

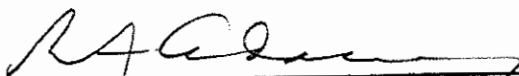
NICHOLAS T. REAVES,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA,
Vs.	)	AT LAW
COLE CONSTRUCTION, INC.,)	
and BERNIE RAY WHIGHAM,)	
jointly and severally,)	
Defendants.	)	CASE NO. 7894

D E M U R R E R

Comes the defendant, Cole Construction Company, and demurs to plaintiff's complaint, and to each count thereof, jointly and separately, on the following joint and separate grounds:

1. For that the averments of the complaint are vague, indefinite and uncertain.
2. Because said complaint is but the statement of conclusions of the pleader, and no facts are averred to substantiate said conclusions.
3. Because said complaint is confusing.
4. Because said complaint would be confusing to the jury.
5. Because said count states no cause of action against the defendant, Bernie Ray Whigham.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By 
As Attorneys for Defendant
Cole Construction Company

FILED

JAN 17 1968

ALICE J. DUCK CLERK
REGISTER

STATE OF ALABAMA

Y

BALDWIN COUNTY

Y

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon COLE CONSTRUCTION,
INC., Theodore Dawes Road, P. O. Box 7412, Mobile, Alabama,
and BERNIE RAY WHIGHAM, Mobile, Alabama; to appear within
thirty (30) days from service hereof before the Circuit Court
of Baldwin County, Alabama, at the place of holding the
same, and plead, answer, or demur to the complaint of
NICHOLAS T. REAVES, Atmore, Alabama, Plaintiff.

WITNESS my hand this 6th day of Dec., 1967.

Alice J. Luck
CLERK.

* * * * *

C O M P L A I N T

NICHOLAS T. REAVES,
Plaintiff.

Vs:

COLE CONSTRUCTION, INC.;
and BERNIE RAY WHIGHAM;
jointly and severally;

Defendants.

Y
Y
Y
Y
Y
Y
Y
Y
Y
Y

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW.

CASE NO: 7894.

COUNT ONE.

THE PLAINTIFF, NICHOLAS T. REAVES, claims of the
Defendants, jointly and severally, the sum of Twenty-five
thousand and no/100 dollars (\$25,000.00), as damages, for
that heretofore and on to-wit, the 8th day of December, 1966,
the Plaintiff Nicholas T. Reaves was a passenger in an auto-
mobile upon a public highway in Baldwin County, Alabama,
on to-wit; Alabama highway #225, about 100 yards north of
its intersection with highway #31, in Baldwin County, Alabama;
and where the Plaintiff had a right to be; and then and there

the Defendant Bernie Ray Whigham negligently drove or operated a motor grader or motor vehicle and then and there the Defendant Bernie Ray Whigham negligently drove a road grader or motor vehicle into or upon or against the said automobile in which the Plaintiff was a passenger; and by reason thereof and as a proximate result and consequence thereof the Plaintiff received severe and painful personal injuries in that to-wit:

Plaintiff Nicholas T. Reaves received severe and painful personal injuries to his head, neck, back, and body; Plaintiff was caused to lose much blood and suffer abrasions and contusions of the head, neck, nose, face, and other parts of his body; Plaintiff was made sick, sore, and lame; Plaintiff was caused to suffer great mental anguish and physical pain and continues to have great pain and suffering.

Plaintiff was painfully and permanently injured and disabled; Plaintiff's nerves and back were permanently damaged; Plaintiff was caused to expend much money in medical and doctor expenses and continues to have said expenses; Plaintiff's eye glasses were broken and Plaintiff continues to have headaches; Plaintiff lost time and work from his employment and has been caused the loss of employment.

And Plaintiff avers that his aforesaid injuries and damages were proximately caused by reason of and in consequence of the aforesaid negligence of the Defendant, Bernie Ray Whigham.

And the Plaintiff further avers that at the time and place of the aforesaid negligence of the Defendant Bernie Ray Whigham, the said Bernie Ray Whigham was then and there acting within the line and scope of his employment as a servant, or agent, or employee of the Defendant Cole Construction, Inc., and by virtue thereof the Plaintiff claims of the said Cole Construction, Inc., his damages and injuries as aforesaid.

COUNT TWO.

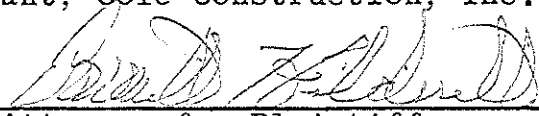
PLAINTIFF NICHOLAS T. REAVES claims of the Defendant, Cole Construction, Inc., the sum of (\$25,000.00) Twenty-five thousand and no/100 dollars, as damages, for that heretofore and on to-wit, the 8th day of December, 1966, the Plaintiff was a passenger in an automobile, upon a public highway in Baldwin County, Alabama, on to-wit; Alabama highway #225,

about 100 yards north of its intersection with highway #31, in Baldwin County, Alabama, and where the Plaintiff had a right to be; and then and there the Defendant Cole Construction, Inc.'s servants, agents, or employees, or one of them whose names or name is to the Plaintiff unknown, were operating a motor grader or motor vehicle upon said public highway in Baldwin County, Alabama; and then and there said servants, agents, or employees negligently drove or operated said motor grader or motor vehicle and then and there negligently drove said motor grader or motor vehicle into or upon or against the said automobile in which the Plaintiff was a passenger; and by reason thereof and as a proximate result and consequence thereof, the Plaintiff received severe and painful personal injuries in that to-wit:

Plaintiff Nicholas T. Reaves received severe and painful personal injuries to his head, neck, back, and body; Plaintiff was caused to lose much blood and suffer abrasions and contusions of the head, neck, nose, face, and other parts of his body; Plaintiff was made sick, sore, and lame; Plaintiff was caused to suffer great mental anguish and physical pain and continues to have great pain and suffering.

Plaintiff was painfully and permanently injured and disabled; Plaintiff's nerves and back were permanently damaged; Plaintiff was caused to expend much money in medical and doctor expenses and continues to have said expenses; Plaintiff's eye glasses were broken and Plaintiff continues to have headaches; Plaintiff lost time and work from his employment and has been caused the loss of employment.

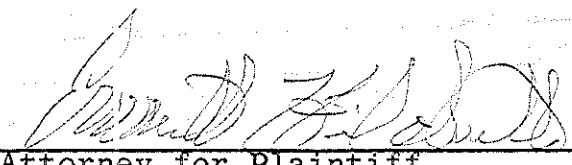
And Plaintiff avers that his aforesaid injuries and damages were proximately caused by reason of and in consequence of the aforesaid negligence of the Defendant's servants, agents, or employees. And Plaintiff further avers that said Defendant, Cole Construction, Inc.'s said agents, employees, or servants were then and there acting within the line and scope of their authority and employment as servants or agents of the said Defendant, Cole Construction, Inc.


Attorney for Plaintiff.

FILED

DEC 6 1967

Plaintiff demands a trial by jury of the issues
involved in this cause.


Attorney for Plaintiff.

FILED

DEC 6 1967

ALICE J. DUCK CLERK
REGISTER

RECEIVED

DEC 7 1967

TAYLOR WILKINS
SHERIFF

sub
7894 ¹⁵³⁹₄₀
Nicholas J. Weaver
Plb.

vs -
181 *sub* + *coll*
Coll. *owner* constructions
vs. & Bernil Ray
Whigham, jointly
& Severally,
Def.

FILED

DEC 6 1967

ALICE J. DUCK
CLERK
REGISTER

Emmett Hildreth
Att'y

1-8-68
Ray Whigham
181 sub + coll
Coll. constructions
vs. & Bernil Ray
Whigham, jointly
& Severally,
Def.
181 sub + coll
Coll. constructions
vs. & Bernil Ray
Whigham, jointly
& Severally,
Def.
181 sub + coll
Coll. constructions
vs. & Bernil Ray
Whigham, jointly
& Severally,
Def.

DEC 8 11 22 AM '67
REC'D SHERIFF DEPT.
TAYLOR WILKINS

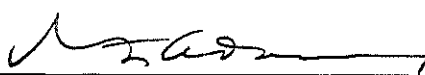
NICHOLAS T. REAVES,	]	IN THE CIRCUIT COURT OF
Plaintiff,	]	DALDWIN COUNTY, ALABAMA
Vs.	]	AT LAW
COLE CONSTRUCTION, INC.,]	
and BERNIE RAY WHIGHAM,]	
jointly and severally,]	
Defendants.	]	CASE NO. 7894

ADDITIONAL GROUNDS OF DEMURRER

Comes the defendant Cole Construction Company, and with leave of court first had and obtained, adds the following joint and separate grounds of demurrer to those heretofore assigned in support of its demurrer to the plaintiff's complaint, and to each and every count thereof jointly and separately:

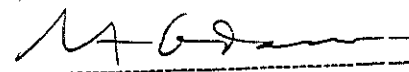
6. Because there is a misjoinder of causes of action.
7. Because there is a misjoinder of parties defendant.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By 
As Attorneys for Defendant
Cole Construction Company

CERTIFICATE OF SERVICE 10

I do hereby certify that I have on this 10
day of Oct, 1969, 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.



FILED

OCT 11 1969

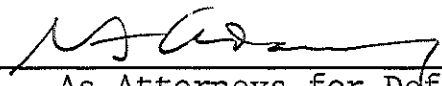
ALICE J. DUCK CLERK
REGISTER

NICHOLAS T. REAVES,	]	IN THE CIRCUIT COURT OF
Plaintiff,	]	BALDWIN COUNTY, ALABAMA
Vs.	]	AT LAW
COLE CONSTRUCTION, INC.,]	
and BERNIE RAY WHIGHAM,]	
jointly and severally,]	
Defendants.	]	CASE NO. 7894

Comes the Defendant Cole Construction Company and moves that this cause be dismissed for want of prosecution, respectfully showing unto this Honorable Court that Complaint in this cause was filed on December 6, 1967, Demurrer thereto was filed on or about January 15, 1968, said Demurrer was sustained on to-wit January 19, 1970, and the Complaint has not been amended.

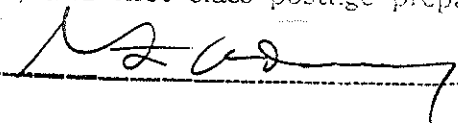
Respectfully submitted,

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By 
As Attorneys for Defendant
Cole Construction Company

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 17th day of April, 1970, 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.



FILED

APR 20 1970

ALICE J. DUCK CLERK
REGISTER

NICHOLAS T. REAVES,
PLAINTIFF

VS

COLE CONSTRUCTION, INC.,
A Corporation

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO: 7894

Comes now Plaintiff and amends his Complaint by deleting Bernie Ray Whigham as a party Defendant so the Complaint reads as follows:


COUNT ONE

The Plaintiff, Nicholas T. Reaves, claims of the Defendant, the sum of Twenty-five Thousand and No/100 Dollars (\$25,000.00), as damages, for that heretofore and on to-wit, the 8th day of December, 1966, the Plaintiff Nicholas T. Reaves was a passenger in an automobile upon a public highway in Baldwin County, Alabama, on to-wit; Alabama Highway #225, about 100 yards north of its intersection with Highway #31, in Baldwin County, Alabama; and where the Plaintiff had a right to be; and then and there the Defendant negligently drove or operated a motor grader or motor vehicle into or upon or against the said automobile in which the Plaintiff was a passenger; and by reason thereof and as a proximate result and consequence thereof the Plaintiff received severe and painful personal injuries in that to-wit:

Plaintiff Nicholas T. Reaves received severe and painful personal injuries to his head, neck, back, and body; Plaintiff was caused to lose much blood and suffer abrasions and contusions of the head, neck, nose, face, and other parts of his body; Plaintiff was made sick, sore, and lame; Plaintiff was caused to suffer great mental anguish and physical pain and continues to have great pain and suffering.

Plaintiff was painfully and permanently injured and disabled; Plaintiff's nerves and back were permanently damaged; Plaintiff was caused to expend much money in medical and doctor expenses and continues to have said expenses; Plaintiff's eye glasses were broken and Plaintiff continues to have headaches; Plaintiff lost time and work from his employment and has been caused the loss of employment.

And Plaintiff avers that his aforesaid injuries and damages were proximately caused by reason of and in consequence of the aforesaid negligence of the Defendant.


Attorney for Plaintiff

ALICE J. DICK
CLERK
REGISTER

MAY 21 1970

FILED

NICHOLAS T. REAVES,	]	IN THE CIRCUIT COURT OF
Plaintiff,	]	BALDWIN COUNTY, ALABAMA
vs.	]	AT LAW
COLE CONSTRUCTION, INC.,]	
and BERNIE RAY WHIGHAM,]	
jointly and severally,]	
Defendants.	]	CASE NO. 7894

O R D E R

The motion that this cause be dismissed for want of prosecution filed by the Defendant, Cole Construction Company, on, to-wit, April 17, 1970, is set down for argument in this Court on August 24, 1970, at 11:00 o'clock A. m.

This the 6th day of August 1970.

Telfair G. Moultrie
JUDGE

NICHOLAS T. REAVES,	]	IN THE CIRCUIT COURT OF
Plaintiff,	[	BALDWIN COUNTY, ALABAMA
Vs.	]	AT LAW
COLE CONSTRUCTION, INC.,	[
a corporation,		
Defendant.	]	CASE NO. 7894

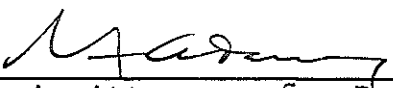
Comes the defendant Cole Construction Company and demurs to plaintiff's complaint as amended on the following joint and separate grounds:

A. Each ground of demurrer heretofore assigned to the original complaint in this cause.

B. For that said complaint does not aver how the defendant corporation drove or operated a motor grader at the time and place alleged in the complaint.

C. For that the court will take judicial notice of the fact it is impossible for a corporation to drive or operate a motor grader or motor vehicle.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By 
As Attorneys for Defendant Cole
Construction Company

FILED

AUG 25 1970

ALICE J. DUCK CLERK
REGISTER

NICHOLAS T. REAVES, § IN THE CIRCUIT COURT OF
 Plaintiff, § BALDWIN COUNTY, ALABAMA
 Vs. § AT LAW
COLE CONSTRUCTION, INC., §
A Corporation.
 Defendant. § NUMBER: 7894

Comes now Wilson Hayes, of counsel for Plaintiff,
and respectfully moves the Court to dismiss this cause for
that the cause is mute having been settled between the Parties.
Respectfully submitted.

Emmett F. Hildreth, Jr.
Wilson Hayes
Attorneys for Plaintiff

By: W. Hayes

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 10 day of May,
1971, 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, with first class postage prepaid.

W. Hayes

FILED

MAY 11 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

JOHNSTONE, ADAMS, MAY, HOWARD & HILL
ATTORNEYS AT LAW
NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
PHONE 433-5561 AREA CODE 205 P. O. BOX 1988
MOBILE, ALABAMA 36601

C. A. L. JOHNSTONE, JR.
R. F. ADAMS, SR.
JAMES L. MAY, JR.
ALEX T. HOWARD, JR.
J. JEPHTA HILL
CHARLES B. BAILEY, JR.
BROCK B. GORDON
BEN H. HARRIS, JR.
WILLIAM H. HARDIE, JR.
DOUGLAS INGE JOHNSTONE
E. WATSON SMITH

October 10, 1969

GESSNER T. MCCORVEY (1882-1965)
BEN D. TURNER (1886-1968)

Mrs. Alice J. Duck
Clerk
Circuit Court of
Baldwin County
Bay Minette, Alabama

Re: Case No. 7894

Dear Mrs. Duck:

I shall appreciate it if you will file the enclosed demurrer in Case No. 7894 on behalf of the defendant Cole Construction Company. I am today mailing a copy to Mr. Hildreth, plaintiff's attorney.

Very truly yours,



RFA/mc

Encl.

cc: Mr. Emmett F. Hildreth, Jr.

FILED

OCT 11 1969

ALICE J. DUCK CLERK
REGISTER

STATE OF ALABAMA
~~BALDWIN~~ COUNTY

Y
Y

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon COLE CONSTRUCTION, INC., Theodore Dawes Road, P. O. Box 7412, Mobile, Alabama, and BERNIE RAY WHIGHAM, Mobile, Alabama; to appear within thirty (30) days from service hereof before the Circuit Court of Baldwin County, Alabama, at the place of holding the same, and plead, answer, or demur to the complaint of NICHOLAS T. REAVES, Atmore, Alabama, Plaintiff.

WITNESS my hand this 6th day of Dec., 1967.

Alice J. Duck
CLERK.

* * * * *

C O M P L A I N T

NICHOLAS T. REAVES,
Plaintiff.

Vs:

COLE CONSTRUCTION, INC.;
and BERNIE RAY WHIGHAM;
jointly and severally;
Defendants.

Y
Y
Y
Y
Y
Y
Y
Y
Y
Y

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

CASE NO: 7894.

COUNT ONE.

THE PLAINTIFF, NICHOLAS T. REAVES, claims of the Defendants, jointly and severally, the sum of Twenty-five thousand and no/100 dollars (\$25,000.00), as damages, for that heretofore and on to-wit, the 8th day of December, 1966, the Plaintiff Nicholas T. Reaves was a passenger in an automobile upon a public highway in Baldwin County, Alabama, on to-wit; Alabama highway #225, about 100 yards north of its intersection with highway #31, in Baldwin County, Alabama; and where the Plaintiff had a right to be; and then and there

the Defendant Bernie Ray Whigham negligently drove or operated a motor grader or motor vehicle and then and there the Defendant Bernie Ray Whigham negligently drove a road grader or motor vehicle into or upon or against the said automobile in which the Plaintiff was a passenger; and by reason thereof and as a proximate result and consequence thereof the Plaintiff received severe and painful personal injuries in that to-wit:

Plaintiff Nicholas T. Reaves received severe and painful personal injuries to his head, neck, back, and body; Plaintiff was caused to lose much blood and suffer abrasions and contusions of the head, neck, nose, face, and other parts of his body; Plaintiff was made sick, sore, and lame; Plaintiff was caused to suffer great mental anguish and physical pain and continues to have great pain and suffering.

Plaintiff was painfully and permanently injured and disabled; Plaintiff's nerves and back were permanently damaged; Plaintiff was caused to expend much money in medical and doctor expenses and continues to have said expenses; Plaintiff's eye glasses were broken and Plaintiff continues to have headaches; Plaintiff lost time and work from his employment and has been caused the loss of employment.

And Plaintiff avers that his aforesaid injuries and damages were proximately caused by reason of and in consequence of the aforesaid negligence of the Defendant, Bernie Ray Whigham.

And the Plaintiff further avers that at the time and place of the aforesaid negligence of the Defendant Bernie Ray Whigham, the said Bernie Ray Whigham was then and there acting within the line and scope of his employment as a servant, or agent, or employee of the Defendant Cole Construction, Inc., and by virtue thereof the Plaintiff claims of the said Cole Construction, Inc., his damages and injuries as aforesaid.

COUNT TWO.

PLAINTIFF NICHOLAS T. REAVES claims of the Defendant, Cole Construction, Inc., the sum of (\$25,000.00) Twenty-five thousand and no/100 dollars, as damages, for that heretofore and on to-wit, the 8th day of December, 1966, the Plaintiff was a passenger in an automobile, upon a public highway in Baldwin County, Alabama, on to-wit; Alabama highway #225,

about 100 yards north of its intersection with highway #31, in Baldwin County, Alabama, and where the Plaintiff had a right to be; and then and there the Defendant Cole Construction, Inc.'s servants, agents, or employees, or one of them whose names or name is to the Plaintiff unknown, were operating a motor grader or motor vehicle upon said public highway in Baldwin County, Alabama; and then and there said servants, agents, or employees negligently drove or operated said motor grader or motor vehicle and then and there negligently drove said motor grader or motor vehicle into or upon or against the said automobile in which the Plaintiff was a passenger; and by reason thereof and as a proximate result and consequence thereof, the Plaintiff received severe and painful personal injuries in that to-wit:

Plaintiff Nicholas T. Reaves received severe and painful personal injuries to his head, neck, back, and body; Plaintiff was caused to lose much blood and suffer abrasions and contusions of the head, neck, nose, face, and other parts of his body; Plaintiff was made sick, sore, and lame; Plaintiff was caused to suffer great mental anguish and physical pain and continues to have great pain and suffering.

Plaintiff was painfully and permanently injured and disabled; Plaintiff's nerves and back were permanently damaged; Plaintiff was caused to expend much money in medical and doctor expenses and continues to have said expenses; Plaintiff's eye glasses were broken and Plaintiff continues to have headaches; Plaintiff lost time and work from his employment and has been caused the loss of employment.

And Plaintiff avers that his aforesaid injuries and damages were proximately caused by reason of and in consequence of the aforesaid negligence of the Defendant's servants, agents, or employees. And Plaintiff further avers that said Defendant, Cole Construction, Inc.'s said agents, employees, or servants were then and there acting within the line and scope of their authority and employment as servants or agents of the said Defendant, Cole Construction, Inc.

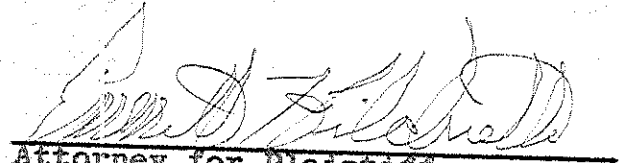
FILED


Attorney for Plaintiff.

DEC 6 1967

ALICE J. DUCK CLERK
REGISTER

Plaintiff demands a trial by jury of the issues involved in this cause.


Attorney for Plaintiff.

FILED

DEC 6 1967

ALICE J. DUCK CLERK
REGISTER

9/20/67
Plaintiff's
Motion for
Jury Trial
10/1/67

See
Plaintiff's
Motion for
Jury Trial
10/1/67

JOHNSTONE, ADAMS, MAY, HOWARD & HILL
ATTORNEYS AT LAW
NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
PHONE 433-5561 AREA CODE 205 P. O. BOX 1988
MOBILE, ALABAMA 36601

C. A. L. JOHNSTONE, JR.
R. F. ADAMS, SR.
JAMES L. MAY, JR.
ALEX T. HOWARD, JR.
J. JEPHIA HILL
CHARLES B. BAILEY, JR.
BROCK B. GORDON
BEN H. HARRIS, JR.
WILLIAM H. HARDIE, JR.
DOUGLAS INGE JOHNSTONE
E. WATSON SMITH

April 17, 1970

GESSNER T. MCCORVEY (1882-1965)
BEN D. TURNER (1886-1968)

Mrs. Alice J. Duck, Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama

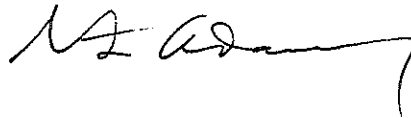
Dear Mrs. Duck:

Re: Reaves vs. Cole Construction Co.
At Law No. 7894

Enclosed herewith is copy of motion to dismiss
the above-styled cause. I shall appreciate your
filing same. I am sending a copy of this letter
and of the motion to Mr. Hildreth and Mr. Hayes.

I shall appreciate your letting me know when
the motion is set for hearing.

Cordially yours,



RFA/mc

Encl.

cc: Mr. Emmett F. Hildreth, Jr.
Mr. Wilson Hayes

JOHNSTONE, ADAMS, MAY, HOWARD & HILL
ATTORNEYS AT LAW
NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
PHONE 433-5561 AREA CODE 205 P. O. BOX 1988
MOBILE, ALABAMA 36601

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C. B. BAILEY, JR.
BROCK B. GORDON
BEN H. HARRIS, JR.
WILLIAM H. HARDIE, JR.

DOUGLAS INGE JOHNSTONE
E. WATSON SMITH
JACK MCLENDON PATE

October 5, 1970

GESSNER T. MCCORVEY (1882-1965)
BEN D. TURNER (1886-1966)

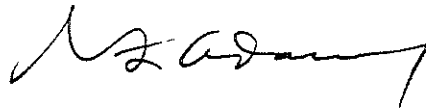
Mrs. Alice J. Duck, Clerk
Circuit Court
Bay Minette, Alabama

Re: Reaves vs. Cole - #7894 At Law

Dear Mrs. Duck:

On September 16 I wrote Judge Mashburn and asked if he would let us submit our Demurrer to the Complaint As Amended without argument. If he does enter a ruling on this basis I shall greatly appreciate it if you will advise us what his ruling is.

Very truly yours,



RFA/mc