

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:
You are hereby commanded to summon

RICHARD SMYER

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

JAMES YESTADT

WITNESS: John E. Mandeville, Clerk of said Court, this 14 day of March, 1968

Attest:

John E. Mandeville
Clerk

SHERIFF'S RETURN

Received _____ day of _____, 19____ and on _____ day
of _____, 19____, I served a copy of
the within _____ on _____

by service on _____

RAY D. BRIDGES, SHERIFF

By _____ D.S.

24: 3-21-68

REC'D SHERIFF DEPT.
MOBILE COUNTY, ALA.

MAR 13 4 37 PM '68

BY _____

mail
No. 25104 - C
JUDGE _____ DOCKET _____

CIVIL DIVISION

CIRCUIT COURT
MOBILE COUNTY

JAMES YESTADT

VS. }

Complaint and Summons

RICHARD SMYER

Issued 14 day of March, 19 68

Defendant's Address

366 S. Summit Street,
Fairhope, Alabama

JOHNSTONE, ADAMS, MAY, HOWARD & HILL
By: William H. Hardie, Jr.

Plaintiff's Attorney

Received 21 day of March, 19 68
and on 21 day of March, 19 68
I served a copy of the within
on Richard Smyer
By service on Charles S. Hays

TAYLOR WILKINS, Sheriff
By W. H. Hardie, Jr.

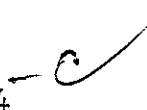
D. S.

TAYLOR WILKINS, SHERIFF OF BALDWIN
COUNTY, ALABAMA, CLAIM \$1.50 EACH

FOR SERVING _____ PROCESSES AND

TRAVEL EXPENSE ON EACH OF \$ 7.10

PROCESSES OR A TOTAL OF \$ 8.50

JAMES YESTADT,	:	IN THE CIRCUIT COURT OF
Plaintiff	:	MOBILE COUNTY,
v.	:	ALABAMA
RICHARD SMYER,	:	AT LAW
Defendant.	:	CASE NO. 25104 

PLEA IN ABATEMENT

Comes now the defendant, appearing specially and solely for the purpose of pleading in abatement, and without submitting to the jurisdiction of this Court, to the plaintiff's complaint filed herein, and files this plea in abatement, and as separate and several grounds for the abatement of the plaintiff's complaint, assigns, separately and severally, the following:

1. For that it affirmatively appears from the face of the complaint that venue in Mobile County, Alabama, is improper.

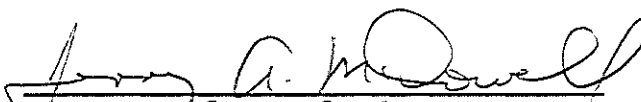
2. For that it affirmatively appears from the face of the complaint that the accident made the basis of the suit happened in Baldwin County, Alabama, and that the defendant lives in Fairhope, Baldwin County, Alabama, and lived in Baldwin County, Alabama at the time of the accident and the filing of the suit.

3. For that it affirmatively appears that the proper venue in this case would lie in Baldwin County, Alabama.

4. For that the defendant is a resident of Baldwin County, Alabama, and was at the time of the accident and at the time of the filing of this suit.

5. For that the accident made the basis of the suit happened in Baldwin County, Alabama.

PREMISES CONSIDERED, defendant prays the judgment of this Court that the summons and complaint be quashed and that the said cause be abated, or in the alternative, that this cause be transferred to the Circuit Court of Baldwin County, Bay Minette, Alabama.


Attorney for Defendant
First National Bank Building
Mobile, Alabama

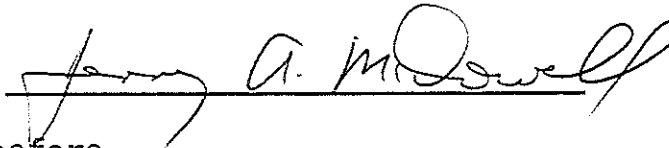
Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

STATE OF ALABAMA:

COUNTY OF MOBILE:

Personally appeared before me this 5th day of April, 1968, Jerry A. McDowell, who being duly sworn states that he is an attorney for the defendant of the above-styled cause, and as such has knowledge of the contents of the allegations of the foregoing plea in abatement and states that the allegations contained in the foregoing plea in abatement are true and correct to the best of his knowledge and belief.


Subscribed and sworn to before
me this 5th day of April, 1968.


Notary Public, Mobile County, Alabama

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing pleading to William H. Hardie, Jr., Esquire, Attorney for Plaintiff, by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Mobile, Alabama on this, the 5th day of April, 1968.

James A. McDowell

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

APR 5 4 29 PM '68

John H. Anderson
CLERK

FRIDAY, MAY 17, 1968

JAMES YESTADT)	
CAFFEY	-vs-	25104
RICHARD SMYER)	
)	PLEA IN ABATEMENT SUSTAINED AND
)	CASE TRANSFERRED TO BALDWIN
)	COUNTY, ALABAMA FOR FURTHER
)	PROCEEDINGS

This day in open Court came the parties by their attorneys, and this cause coming on to be heard on the defendant's Plea in Abatement filed in this cause, and said Plea in Abatement being argued by counsel and understood by the Court; It is ordered and adjudged by the Court that the defendant's said Plea in Abatement be, and the same is hereby sustained and case transferred to Baldwin County, Alabama for further proceedings.

Minute Book 37

Page 203

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 17th day of May, 19 68, in the cause
entitled No. 25104 - JAMES YESTADT

_____, Plaintiff,

— versus — RICHARD SMYER

Defendant, (~~Together with the cancellation thereof~~), as the same remains of record in this office in
Minute Book No. 37, Page No. 203.

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 21st day of May, 1968.

ATTEST:


Clerk, Circuit Court, Mobile County, Alabama.

CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY

JAMES YESTADT

Plaintiff

No. 25104

VS.

RICHARD SMYER

Defendant

(Act No. 740, Reg. Session Ala. Legislature 1957
Appvd. Sept. 20, 1957)
(Amend Sec. 21, Title 11, Code Ala. 1940)

BILL OF COST

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

CLERK'S FEES

Plff.

Deft.

Suits for \$100 or less	\$ 6.00		
Suits for over \$100 but less than \$1,000	10.00		
Suits for \$1,000 and over	20.00	20 00	
Suits in detinue, ejectment, etc.	10.00		
Suits not otherwise provided	10.00		
Writs, Mandamus, Prohibition, etc.	15.00		
Appeals from Court General Sessions	15.00		
Appeals from Probate Court	20.00		
Appeals from JP Courts	6.00		
Appeals from State Dept of Pub. Safety, and other State Agencies	10.00		
Workmen's Compensation Settle.	10.00		
Garnishment on Judgment	6.00		
Order of Sale, Motions to sell.	6.00		
Recording executions from State Agencies	3.00		
Cert. Copy of Record - per 100 words	.15		
Taking Appeal Bond	.75		
Record for Supreme Court etc., per 100 words	.15		
Add'l Copies of Record for Supreme Court, per 100 words	.05		
Checking - including Reporters Transcript of Evidence	10.00		
Certifying Abstract in lieu of Transcript on Appeal	5.00		
Collecting Money on Judgments over 30 days old, ½ the percentage allowed Sheriffs	\$		
	\$	20 00	
Total	\$		

SHERIFF'S FEES

Plff.

Deft.

Mileage \$7.00	
Serving Summons & Complaint	\$ 1.50
Serving Writ of Garnishment	1.50
Serving Sci Fa.-Notices	1.50
Levying Attachment & Return	6.25
Executing Writ Possession	5.00
Seizing personal property under Writ of Detinue	6.00
Serving subpoenas, each	.75
Impanelling Jury	.75
Taking & Approving Bond	2.00
Collecting Costs Execution	1.50
Serving Contempt Writ	1.50
Making Deed for Property sold	2.50
Commission, collecting money on executions, 1st \$200 5%; \$200 to \$500 4%; over \$500 3%	\$
	\$
Total	\$

8 50

8 50

RECAPITULATION

Clerk	
Sheriff Taylor Wilkins Baldwin County	
Inferior Civil Court	
Justice Peace fees	
Witness fees	
Commissioner's fees	
Certificate of Judgment	
Judgment	
10% Damages	
Interest	
Stenographer's fees (\$10.00 Day)	
Library fee	1.50
Trial Tax (County)	1.50
Trial Tax (State)	1.50
Advertisement	
Garnishee's fees	

20 00

8 50

1 50

1 50

1 50

\$33.00

I respectfully beg to advise that if this bill for costs is not paid before 19____, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk

GREGORY JAMES YESTADT,	:	IN THE CIRCUIT COURT OF
a minor, suing by and	:	
through his father and	:	
next friend, JAMES	:	BALDWIN COUNTY,
YESTADT,	:	
Plaintiff	:	ALABAMA
v.	:	AT LAW
RICHARD SMYER,	:	
Defendant.	:	CASE NO. 8182

A N S W E R

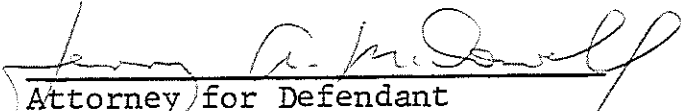
Comes now the defendant and for answer to the plaintiff's complaint and each count thereof, separately and severally, sets down and assigns the following separate and several pleas:

1. Not guilty.

2. At the time and place complained of in the plaintiff's complaint, to-wit, the 29th day of December, 1967, on U. S. Highway 98 approximately two miles south of Spanish Fort, Alabama, a public road, the plaintiff so negligently operated a motor vehicle as to cause or allow said motor vehicle to collide with a motor vehicle then and there being operated by the defendant, and as a proximate result of the plaintiff's negligence as aforesaid, plaintiff proximately contributed to his own injuries and damages; hence, plaintiff ought not recover.

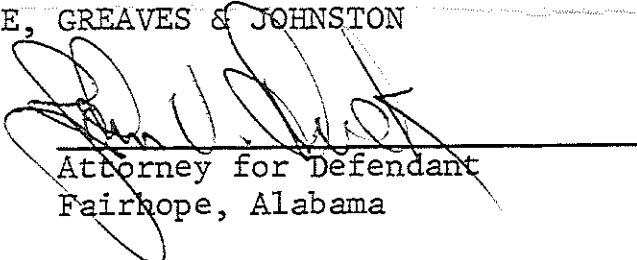
3. Comes now Richard Smyer, a minor, suing by and through his father and next friend, Robert F. Smyer, and by special plea of recoupment, claims of the plaintiff the sum of Seven Hundred and Fifty and No/100 (\$750.00) Dollars, as damages, for that, on, to-wit, the 29th day

December, 1967, the plaintiff so negligently operated a motor vehicle on or along U. S. Highway 98, a public highway, approximately two miles south of the center of Spanish Fort, Alabama, so as to cause or allow said motor vehicle to then and there collide with a motor vehicle then and there being operated by the defendant, and as a direct and proximate result of the plaintiff's negligence as aforesaid, the defendant's vehicle was bent, broken and otherwise damaged; hence, all for which defendant sues.


Attorney for Defendant
First National Bank Building
Mobile, Alabama

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON


Attorney for Defendant
Fairhope, Alabama

Defendant demands trial of this cause by jury.

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing pleading to William H. Hardie, Jr., Esq., Attorney for Plaintiff, by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Mobile, Alabama on this, the 13 day of July, 1968.

FILED

JUL 2- 1968

ALICE J. DUCK CLERK
REGISTER