



MABEL AMOS
SECRETARY OF STATE

STATE OF ALABAMA
OFFICE OF SECRETARY OF STATE
MONTGOMERY, ALABAMA 36104
January 4, 1968

Honorable James R. Owen
110 Courthouse Square
Bay Minette, Alabama 36507

Dear Mr. Owen:

Re: W. M. CALDWELL, Plaintiff VS HUGH HALL,
TRUSTEE, CIRCUIT COURT OF BALDWIN COUNTY,
CASE NUMBER 7,842

In reply to your letter of January 2nd, I wish to advise that on November 15, 1967, I mailed my notice along with a copy of the Summons and Complaint to Hugh Hall, Trustee.

As of this date I have received neither the executed Return Receipt Card nor the letter unclaimed.

Please advise me of any further steps you wish me to take in perfecting this service.

With best wishes, I am

Very truly yours,

Mabel S. Amos
Secretary of State

fc

CC: Honorable Alice J. Duck, Clerk
Circuit Court of Baldwin County
✓ Bay Minette, Alabama 36507

W. M. CALDWELL,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA,
VS.)	AT LAW
JACK R. DOWNER, et al.)	
Defendants.)	NO. 7842

D E M U R R E R

Come the defendants, Jack R. Downer and St. Regis Paper Company, jointly and separately, and demur to the complaint as a whole and to each and every count thereof, jointly and separately, on the following joint and separate grounds:

1. There is a misjoinder in the complaint.
2. There is a misjoinder of parties defendant.
3. There is a misjoinder of causes of action.
4. Said complaint is but the statement of conclusions of pleader, and no facts are averred which substantiate said conclusions.
5. Said complaint is vague, indefinite and uncertain.
6. Said complaint combines into one action counts which seek recovery against only one of the named defendants with counts which seek recovery against more than one defendant.
7. Said complaint fails to show a duty owed by defendants or by any defendant to plaintiff, and a breach thereof causing plaintiff's injuries or damages.
8. Said complaint is confusing.

Said defendants, jointly and separately, demur to counts two and four, jointly and separately, upon the following additional grounds:

9. Because said count undertakes to allege the quo modo of the wantonness, but the facts averred do not constitute wanton misconduct.

10. Because said count fails to aver or show that the defendant Jack R. Downer was conscious at the time that his conduct would probably result in injury or damage to plaintiff.

11. Because the act of the defendant Jack R. Downer in driving an automobile into, upon, over or against the automobile which plaintiff was driving did not constitute willfulness nor wantonness.

12. Because said count attempts to charge both negligence and willful or wanton misconduct in one count.

Said defendants, jointly and separately, demur to counts three and four, jointly and separately, on the following additional grounds, jointly and separately:

13. Said count does not specify with certainty who defendant Jack R. Downer was acting as agent, servant or employee for or of, nor when.

14. Said count does not make clear what negligence is complained of.

15. For aught that appears, there is no causal connection between the act of defendant Downer complained of and the injury or damage of plaintiff.

16. No connection is shown between the alleged willful or wanton act of defendant Jack R. Downer and the injury and damage of plaintiff.

Said defendants, jointly and separately, demur to count five on the following additional grounds, jointly and separately:

17. Each ground of demurrer hereinabove assigned to counts two, three and four.

18. Said count does not specify what authority it is complaining of.

19. Said count does not specify who, when, how, where, and by what authority defendants had been duly informed of the facts set forth.

20. No causal connection is shown between the fact defendants are alleged to have allowed defendant Jack R. Downer to operate a motor vehicle on a public highway and plaintiff's injury and damage.

Said defendants, jointly and separately, demur to count six on the following additional grounds, jointly and separately:

21. Each ground of demurrer hereinabove assigned specially to counts two, three, four and five of the Complaint.

22. For that no causal connection is shown between the alleged negligent operation of a motor vehicle by defendant Jack R. Downer and the alleged damage to plaintiff's automobile.

Said defendants, jointly and separately, demur to count seven on the following additional joint and separate grounds:

23. Each ground of demurrer hereinabove assigned specially to counts two, three, four, five and six of the Complaint.

24. Because no causal connection is shown between the alleged negligence of defendant Jack R. Downer and the injuries allegedly sustained by plaintiff's wife and the damage sustained by plaintiff.

McCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

By *NA Adams*
As Attorneys for Defendants Hereinabove
Specified

Said defendants demand a trial by jury of this cause.

NA Adams

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 15th
day of December, 1967, served a copy of the
foregoing pleading on counsel for all parties to this
proceeding by mailing the same by United States mail,
properly addressed, and first class postage prepaid.

NA Adams

FILED

DEC 16 1967

ALICE J. DUCK CLERK
REGISTER

STATE OF ALABAMA)
 *
 BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Jack R. Downer; St. Regis Paper Company, a New York Corporation; Hugh Hall, Trustee; "X" Company", the owner of the motor vehicle described in the complaint and being operated by Jack R. Downer on the occasion described in the complaint, whose true name and/or legal identification is otherwise unknown to the plaintiff at this time, but will be added and/or more correctly described by amendment when ascertained, 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 the same, then and there to answer the complaint of W. M. Caldwell.

WITNESS my hand this 14 day of November, 1967.

Alvin L. Smith
 Clerk

W. M. CALDWELL,)

Plaintiff,)

VS.)

JACK R. DOWNER; ST. REGIS PAPER)
COMPANY, a New York Corporation;)
HUGH HALL, Trustee; "X COMPANY",)
the owner of the motor vehicle de-)
scribed in the complaint and being)
operated by Jack R. Downer on the)
occasion described in the complaint,)
whose true name and/or legal identi-)
fication is otherwise unknown to the)
plaintiff at this time, but will be)
added and/or more correctly described)
by amendment when ascertained,)

Defendants.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

NO. 7842

C O M P L A I N T

COUNT ONE

The plaintiff claims of the defendant, Jack R. Downer, TEN THOUSAND DOLLARS (\$10,000.00) for that on to-wit, November 15, 1966, the defendant so negligently drove an automobile into an automobile which the plaintiff was driving at a point in Baldwin County, Alabama, on Alabama Highway No. 112 at its intersection with the Clear Springs Cemetery Road, which is approximately 28.6 miles East of the limits of Bay Minette, Alabama, and as a proximate result of said negligence on the part of the defendant, Jack R. Downer, the plaintiff was seriously and permanently injured in this: he suffered profound shock; he suffered a fracture of the right knee; his shoulder was bruised and injured; his forehead and nose was lacerated, requiring numerous stitches; he was made sick, sore and nervous and continues to suffer great physical and mental pain, for all of which he claims damages as aforesaid, hence this suit.

COUNT TWO

Plaintiff claims of the defendant, Jack R. Downer, the sum of TEN THOUSAND DOLLARS (\$10,000.00) as damages for that heretofore on to-wit, November 15, 1966, while the plaintiff was driving an automobile on Alabama Highway No. 112 in Baldwin County, Alabama, at a place where the said highway intersects the Clear Springs Cemetery Road, which is approximately 28.6 miles East of Bay Minette, Alabama, and at a place where the plaintiff had a right to be at

said time and place, the said defendant willfully or wantonly drove an automobile into, upon over or against the automobile which the said plaintiff was driving and by reason thereof and as a proximate consequence and result thereof the said defendant willfully or wantonly injured the plaintiff as follows: he suffered profound shock; he suffered a fracture of the right knee; his shoulder was bruised and injured; his forehead and nose was lacerated, requiring numerous stiches; he was made sick, sore and nervous and continues to suffer great physical and mental pain. Plaintiff further avers that all of his injuries and damages were the proximate result of the willful or wanton negligence of the defendant at said time and place, hence this suit.

COUNT THREE

The plaintiff claims of the defendants the sum of TEN THOUSAND DOLLARS (\$10,000.00) for that heretofore on to-wit, November 15, 1966, at a point on Alabama Highway No. 112 in Baldwin County, Alabama, at a point where the said highway intersects with Clear Springs Cemetery Road which is approximately 28.6 miles East of the limits of Bay Minette, Alabama, the defendant, Jack R. Downer, who was then and there an agent, servant or employee of the defendant, St. Regis Paper Company, a New York Corporation; Hugh Hall, Trustee, and "X Company", the owner of the motor vehicle described in this complaint and being operated by the said Jack R. Downer, while acting within the line and scope of his employment, as such agent, servant or employee, so negligently operated a motor vehicle so as to cause it to run into, upon or against the automobile which the plaintiff was driving and as a proximate result of the negligence of the said defendant, Jack R. Downer, at said time and place the plaintiff was injured as follows: he suffered profound shock; he suffered a fracture of the right knee; his shoulder was bruised and injured; his forehead and nose was lacerated, requiring numerous stiches; he was made sick, sore and nervous and continues to suffer great physical and mental pain. Plaintiff avers that all of his injuries

and damages were the proximate result of the negligence of the defendant, Jack R. Downer, at said time and place, who was then and there an agent, servant or employee of the defendants, St. Regis Paper Company, a New York Corporation; Hugh Hall, Trustee, and "X Company", acting within the line and scope of his authority, as such agent, servant or employee.

COUNT FOUR

The plaintiff claims of the defendants the sum of TEN THOUSAND DOLLARS (\$10,000.00) for that heretofore on to-wit, November 15, 1966, at a point on Alabama Highway No. 112 in Baldwin County, Alabama, at a point where the said highway intersects with Clear Springs Cemetery Road which is approximately 28.6 miles East of the limits of Bay Minette, Alabama, the defendant, Jack R. Downer, who was then and there an agent, servant or employee of the defendants St. Regis Paper Company, a New York Corporation; Hugh Hall, Trustee, and "X Company", the owner of the motor vehicle described in this complaint and being operated by the said Jack R. Downer, while acting within the line and scope of his employment, as such agent, servant or employee, so willfully or wantonly operated a motor vehicle so as to cause it to run into, upon or against the automobile which the plaintiff was driving and as a proximate result of the willful or wanton negligence of the said defendant, Jack R. Downer, at said time and place the plaintiff was injured as follows: he suffered profound shock; he suffered a fracture of the right knee; his shoulder was bruised and injured; his forehead and nose was lacerated, requiring numerous stitches; he was made sick, sore and nervous and continues to suffer great physical and mental pain. Plaintiff avers that all of his injuries and damages were the proximate result of the willful or wanton negligence of the defendant, Jack R. Downer, at said time and place, who was then and there an agent, servant or employee of the defendants, St. Regis Paper Company, a New York Corporation; Hugh Hall, Trustee, and "X Company", acting within the line and scope of his authority, as such agent, servant or employee.

COUNT FIVE

The plaintiff claims of the defendants the sum of TEN THOUSAND DOLLARS (\$10,000.00) for that heretofore on to-wit, November 15, 1966, the defendants, St. Regis Paper Company, a New York Corporation; Hugh Hall, Trustee, and "X Company", were the owners of a motor vehicle which they allowed Jack R. Downer, who was an agent, servant or employee of said defendants at said time and place, acting within the line and scope of his authority to operate. The said Jack R. Downer on to-wit, November 15, 1966, was, and long had been a careless, indifferent, heedless and reckless driver of said motor vehicle, so that said motor vehicle in his hands was a dangerous and deadly agency, of which facts the said defendants had been duly informed; yet, with the information of such facts, the said defendants allowed the said Jack R. Downer to operate said motor vehicle on a public highway in the State of Alabama at will, and entrusted its management and operation to him, and while, on November 15, 1966, he was engaged in operating said motor vehicle along a highway, to-wit, Alabama Highway No. 112 at a point where the said highway intersects the Clear Springs Cemetery Road in Baldwin County, Alabama, at a point approximately 28.6 miles East of Bay Minette, the said Jack R. Downer so negligently, heedlessly, recklessly, wrongfully and indifferently conducted himself with respect to said motor vehicle that he ran the same into, upon or against an automobile which plaintiff was driving and which automobile was at a place where it had a right to be, and as a proximate result of the negligence of the said Jack R. Downer at said time and place, the plaintiff was injured and damaged as follows: he suffered profound shock; he suffered a fracture of the right knee; his shoulder was bruised and injured; his forehead and nose was lacerated, requiring numerous stitches; he was made sick, sore and nervous and continues to suffer great physical and mental pain. Plaintiff avers that at the time of said injury, the said Jack R. Downer was operating said motor vehicle with the defendants' consent and acquiescence and they having been informed of his dangerous

proclivities in connection with the same as aforesaid. Plaintiff avers that all of his injuries and damages were caused as a proximate result of the negligence of the defendant, Jack R. Downer, at said time and place, hence this suit.

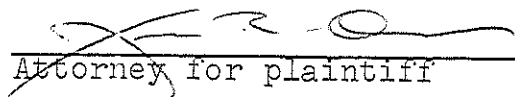
COUNT SIX

The plaintiff claims of the defendants the sum of TWO THOUSAND DOLLARS (\$2,000.00) for that heretofore on to-wit, November 15, 1966, at a point on Alabama Highway No. 112 in Baldwin County, Alabama, at a point where the said highway intersects with Clear Springs Cemetery Road, which is approximately 28.6 miles East of the limits of Bay Minette, Alabama, the defendant, Jack R. Downer, who was then and there an agent, servant or employee of the defendants, St. Regis Paper Company, a New York Corporation; Hugh Hall, Trustee; and "X Company", the owner of the motor vehicle described in this complaint being operated by the said Jack R. Downer, while acting within the line and scope of his employment, as such agent, servant or employee, so negligently operated a motor vehicle so as to cause it to run into, upon or against the automobile which the plaintiff was driving and which was owned by the plaintiff, and as a proximate result of the negligence of the said defendant, Jack R. Downer, at said time and place the plaintiff's automobile was bent, broken, was completely demolished and made totally useless; all to plaintiff's damages aforesaid, hence this suit.

COUNT SEVEN

The plaintiff claims of the defendants the sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) for that heretofore on to-wit, November 15, 1966, at a point on Alabama Highway No. 112 in Baldwin County, Alabama, at a point where the said highway intersects with Clear Springs Cemetery Road, which is approximately 28.6 miles East of the limits of Bay Minette, Alabama, the defendant, Jack R. Downer, who was then and there an agent, servant or employee of the defendants, St. Regis Paper Company, a New York Corporation, Hugh Hall, Trustee, and "X Company", the owner of the motor vehicle described in this complaint and being operated by the said Jack R. Downer while acting within the line and scope of his employment as such agent, servant or employee so negligently operated a motor vehicle so as to cause

it to run into, upon or against an automobile in which Billie L. Caldwell, the wife of the plaintiff, was riding as a passenger and the said Billie L. Caldwell was injured as follows: she suffered profound shock; she had fractures of both arms; she suffered fractures of both clavicles; she suffered multiple rib fractures and an elevated left diaphragm; she suffered a serious head injury, the said injury caused a large amount of blood in the peritoneal cavity with extensive injury to the abdominal wall; she suffered a cut through the left rectus muscle; the sigmoid colon was macerated and lacerated so that it was exteriorized as a colostomy; she suffered multiple lacerations of the mesenteric vessels; she suffered a badly lacerated segment of small bowel, which required resection and end-to-end anastomosis; she suffered and continues to suffer great mental anguish and physical pain; and the plaintiff was caused to incur large medical and hospital expenses in and about the treatment of her injuries; she was rendered unable to perform her household duties and the plaintiff has lost the consortium of his said wife, all to the damage of the plaintiff in the sum aforesaid, hence this suit.


Attorney for plaintiff

FILED

NOV 14 1967

ALICE J. DUCK CLERK
REGISTER

Received 14 day of Nov 1967
on 17 day of Nov 1967
received copy of the within Jack R. Downer

By W. A. Solbert
Clear Springs

50
500
W. A. Solbert

20.7842

~~W. M. Caldwell~~

W. M. Caldwell

vs.

Jack R. Downer
et al

EXECUTED BY SERVING A
COPY OF THE WITHIN

James Hinson
As Agent for
St Regis Paper
Co

NOV 14 1967
M. S. BUTLER
Sheriff Montgomery County

By W. L. Mason
Deputy Sheriff

James R. Downer
ATTN

739

RECEIVED

NOV 14 1967
RECEIVED IN OFFICE
SHERIFF
NOV 15 1967
M. S. BUTLER, Sheriff

Executed by serving 3 copies of
the within on W. M. Caldwell
Secretary of State of The State of
Alabama.

This the 15 day of Nov 1967

Sheriff of Montgomery County

M. S. Butler,

By W. L. Mason D. S.

M. S. Butler, Sheriff of Montgomery
County, Alabama, paid \$1.00 each for
serving 2 process(es) and \$1.00
travel expense on each of 2

(person(s)) or a total of \$5.00

W. L. Mason Deputy Sheriff