



MABEL AMOS
SECRETARY OF STATE

STATE OF ALABAMA
OFFICE OF SECRETARY OF STATE
MONTGOMERY, ALABAMA 36104
April 10, 1968

To the Honorable Sheriff
Jones County
Laurel, Mississippi 39440

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Sir:

ALBERT L. THOMASTON, Plaintiff VS
Re: SIM NEWELL, et al, Defendants

Enclosed is my notice, together with copies of summons and complaint in duplicate in suit against Sim Newell, et al, now pending in the Circuit Court of Baldwin County, Alabama.

Title 7, Section 199 of the 1940 Code of Alabama provides, among other things, that service of process may be had by a Sheriff, Deputy Sheriff, Marshal or Deputy Marshal or any other duly constituted public official within the jurisdiction of the defendant's residence. This statute further provides a fee of \$2 for each service by said official. I am enclosing a check in the amount of \$2 forwarded to me by the attorney for the plaintiff. If there are any additional charges by you, you will please contact said attorney, who will give same his prompt attention.

I attempted service upon the said defendant at the address given, by certified mail, return receipt requested, deliver to addressee only; but said letter was returned, marked "UNCLAIMED".

I shall greatly appreciate your efforts to complete this service upon the said defendant by serving upon him the original notice with the copy of the summons and complaint attached and making your return on the copy to the Clerk of the Court, who is named below.

Yours very truly,

fc
Enclosures

Mabel S. Amos
Secretary of State

CC: Honorable C. Leflore Thompson
124 Court House Square
Bay Minette, Alabama 36507

Hon. Alice J. Duck, Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama 36506



MABEL AMOS
SECRETARY OF STATE

STATE OF ALABAMA
OFFICE OF SECRETARY OF STATE
MONTGOMERY, ALABAMA 36104
May 21, 1968

Honorable C. Lenoir Thompson
124 Court House Square
Bay Minette, Alabama 36507

Re: Albert L. Thomaston, Plaintiff
VS Sim Newell, et al, Defendants
Circuit Court of Baldwin County
Case Number 8,039

Dear Mr. Thompson:

In reply to your letter of May 20, I wish to advise that there has been no "return" made to this office by the Sheriff of Laurel, Mississippi 39440. The duly executed return receipt card is all that has been received by this office.

I am sorry I can give you no further information regarding this service. You might contact the Honorable Sheriff, Jones County, Laurel, Mississippi 39440, and request information on his findings reference the 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 36506

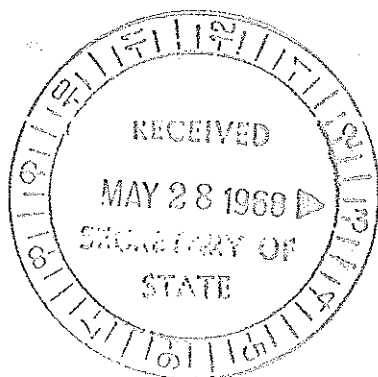
1/1
This subject is residing in Perry County and
works for Thomas Holloman.

Am returning your \$2.00. Sorry that we could
not get service on subject here in Jones County.

Sincerely,,

N. Sanderson, P.S.

J. 2nd Cash



ALBERT L. THOMASTON,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
WALTER LOWERY, individually, and SIM NEWELL, JR., alias JOHN DOE, individually, the agent, servant or em- ployee of the said Walter Lowery,	X	AT LAW
	X	
Defendants.	X	CASE NUMBER: 8061 8039

DEMURRER:

Come now the Defendants in the above styled cause, separately and severally, by and through their Attorneys of Record, and demur to the Amended Complaint heretofore filed in the above styled cause and assign the following separate and several grounds in support thereof:

1. That it does not state facts sufficient to constitute a cause of action against these Defendants.
2. For that negligence is therein alleged merely as a conclusion of the pleader.
3. For that it is vague, indefinite and uncertain, in that it does not apprise these Defendants with sufficient certainty against what act or acts of negligence Defendants are called on to defend.
4. For that it does not appear with sufficient certainty what duty, if any, these Defendants may have owed to the Plaintiff.
5. For that it does not appear with sufficient certainty wherein these Defendants violated any duty owed by the Defendants to the Plaintiff.
6. For that it does not sufficiently appear that these

Defendants owed any duty to the Plaintiff which Defendants failed to perform.

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

8. For that the pleader sets out in what said negligence consisted, and the facts so set out do not show negligence.

9. For that there does not appear sufficient causal connection between these Defendants' said breach of duty and Plaintiff's injuries and damages.

10. No facts are alleged to show that Plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of these Defendants.

11. It is not alleged with sufficient certainty where said accident occurred.

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

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

14. For that said count is duplicitious.

15. For that each injury complained of in the alternative could not result from each alternative act allegedly causing such injury.

16. For that each alternative averment does not state facts sufficient to constitute a cause of action against these Defendants.

17. For it is not alleged that the wanton conduct complained of proximately caused the accident and the injuries and damages complained of.

18. There is no allegation of either a willful or wanton act committed by these Defendants.

491B

19. There is no allegation of either a willful or
wanton injury committed by these Defendants.

CHASON, STONE & CHASON

By: John E. Chason
Attorneys for Defendants

FILED

NOV 10 1969

ALICE J. DUCK CLERK
REGISTER

Refiled 11-13-69
Alice J. Duck
Clerk

491C

AMENDED COMPLAINT

ALBERT L. THOMASTON,	X	
PLAINTIFF,	X	IN THE CIRCUIT COURT OF
	X	
VS.,	X	BALDWIN COUNTY, ALABAMA
	X	
WALTER LOWERY, individually,	X	
and SIM NEWELL, JR., alias		AT LAW
JOHN DOE, individually, the	X	
agent, servant or employee of	X	
of the said Walter Lowery,	X	CASE NUMBER: 8039 and 8061
DEFENDANTS.	X	

Comes the Plaintiff in the above styled cause and amends
his complaint to read as follows:

-1-

The Plaintiff claims of the Defendants the sum of
Thirty-Five Thousand Dollars (\$35,000.00) as damages, for
that heretofore, on to-wit, the 23rd day of December, 1966,
about 5:30 P.M., Plaintiff was operating an automobile
pickup truck on a public highway, to-wit, Baldwin County
Road No.64 at a point approximately 2.2 miles East of the
City of Loxley in Baldwin County, Alabama, where he had a
right to be and the Defendant, Sim Newell, Jr., alias John
Doe, whose name is to your Plaintiff otherwise unknown, an
agent, servant or employee of Defendant, Walter Lowery, while
acting within the line and scope of his employment so negli-
gently operated his motor vehicle, at high speed, to-wit, a
pickup truck then and there as to cause said motor vehicle,
a pickup truck which the said Sim Newell, alias John Doe,
was then and there operating, to sideswipe in passing, the
automobile pickup truck which the Plaintiff, Albert L. Thomaston,
was then and there operating, and the said Sim Newell, alias
John Doe did not stop, but continued to travel at a high speed
as he left the scene of the said accident and the Plaintiff
avers that as a proximate consequence thereof, he was

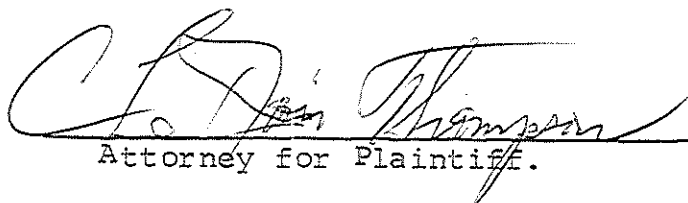
sorely and severely injured; suffering an injured arm, hand and shoulder, causing your Plaintiff great pain and suffering and Plaintiff was caused to spend large sums of money for doctors' bills and was caused to spend large sums of money for medical attention and medical supplies, And as a proximate consequence thereof, the truck striking his arm which was extended to signal a turn, and permanently injured the said arm, hand and shoulder of your said Plaintiff, whereby he is permanently disabled and unable to perform his duties as a burner in a shipyard, and unable to do gainful employment, being permanently injured and permanently disabled, and as a consequence thereof lost his job, all to his damage in the sum aforesaid; and Plaintiff avers that all of his said injuries were caused by the said negligence of said defendant, Sim Newell, alias John Doe, an agent, servant or employee of defendant, Walter Lowery, while said Sim Newell, alias John Doe, was acting within the line and scope of his employment as such agent, servant or employee in and about the negligent operation of the said motor vehicle at the time and place and on the occasion aforesaid.

-2-

The Plaintiff claims of the Defendants the sum of Thirty-Five Thousand Dollars (\$35,000.00) as damages, for that heretofore on to-wit, the 23rd day of December, 1966, about 5:30 P.M., Plaintiff was operating an automobile pickup truck on a public highway, to-wit, Baldwin County Road No. 64 at a point approximately 2.2 miles East of the City of Loxley in Baldwin County, Alabama, where he had a right to be and the defendant, Sim Newell, alias John Doe, an agent, servant or employee of the defendant Walter Lowery, and on to-wit, said day and date, said time and place, defendant, Sim Newell, alias John Doe, with reckless indifference to consequences, wilfully and wantonly ran or caused to be run an automobile pickup truck into, upon, and against the automobile pickup truck in which Plaintiff was riding, being conscious at the time that his conduct would probably in so doing result in disaster

490

to the Plaintiff. And Plaintiff avers that as a proximate consequence thereof, he was severely injured; the outside mirror on the right side of defendant's said pickup truck striking his arm which was extended to signal a turn and injured the said arm, hand and shoulder of your said Plaintiff whereby he is permanently injured and permanently disabled and as a consequence lost his job and is unable to do gainful employment; all to his damage in the sum aforesaid; and as a proximate consequence of the wilful and wanton action of the defendant, your plaintiff was caused great pain and suffering and was caused to spend large sums of money for doctors bills and large sums of money for medical attention and medical supplies in and about the healing of the injuries resulting from the said wilfulness and wantonness of the said defendant; and plaintiff avers that all of his said injuries were caused by the said wilfulness and wantonness of the said defendant, Sim Newell, alias John Doe, an agent, servant or employee of the defendant Walter Lowery, while acting within the line and scope of his employment as such agent, servant or employee in and about the wilful and wanton operation of said motor vehicle at the time and place, on the occasion aforesaid.


Attorney for Plaintiff.

FILED

NOV 10 1969

ALICE J. DUCK CLERK
REGISTER

ALBERT L. THOMASTON

Plaintiff

vs

SIM NEWELL, alias SIM NEWELL, JR.
INDIVIDUALLY AND AS AGENT, SERVANT
OR EMPLOYEE OF JOHN DOE, WHOSE
NAME BEING UNKNOWN TO YOUR PLAINTIFF
WHEN DETERMINED AND IDENTIFIED WILL
BE SUBSTITUTED FOR THE SAID JOHN DOE

Defendants

X IN THE CIRCUIT COURT OF

X

X

BALDWIN COUNTY, ALABAMA

X

X

AT LAW

X

X

CASE NO. 8039

X

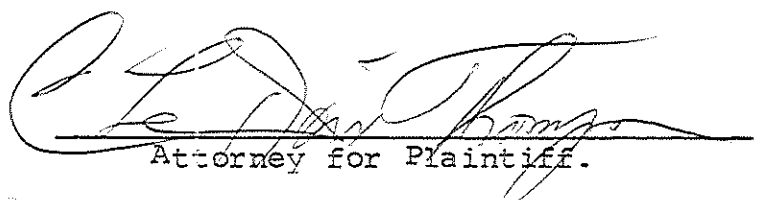
TO THE HONORABLE TELFAIR J. MASHBURN, JUDGE OF THE CIRCUIT
COURT OF BALDWIN COUNTY, ALABAMA:

Comes the Plaintiff, Albert L. Thomaston, and shows
unto the Court that more than sixty days prior to the
filing of this motion, the Plaintiff in the above styled
cause propounded interrogatories to the Respondent, Sim
Newell, alias Sim Newell, Jr., under Code 1940, Tit. 7,
Section 477-486, requiring said Respondent to answer certain
interrogatories therein propounded, and that although more
than sixty days have elapsed since the service by the
Sheriff of said interrogatories upon the Respondent, Sim
Newell, alias Sim Newell, Jr., the said Respondent has
failed, and still fails and refuses to answer the inter-
rogatories therein propounded.

Wherefore, the Plaintiff moves the court to enforce the
penalty as provided by Tit. 7, Section 483 of the Code of
1940 as recompiled.


Attorney for Plaintiff

I hereby certify that I mailed a copy of the
foregoing motion to the Honorable John Earl Chason, Bay
Minette, Alabama, by first class mail, postage prepaid
and properly addressed, on this the 23rd day of October,
1969.


Attorney for Plaintiff

FILED

OCT 23 1969

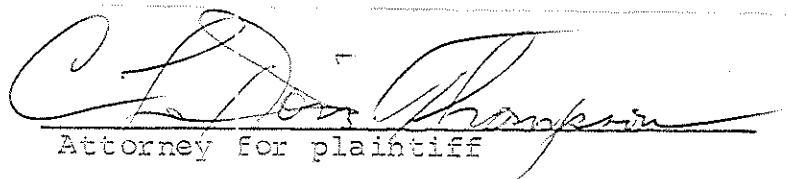
ALICE J. ELLIS
CLERK
REGISTER

EVOL

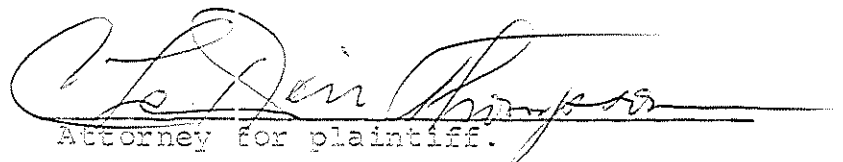
63 PAGE 488

ALBERT L. THOMASTON	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
vs	X	BALDWIN COUNTY, ALABAMA
SIM NEWELL, alias SIM NEWELL, JR.,	X	AT LAW NO. 8039
Individually and as agent, servant	X	
or employee of John Doe, whose	X	
name being unknown to your plaintiff	X	
when determined and identified will	X	
be substituted for the said John	X	
Doe.	X	
Defendants	X	

Comes the plaintiff Albert L. Thomaston, and being plaintiff in Civil Jury cases 8039 and 8061 which said cases arise out of the same set of facts; and that the Honorable John Earle Chason having filed his appearance as Counsel both for the Alabama Farm Bureau Mutual Casualty Insurance Company, Inc., a corporation and for Walter Lowery and Sim Newell alias Sim Newell, Jr., individuals, your said plaintiff moves this Honorable Court to consolidate said cases for trial.


Attorney for plaintiff

I hereby certify that I have this 28 day of May, 1969, served a copy of the foregoing motion on Honorable John Earle Chason, Attorney for defendants, by depositing copy of same in the U. S. Mail, postage prepaid, properly addressed to his office in Bay Minette, Alabama.


Attorney for plaintiff.

FILED

MAY 28 1969

ALICE J. DUCK CLERK
REGISTER

ALBERT THOMASTON

X

Plaintiff

X

IN THE CIRCUIT COURT OF

vs

X

BALDWIN COUNTY, ALABAMA

SIM NEWELL, alias SIM NEWELL, JR.,
individually and as agent, servant
or employee of John Doe, whose name
being unknown to your plaintiff
when determined and identified will
be substituted for the said John
Doe,

X

AT LAW

NO. 8039

X

Defendants


X

Comes the plaintiff in the above styled cause and propounds
the following supplemental interrogatories to the defendant
Sim Newell, alias Sim Newell, Jr.:

1. If you were employed by the owner of the said pickup
truck which you were operating, state his name and address.

2. If you were not employed by the owner of the said
pickup truck at the time and place complained, state the name
and address of your employer.

3. State also the owner of the large truck which you
drove to the home of Mr. Walter Lowery.


Attorney for plaintiff

State of Alabama

Baldwin County

Before me, the undersigned Notary Public, in and for
said State and County, personally appeared C. LeNoir
Thompson, who being by me first duly sworn, deposes on
oath and says as follows:

My name is C. LeNoir Thompson and I am one of the
attorneys of record for the plaintiff in the above entitled
cause, and as such, I am authorized to make this affidavit.
I further state that the answer of the defendant to the
foregoing interrogatories will, if truthfully made, be
material evidence for the plaintiff on the trial of said
cause.



Subscribed and sworn to before me by the said C. LeNoir
Thompson on this the 2nd day of July, 1968.

JUL 2 - 1968

ALICE J. DUCK

CLERK
REGISTER


Notary Public, Baldwin County, Alabama.

AMENDED COMPLAINT

ALBERT L. THOMASTON	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
vs	X	BALDWIN COUNTY, ALABAMA
SIM NEWELL, individually and as agent, servant or employee of John Doe, whose name being unknown to your plaintiff when determined and identified will be substituted for the said John Doe	X X X X X	AT LAW NO. 8031 8039
Defendants	X	

Comes the plaintiff in the above styled cause and amends his complaint heretofore filed in said cause to read as follows:

ALBERT L. THOMASTON	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
vs	X	BALDWIN COUNTY, ALABAMA
SIM NEWELL, alias SIM NEWELL, JR., INDIVIDUALLY AND AS AGENT, SERVANT OR EMPLOYEE OF JOHN DOE, WHOSE NAME BEING UNKNOWN TO YOUR PLAINTIFF WHEN DETERMINED AND IDENTIFIED WILL BE SUBSTITUTED FOR THE SAID JOHN DOE	X X X X X X	AT LAW NO. 8031 8039
Defendants	X	

-1-

The plaintiff claims of the defendants the sum of Thirty Thousand Dollars (\$30,000.00) as damages for that, heretofore, on to-wit, the 23rd day of December, 1966, about 5:30 P.M., plaintiff was operating an automobile pickup truck on a public highway, to-wit, Baldwin County Road No. 64 at a point approximately 2.2 miles East of the City of Loxley in Baldwin County, Alabama, where he had a right to be and the defendant, Sim Newell, Jr., an agent, servant or employee of the defendant, John Doe, whose name is to your plaintiff otherwise unknown, while acting within the line and scope of his employment so negligently operated his motor vehicle, at high speed, to-wit, a pickup truck, then and there as to cause said motor vehicle a pickup truck which the said Sim Newell, Jr. was then and there operating, to sideswipe in passing, the automobile pickup

truck which the plaintiff was then and there operating, and the said Sim Newell, Jr., did not stop, but continued to travel at a high speed as he left the scene of the said accident and his identity has just been learned; and plaintiff avers that as a proximate consequence thereof, he was sorely and severely injured; suffering an injured arm, hand and shoulder causing your plaintiff great pain and suffering and plaintiff was caused to spend large sums of money for doctors bills and was caused to spend large sums of money for medical attention and medical supplies. And as a proximate consequence thereof the truck striking his arm which was extended to signal a turn and permanently injured the said arm, hand and shoulder of your said plaintiff, whereby he is permanently disabled and unable to perform his duties as a burner in a shipyard and is unable to do gainful employment being permanently injured and as a consequence lost his job, all to his damage in the sum aforesaid; and plaintiff avers that all of his said injuries were caused by the said negligence of the said defendant Sim Newell, Jr., an agent, servant or employee of defendant John Doe, whose name or positive identification is otherwise unknown, while said Sim Newell, Jr., was acting within the line and scope of his employment as such agent, servant or employee in and about the negligent operation of the said motor vehicle at the time and place and on the occasion aforesaid.

-2-

Plaintiff claims of the defendants the sum of Thirty Thousand Dollars (\$30,000.00) as damages, for that, heretofore on to-wit, the 23rd day of December, 1966, about 5:30 P.M., plaintiff was operating an automobile pickup truck on a public highway, to-wit, Baldwin County Road No. 64 at a point approximately 2.2 miles East of the City of Loxley in Baldwin County, Alabama, where he had a right to be and the defendant Sim Newell, Jr., an agent, servant or employee of the defendant, John Doe, whose name is to your plaintiff unknown or is without positive identification, while acting within the line and scope of his employment so wilfully and wantonly operated his motor vehicle at high speed, to-wit, a pickup

truck then and there as to cause said motor vehicle while traveling at a high rate of speed and which he was operating, to sideswipe or run into or against the automobile pickup truck which the plaintiff was then and there operating; and plaintiff avers that as a proximate consequence thereof, he was severely injured; the outside mirror on the right side of defendant's said pickup truck striking his arm which was extended to signal a turn and injured the said arm, hand and shoulder of your said plaintiff whereby he is permanently disabled and is unable to do gainful employment being permanently injured and as a consequence lost his job all to his damage in the sum aforesaid; and as a proximate consequence of the wilful and wanton action of the defendant, your plaintiff was caused great pain and suffering and was caused to spend large sums of money for doctors bills and large sums of money for medical attention and medical supplies in and about the healing of the injuries resulting from the said wilfulness and wantonness of the said defendant; and plaintiff avers that all of his said injuries were caused by the said wilfulness and wantonness of the said defendant Sim Newell, Jr., an agent, servant or employee of the defendant John Doe, whose name is to your plaintiff unknown or without positive identification, while acting within the line and scope of his employment as such agent, servant or employee in and about the wilful and wanton operation of said motor vehicle at the time and place and on the occasion aforesaid.

-3-

Plaintiff further avers that the said defendants failed or refused to file a report of said accident with the Department of Public Safety in accordance with the provisions of the 1940 Code of Alabama as amended and recompiled.

And plaintiff further avers that the said defendant Sim Newell, Jr., is a non-resident of the State of Alabama and that the present post office address of said defendant,

Sim Newell, Jr., is Perry County, Mississippi, and the plaintiff prays that service of process upon the defendant, Sim Newell, Jr., may be had in accordance with the provisions of Code of 1940, Title 7, Section 199.


Attorney for plaintiff.

FILED

JUL 2 - 1968

ALICE J. DUCK CLERK
REGISTER

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No.....

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Sim Newell, alias Sim Newell, Jr.,
individually and as agent, servant or employee of John Doe, whose
name being unknown to your plaintiff when determined and identified
will be substituted for the said John Doe

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..... Sim Newell,
alias Sim Newell, Jr., individually and as agent, servant or employee
of John Doe, whose name being unknown to your plaintiff when
determined and identified will be substituted for the said Defendant.....
John Doe

by Albert L. Thomaston

Plaintiff.....

Witness my hand this 2 day of July 1968

Clerk

No. 8039

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

ALBERT L. THOMASTON

Plaintiffs

SIM NEWELL, alias SIM NEWELL, JR.
individually and as agent, servant
& employee of John Doe, whose name
being unknown to your Defendants
plaintiff when determined and iden-
tified will be substituted for the
said John Doe

SUMMONS AND COMPLAINT

1. Sum & Compt
2. Interrogatories

Filed 19.....

JUL 2 - 1938

Clerk

M. S. Butler, Sheriff

County, Alabama, Claim \$1.50 each for

serving 1 process(es) and \$1.00

travel expense on each of 1

process(es) or a total of \$2.50

W. L. C. Thompson
W. L. Mason Defendant's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE
Received In Office

JUL 8 1938

M. S. BUTLER, Sheriff

Sheriff

I have executed this summons

this 19.....

by leaving a copy with

Executed by serving 3 copies of
the within on Mable Anna
Secretary of State of The State of
Alabama:

This the 2 day of July 1938

Sheriff of Montgomery County

M. S. Butler,

By W. L. Mason

Sheriff

Deputy Sheriff

ALBERT L. THOMASTON

Plaintiff

vs

SIM NEWELL, individually and as
agent, servant or employee of
John Doe, whose name being
unknown to your plaintiff when
determined and identified will
be substituted for the said
John Doe

Defendants

X

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 8039

-1-

The plaintiff claims of the defendants the sum of
Thirty Thousand Dollars (\$30,000.00) as damages for that,
heretofore, on to-wit, the 23rd day of December, 1966,
about 5:30 P.M., plaintiff was operating an automobile
pickup truck on a public highway, to-wit, Baldwin County
Road No. 64 at a point approximately 2.2 miles East of
the City of Loxley in Baldwin County, Alabama, where he
had a right to be and the defendant, Sim Newell, an agent,
servant or employee of the defendant, John Doe, whose name
is to your plaintiff otherwise unknown, while acting
within the line and scope of his employment so negligently
operated his motor vehicle, at high speed, to-wit, a
pickup truck, then and there as to cause said motor vehicle,
a pickup truck which the said Sim Newell was then and there
operating, to sideswipe in passing, the automobile pickup
truck which the plaintiff was then and there operating, and
the said Sim Newell did not stop, but continued to travel at
a high speed as he left the scene of the said accident and
his identity has just been learned; and plaintiff avers that
as a proximate consequence thereof, he was sorely and severely
injured; suffering an injured arm, hand and shoulder causing
your plaintiff great pain and suffering and plaintiff was
caused to spend large sums of money for doctors bills and
was caused to spend large sums of money for medical attention
and medical supplies. And as a proximate consequence thereof
the truck striking his arm which was extended to signal a
turn and permanently injured the said arm, hand and shoulder
of your said plaintiff, whereby he is permanently disabled

and unable to perform his duties as a burner in a shipyard and is unable to do gainful employment being permanently injured and as a consequence lost his job, all to his damage in the sum aforesaid; and plaintiff avers that all of his said injuries were caused by the said negligence of the said defendant Sim Newell an agent, servant or employee of defendant John Doe, whose name or positive identification is otherwise unknown, while said Sim Newell was acting within the line and scope of his employment as such agent, servant or employee in and about the negligent operation of the said motor vehicle at the time and place and on the occasion aforesaid.

-2-

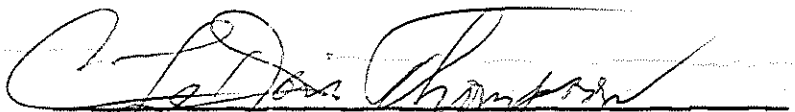
Plaintiff claims of the defendants the sum of Thirty Thousand Dollars (\$30,000.00) as damages, for that, heretofore, on to-wit, the 23rd day of December, 1966, about 5:30 P.M., plaintiff was operating an automobile pickup truck on a public highway, to-wit, Baldwin County Road No. 64 at a point approximately 2.2 miles East of the City of Loxley in Baldwin County, Alabama, where he had a right to be and the defendant Sim Newell, an agent, servant or employee of the defendant, John Doe, whose name is to your plaintiff unknown or is without positive identification, while acting within the line and scope of his employment so wilfully and wantonly operated his motor vehicle at high speed, to-wit, a pickup truck ten and there as to cause said motor vehicle while traveling at a high rate of speed and which he was operating, to sideswipe or run into or against the automobile pickup truck which the plaintiff was then and there operating; and plaintiff avers that as a proximate consequence thereof, he was severely injured; the outside mirror on the right side of defendant's said pickup truck striking his arm which was extended to signal a turn and injured the said arm, hand and shoulder of your said plaintiff whereby he is permanently disabled and is unable to do gainful employment being permanently injured and as a consequence lost his job all to his damage in the sum aforesaid; and as a

proximate consequence of the wilful and wanton action of the defendant, your plaintiff was caused great pain and suffering and was caused to spend large sums of money for doctors bills and large sums of money for medical attention and medical supplies in and about the healing of the injuries resulting from the said wilfulness and wantonness of the said defendant; and plaintiff avers that all of his said injuries were caused by the said wilfulness and wantonness of the said defendant Sim Newell, an agent, servant or employee of the defendant John Doe, whose name is to your plaintiff unknown or without positive identification, while acting within the line and scope of his employment as such agent, servant or employee in and about the wilful and wanton operation of said motor vehicle at the time and place and on the occasion aforesaid.

-3-

Plaintiff further avers that the said defendants failed or refused to file a report of said accident with the Department of Public Safety in accordance with the provisions of the 1940 Code of Alabama as amended and recompiled.

And plaintiff further avers that the said defendant Sim Newell is a non-resident of the State of Alabama and that the present Post Office address of said defendant, Sim Newell is Route 2, Ovett, Mississippi, and the plaintiff prays that service of process upon the defendant, Sim Newell may be had in accordance with the provisions of Code of 1940, Title 7, Section 199.


Attorney for plaintiff.

FILED

MAR 14 1968

ALICE J. DUCK CLERK
REGISTER

ALBERT L. THOMASTON

Plaintiff

vs

SIM NEWELL, individually and as
agent, servant or employee of
John Doe, whose name being
unknown to your plaintiff when
determined and identified will
be substituted for the said
John Doe

Defendants

X

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

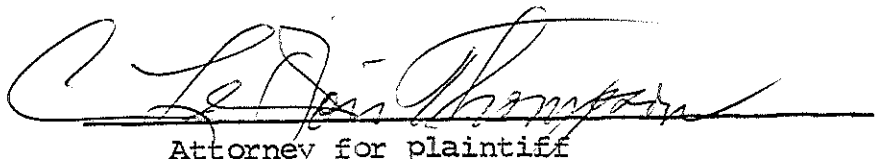
BALDWIN COUNTY, ALABAMA

AT LAW

NO. _____

Comes the plaintiff in the above styled cause and propounds
the following interrogatories to the defendant, Sim Newell:

1. State your correct name.
2. State your correct address.
3. Were you driving an automobile pickup truck on
Baldwin County Road No. 64 about 2.2 miles East of Loxley,
Alabama, on Friday, December 23, 1966, about 5:00 or 5:30
P.M.
4. State the name and address of the owner of the said
pickup truck.
5. Were you employed by the owner of the said pickup
truck which you were operating?
6. Were you involved in any contact with any other motor
vehicle at the time and place noted?
7. Did you make a report of the contact or collision to
any officer of the State of Alabama following said occurrence?
8. Did you inform the owner of the said motor vehicle
of the occurrence taking place at the time and place noted?
9. Was anyone in the pickup which you were operating
at the time and place noted?
10. What damage, if any, was done to the pickup which
you were operating because of the contact noted.?
11. Was the pickup equipped with outside rear view
mirror prior to the accident?
12. Was the mirror on the right hand side of the
pickup truck damaged in any way when you arrived at the home
of the owner of the said pickup truck?



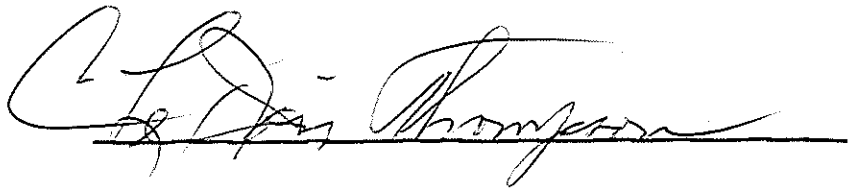
Attorney for plaintiff

STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned Notary Public, in and for said State and County, personally appeared C. LeNoir Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. LeNoir Thompson and I am one of the attorneys of record for the plaintiff in the above entitled cause, and as such, I am authorized to make this affidavit. I further state that the answer of the defendant to the foregoing interrogatories will, if truthfully made, be material evidence for the plaintiff on the trial of said cause.



Subscribed and sworn to before me by the said C. LeNoir Thompson on this the 14 day of March, 1967.



Notary Public, Baldwin County, Alabama.

FILED

MAR 14 1968

ALICE J. DUCK CLERK
REGISTER

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No.....

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Sim Newell, individually and as agent
servant or employee of John Doe, whose name being unknown to
your plaintiff when determined and identified will be sub-
stituted for the said John Doe.

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 Sim Newell,
individually and as agent, servant or employee of John Doe, whose
name being unknown to your plaintiff when determined Defendant.....
and identified will be substituted for the said John Doe.

by Albert L. Thomas on

Plaintiff.....

Witness my hand this 14 day of March 1948

Alice J. Clark Clerk

No. 8039

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

ALBERT L. THOMASTON

Plaintiffs

^{vs.}
SIM NEWELL, individually and as
agent, servant or employee of
~~John Doe, whose name being unknown~~
to your plaintiff Defendants
~~when determined and identified will be~~
~~substituted for the said John Doe~~
SUMMONS AND COMPLAINT

Filed FILED 19.....

MAR 14 1968

Clerk

ALICE J. DUCK

CLERK,
REGISTER

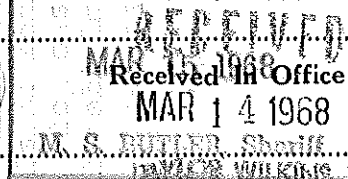
C. LeNair Thompson
Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Route 2

Overton, Mississippi



19.....

Sheriff

I have executed this summons

this 19.....

by leaving a copy with

Executed by serving 3 copies of

the within on Mable Ames
Secretary of State of The State of
Alabama.

This on 15 day of March 1968

at Montgomery County,

M. S. Butler,

By W. L. Mason D. S.

M. S. Butler, Sheriff of Montgomery,
County, Alabama, Claim \$1.50 each for
serving 1 process(es) and \$1.00

travel expense on each of 1 Sheriff
process(es) of a total of \$2.50

Deputy Sheriff

W. L. Mason Deputy Sheriff