

70-8042

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW

CASE NO. 23833 - CAFFEY

JURY

\*\*\*\*\*  
HOWELL, JOHNSTON, LANGFORD &  
FINKBOHNER -  
BY: Irvin J. Langford

J.R. MILLER

VS. Suit for \$50,000.00 damages, personal injuries caused when  
a 25 pound block of ice was dropped on the Plaintiff's  
big toe.

ARMBRECHT, JACKSON, & DeMOUY  
BY: BROOX G. HOLMES  
FRANK B. McRIGHT

TRAILWAY OIL COMPANY, INC., doing business as TRAILWAY TRUCK STOP, N.J.  
and JOHN DOE and RICHARD ROE, whose names are otherwise unknown  
but which will be added by amendment when ascertained, doing  
business as TRAILWAY TRUCK STOP, and the X CORPORATION, a corporation,

\*\*\*\*\*  
PLEADINGS, PROCESS, ETC, \* FILING DATE \* whose name is otherwise unknown but which will be added by  
amendment when ascertained, doing business as TRAILWAY TRUCK STOP  
\*\*\*\*\*

\*\*\*\*\*  
1. Complaint & Summons \* 10-13-67 \* C & S served on Trailway Oil Company, Inc., etc. on October 17, 1967  
by service on Maurice Tucker, Mgr.  
2. Plea in Abatement \* 11-14-67 \* Plaintiff's demurrer filed November 20, 1967 to the Defendant's Plea in Abatement.  
(Trailway Oil Company) \* February 23, 1968 - Demurrer submitted. Will G. Caffey, Jr. 36-793  
3. Demurrer to Plea in \* 11-20-67 \* March 20, 1968 - Demurrer Overruled. Will G. Caffey, Jr. 36-890  
Abatement  
4. Amended Complaint \* 11-20-67 \* November 24, 1967 - Temporary Injunction issued in Equity Case #70,405, and  
proceedings stayed in this cause. - Will G. Caffey, Jr.  
5. Motion \* 2-12-68 \* Plaintiff's motion filed February 12, 1968 for Court to set his demurrers to  
Plea in Abatement down for hearing.  
February 16, 1968 - Motion Granted and Demurrer set down for hearing February 23, 1968. - Will G. Caffey, Jr. 36-734  
March 29, 1968 - Plea in Abatement sustained, and Case ordered transferred to Baldwin County, Alabama, for further proceedings. 36-932  
Will G. Caffey, Jr.

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.

In Witness whereof I have hereunto set my hand and attached my Official Seal as such Clerk of said Court at Mobile, Mobile County, Alabama, on this the 1st day of April 1968.

*John E. Mandeville*  
Clerk

J. R. MILLER,  
Plaintiff,

vs.

TRAILWAY OIL COMPANY,  
INC., doing business as  
TRAILWAY TRUCK STOP, and  
JOHN DOE and RICHARD ROE,  
whose names are other-  
wise unknown but which  
will be added by amendment  
when ascertained, doing  
business as TRAILWAY TRUCK  
STOP, and the X CORPORATION,  
a corporation, whose name  
is otherwise unknown but  
which will be added by  
amendment when ascertained,  
doing business as TRAILWAY  
TRUCK STOP,

Defendants.

IN THE CIRCUIT COURT OF  
MOBILE COUNTY, ALABAMA

AT LAW

CASE NO. 29823

COUNT ONE

Plaintiff claims of the Defendants the sum of FIFTY THOUSAND AND NO/100 (\$50,000.00) DOLLARS as damages for that heretofore and on, to-wit, the 30th day of October, 1966, the Defendants owned and maintained a truck stop on Battleship Parkway in Baldwin County, Alabama, at which said truck stop the Defendants sold ice and had a mechanic on duty to service and repair motors for truckers, and Plaintiff further avers and alleges that in connection with the sale of ice to truckers, the Defendants also at said time and on said date furnished an employee to load the ice onto the trucks. Plaintiff further avers and alleges that at said time and place, Defendants expressly or impliedly invited truckers to come into their truck stop situated on Battleship Parkway and to purchase ice and to utilize the services of their mechanic for a financial consideration or a reward, and Plaintiff further avers and alleges that on, to-wit, the 30th day of October, 1966, the Plaintiff drove his truck, an autocar diesel truck with a bunker and blower trailer, into said truck stop and did purchase from the Defendants at said time and place ice to be loaded upon the Plaintiff's said truck by the Defendants' employee, while acting within the line and scope of his employment as agent, servant or employee of the Defendants, and Plaintiff avers and alleges that while

he was in said truck stop on said occasion as a paying customer and business visitor and while the Plaintiff was standing on the dock adjacent to his said truck and while the Defendants' employee, while acting within the line and scope of his employment as agent, servant or employee of the Defendants, was loading ice upon said truck as aforesaid, the agent, servant or employee of the Defendants, while acting within the line and scope of his employment as such, negligently dropped a twenty-five pound block of ice on the Plaintiff's big toe, and Plaintiff avers and alleges that as a direct and proximate result of the negligence of the agent, servant or employee of the Defendants, while acting within the line and scope of his employment as such, the Plaintiff was seriously and permanently injured, he was made sick and sore, his big toe was crushed and bruised to such an extent that it had to be amputated, and Plaintiff was caused to incur expenses of doctors, hospitals, nurses, x-rays and drugs, and Plaintiff was caused to suffer great physical pain and mental anguish, and Plaintiff was seriously and permanently injured, his earning capacity was impaired, Plaintiff was caused to lose time and wages and profit from his occupation of hauling goods and produce in his truck, all to the Plaintiff's injuries, hence this suit.

HOWELL, JOHNSTON, LANGFORD & FINKBOHNER,  
Attorneys for the Plaintiff.

By: *Howell Johnston*  
OF COUNSEL

Plaintiff respectfully requests a trial by jury.

HOWELL, JOHNSTON, LANGFORD & FINKBOHNER,  
Attorneys for the Plaintiff.

By: *Howell Johnston*  
OF COUNSEL

Defendants may be served at  
their place of business  
(Trailway Truck Stop) on  
Battleship Parkway. Their  
telephone number is 432-9408.

STATE OF ALABAMA  
COUNTY OF BIRMINGHAM  
FILED

OCT 13 8 45 AM '66

**THE STATE OF ALABAMA**  
MOBILE COUNTY

**CIRCUIT COURT**

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

TRAILWAY OIL COMPANY, INC., doing business as TRAILWAY TRUCK  
STOP, and JOHN DOE and RICHARD ROE, whose names are otherwise  
unknown but which will be added by amendment when ascertained,  
doing business as TRAILWAY TRUCK STOP, and the X CORPORATION,  
a corporation, whose name is otherwise unknown but which will  
be added by amendment when ascertained, doing business as  
TRAILWAY TRUCK STOP.

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,  
at the place of holding the same, then and there to answer the complaint of

J. R. MILLER

WITNESS: John E. Mandeville, Clerk of said Court, this 13th day of OCTOBER, 1967

Attest: John E. Mandeville  
Clerk

**SHERIFF'S RETURN**

Received 13 day of Oct, 1967 and on 17 day  
of Oct, 1967, I served a copy of  
the within Cx8 on Trailway Oil Company,  
Inc., etc.  
by service on Maurice Tucker, Mgr.

RAY D. BRIDGES, SHERIFF

By C. J. Fitzpatrick D.S.

REC'D SHERIFF DEPT.  
MOBILE COUNTY, ALA.

OCT 11 3 55 PM '67

BY \_\_\_\_\_

*put* No. 23833  
JUDGE \_\_\_\_\_ DOCKET \_\_\_\_\_

CIVIL DIVISION

**CIRCUIT COURT**  
MOBILE COUNTY

*J.R. Miller*  
J.R. MILLER

VS. }

Complaint and Summons

*17th put*  
TRAILWAY OIL COMPANY,  
INC., etc.

*Maurice Tucker*  
Issued 13th day of OCTOBER, 19 67

Defendant's Address Place of business,  
TRAILWAY TRUCK STOP,  
Battleship Parkway,  
tel no. 432-9408

IRVIN J. LANGFORD

Plaintiff's Attorney

J. R. MILLER,

Plaintiff,

-VS-

TRAILWAY OIL COMPANY,  
INC., et al.,

Defendants.

\* IN THE CIRCUIT COURT OF  
\*  
\* MOBILE COUNTY, ALABAMA  
\*  
\* AT LAW  
\*  
\*  
\*  
\* CASE NO. 23,833 -C

PLEA IN ABATEMENT

Comes now the Defendant Trailway Oil Company, Inc. in the above styled cause, by its attorneys, and files this its special plea to the jurisdiction of this Court in the above styled cause, and says that the Plaintiff cannot maintain said cause against it in this Court; and the Defendant enters this plea in said cause for the only and sole purpose of pleading to the jurisdiction of this Court and says as follows:

1. That the Defendant, Trailway Oil Company, Inc., is and was at the time of the filing of the above action and at the date of the alleged act or omission complained of, a domestic corporation organized and existing under the laws of the State of Alabama.

2. That the other named Defendants are not now, nor were they at the time of the filing of the above action, residents of Mobile County, Alabama, and they are not now, nor were they at the time of the filing of the above action, doing business by agent in Mobile County, Alabama.

3. That the Plaintiff is not now, nor was he at the time of the filing of the above action, a resident of the State of Alabama.

4. That the act or omission complained of in the Complaint was done or occurred in Baldwin County, Alabama.

WHEREFORE, Defendant prays that this Honorable Court determine that the Circuit Court of Mobile County, Alabama, is without jurisdiction of said suit and said cause of action and that the venue thereof is improperly laid in Mobile County, Alabama, and that this action be abated.

ARMBRECHT, JACKSON & DeMOUY

By Broox G. Holmes  
Broox G. Holmes

By Frank B. McRight  
Frank B. McRight

STATE OF ALABAMA )  
COUNTY OF MOBILE )

Before me, the undersigned authority, in and for said State and County, personally appeared Frank B. McRight, one of the attorneys of record for the Defendant, Trailway Oil Company, Inc., who is known to me, who being duly sworn, says on oath that he has read the foregoing plea in abatement, that he is informed and believes and upon such information and belief states that the matters set forth therein are true and correct, and that he is a resident of Mobile County, Alabama, and is authorized to make this affidavit.

Frank B. McRight  
Frank B. McRight

SWORN and SUBSCRIBED to  
before me this 10th day of  
November, 1967.

Dorothy L. Nichols  
Notary Public, Mobile County, Alabama

#### CERTIFICATE OF SERVICE

I do hereby certify that I have on this 14th day of November, 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.

Frank B. McRight

STATE OF ALABAMA  
I CERTIFY THIS DOCUMENT  
WAS FILED ON

NOV 14 9 43 AM '67

J. R. MILLER,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	MOBILE COUNTY, ALABAMA
vs.	)	AT LAW
TRAILWAY OIL COMPANY,	)	
INC., et al.,	)	
Defendants.	)	CASE NO. 23,833 - C

Now comes the Plaintiff in the above styled cause and demurs to the plea in abatement heretofore filed in said cause and as grounds of demurrer thereto, assigns the following grounds, separately and severally:

1. Said plea in abatement fails to allege that the corporate defendant was not doing business in Mobile County, Alabama, at the time of the commencement of the action herein, hence said plea in abatement fails to allege facts entitling the Defendant to abate this suit.

2. Said plea fails to allege facts to show that the Defendant was not, at the time of filing of this suit, doing business in Mobile County, Alabama, by agent.

3. Said plea fails to allege that the corporation defendant was not doing business in Mobile County, Alabama, at the time this action was commenced, hence said plea is defective.

HOWELL, JOHNSTON, LANGFORD & FINKBOHNER,  
Attorneys for Plaintiff.

By: 

Irvin J. Langford

#### CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT I HAVE ON  
THIS 17 DAY OF Nov, 196 7,  
SERVED A COPY OF THE FOREGOING PLEADING  
ON COUNSEL FOR ALL PARTIES TO THIS PRO-  
CEEDING BY MAILING THE SAME BY UNITED  
STATES MAIL, PROPERLY ADDRESSED, AND  
FIRST CLASS POSTAGE PREPAID.

STATE OF ALABAMA  
I CERTIFY THIS PLEADING  
WAS FILED IN

Mar 73 8 30 AM '67



J. R. MILLER, ) IN THE CIRCUIT COURT OF  
 Plaintiff, ) MOBILE COUNTY, ALABAMA  
 vs. ) AT LAW  
 TRAILWAY OIL COMPANY, INC., )  
 et al., )  
 Defendants. ) CASE NO. 23,833

MOTION TO SET DEMURRERS TO PLEA IN ABATEMENT DOWN FOR HEARING

Now comes the Plaintiff in the above styled cause and represents and shows unto the Court that on November 17, 1967, the Plaintiff filed demurrers to the Plea in Abatement heretofore filed in said cause by Trailway Oil Company, Inc., et al., Defendants, in the above styled cause, and that said demurrers were not heard because an injunction was granted against the Plaintiff proceeding with his lawsuit. Plaintiff avers and alleges that said injunction has now been dissolved and his demurrers should be heard at the earliest possible moment. Wherefore, Plaintiff prays this Honorable Court will set same down for hearing at the next convenient motion day and will notify the Defendants accordingly.

HOWELL, JOHNSTON, LANGFORD & FINKBOHNER,  
 Attorneys for Plaintiff.

By: Irvin J. Langford

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT I HAVE ON  
 THIS 9 DAY OF FEB, 1968,  
 SERVED A COPY OF THE FOREGOING PLEADING  
 ON COUNSEL FOR ALL PARTIES TO THIS PRO-  
 CEEDING BY MAILING THE SAME BY UNITED  
 STATES MAIL, PROPERLY ADDRESSED, AND  
 FIRST CLASS POSTAGE PREPAID.

STATE OF ALA. MOBILE CO.  
 I CERTIFY THIS PLEADING  
 WAS FILED ON

FEB 12 8 41 AM '68

John M. ...  
 CLERK

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It is ordered and adjudged by the Court that defendants' said Plea in Abatement filed November 14, 1967, in this cause be, and the same is hereby sustained, and Case ordered transferred to the Circuit Court of Baldwin County, Alabama, for further proceedings.

Page 932

STATE OF ALABAMA, }  
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby  
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

as rendered by the said Circuit Court on the 29th day of March, 19 68, in the cause  
entitled No. 23833 - J.R. MILLER


\_\_\_\_\_, Plaintiff,

—versus— TRAILWAY OIL COMPANY, INC., doing business as TRAILWAY TRUCK  
STOP, and JOHN DOE and RICHARD ROE, whose names are otherwise unknown  
but which will be added by amendment when ascertained, doing business  
as TRAILWAY TRUCK STOP, and the X Corporation, a corporation, whose name  
is otherwise unknown but which will be added by amendment, when ascertained  
doing business as TRAILWAY TRUCK STOP

Defendant, (~~Together with the cancellation thereof~~), as the same remains of record in this office in  
Minute Book No. 36, Page No. 932

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office  
in the City of Mobile, Alabama, on this the 1st day of April, 19 68.

ATTEST:

  
Clerk, Circuit Court, Mobile County, Alabama.

No. 23833

vs.

TRAILWAY OIL COMPANY, etc.

Plaintiff

Defendant

# BILL OF COST

(Act No. 571, Reg. Ses. Leg. 1955)  
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

**\$26.80**

JOHN E. MANDEVILLE, Clerk

INTERROGATORIES  
SUMMONS

MOORE Ptz. Co., Bay Minette

J. R. MILLER

Circuit Court, Baldwin County, Alabama

Vs. Plaintiff

Civil Action No. 8082

TRILWAY OIL COMPANY, INC., ET AL

Defendant

..... 19.....

To Any Sheriff or any person authorized by Rule 4 (a) (3) of the Alabama Rules of Civil Procedure to effect service in the State of Alabama:

You are hereby commanded to serve this summons and a copy of the complaint in this action upon defendant Trailway Oil Company, Inc., Parkway Truck Stop, Battleship Parkway

(Maurice Tucker)

Each defendant is required to serve a copy of a written answer to the complaint upon \_\_\_\_\_

James R. Owen, attorney of record for the plaintiff whose address is

410 Courthouse Square, Bay Minette, Ala. within thirty (30) days after service of this summons excluding the day of service of the summons and to file the original of said written answer with the Clerk of this Court at the time of service of the answer upon the attorney of record for the Plaintiff or within a reasonable time thereafter. If any defendant fails to do so, a judgment by default may be entered against that defendant for the relief complained of in the complaint.

Dated 7/11/75

Eunice B. Blackmon  
Clerk of Circuit Court

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

J. R. MILLER, )  
Plaintiff, )  
VS. ) AT LAW CASE NO. 8082  
TRAILWAY OIL COMPANY, )  
INC., ET AL., )  
Defendants.

INTERROGATORIES

NOW COMES the Plaintiff in the above styled cause and propounds the following interrogatories to the Defendant, Maurice Tucker:

1. State your name and residence address.
2. State the type of business in which you engage and whether or not you are self-employed.
3. If you state that you are not self-employed, state the name of your employer or employers.
4. State whether or not you own any real property and if so, include a description of each parcel of real property owned by you wherever situated.
5. State whether or not you own any personal property and if so, give a complete list of all such personal property including money, bank accounts, stocks, bonds, choses in action, mortgages or motor vehicles with a complete description of each item of personal property.
6. State whether or not you have transferred any real property since October 30, 1966, and if so, give the name of the grantee or grantees of each parcel of real property conveyed or transferred by you.

OWEN AND BALL

By: \_\_\_\_\_

JAMES R. OWEN  
Attorneys for Plaintiff  
410 Courthouse Square  
Bay Minette, Alabama 36507

Defendant may be served with a copy of these Interrogatories at Parkway Truck Stop, Battleship Parkway.

FILED

JUL 11 1975

EUNICE B. BLACKMON CIRCUIT CLERK

INTERROGATORIES  
SUMMONS

MOORE Prtg. Co., Bay Minette

J. R. MILLER

Plaintiff

Vs.

TRAILWAY OIL COMPANY, INC., ET AL

Defendant

Circuit Court, Baldwin County, Alabama

Civil Action No. 8082

..... 19.....

To Any Sheriff or any person authorized by Rule 4 (a) (3) of the Alabama Rules of Civil Procedure to effect service in the State of Alabama:

You are hereby commanded to serve this summons and a copy of the complaint in this action upon defendant Trailway Oil Company, Inc., Parkway Truck Stop, Battleship Parkway

(Maurice Tucker)

Each defendant is required to serve a copy of a written answer to the complaint upon \_\_\_\_\_

James R. Owen

\_\_\_\_\_, attorney of record for the plaintiff whose address is

410 Courthouse Square, Bay Minette, Ala.

\_\_\_\_\_ within thirty (30) days after service of this summons excluding the day of service of the summons and to file the original of said written answer with the Clerk of this Court at the time of service of the answer upon the attorney of record for the Plaintiff or within a reasonable time thereafter. If any defendant fails to do so, a judgment by default may be entered against that defendant for the relief complained of in the complaint.

Dated 7/11/75

Cunice B. Blackmen  
Clerk of Circuit Court

Civil Action No.....

STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

J. R. MILLER

Plaintiffs

vs.

TRAILWAY OIL COMPANY, INC., ET AL

Defendants

## SUMMONS

Filed ..... 19.....

EUNICE B. BLAC KMON ..... Clerk

JAMES R. OWEN

Plaintiff's Attorney

Defendant's Attorney

2. *Whaley*

Defendant lives at

RECEIVED  
Received In Office

JUL 14 1975

THOMAS H. BENTON  
SHERIFF

19.....

Sheriff

I have executed this summons

this ..... 19.....

by leaving a copy with

*Trailway Oil Co. Inc.*

Sheriff claimed ..... miles at

Ten Cents per mile Total \$

THOMAS H. BENTON, Sheriff

BY ..... Sheriff

DEPUTY SHERIFF

Sheriff

Deputy Sheriff

MOORE Prtg. Co., Bay Minette

B



|                             |   |                         |
|-----------------------------|---|-------------------------|
| J. R. MILLER,               | ) | IN THE CIRCUIT COURT OF |
| Plaintiff,                  | ) | MOBILE COUNTY, ALABAMA  |
| Vs.                         | ) | AT LAW                  |
| TRAILWAY OIL COMPANY,       | ) |                         |
| INC., doing business as     | ) |                         |
| TRAILWAY TRUCK STOP, and    | ) |                         |
| JOHN DOE and RICHARD ROE,   | ) |                         |
| whose names are other-      | ) |                         |
| wise unknown but which      | ) |                         |
| will be added by amendment  | ) |                         |
| which ascertained, doing    | ) |                         |
| business as TRAILWAY TRUCK  | ) |                         |
| STOP, and the X CORPORA-    | ) |                         |
| TION, a corporation, whose  | ) |                         |
| name is otherwise unknown   | ) |                         |
| but which will be added by  | ) |                         |
| amendment when ascertained, | ) |                         |
| doing business as TRAILWAY  | ) |                         |
| TRUCK STOP,                 | ) |                         |
| Defendants.                 | ) | CASE NO. 23,833 — C     |

AMENDED COMPLAINT

Now comes the Plaintiff in the above-styled cause and amends his complaint heretofore filed in said cause to read as follows:

COUNT ONE

Plaintiff claims of the Defendants the sum of FIFTY THOUSAND AND NO/100 (\$50,000.00) DOLLARS as damages for that heretofore and on, to-wit, the 30th day of October, 1966, the Defendants owned and maintained a truck stop on Battleship Parkway in Baldwin County, Alabama, at which said truck stop the Defendants, in one combined operation, sold gasoline and diesel fuel and ice and had a mechanic on duty to service and repair motors for truckers, and Plaintiff further avers and alleges that in connection with the sale of gasoline and diesel fuel and ice to truckers, the Defendants also at said time and on said date furnished an employee to load the ice onto the trucks. Plaintiff further avers and alleges that at said time and place, Defendants expressly or impliedly invited truckers to come into their truck stop situated on Battleship Parkway and to purchase gasoline and diesel fuel and ice and to utilize

the services of their mechanic for a financial consideration or a reward, and Plaintiff further avers and alleges that on, to-wit, the 30th day of October, 1966, the Plaintiff drove his truck, an autocar diesel truck with a bunker and blower trailer, into said truck stop and did purchase from the Defendants at said time and place fuel and also ice to be loaded upon the Plaintiff's said truck by the Defendants' employee, while acting within the line and scope of his employment as agent, servant or employee of the Defendants, and Plaintiff avers and alleges that while he was in said truck stop on said occasion as a paying customer and business visitor and while the Plaintiff was standing on the dock adjacent to his said truck and while the Defendants' employee, while acting within the line and scope of his employment as agent, servant or employee of the Defendants, was loading ice upon said truck as aforesaid, the agent, servant or employee of the Defendants, while acting within the line and scope of his employment as such, negligently dropped a twenty-five pound block of ice on the Plaintiff's big toe, and Plaintiff avers and alleges that as a direct and proximate result of the negligence of the agent, servant, or employee of the Defendants, while acting within the line and scope of his employment as such, the Plaintiff was seriously and permanently injured, he was made sick and sore, his big toe was crushed and bruised to such an extent that it had to be amputated, and Plaintiff was caused to incur expenses of doctors, hospitals, nurses, x-rays and drugs, and Plaintiff was caused to suffer great physical pain and mental anguish, and Plaintiff was seriously and permanently injured, his earning capacity was impaired, Plaintiff was caused to lose time and wages and profit from his occupation of hauling goods and produce in his truck, all to the Plaintiff's injuries, hence this suit.

HOWELL, JOHNSTON, LANGFORD & FINKBOHNER,  
Attorneys for the Plaintiff.

By: 

OF COUNSEL

Plaintiff respectfully requests a trial by jury.

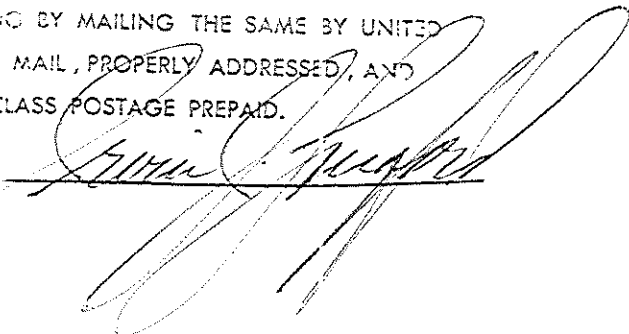
HOWELL, JOHNSTON, LANGFORD & FINKBOHNER,  
Attorneys for the Plaintiff.

By: 

CERTIFICATE OF SERVICE

OF COUNSEL

I DO HEREBY CERTIFY THAT I HAVE  
THIS 17 DAY OF Nov, 196 7  
SERVED A COPY OF THE FOREGOING PLEADING  
ON COUNSEL FOR ALL PARTIES TO THIS PRO-  
CEEDING BY MAILING THE SAME BY UNITED  
STATES MAIL, PROPERLY ADDRESSED, AND  
FIRST CLASS POSTAGE PREPAID.



STATE OF MISSISSIPPI  
CLERK OF THE COURT  
HAS FILED

NOV 20 1967

J. R. MILLER,

Plaintiff,

VS.

TRAILWAY OIL COMPANY, INC.,  
ET AL,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

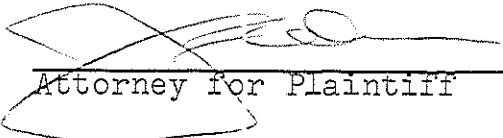
AT LAW

NO. 8082

AMENDMENT

Now comes the plaintiff in the above styled cause and shows unto the court that it has been ascertained that Maurice Tucker has been ascertained the party or one of the parties doing business as Trailway Truck Stop, defendant in this cause, and plaintiff hereby substitutes the name of Maurice Tucker, doing business as Trailway Truck Stop, as a party defendant in this cause and moves the court to make and enter an order to serve a summons and copy of amended complaint on the said Maurice Tucker, whose address is 204 South Bayou Street, Saraland, Alabama.

DATED this 4<sup>th</sup> day of June, 1970.

  
Attorney for Plaintiff

ORDER

In this cause, it appearing to the court that Maurice Tucker, doing business as Trailway Truck Stop, has been made a party defendant in said cause, it is, ORDERED by the court that a summons and copy of amended complaint be served on the said defendant.

ORDERED on this the 10<sup>th</sup> day of June, 1970.

  
Judge

FILED

JUN 10 1970

ALICE J. BUCK

CLERK  
REGISTER

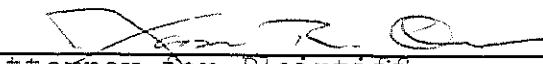
|                             |   |                         |
|-----------------------------|---|-------------------------|
| J. R. MILLER,               | ) |                         |
|                             | ) |                         |
| Plaintiff,                  | ) | IN THE CIRCUIT COURT OF |
|                             | ) |                         |
| VS.                         | ) | BALDWIN COUNTY, ALABAMA |
|                             | ) |                         |
| TRAILWAY OIL COMPANY, INC., | ) | AT LAW                  |
| ET AL,                      | ) | NO. 8082                |
|                             | ) |                         |
| Defendants.                 | ) |                         |

INTERROGATORIES PROPOUNDED TO MAURICE TUCKER

Now comes the plaintiff and propounds the following interrogatories to the defendant, Maurice Tucker, doing business as Trailway Truck Stop:


1. Please state your correct name, age and address.
2. Please state whether or not on October 30, 1966, you were doing business as Trailway Truck Stop on Battleship Parkway, Baldwin County, Alabama.
3. Please state whether or not on October 30, 1966, you were the manager of the business known as Trailway Truck Stop on Battleship Parkway in Baldwin County, Alabama.
4. Please state whether or not on October 30, 1966, you were agent, servant or employee of Trailway Oil Company, Inc.
5. Please state whether or not on October 30, 1966, you had an agreement with Trailway Oil Company, Inc., by which you rented or leased the business known as Trailway Truck Stop on Battleship Parkway in Baldwin County, Alabama.
6. If the answer to the preceding interrogatory is yes, please attach a copy of said agreement or lease to your answer to these interrogatories.
7. Please state whether or not you recall the occasion on October 30, 1966, on Battleship Parkway at Trailway Truck Stop when the plaintiff, J. R. Miller, was injured.
8. If your answer to the preceding interrogatory was yes, please state the name of the employee who was attempting to load ice on the truck owned by J. R. Miller at the time the said plaintiff was injured, and give his address if it is known to you.
9. Please state whether or not Trailway Truck Stop sold ice on October 30, 1966, at its place of business on Battleship

Parkway in Baldwin County, Alabama, and if so, whether or not  
Trailway Truck Stop furnished an employee to load the said ice.

  
\_\_\_\_\_  
Attorney for Plaintiff

STATE OF ALABAMA    )  
                              \*  
BALDWIN COUNTY     )

Before me, the undersigned authority, personally appeared  
James R. Owen, who first being duly and legally sworn deposes and  
says: That he is the attorney for the plaintiff in the above styled  
cause; that the answers to the above and foregoing interrogatories,  
when well and truly made, will be material evidence for the  
plaintiff at the trial of said cause.

  
\_\_\_\_\_  
Sworn to and subscribed before me  
on this the 9th day of June, 1970.

Ernestine R. Sims  
\_\_\_\_\_  
Notary Public, Baldwin County, Alabama

FILED

JUN 10 1970

ALICE J. DUCK CLERK  
REGISTER

We the jury find for the Plaintiff  
in the amount of Ten Thousand dollars  
and no cents (10,000.00) and net to exceed \$10,000.00

Foreman  
J. H. Sult

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA  
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 8082

TERM. 19.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Maurice Tucker

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

Trailway Oil Company, Inc., et al Defendant

by J. R. Miller

Plaintiff

Witness my hand this 10th day of June 1970

Alice J. Week Clerk



8188

No. 8082

Page.....

**THE STATE OF ALABAMA**  
**BALDWIN COUNTY**

**CIRCUIT COURT**

J. R. MILLER

Plaintiffs

vs.

TRAILWAY OIL COMPANY, INC., ET AL

Defendants

**AMENDED**

1. SUMMONS AND/ COMPLAINT &
2. AMENDMENT & ORDER &
3. INTERROGATORIES

Filed ..... 19.....

Clerk

James R. Owen

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

serve: Maurice Tucker

204 South Bayou St.

Saraland, Ala.

Received In Office

June 10 1920

Baylor Stickers Sheriff

I have executed this summons

this June 12 1920  
by leaving a copy with

Maurice Tucker

Ray O Bridges Sheriff

H.R. Jackson Deputy Sheriff

Moore Printing Co. - Bay Minette, Ala.

|                |   |                         |          |
|----------------|---|-------------------------|----------|
| J. R. MILLER,  | X |                         |          |
| Plaintiff,     | X | IN THE CIRCUIT COURT OF |          |
|                | X |                         |          |
| vs.            | X | BALDWIN COUNTY, ALABAMA |          |
|                | X |                         |          |
| TRAILWAY OIL   | X | AT LAW                  | NO. 8082 |
| COMPANY, INC., | X |                         |          |
| et al,         | X |                         |          |
| Defendants.    | X |                         |          |

The Defendant, acting through its attorneys, having this day filed a motion to require the Plaintiff to give security for costs, which motion alleges that the Plaintiff is a non-resident of the State of Alabama and such Motion having been presented to this Court; it is, therefore, ORDERED that such Motion is set for hearing before this Court at 9:00 A. M. on Friday, December 18, 1970.

Done this 3<sup>rd</sup> day of December, 1970.

*Julian G. McKeown*  
Circuit Judge

FILED

DEC 3 1970

ALICE J. DUCK CLERK  
REGISTER

|                       |   |                         |
|-----------------------|---|-------------------------|
| J. R. MILLER,         | ) | IN THE CIRCUIT COURT OF |
| Plaintiff,            | ( | BALDWIN COUNTY, ALABAMA |
| -VS-                  | ) | AT LAW                  |
| TRAILWAY OIL COMPANY, | ( |                         |
| INC. et al.,          | ) |                         |
| Defendants.           |   | CASE NO. 8082           |

MOTION TO REQUIRE PLAINTIFF TO GIVE SECURITY FOR COSTS

Comes the Defendant Trailway Oil Company, Inc. in the above styled cause and respectfully shows unto this Honorable Court that the Plaintiff is a non-resident of the State of Alabama.

WHEREFORE, this Defendant respectfully moves this Honorable Court to require the Plaintiff to give security for the cost of this proceeding and that should the Plaintiff not provide such security within the time required by this Court that the case be dismissed with prejudice or that such other judgment be entered in this matter as this Honorable Court may deem appropriate.

ARMBRECHT, JACKSON & DeMOUY

By Frank B. McRight  
Frank B. McRight

CHASON, STONE and CHASON

By John Chason  
John Chason

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 30<sup>th</sup> day of November, 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.

Frank B. McRight

**FILED**

DEC 3 1970

**ALICE J. DICK**

CLERK  
REGISTER

JAMES R. OWEN  
ATTORNEY AT LAW  
110 COURTHOUSE SQUARE  
BAY MINETTE, ALABAMA 36507

February 2, 1971

P. O. BOX 248  
TEL 937-2061  
AREA CODE 205

Mrs. Eunice Blackmon  
Circuit Clerk  
Bay Minette, Alabama

In Re: J. R. Miller vs. Trailway  
Case No. 8082

Dear Eunice:

Please have Judge dismiss Trailway Oil Company  
as a party defendant in this case.

The case will remain active as to the rest of  
the defendants.

Yours very truly,



JAMES R. OWEN

JRO/ers

J. R. MILLER,

Plaintiff,

vs.

TRAILWAY OIL COMPANY,  
INC., et al.,

Defendants.

\* IN THE CIRCUIT COURT OF  
\* BALDWIN COUNTY, ALABAMA  
\*  
\* AT LAW  
\*  
\*  
\* CASE NO. 8082  
\*

ANSWERS TO INTERROGATORIES

Comes now the defendant Trailway Oil Company, Inc., in the above styled cause, and answers the interrogatories heretofore propounded by the plaintiff as follows:

1. Trailway Oil Company, Inc.; Fairhope, Alabama.
2. No.
3. No.
4. No.
5. The station and restaurant were located on real property owned by Trailway Oil Company, Inc., but the ice stand was not. The ice stand was located on property owned by WUNI and was owned by the Crystal Ice Company.
6. Trailway Oil Company, Inc. was the lessor of the real property on which the station and restaurant were located.
7. Lease to Mr. Maurice Tucker was oral.
8. Mr. Maurice Tucker was operator and manager of the truck stop.

TRAILWAY OIL COMPANY, INC.

By Bertie Stewart  
As its Secy-g Corp.

STATE OF ALABAMA  
COUNTY OF BALDWIN

On the 22 day of June, 1970, personally appeared before me the undersigned authority in and for said County and said State,  
Bertie Stewart as Secy. Treas.  
of Trailway Oil Company, Inc., who is known to me and being first duly sworn, says that she is cognizant of the facts called for in the interrogatories propounded to the said Trailway Oil Company, Inc., in the above entitled cause and that the facts set out in the above answers to interrogatories are true and correct.

John S. Huffman  
Notary Public, Baldwin County, Alabama

John S. Huffman, Notary Public  
State of Alabama  
My Commission Expires Sept. 13, 1973

(AFFIX NOTARIAL SEAL)

My commission expires:

9-13-73

CHASON, STONE & CHASON

By John Chason  
John Chason  
and

ARMBRECHT, JACKSON & DeMOUY

By Frank B. McRight  
Frank B. McRight

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 24 day of June, 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.

John Chason

FILED

JUN 24 1970

ALICE J. DUCK CLERK  
REGISTER

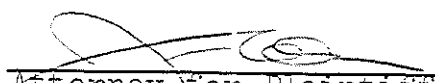
Filed 6-24-70  
Alice J. Duck  
clerk

|                             |   |                         |
|-----------------------------|---|-------------------------|
| J. R. MILLER,               | ) |                         |
|                             | ) |                         |
| Plaintiff,                  | ) | IN THE CIRCUIT COURT OF |
|                             | ) |                         |
| VS.                         | ) | BALDWIN COUNTY, ALABAMA |
|                             | ) |                         |
| TRAILWAY OIL COMPANY, INC., | ) | AT LAW                  |
| ET AL,                      | ) | NO. 8082                |
|                             | ) |                         |
| Defendants.                 | ) |                         |

INTERROGATORIES TO TRAILWAY OIL COMPANY, INC.

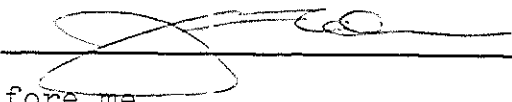
Now comes the plaintiff and propounds the following interrogatories to the defendant, Trailway Oil Company, Inc.:

1. Please state your correct name and principal place of business.
2. Please state whether or not on October 30, 1966, you were operating a business on Battleship Parkway known as Trailway Truck Stop.
3. Please state whether or not on October 30, 1966, on Battleship Parkway in Baldwin County, Alabama, you sold gasoline, diesel fuel and ice.
4. Please state whether or not on October 30, 1966, on Battleship Parkway, you furnished an employee to load ice in connection with the business known as Trailway Truck Stop.
5. Please state whether or not you owned the real property on which is situated Trailway Truck Stop on October 30, 1966, which place of business was situated on Battleship Parkway in Baldwin County, Alabama.
6. Please state whether or not on October 30, 1966, you were renting or leasing the property known as Trailway Truck Stop which is located on Battleship Parkway in Baldwin County, Alabama.
7. If on October 30, 1966, you were leasing the said property known as Trailway Truck Stop on Battleship Parkway in Baldwin County, Alabama, please attach a copy of said lease agreement to your answer to these interrogatories.
8. Please state the name of the manager of Trailway Truck Stop which is located on Battleship Parkway in Baldwin County, Alabama, on October 30, 1966.

  
Attorney for Plaintiff

STATE OF ALABAMA     )  
                                  \*  
BALDWIN COUNTY     )

Before me, the undersigned authority, personally appeared James R. Owen, who first being duly and legally sworn deposes and says: That he is the attorney for the plaintiff in the above styled cause. That the answers to the above and foregoing interrogatories, when well and truly made will be material evidence for the plaintiff at the trial of said cause.

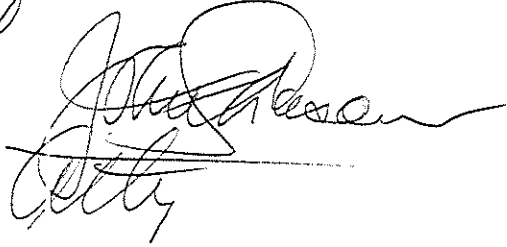
  
Sworn to and subscribed before me  
on this the 9th day of June, 1970.

Ernestine R. Davis  
Notary Public, Baldwin County, Alabama.

FILED

JUN 10 1970

ALICE J. BUCK CLERK  
REGISTER

As one of the Attorneys of Record  
for Railway Oil Company, I  
hereby accept service of a copy  
of Within Interrogatories and waive  
further service of same this 10<sup>th</sup>  
day of June 1970  
  
Atty



8082

J. R. Miller  
Plt

vs.

Railway Mail Co. Inc.

Interrogatories

for J. Chasen

to accept service

J. R. Owen

J. R. MILLER, : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
Vs. : AT LAW  
TRAILWAY OIL COMPANY, :  
INC., et al, :  
Defendants. : CASE NO. \_\_\_\_\_

P L E A

Comes now the Defendant Trailway Oil Company, Inc., and  
for answer to the Plaintiff's Complaint, as last amended, and to each  
and every count thereof, separately and severally, files the following  
plea:

1. Not guilty.

CHASON, STONE AND CHASON

By: 

ARMBRECHT, JACKSON & DeMOUY

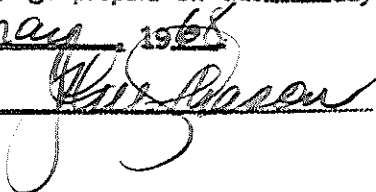
By: 

BROOK G. HOLMES

Attorneys for Defendant TRAILWAY OIL  
COMPANY, INC.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing  
pleading has been served upon counsel  
for all parties to this proceeding, by  
mailing the same to each by First Class  
United States Mail, properly addressed  
and postage prepaid on this 8 day  
of May, 1968.



FILED

MAY 8 1968

ALICE J. DUCK

CLERK  
REGISTER

8082

DEPARTMENT OF REVENUE

NOTICE TO THE PUBLIC  
The Department of Revenue is pleased to announce that it has received a grant from the State of Tennessee to provide financial assistance to the poor. This assistance will be in the form of cash payments to eligible individuals. The Department is currently reviewing applications for this assistance and will be making payments as soon as possible. If you are eligible for this assistance, please contact the Department for more information.

FILED

MAY 8 1968

ALICE J. DUCK CLERK  
REGISTER

J. R. MILLER, ) IN THE CIRCUIT COURT OF  
 Plaintiff, ) BALDWIN COUNTY, ALABAMA  
 -vs- ) AT LAW  
 TRAILWAY OIL COMPANY, )  
 INC., et al., )  
 Defendants. ) CASE NO. 8082  
 )

NOTICE OF DEPOSITION

TO: James R. Owen, Esq.  
 Attorney at Law  
 Post Office Box 248  
 Bay Minette, Alabama 36507

Please take notice that at 2:30 o'clock p.m. on the 16th day of December, 1969, at the law offices of Chason, Stone and Chason, 119 Hoyle Avenue, Bay Minette, Alabama, the Defendant, TRAILWAY OIL COMPANY, INC., will take the pre-trial deposition of the Plaintiff, J. R. Miller, upon oral examination pursuant to Title 7, Sections 474 (1) et seq. Code of Alabama (1940) (Recomp. 1958), before Louise Dusenbury, or some other officer duly authorized to administer oaths in the County of Baldwin, State of Alabama, and duly authorized to take depositions and swear witnesses in said County in said State. The oral examination will continue from day to day until completed and you are invited to attend if you so desire.

ARMBRECHT, JACKSON & DeMOUY

By Frank B. McRight  
 Frank B. McRight

CHASON, STONE and CHASON

By John Chason  
 John Chason

I, Frank B. McRight, one of the attorneys for the Defendant, do hereby certify that I served the foregoing Notice of Deposition by mailing the same to James R. Owen, Esq., attorney of record for the Plaintiff on this the 26<sup>th</sup> day of November, 1969.

**FILED**

DEC 1 1969

**ALICE J. DUCK** CLERK  
 REGISTER

Frank B. McRight  
 Frank B. McRight

|                       |   |                         |
|-----------------------|---|-------------------------|
| J. R. MILLER          | ) | IN THE CIRCUIT COURT OF |
| Plaintiff,            | ) | BALDWIN COUNTY, ALABAMA |
| vs.                   | ) | AT LAW                  |
| TRAILWAY OIL COMPANY, | ) |                         |
| INC., et al.,         | ) |                         |
| Defendants.           | ) | CASE NO. 8082           |
|                       | ) |                         |

AMENDED PLEAS OF THE DEFENDANT  
TRAILWAY OIL CO., INC.

Comes now the defendant Trailway Oil Co., Inc., and files the following additional pleas separately and severally to the plaintiff's complaint and each count thereof, separately and severally:

2. For that at the time and place complained of in the plaintiff's complaint, the plaintiff, who was under a duty to exercise reasonable care to look after and conserve his own safety and well-being, negligently failed to take proper precautions against injury and negligently remained in unsafe place exposing himself to injury so as to proximately contribute to the injuries and damages complained of.
3. For that at the time and place complained of in the plaintiff's complaint, plaintiff knew or in the exercise of reasonable care should have known that the loading of said ice into plaintiff's truck involved risk of ice falling to the dock where plaintiff was then and there standing and defendant avers that plaintiff nevertheless remained in that position of danger and as a proximate result thereof, plaintiff suffered the injuries and damages complained of. WHEREFORE PLAINTIFF CANNOT RECOVER.
4. For that following the accident complained of in the plaintiff's complaint, the plaintiff was under a duty to seek proper


medical attention for the alleged injury to his big toe  
which plaintiff negligently failed to do and which proxi-  
mately contributed to the plaintiff's injuries and damages.

WHEREFORE PLAINTIFF CANNOT RECOVER.

ARMBRECHT, JACKSON & DeMOUY

By   
Frank B. McRight

CHASON, STONE & CHASON

By   
John Chason

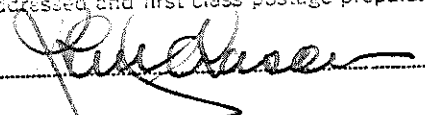
FILED

FEB 5 1970

ALICE J. DUFFY CLERK  
RECEIVED

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 5<sup>th</sup> day  
of Feb, 1970, served a copy of the  
foregoing pleading on counsel for all parties to this pro-  
ceeding, by mailing the same by United States mail,  
properly addressed and first class postage prepaid.



IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

J. R. MILLER, )  
Plaintiff, )  
VS. ) AT LAW CASE NO. 8082  
TRAILWAY OIL COMPANY, )  
INC., ET AL., )  
Defendants. )

INTERROGATORIES

NOW COMES the Plaintiff in the above styled cause and propounds the following interrogatories to the Defendant, Maurice Tucker:

1. State your name and residence address.
2. State the type of business in which you engage and whether or not you are self-employed.
3. If you state that you are not self-employed, state the name of your employer or employers.
4. State whether or not you own any real property and if so, include a description of each parcel of real property owned by you wherever situated.
5. State whether or not you own any personal property and if so, give a complete list of all such personal property including money, bank accounts, stocks, bonds, choses in action, mortgages or motor vehicles with a complete description of each item of personal property.
6. State whether or not you have transferred any real property since October 30, 1966, and if so, give the name of the grantee or grantees of each parcel of real property conveyed or transferred by you.

OWEN AND BALL

By: 

JAMES R. OWEN  
Attorneys for Plaintiff  
410 Courthouse Square  
Bay Minette, Alabama 36507

Defendant may be served with a copy of these Interrogatories at Parkway Truck Stop, Battleship Parkway.

FILED

JUL 11 1975

ELANCE E. BLACKMON CIRCUIT CLERK

Amended  
Complaint  
Removed  
for Service  
as Ordered  
6-10-70



Flores

No Such Company  
on Causeway.

Returned auth. Tom Byrd.

G. Betton

7-18-75