

LYONS, PIPES & COOK

ATTORNEYS AT LAW

2510 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

JOSEPH H. LYONS (1900-1957)

36601

SAM W. PIPES

WALTER M. COOK

GORDON B. KAHN

IRWIN W. COLEMAN, JR.

G. SAGE LYONS

AUGUSTINE MEAHER, III

JAMES B. KIERCE, JR.

WESLEY PIPES

AREA CODE 205

TEL. 432-4483

P.O. DRAWER 2525

April 4, 1968

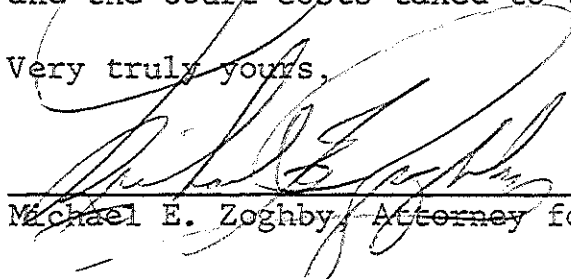
Mrs. Alice Duck
Clerk, Circuit Court
Baldwin County Court House
Bay Minette, Alabama

Re: Thomas Marion Byrd vs. Stuart Carruth, individually
and Cowin Equipment Company, Inc., Baldwin County
Circuit Court Case No. 7976

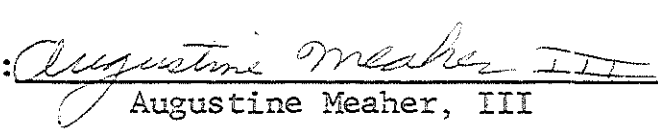
Dear Mrs. Duck:

The above case has been settled. On behalf of our
respective clients we ask that the case be Dismissed
and the Court costs taxed to the defendant.

Very truly yours,


Michael E. Zoghby, Attorney for Plaintiff

LYONS, PIPES AND COOK
Attorneys for Defendant

By: 
Augustine Meaher, III

AM/bn

MICHAEL E. ZOGHBY
ATTORNEY AT LAW
SUITE 209 VAN ANTWERP BUILDING
MOBILE, ALABAMA 36602
TELEPHONE 433-1806

January 30, 1968

Mrs. Alice Duck
Circuit Court
Baldwin County Court House
Bay Minette, Alabama

Re: Thomas Marion Byrd
Vs: Stuart Carruth, etal

7976

Dear Mrs. Duck:

Please file the enclosed suit for me immediately, the Statute of limitations is about to run on me.

Thanking you for your kind attention to the above, I remain,

Yours very truly,

Michael E. Zoghby

MEZ/ms

Enclosure: Suit

FILED

JAN 30 1968

ALICE J. DUCK CLERK
RECEIVED

THOMAS MARION BYRD,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
VS.	)	
STUART CARRUTH, individually	)	
and COWIN EQUIPMENT COMPANY, INC.,	)	
a Corporation, Separately and	)	
Severally,	)	
Defendants.	)	CASE NO. 7976

COMES NOW Cowin Equipment Company, Inc., defendant in the above styled cause, and demurs to the plaintiff's Complaint and as grounds for said demurrer sets down and assigns the following, separately and severally:

1. For aught that appears from said count the injuries and damages suffered by the plaintiff were not the proximate result of any act or failure to act on the part of the defendant.
2. For aught that appears the plaintiff's alleged injuries and damages were not the result of any negligence of this defendant.
3. For that the allegation "as the proximate result of such negligence" is vague and indefinite in that it is impossible to determine the negligence referred to.
4. For aught that appears the plaintiff's vehicle was not used in the course of his business or profession.
5. For that the plaintiff claims damages for the loss of use of his vehicle but the Complaint does not allege that the plaintiff's vehicle was used in the course of plaintiff's business or employment.

6. For that the allegation that the automobile of the plaintiff was "bent, broken, smashed or otherwise damaged" is vague and indefinite in that it fails to set forth the damages to plaintiff's vehicle.

7. For that said count fails to allege the violation of any duty owed by this defendant to the plaintiff.

8. Said count fails to allege facts showing the violation of any duty owed by this defendant to the plaintiff.

9. For aught that appears from said count the accident did not occur on a public road.

10. For aught that appears from said count the plaintiff was not at a place where he had a legal right to be at the time and place complained of.

11. For that said count fails to allege any causal connection between the alleged negligence of this defendant and the alleged injuries and damages of the plaintiff.

12. For that the agency of this defendant is not sufficiently alleged.

13. For that the agency of the defendant is alleged as a mere conclusion of the pleader.

LYONS, PIPES AND COOK
Attorneys for the Defendant
Cowin Equipment Company, Inc.

By: 

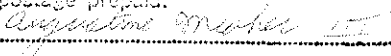
Walter M. Cook

By: 

Augustine Meaher, III

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 4 day of March, 1968, 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

MAR 5 1968

ALICE J. DUCK CLERK
REGISTER

THOMAS MARION BYRD,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
VS.	)	
STUART CARRUTH, individually	)	
and COWIN EQUIPMENT COMPANY, INC.,	)	
a Corporation, Separately and	)	
Severally,	)	
Defendants.	)	CASE NO. 7976

COMES NOW Stuart Carruth, defendant in the above styled cause, and demurs to the plaintiff's Complaint and as grounds for said demurrer sets down and assigns the following, separately and severally:

1. For aught that appears from said count the injuries and damages suffered by the plaintiff were not the proximate result of any act or failure to act on the part of this defendant.

2. For aught that appears the plaintiff's alleged injuries and damages were not the result of any negligence of this defendant.

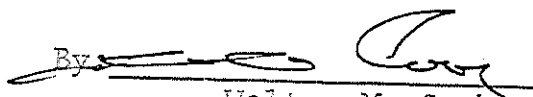
3. For that the allegation "as the proximate result of such negligence" is vague and indefinite in that it is impossible to determine the negligence referred to.

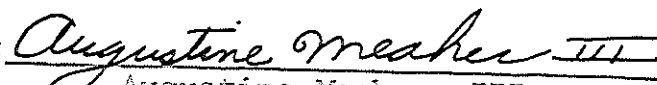
4. For aught that appears the plaintiff's vehicle was not used in the course of his business or profession.

5. For that the plaintiff claims damages for the loss of use of his vehicle but the Complaint does not allege that the plaintiff's vehicle was used in the course of plaintiff's business or employment.

6. For that the allegation that the automobile of the plaintiff was "bent, broken, smashed or otherwise damaged" is vague and indefinite in that it fails to set forth the damages to plaintiff's vehicle.
7. For that said count fails to allege the violation of any duty owed by this defendant to the plaintiff.
8. Said count fails to allege facts showing the violation of any duty owed by this defendant to the plaintiff.
9. For aught that appears from said count the accident did not occur on a public road.
10. For aught that appears from said count the plaintiff was not at a place where he had a legal right to be at the time and place complained of.
11. For that said count fails to allege any causal connection between the alleged negligence of this defendant and the alleged injuries and damages of the plaintiff.

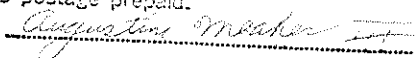
LYONS, PIPES AND COOK
Attorneys for the Defendant
Stuart Carruth.

By: 
Walter M. Cook

By: 
Augustine Meaher, III

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 4 day of Mar, 1968, 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

MAR 5 1968

ALICE J. DUCK CLERK
REGISTER

THOMAS MARION BYRD

Plaintiff,

VS:

STUART CARRUTH, individually
and COWIN EQUIPMENT COMPANY, INC.,
a Corporation, Separately and Severally,

Defendants.

* IN THE CIRCUIT COURT OF
* BALDWIN COUNTY, ALABAMA

*

*

CASE NO. 7976

*

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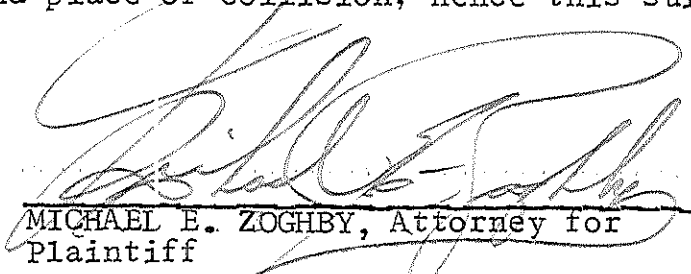
COUNT ONE

The Plaintiff claims of the Defendants the sum of TEN THOUSAND and NO/100 (\$10,000.00) DOLLARS, as damages for that heretofore on to-wit: February 2, 1967, the Plaintiff automobile was being operated by the Plaintiff along and upon a public highway in the County of Baldwin, State of Alabama, on to-wit, U. S. Highway 98, at or near the intersection of the said U. S. Highway 98, and U. S. Highway 90, both public highways in the County of Baldwin, Alabama, where he had a right to be, and while said automobile was being operated and driven along the said west-bound lane of U. S. Highway 98, in a westwardly direction, and automobile which was being driven by the Defendant STUART CARRUTH, who was then and there acting within the line and scope of his employment with the Defendant, COWIN EQUIPMENT COMPANY, INC., and which said automobile was traveling in a westwardly direction in the west bound lane of U. S. Highway 98, the Defendant negligent drove or operated an automobile of the Defendant in a westwardly direction on the said U. S. Highway 98, and as the proximate result of such negligence, Defendants automobile struck or collided with Plaintiff's automobile, and greatly damaged the same, and rendered Plaintiffs automobile unfit for use for, to-wit, ten (10) days, in that Plaintiffs automobile was bent, broken, smashed or otherwise damaged

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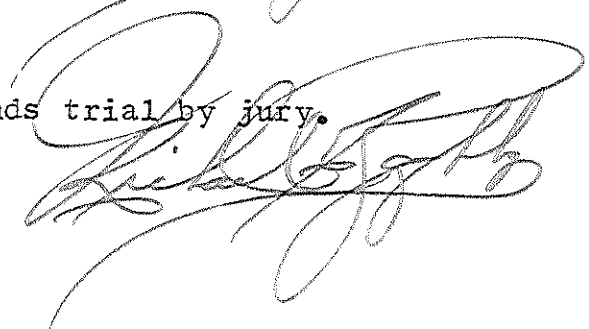
and injured, all to the damage of Plaintiff as aforesaid; and as the proximate result of such negligence, Plaintiff's body was bruised, mutilated, and injured; and Plaintiff suffered low back lumbo-sacral strain, and Plaintiff was seriously bruised internally; was made sick and sore has suffered and is suffering excruciating mental pain and anguish; and was disabled and incapacitated for approximately to-wit, three (3) weeks from his employment; was hospitalized, incurred great hospital bills, medical bills, doctor bills.

Plaintiff further avers that all of his injuries and damages set forth above were proximately caused by the negligent of the servant, agent, or employee of the Defendant, then and there in-charged of said automobile, for the Defendant and acting within the line and scope of his duty in the employment of the Defendant, in this, that said servant agent, or employee negligently operated said automobile, at the time and place of collision; hence this suit.



MICHAEL E. ZOGHBY, Attorney for
Plaintiff

The Plaintiff respectfully demands trial by jury.



Defendants may be served at:

Stuart Carruth
1145 Telegraph Road
Prichard, Alabama
and on
Stuart Carruth
Manager of Cowin Equipment Company, Inc.
1145 Telegraph Road, Prichard, Alabama

FILED

JAN 30 1968

ALICE J. DUCK CLERK
REGISTER

- 2 -

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SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA
Baldwin County

Circuit Court, Baldwin County

No. 7976

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Stuart Carruth, Individually and Cowin Equipment
Company, Inc., a corporation, Separately and Severally.

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint
filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against Stuart Carruth
Ind. & Cowin Equipment Company, Inc., a Corp., Separately & Severally Defendant.....

by Thomas Marion Byrd

....., Plaintiff.....

Witness my hand this 30th day of January 1968

Alice J. Wuck, Clerk

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

THOMAS MARION BYRD,

Plaintiffs

vs.

STUART CARRUTH, Ind. & COWIN
EQUIPMENT CO., INC., A CORP.
Separately & Severally Defendants

SUMMONS AND COMPLAINT

Filed January 30, 1968

Alice J. Duck

Clerk

Michael E. Zoghby

Suite 209 Van Andern Bldg.
Mobile, Alabama 36602

Defendant's Attorney

Defendant lives at

RECEIVED

JAN 31 1968
Received In

DAVID WILKINS
SHERIFF

19

Sheriff

I have executed this summons

this February 7, 1968

by leaving a copy with

Stuart Carruth, and
Cowin Equipment
Company Inc. & Corp.
by service on
Stuart Carruth, mgr.

Ray L. Bridges, Sheriff
L. Hopkins, Deputy Sheriff