

MOTION

EVERETT M. SMITH,

Plaintiff,

VS.

JOHN ADAM RIEBELING and  
NATHAN MYRICK,

Defendants,

VS.

THOMAS M. STEVENS, II,

Garnishor.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

LAW SIDE

CASE NO. 7791

Comes now Thomas M. Stevens, II, and shows unto the Court that:

1.

By agreement, a judgment was rendered in this cause for the Plaintiff and against the Defendants for the sum of NINE THOUSAND FIVE HUNDRED (\$9,500.00) DOLLARS. This money was deposited with the Clerk of this Court.

2.

The Court directed the Clerk of the Court to hold this money pending its further Orders.

3.

A motion was made by Everett M. Smith to have the Court release FIVE THOUSAND FIVE HUNDRED (\$5,500.00) DOLLARS of this sum to him. By an affidavit, he alleged that he was informed that he owed James Howell FOUR THOUSAND (\$4,000.00) DOLLARS - Attorney's fee.

4.

The Court directed the Clerk to pay Everett M. Smith this sum.

5.

The Garnishor further shows unto the Court that the Hartford Accident and Indemnity Company filed a petition in this cause

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alleging that it had paid Everett Smith the sum of FIVE HUNDRED FORTY TWO DOLLARS AND EIGHTY SIX CENTS (\$542.86) for workmen compensation and asked the Court to have the Clerk of this Court pay Hartford Accident and Indemnity Company this sum of money.

6.

A hearing was had. The Court granted this motion and directed the Clerk of the Court to pay Hartford Accident and Indemnity Company the sum of FIVE HUNDRED FORTY TWO DOLLARS AND EIGHTY SIX CENTS (\$542.86).

7.

Your Garnishor further shows unto the Court that he recovered a judgment in the Circuit Court of Mobile County, Alabama, against James Howell, Case number 24606, for the sum of EIGHTEEN THOUSAND TWO HUNDRED (\$18,200.00) DOLLARS. This judgment was rendered the 28th day of February, 1968, and filed in the office of the Probate Judge of Baldwin County on the 4th day of March, 1968.

8.

Your Movant alleges that a garnishment was issued against Mrs. Alice J. Duck in Case number 24606 on January 23, 1968.

9.

Her answer to this garnishment was that she had been directed by the Court not to pay out any monies except by Order of the Court.

10.

Your Movant further shows unto the Court that Lone Star Cement Corporation filed a suit for a summary judgment against James W. Howell on the 28th day of February, 1968, and obtained a judgment against him for the sum of ELEVEN THOUSAND THREE HUNDRED TWENTY EIGHT DOLLARS AND SEVENTY EIGHT CENTS (\$11,328.78). A judgment was entered on the same date and a copy of said judgment was filed in the office of the Probate Judge of Baldwin County, Alabama, on February 28, 1968. The Court directed that execution issue immediately in

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this cause.

PREMISES CONSIDERED, Your Movant prays that Your Honor will set this matter for a hearing on a day certain and give the Honorable Kenneth Cooper, Bay Minette, Alabama, who is the attorney for James Howell, notice of this hearing and will give James R. Owen of Bay Minette, Alabama, attorney for Lone Star Cement Corporation, notice of said hearing and will give Everett M. Smith notice of the date of said hearing.

Your Movant prays that on a final hearing of this matter the Court will determine that the balance of the money now in the hands of the Clerk in this cause, is the property of Jim Howell, and subject to a writ of garnishment and will determine that the garnishment of Your Movant, Thomas M. Stevens, II, has priority over the judgment of Lone Star Cement Corporation and will direct Mrs. Alice J. Duck, Clerk of the Circuit Court of Baldwin County, Alabama, to pay this sum to the Clerk of Mobile County, Alabama, in the case of Thomas M. Stevens, II, vs. James W. Howell, case number 24606.

WILTERS & BRANTLEY

BY:

  
Attorney for Garnishor

ORDER

The foregoing motion was this day presented to me and, having read and understood the same, the Court is of the opinion that this matter should be set down for a hearing. It is therefore ORDERED, ADJUDGED and DECREED that this motion be set for a hearing on the 12<sup>th</sup> day of July, 1968, at 1:00 P.M.

It is further ORDERED that notice of the foregoing motion and order be given to Kenneth Cooper, Attorney at Law; James R.

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Owen, Attorney at Law; and that a copy of the foregoing motion and order be served upon Everett M. Smith by the Sheriff of Baldwin County, Alabama, and he is hereby directed to make a return to this Court of said service.

Done this the 17<sup>th</sup> day of June, 1968.

Telfair Mashburn  
Telfair Mashburn  
Circuit Judge

**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 17 day of June, 1968, served a copy of the foregoing motion and order for all parties to this proceeding by mailing the same to Everett M. Smith, properly addressed, and first class postage prepaid.

James A. Brantley  
James A. Brantley

**FILED**

JUN 17 1968

**ALICE J. DUCK** CLERK  
REGISTER

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*July*  
*Orange Branch*

Received *17* day of *June*  
and on *28* day of *June* 19*68*  
I served a copy of the within *motion*  
on *Lawrence Smith*  
by service on *alone*

TAYLOR WILKINS, Sheriff

By *J. M. Eastman* D.S.  
*Deputy Sheriff*

Sheriff claims *120* miles at

Cost Cents per mile Total \$ *12.00*

TAYLOR WILKINS, Sheriff

By *J. M. Eastman*  
DEPUTY SHERIFF

*Lawrence Smith*  
*July*

DECREE

EVERETT M. SMITH,

Plaintiff,

VS.

JOHN ADAM RIEBELING and  
NATHAN MYRICK,

Defendants,

VS.

THOMAS M. STEVENS, II,

Garnishor.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE

CASE NO. 7791

This day was heretofore set to hear the Motion filed in this cause by Thomas M. Stevens, II, as Garnishor. Testimony was taken ore tenus in this cause. Upon consideration of the foregoing, the Court is of the opinion that the Movant is entitled to the relief he seeks.

It is therefore ORDERED, ADJUDGED and DECREED that the FOUR THOUSAND DOLLARS (\$4,000.00) now held by the Clerk of this Court in this cause is the property of James Howell and is subject to garnishment.

It is further ORDERED, ADJUDGED and DECREED that Alice J. Duck as Clerk of the Circuit Court of Baldwin County, Alabama, answer the garnishment issued out of the Circuit Court of Mobile County, Alabama, in the case of Stevens vs. Howell, case number 24606, by paying the sum of FOUR THOUSAND DOLLARS (\$4,000.00) to the Clerk of said Court.

This the 1st day of July, 1968.

Telfair A. Mashburn  
Telfair Mashburn  
Circuit Judge

FILED

JUL 9 1968

ALICE J. DUCK CLERK  
REGISTER

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EVERETT M. SMITH,	)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	
vs.	)	BALDWIN COUNTY, ALABAMA
JOHN ADAM RIEBELING and	)	
NATHAN MYRICK,	)	LAW SIDE. NO. 7791.
	)	
Defendants.	)	

PETITION:

Now comes Hartford Accident & Indemnity Company, a corporation, by and through its attorneys, and shows unto this Honorable Court as follows:

1. That on the 20th day of October, 1966, the said Everett M. Smith, Plaintiff in this case, was an employee of Gulf Telephone Company, Foley, Alabama, subject to Workmen's Compensation Laws of the State of Alabama; that the said Hartford Accident & Indemnity Company was the Workmen's Compensation insurance carrier for the said Gulf Telephone Company on the same date.

2. That the said Everett M. Smith was injured during the course of said employment as the result of an accident (being the same accident in which judgment has been rendered in this cause by this Court) and that the said Hartford Accident & Indemnity Company paid to the said Everett M. Smith, the sum of \$542.86, representing permanent partial disability due from October 20, 1966, the date of said accident, until April 28, 1967, for a total period of 14 weeks and 2 days.

3. Petitioner in this cause further alleges and shows that the said James M. Howell, Attorney for the said Everett M. Smith, had notice of said Workmen's Compensation payments and of the subrogation rights claimed by the said Hartford Accident & Indemnity Company. That subsequently, this Court did, on January 9, 1968, render judgment in this case in favor of the Plaintiff for the sum of \$9500.00

4. Petitioner further shows that on January 29, 1968, that this Honorable Court ordered paid to the said Everett M. Smith

the sum of \$5,500.00, being a portion of the said judgment rendered in this case in favor of the said Everett M. Smith and against John Adam Riebeling and Nathan Myrick, for and on account of the same accident for which compensation payments were made.

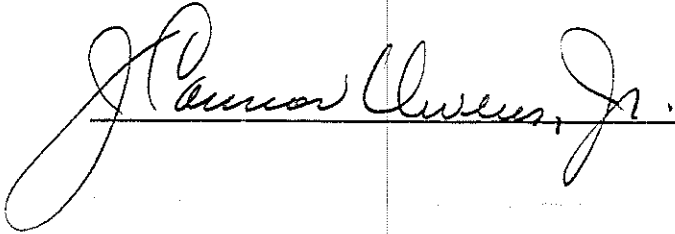
WHEREFORE, the said Hartford Accident & Indemnity Company prays that this Honorable Court will award to Petitioner in this cause, from the funds remaining in the hands of the Court, the sum of \$542.86, being the sum which Petitioner is entitled to recover at the hands of the said Everett M. Smith, under the Workmen's Compensation Laws of the State of Alabama.

OWENS AND PATTON

By: 

Attorneys for Petitioner, Hartford  
Accident & Indemnity Company,  
a corporation.

I, the undersigned, one of the Attorneys of Record for Petitioner, Hartford Accident & Indemnity Company, do hereby certify that I have served a copy of the foregoing petition on Chason, Stone & Chason, the Attorneys of Record for the Defendants in this cause, and on Everett M. Smith, the Plaintiff in said cause, by placing the same in the United States Mail, properly address, with postage prepaid, on this 7th day of February, 1968.



FILED

FEB 7 1968

ALICE J. DUBOIS



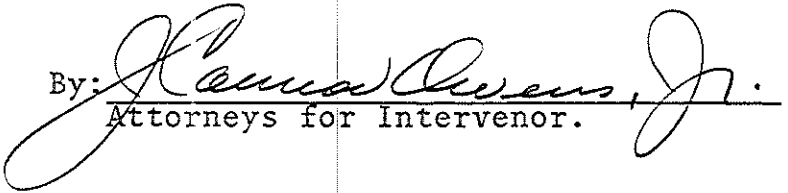
EVERETT M. SMITH,	)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	
vs.	)	BALDWIN COUNTY, ALABAMA
JOHN ADAM RIEBELING and	)	
NATHAN MYRICK,	)	LAW SIDE. NO. 7791.
	)	
Defendants.	)	

MOTION:

Now comes the intervenor, Hartford Accident & Indemnity Company, in the above styled cause and shows unto this Honorable Court that it has, prior to this time, intervened in this cause, claiming the sum of \$542.86 as due the said intervenor from the Plaintiff, Everett M. Smith, by way of workmen's compensation payments made to the said Everett M. Smith, and that the said Alice J. Duck, Clerk of the Circuit Court of Baldwin County, Alabama, has in her control the said sum due the intervenor; that the said Alice J. Duck has also been named as garnishee in the case of Thomas M. Stevens, II, vs. James Howell, being Case No. 24606, in the Circuit Court of Mobile County, Alabama;

WHEREFORE, the said intervenor moves this Honorable Court to set this matter for hearing and that this Court will cause notice thereof to be given to the said Everett M. Smith; Chason, Stone & Chason, (the attorneys for the Defendants in this cause), and to the Honorable David Green (attorney for garnishor) of the firm of Pillans, Reams, Tappan, Wood & Roberts, P. O. Box 2245, Mobile, Alabama, by certified mail, with return receipt requested, of the date and time of the hearing of the claim of the intervenor in this matter.

OWENS AND PATTON

By:  Attorneys for Intervenor.

\* \* \* \* \*

ORDER:

This cause coming on to be heard upon the motion of the intervenor, Hartford Accident & Indemnity Company, to hear the

matters set forth in said motion and the Court having considered the same, it is therefore, ORDERED by the Court that the 22<sup>nd</sup> day of April, 1968, at 9:20 o'clock A. M., be, and the same is hereby set for the hearing of the matters raised in said motion and the said Alice J. Duck, Clerk of the Circuit Court of Baldwin County, Alabama, is hereby directed to notify Everett M. Smith, Chason, Stone & Chason, and David Green, attorney for Thomas M. Stevens, II, garnishor in this cause, of the date and time for hearing, by mailing to them a copy of this order by certified mail, with return receipt requested, postage prepaid.

DATED at Bay Minette, Alabama, this 12<sup>th</sup> day of March, 1968.

Jeffery J. Madison  
Circuit Judge.

FILED

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ALICE J. DUCK CLERK  
REGISTER

STATE OF ALABAMA )  
COUNTY OF BALDWIN )

Before me, the undersigned authority in and for aforesaid State and County, who as a Notary Public under my seal of office, which seal of office is hereto attached, personally appeared CHARLES H. SIMS III, known to me, who being duly sworn, upon his oath stated that he is the duly authorized Attorney-in-Fact for James W. Howell, Attorney-at-Law and the attorney of record for Everett M. Smith in Jury Case No. 7791 in the Circuit Court of Baldwin County; that as such he makes this affidavit; that a favorable judgement was rendered in said cause in the amount of NINEY-FIVE HUNDRED DOLLARS (\$9,500.00) of which sum has been deposited in the said court; that the said Mr. Howell has informed me that because of his representation in this cause and in numerous court proceedings prior to this cause, his attorney's bill in this cause amounts to FOUR THOUSAND DOLLARS (\$4,000.00); and because thereof, FIFTY-FIVE HUNDRED DOLLARS (\$5,500.00) should be released to Everett M. Smith.

Charles H. Sims III  
CHARLES H. SIMS III

STATE OF ALABAMA )  
COUNTY OF BALDWIN )

Before me, Evelyn M. Wirth, a Notary Public, in and for said State and County, personally appeared CHARLES H. SIMS III, who is known to me, and who being by me first duly sworn, deposes and says that he has knowledge of the facts stated in the above petition and that the same are true and correct.

Charles H. Sims III  
CHARLES H. SIMS III

Sworn to and subscribed before me

this 29<sup>th</sup> day of JANUARY, 1968.

Evelyn M. Wirth  
NOTARY PUBLIC

MY COMMISSION EXPIRES JULY 15, 1971

FILED

JAN 29 1968

ALICE J. DUCK CLERK  
REGISTER

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EVERETT M. SMITH,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
vs.	X	BALDWIN COUNTY, ALABAMA	
	X	AT LAW	NO. 7791
JOHN ADAM RIEBELING	X		
and NATHAN MYRIC,	X		
Defendants.	X		

PETITION TO RELEASE FUNDS

Come now the Plaintiff in the above style cause and respectfully petitions this Honorable Court to release to him FIFTY-FIVE HUNDRED DOLLARS (\$5,500.00) of the NINETY-FIVE HUNDRED DOLLARS (\$9,500.00) which was paid into this Honorable Court as satisfaction of the judgement heretofore rendered in this cause in favor of the Plaintiff.

Verified affidavits are attached hereto and incorporated herewith as a part hereof.

Everett M. Smith  
EVERETT M. SMITH

FILED

JAN 29 1968

ALICE J. DUCK CLERK  
REGISTER

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## DECREE

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IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

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LAW SIDE

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CASE NO. 7791

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)

This day was heretofore set to hear the Motion filed in this cause by Thomas M. Stevens, II, as Garnishor. Testimony was taken ore tenus in this cause. Upon consideration of the foregoing, the Court is of the opinion that the Movant is entitled to the relief he seeks.

It is therefore ORDERED, ADJUDGED and DECREED that the FOUR THOUSAND DOLLARS (\$4,000.00) now held by the Clerk of this Court in this cause is the property of James Howell and is subject to garnishment.

It is further ORDERED, ADJUDGED and DECREED that Alice J. Duck as Clerk of the Circuit Court of Baldwin County, Alabama, answer the garnishment issued out of the Circuit Court of Mobile County, Alabama, in the case of Stevens vs. Howell, case number 24606, by paying the sum of FOUR THOUSAND DOLLARS (\$4,000.00) to the Clerk of said Court.

This the 1st day of July, 1968.

Telfair A. Mashburn  
Telfair Mashburn  
Circuit Judge

**SECRET**

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ALBERT J. DUCK CLERK  
REGISTER

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EVERETT M. SMITH,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	
vs.	)	BALDWIN COUNTY, ALABAMA
JOHN ADAM RIEBELING and	)	
NATHAN MYRICK,	)	LAW SIDE. NO. 7791.
Defendants.	)	

ORDER:

This cause coming on to be heard upon the petition of Hartford Accident & Indemnity Company, a corporation, order setting date for hearing, a copy of which was served by certified mail upon the attorney of record for the Defendants in this cause, Chason, Stone & Chason, the Plaintiff in this cause, Everett M. Smith, and the Attorney of record for the garnishor in this cause, the Honorable David Green, of the firm of Pillans, Reams, Tappan, Wood and Roberts, and it appearing to the Court that the allegations of said petition are true and that the said Hartford Accident & Indemnity Company, a corporation, is entitled to recover of the sums deposited in this Court in this cause by virtue of subrogation rights existing under the Laws of the State of Alabama; it is, therefore,

ORDERED that the said Hartford Accident & Indemnity Company, a corporation, shall recover of the funds held by the Circuit Clerk of this Circuit, the sum of \$542.86 as due the said petitioner by way of Workmen's Compensation payments made to the said Everett M. Smith;

It is further ORDERED that the said Alice J. Duck, Clerk of the Circuit Court of Baldwin County, Alabama, shall from the funds held by her, pay to the said Hartford Accident & Indemnity Company, a corporation, the sum of \$542.86.

DATED at Bay Minette, Alabama, this 22nd day of April, 1968.

Jeffrey M. Moore  
Circuit Judge.

STATE OF ALABAMA )  
COUNTY OF BALDWIN )

Before me, the undersigned authority in and for aforesaid State and County, who as a Notary Public under my seal of office, which seal of office is hereto attached, personally appeared EVERETT M. SMITH, known to me, who being duly sworn, upon his oath stated that he is the Plaintiff in Jury Case No. 7791 in the Circuit Court of Baldwin County; that as such he makes this affidavit; that a favorable judgement was rendered in said cause in the amount of NINETY-FIVE HUNDRED DOLLARS (\$9,500.00) of which sum has been deposited in the said court; that his attorney in this cause was James W. Howell of Foley, Alabama; that because of representation by the said Mr. Howell in this cause and in numerous court proceedings prior to this cause, he has informed me that his attorney's bill in this cause amounts to FOUR THOUSAND DOLLARS (\$4,000.00).

Everett M. Smith  
EVERETT M. SMITH

STATE OF ALABAMA )  
COUNTY OF BALDWIN )

Before me, Evelyn M. Wirth, a Notary Public, in and for said State and County, personally appeared EVERETT M. SMITH, who is known to me, and who being by me first duly sworn, deposes and says that he has knowledge of the facts stated in the above petition and that the same are true and correct.

Everett M. Smith  
EVERETT M. SMITH

Sworn to and subscribed before me  
this 29<sup>TH</sup> day of JANUARY, 1968.

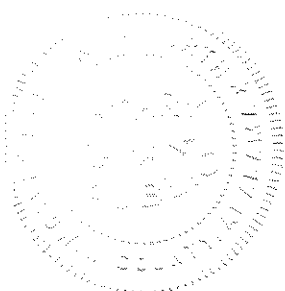
Evelyn M. Wirth  
NOTARY PUBLIC

MY COMMISSION EXPIRES JULY 15, 1971

FILE

JAN 29 1968

ALICE J. PEEK



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THOMAS M. STEVENS, II,  
Plaintiff

vs:

JAMES W. HOWELL,  
Defendant

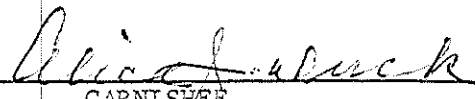
IN THE CIRCUIT COURT OF

MOBILE COUNTY, ALABAMA

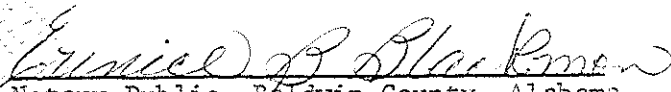
AT LAW, NO. 24606

Comes, Alice J. Duck, Garnishee in the above styled cause and says that she has in her possession Nine Thousand Five Hundred Dollars (\$9500.00), that was paid into court in the case of EVERETTE M. SMITH, Plaintiff vs: JOHN ADAM RIEBELING & NATHAN MYRIC, Defendants, with James W. Howell, <sup>Case No. 7791</sup> Attorney, and further states that the court has instructed her to hold the said Nine Thousand Five Hundred (\$9500.00) Dollars until further orders of this Court.

Witness my hand this 24th day of January, 1968.

  
GARNISHEE

Sworn to and subscribed before me  
this 24th day of January, 1968.

  
Notary Public, Baldwin County, Alabama  
Commission expires: 8/17/69

Vol 57 - P- 512 A

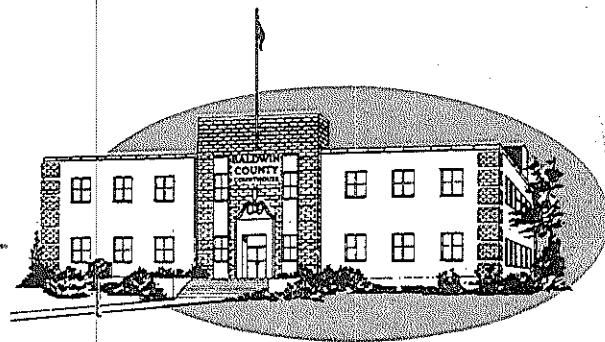


CIRCUIT CLERK  
**BALDWIN COUNTY**

BAY MINETTE, ALABAMA

July 9, 1968

ALICE J. DUCK,  
Register—Circuit Court



Hon. John E. Mandeville,  
Circuit Clerk, Mobile County,  
Mobile, Alabama

Dear Sir:

Re: EVERETT M. SMITH  
Plaintiff

Vs.  
JOHN ADAM RIEBELING and NATHAN MYRICK  
Defendants,

Vs.  
THOMAS M. STEVENS, 11, Garnishor

By order of the Judge of the Circuit Court of Baldwin County, Alabama dated July ,1 1968, in the above styled cause, I am herewith transmitting the sum of three thousand four hundred fifty-seven and 1 14/100 dollars ( \$3457.14) being the total sum of money I have in my possession belonging to James Howell.

Respectfully yours,

\_\_\_\_\_  
Clerk, Circuit Court

*Three copies*

EVERETT M. SMITH,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	
vs.	)	BALDWIN COUNTY, ALABAMA
JOHN ADAM RIEBELING and	)	
NATHAN MYRICK,	)	LAW SIDE. NO. 7791.
Defendants.	)	
	)	

ORDER:

This cause coming on to be heard upon the petition of Hartford Accident & Indemnity Company, a corporation, order setting date for hearing, a copy of which was served by certified mail upon the attorney of record for the Defendants in this cause, Chason, Stone & Chason, the Plaintiff in this cause, Everett M. Smith, and the Attorney of record for the garnishor in this cause, the Honorable David Green, of the firm of Pillans, Reams, Tappan, Wood and Roberts, and it appearing to the Court that the allegations of said petition are true and that the said Hartford Accident & Indemnity Company, a corporation, is entitled to recover of the sums deposited in this Court in this cause by virtue of subrogation rights existing under the Laws of the State of Alabama; it is, therefore,

ORDERED that the said Hartford Accident & Indemnity Company, a corporation, shall recover of the funds held by the Circuit Clerk of this Circuit, the sum of \$542.86 as due the said petitioner by way of Workmen's Compensation payments made to the said Everett M. Smith;

It is further ORDERED that the said Alice J. Duck, Clerk of the Circuit Court of Baldwin County, Alabama, shall from the funds held by her, pay to the said Hartford Accident & Indemnity Company, a corporation, the sum of \$542.86.

DATED at Bay Minette, Alabama, this 22nd day of April, 1968.

\_\_\_\_\_  
Telfair J. Mashburn Circuit Judge.

THOMAS M. STEVENS, II,  
Plaintiff

IN THE CIRCUIT COURT OF

vs:

MOBILE COUNTY, ALABAMA

JAMES W. HOWELL,

Defendant

AT LAW, NO. 24606

Comes, Alice J. Duck, Garnishee in the above styled cause and says that she has in her possession Nine Thousand Five Hundred Dollars (\$9500.00), that was paid into court in the case of EVERETTE M. SMITH, Plaintiff vs: JOHN ADAM RIEBELING & NATHAN MYRIC, Defendants, with James W. Howell, <sup>Case NO. 7791</sup> Attorney, and further states that the court has instructed her to hold the said Nine Thousand Five Hundred (\$9500.00) Dollars until further orders of this Court.

Witness my hand this 24th day of January, 1968.

Alice J. Duck  
GARNISHEE

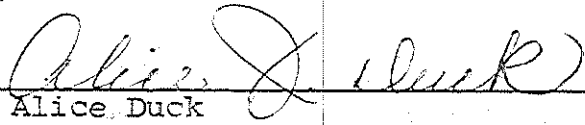
Sworn to and subscribed before me  
this 24th day of January, 1968.

Ernie D. Blackmon  
Notary Public, Baldwin County, Alabama  
Commission expires: 8/17/69

STATE OF ALABAMA ) To any sheriff of the State of Alabama:  
COUNTY OF BALDWIN )

You are hereby commanded to summon JOHN ADAM RIEBELING and NATHAN MYRIC to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, to be held for said County at the place of holding the same, then and there to answer the complaint of EVERETT M. SMITH.

Witness my hand, this 19<sup>th</sup> day of October, 1967.

  
\_\_\_\_\_  
Alice Duck  
Circuit Clerk

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EVERETT M. SMITH,	)	IN THE CIRCUIT COURT OF
	)	
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
	)	
VS.	)	AT LAW, NO. <u>7791</u>
	)	
JOHN ADAM RIEBELING and	)	
NATHAN MYRIC, jointly and	)	
severally,	)	
	)	
Defendants.	)	

COUNT ONE

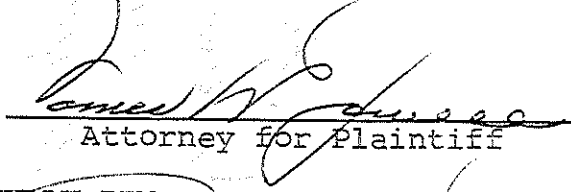
The plaintiff claims of the defendants the sum of FIFTY-TWO THOUSAND FIVE HUNDRED SIXTY-SIX AND 25/100 DOLLARS (\$52,566.25) as damages, for that, heretofore, on, to-wit: the 20th day of October, 1966, the plaintiff was operating a truck on a public highway, viz: Alabama Highway No. 59 in Baldwin County, at a point approximately .3 of a mile South of Foley, Alabama, where he had a right to be, and the defendant, John Adam Riebeling, an agent, servant or employee of the defendant, Nathan Myric, while acting within the line and scope of his employment, so negligently operated a motor vehicle then and there, that he negligently drove said motor vehicle out on to said Alabama Highway No. 59 from a private driveway into the path of the truck in which the plaintiff was operating, and ran into, upon or against the said truck in which the plaintiff was then and there operating; and plaintiff avers that as a proximate consequence thereof he was injured as follows to-wit: he received serious injuries to his head, body and limbs; he fractured his pelvic bone, several ribs and his right shoulder blade; his left shoulder and arm were seriously bruised; he received lacerations about his head; he received first

degree burns about his head, body and limbs; he received a serious nerve injury about his cervical spine, and as a result thereof, he has suffered from a left cervical nerve root pain which has greatly affected his left hand, arm, shoulder and back; the muscles, nerves, and ligaments of his back and pelvis area were torn, lacerated, bruised and contused; his capacity to work and earn money has been permanently impaired; he has been made to incur considerable medical expenses in and about his efforts to heal and cure himself; he was caused to suffer physical pain and mental anguish and will be made to suffer in the future; and he has been permanently impaired and disabled. And plaintiff avers that all of his said injuries were proximately caused by the said negligence of the said defendant, John Adam Riebeling, an agent, servant, or employee of the defendant, Nathan Myric, while acting within the line and scope of his employment as such agent, servant or employee in and about the negligent operation of said motor vehicle at the time and place and on the occasion aforesaid.

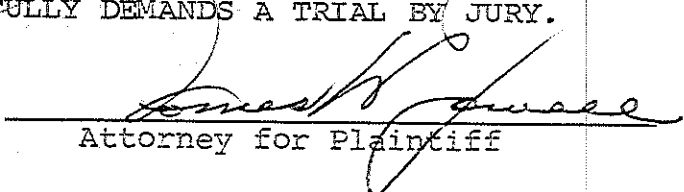
#### COUNT TWO

The plaintiff claims of the defendant, Nathan Myric, the sum of FIFTY-TWO THOUSAND FIVE HUNDRED SIXTY-SIX AND 25/100 DOLLARS (\$52,566.25) as damages, for that, heretofore, on, to-wit: the 20th day of October, 1966, the plaintiff was operating a truck on a public highway, viz: Alabama Highway No. 59 in Baldwin County, at a point approximately .3 of a mile South of Foley, Alabama, where he had a right to be, and the defendant, Nathan Myric, acting through his duly authorized agent, so negligently operated a motor vehicle then and there, that he negligently drove said motor vehicle out on to said Alabama Highway No. 59 from a private driveway into the path of the truck in which the plaintiff was operating, and ran into, upon or against the said truck in which the plaintiff was then and there operating; and the plaintiff claims of the defendant, John Adam Riebeling, the sum of FIFTY-TWO THOUSAND FIVE HUNDRED SIXTY-SIX AND 25/100 DOLLARS (\$52,566.25) as damages, for that, heretofore, on, to-wit: the 20th day of October, 1966, the plaintiff was operating a truck on a public highway, viz: Alabama Highway No. 59 in Baldwin County, at a point approximately .3 of a mile South of Foley, Alabama,

where he had a right to be, and the defendant, John Adam Riebeling so negligently operated a motor vehicle then and there, that he negligently drove said motor vehicle out on to said Alabama Highway No. 59 from a private driveway into the path of the truck in which the plaintiff was operating, and ran into, upon or against the said truck in which the plaintiff was then and there operating; and the plaintiff avers that as a proximate consequence thereof he was injured as follows to-wit: he received serious injuries to his head, body and limbs; he fractured his pelvic bone, several ribs and his right shoulder blade; his left shoulder and arm were seriously bruised; he received lacerations about his head; he received first degree burns about his head, body and limbs; he received a serious nerve injury about his cervical spine, and as a result thereof, he has suffered from a left cervical nerve root pain which has greatly affected his left hand, arm, shoulder and back; the muscles, nerves and ligaments of his back and pelvis area were torn, lacerated, bruised and contused; his capacity to work and earn money has been permanently impaired; he has been made to incur considerable medical expenses in and about his efforts to heal and cure himself; he was caused to suffer physical pain and mental anguish and will be made to suffer in the future; and he has been permanently impaired and disabled. And plaintiff avers that all of his said injuries were proximately caused by the said negligence of the defendant, Nathan Myric, acting through his duly authorized agent, and the defendant, John Adam Riebeling, in and about the negligent operation of said motor vehicle at the time and place and on the occasion aforesaid.

  
Attorney for Plaintiff

PLAINTIFF RESPECTFULLY DEMANDS A TRIAL BY JURY.

  
Attorney for Plaintiff

DEFENDANT JOHN ADAM RIEBELING MAY BE SERVED AT ROUTE 4, BOX 3,  
FOLEY, ALABAMA.

DEFENDANT NATHAN MYRIC MAY BE SERVED AT ROUTE 2, FOLEY, ALABAMA.

FILED

OCT 19 1967

ALICE J. DICK CLERK  
REGISTER

*Foley*  
7791

*Everett M. Smith,*  
*Pltg-*

Received 19 day of Oct. 1967  
at on 29 day of Nov. 1967

Served a copy of the within 144  
*John Adam Kiebeling*  
*Nathan Myer*  
By service on *The above*

*vs.*

*John Adam Kiebeling*  
*& Nathan Myer,*  
*Jointly & Severally,*  
*Def.*

TAYLOR WILKINS, Sheriff  
By *J. M. Eastburn* D. S.  
*Foley, Atty.*

*144*  
*14.40*  
*J. M. Eastburn*  
DEPUTY SHERIFF

OCT 19 1967

*Alice J. Duck*

CLERK  
REGISTER

*James W. Howell*  
*Atty.*

EVERETT M. SMITH,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
JOHN ADAM RIEBELING	X	AT LAW NO. 7791
and NATHAN MYRIC,	X	
Defendants.	X	

Come the Defendants in the above styled cause and demur to the Complaint filed in said cause, and to each and every count thereof, separately and severally, and assign the following separate and several grounds, viz:

1. That said Complaint does not state a cause of action.
2. That said Complaint attempts to set out the quo modo of Defendants' negligence and does not set out sufficient facts to establish negligence of such Defendants as a matter of law.
3. That Count 2 of said Complaint is vague and indefinite.
4. That the Plaintiff seeks to join two claims for damages in Count 2 of the complaint.
5. It is difficult to determine from the allegations of Count 2 of the Complaint how much damages are claimed by the Plaintiff.
6. That Count 2 of the Complaint does not allege any duty owing by the Defendants to the Plaintiff.
7. That Count 2 of the Complaint does not allege that the agent was acting in the line and scope of his employment at the time the accident occurred.

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 5 day of December, 1967.

*[Signature]*  
 Dep-  
 Person's

*[Signature]*  
 Attorneys for Defendants

**FILED**

DEC 5 1967

510

**ALICE J. DUCK** CLERK REGISTER



EVERETT M. SMITH,

Plaintiff,

vs.

JOHN ADAM RIEBELING and  
NATHAN MYRIC,

Defendants.

\* \* \* \* \*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 7791

\* \* \* \* \*

**FILED**

DEC 5 1967

**ALICE J. DUCK**

CLERK  
REGISTER

EVERETT M. SMITH,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
JOHN ADAM RIEBELING	X	AT LAW
and NATHAN MYRIC,	X	NO. 7791
	X	
Defendants.	X	

Come the Defendants in the above styled cause and for plea to Count One of the Complaint, separately and severally, and say:

1. Not guilty.
2. That at the time and place complained of in Count One of the Complaint, the Plaintiff himself was guilty of negligence which was the proximate cause of his injuries and damages, hence he can not recover in this suit.

*Charles Stone & Carson*  
Attorneys for Defendants

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 21 day of Nov, 1967

*John Carson*

**FILED**

DEC 21 1967

**ALICE J. DUCK** CLERK  
REGISTER

EVERETT M. SMITH,

Plaintiff,

vs.

JOHN ADAM RIEBELING and  
NATHAN MYRIC,

Defendants.

\* \* \* \* \*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW NO. 7791

\* \* \* \* \*

PLEAS

\* \* \* \* \*

FILED

DEC 21 1967

ALICE J. DUCK CLERK  
REGISTER

EVERETT M. SMITH,	X	
	X	IN THE CIRCUIT COURT OF
Plaintiff,	X	
vs.	X	BALDWIN COUNTY, ALABAMA
JOHN ADAM RIEBELING	X	
and NATHAN MYRICK,	X	LAW SIDE NO. 7791
Defendants.	X	

Come the Defendants in the above styled cause, through Chason, Stone & Chason as their attorneys of record, and for answer to the petition filed in said cause by Hartford Accident & Indemnity Company by and through its attorneys, Owens & Patton, and say:

1. That there is no allegation in such petition that the Defendants, their insurance carrier or their attorneys had any notice of the subrogation claim of Hartford Accident & Indemnity Company and therefore have no liability in connection with this matter.

2. That it is affirmatively shown by the petition that the judgment which was rendered against such Defendants has been paid and therefore such Defendants are no longer interested in any proceeding between Hartford Accident & Indemnity Company and Everett M. Smith.

WHEREFORE, the Defendants pray that any order which may be entered in this cause shall in no wise affect such Defendants and that no cost shall be taxed against them in this proceeding and that they shall be discharged of any and all liability in connection with such transaction.

CHASON, STONE & CHASON

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 8 day of Feb, 1968.

By:

*[Signature]*  
Attorneys for Defendants.

FEB 8 1968

EVERETT M. SMITH,

Plaintiff,

vs.

JOHN ADAM RIEBELING and  
NATHAN MYRICK,

Defendants.

\* \* \* \* \*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE NO. 7791

\* \* \* \* \*

ANSWER

\* \* \* \* \*

FEB 8 1968

ALICE J. DICK  
CLERK  
REGISTER

THOMAS M. STEVENS, II,  
Plaintiff

vs:

JAMES W. HOWELL,  
Defendant

IN THE CIRCUIT COURT OF

MOBILE COUNTY, ALABAMA

AT LAW, NO. 24606

Comes, Alice J. Duck, Garnishee in the above styled cause and says that she has in her possession Nine Thousand Five Hundred Dollars (\$9500.00), that was paid into court in the case of EVERETTE M. SMITH, Plaintiff vs: JOHN ADAM RIEBELING & NATHAN MYRIC, Defendants, with James W. Howell, <sup>Case No. 7791</sup> Attorney, and further states that the court has instructed her to hold the said Nine Thousand Five Hundred (\$9500.00) Dollars until further orders of this Court.

Witness my hand this 24th day of January, 1968.

Alice J. Duck  
GARNISHEE

Sworn to and subscribed before me  
this 24th day of January, 1968.

Ernie B. Blackman  
Notary Public, Baldwin County, Alabama  
Commission expires: 8/17/69

