIAM H. HARDIE, JR.

DOUGLAS INGE JOHNSTONE

August 8, 1967

GESSNER T. MCCORVEY (1882-1965)
BEN D. TURNER, OF COUNSEL

Honorable Alice J. Duck
Clerk of the Circuit Court of
Baldwin County
Courthouse
Bay Minette, Alabama

Re: Ernest G. Small vs. James Pirtle, et al
Circuit Court Baldwin County Case 7612

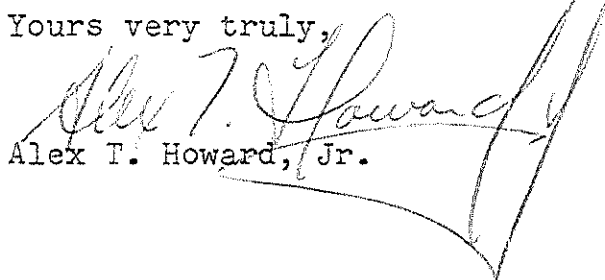
Dear Mrs. Duck:

Enclosed is a Demurrer to the Complaint in the above
case which I have prepared for the Defendant, James Pirtle.

Please file this Demurrer in your Court and advise
me of the date of such filing and I am enclosing a stamped,
self-addressed envelope for your convenience in so notifying
me.

Thank you for your kind attention to the above.

Yours very truly,


Alex T. Howard, Jr.

ATHjr:djl
Enclosures

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 James Pirtle and Richar E. Stapleton 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 Ernest G. Small.

Witness my hand this 12 day of July, 1967.

W. J. L. L. L.
Clerk

ERNEST G. SMALL,

Plaintiff,

vs.

JAMES PIRTLE and
RICHAR E. STAPLETON,

Defendants.

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

76-7612

COUNT ONE

The Plaintiff claims of the Defendants the sum of Fifty Thousand Dollars (\$50,000.00) as damages for that on, to-wit: January 28, 1967, at a point on U. U. Highway 31 approximately one-fourth of a mile West of the intersection therewith of the Buzbee Landing Road, in Baldwin County, Alabama, the Defendant, Richar E. Stapleton, was negligently operating an automobile in an Easterly direction on such highway at said time and place in that on the top


of such automobile he was transporting plywood which was insecurely fastened or tied to such automobile in such a manner that he knew or should have known that such plywood would blow off or become unfastened; and at said time and place a sheet of such plywood was blown off of or became unfastened from the top of such automobile and was propelled or blew into or against a motor truck which was then and there being negligently driven by the Defendant, James Pirtle in that he was following too closely the vehicle being then and there operated by the Defendant Richar E. Stapleton and at said time the Defendant James Pirtle caused or allowed the motor truck which he was then and there driving to run into or against the automobile which the Plaintiff was then and there driving on such highway in a Westerly direction; and as a proximate result of the negligence of the Defendants aforesaid, the Plaintiff was injured in this: he received severe head injuries and a chest injury; he received three broken ribs; an injury to his right hand which required fifty stitches; an injury to his chin which required four stitches; he received numerous contusions and multiple bruises and lacerations; he was caused to be confined in hospitals and was caused to be confined in his home for three months, he lost time from his employment; he suffered severe pain and mental anguish, he was made sick, sore and lame and he was permanently injured; he was caused to incur medical, drug and hospital expenses and will in the future be required to incur further medical and drug expenses in the care and treatment of his injuries, for all of which the Plaintiff claims damages in the sum above, hence this suit.

COUNT TWO:

The Plaintiff claims of the Defendants the sum of Fifty Thousand Dollars (\$50,000.00) as damages for that on, to-wit: January 28, 1967, at a point on U. S. Highway No. 31 approximately one-fourth of a mile West of the intersection therewith of the Buzbee Landing Road, in Baldwin County, Alabama, the Defendants

each so negligently operated motor vehicles which they were each then and there operating both in an Easterly direction on and along such highway at said time and place as to cause or allow the motor vehicle being then and there operated by the Defendant James Pirtle to run into, upon or against an automobile being then and there operated by the Plaintiff in a Westerly direction along said highway and as a proximate consequence and result of the negligence of the Defendants aforesaid, the Plaintiff was injured in this: he received severe head injuries and a chest injury; he received three broken ribs; an injury to his right hand which required fifty stitches; an injury to his chin which required four stitches; he received numerous contusions and multiple bruises and laceration; he was caused to be confined in hospitals and was caused to be confined in his home for three months, he lost time from his employment; he suffered severe pain and mental anguish, he was made sick, sore and lame and he was permanently injured; he was caused to incur medical, drug and hospital expenses and will in the future be required to incur further medical and drug expenses in the care and treatment of his injuries, for all of which the Plaintiff claims damages in the sum above, hence this suit.

CHASON, STONE & CHASON

By: 
Attorneys for Plaintiff

Plaintiff demands trial of this cause
by a jury.

CHASON, STONE & CHASON

By: 
Attorneys for Plaintiff

ADDRESS OF DEFENDANTS:

James Pirtle
Route 4
Smithville, Tennessee

Richar E. Stapleton
1423 Tampa Street
Mobile, Alabama


CERTIFICATE

STATE OF ALABAMA

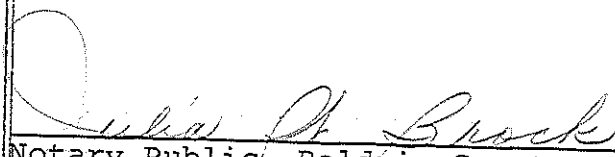
BALDWIN COUNTY

Before me, the undersigned authority, personally appeared John Chason, the Attorney of Record for the Plaintiff in the above styled cause and after being by me first duly and legally sworn did depose and say under oath as follows:

My name is John Chason and I am the Attorney of Record for the Plaintiff in the above cause. According to the best of my knowledge, information or belief the Defendant, James Pirtle, is a non-resident of the State of Alabama, his address being Route 4, Smithville, Tennessee, and said Defendant is over the age of twenty-one years.



Sworn to and subscribed before me this
the 12th day of July, 1967.


Notary Public, Baldwin County, Alabama.

FILED

JUL 12 1967

ALICE J. DUCK CLERK
REGISTER

3

2942

RECEIVED IN OFFICE

JUL 12 1967

JUL 12 1967

L. S. BUTLER, Sheriff

TAYLOR WILKINS

SHERIFF

EXECUTED

This 26 day of July, 1967

by serving a copy of the within on

Richard E. Stapleton

RAY D. BRIDGES, Sheriff

By W. L. Moson D. S.

Executed by serving 3 copies of

the within on

Secretary of State of The State of

Alabama. Mable Amos

This the 17 day of July, 1967

Sheriff of Montgomery County

M. S. Butler,

By W. L. Moson D. S.

M. S. Butler, Sheriff of Montgomery

County, Alabama, Claim \$1.50 each* for

serving 1 process(es) and \$1.00

travel expense on each of 1

process(es) and a total of 2.50

W. L. Moson Deputy Sheriff

NY 7612 4278

ERNEST G. SMALL,

Plaintiff,

VS.

26 100

JAMES PIRTLE and RICHAR E.

STAPLETON,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

SUMMONS AND COMPLAINT

FILED

JUL 12 1967

ALICE S. DICK, CLERK

CHASON, STONE & CHASON

ATTORNEYS AT LAW

P. O. Box 120

BAY MINETTE, ALABAMA

RECEIVED

JUL 12 1967

TAYLOR WILKINS

SHERIFF

19

JUL 12 1967

RECEIVED SHERIFF DEPT.

BALDWIN COUNTY, ALA.