

KENDALL  
Johnston, Johnston & ~~XXXX~~

Attorneys

810 San Antwerp Building

Mobile, Alabama 36601

Telephone 432-1811

Samuel M. Johnston  
William F. Johnston  
Samuel M. Johnston, Jr.  
~~XXXXXX~~

Mailing Address  
P. O. Box 550  
Mobile, Alabama

August 14, 1969

Robert G. Kendall, III

Mrs. Alice J. Duck  
Clerk of the Circuit Court  
Baldwin County Courthouse  
Bay Minette, Alabama 36507

Re: James Irvine and Clara Irvine  
vs. Smith-Kelly Supply Company  
Case Nos. 8229 and 8230

Dear Mrs. Duck:

We understand that the above cases have been  
dismissed by Norborne Stone, and we would appreciate  
your sending us cost bills.

Thank you for your help.

Yours very truly,

JOHNSTON, JOHNSTON & KENDALL

By Robert G. Kendall  
Robert G. Kendall

RGK:cl

cc: Norborne C. Stone, Esq.

STATE OF ALABAMA

IN THE CIRCUIT COURT - LAW SIDE

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Smith-Kelly Supply Company, Inc. and Michael L. Taylor 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, Alabama, At Law, by Clara W. Irvine.

Witness my hand this 23 day of July, 1968.

Richard Duck  
Clerk

CLARA W. IRVINE,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
SMITH-KELLY SUPPLY	X	AT LAW
COMPANY, INC. and	X	
MICHAEL L. TAYLOR,	X	# 8229
Defendants.	X	

COUNT ONE:

The Plaintiff claims of the Defendants Twenty Thousand Dollars (\$20,000.00) as damages for that on heretofore, to-wit: the 27th day of July, 1967, the Defendant, Michael L. Taylor, the agent, servant or employee of the Defendant Smith-Kelly Supply Company, Inc., and who was then and there acting within the line and scope of his employment as such, so negligently operated a

motor vehicle on U. S. Highway 90 at its intersection with Relham Drive in Loxley, Baldwin County, Alabama, as to cause or allow the same to run into, upon and against an automobile being then and there operated by the Plaintiff, and as a proximate consequence and result of the negligence of the Defendant Michael L. Taylor aforesaid, while acting within the line and scope of his employment as the agent, servant or employee of the Defendant, Smith-Kelly Supply Company, Inc., the Plaintiff sustained serious personal injuries in this: her back was injured, she was caused to have and continues to have muscle spasms in her back and neck, she suffers severe headaches and discomfort, she was made sick, sore and lame, she was caused to incur medical and drug bills in and about the care and treatment of her injuries, she was made nervous, and she was caused great mental pain and suffering; all to her damage aforesaid wherefore she brings this suit and asks judgment in the above amount.

COUNT TWO:

The Plaintiff claims of the Defendants Twenty Thousand Dollars (\$20,000.00) as damages for that on heretofore, to-wit: the 27th day of July, 1967 on U. S. Highway 90 at its intersection with Relham Drive in the Town of Loxley, Baldwin County, Alabama, the Defendant, Smith-Kelly Supply Company, Inc., acting by and through its agent, servant or employee, the Defendant Michael L. Taylor, who was then and there acting within the line and scope of his employment as such, wantonly injured the Plaintiff by then and there wilfully and wantonly operating a motor vehicle so as to cause the same to run into, upon and against an automobile being then and there operated by the Plaintiff and as a proximate consequence and result of the wilful and wanton conduct of the Defendants aforesaid, the Plaintiff was injured in this: her back

was injured, she was caused to have and continues to have muscle spasms in her back and neck, she suffers severe headaches and discomfort, she was made sick, sore and lame, she was caused to incur medical and drug bills in and about the care and treatment of her injuries, she was made nervous, and she was caused great mental pain and suffering; all to her damage aforesaid wherefore she brings this suit and asks judgment in the above amount.

CHASON, STONE & CHASON

By: John E. Chason  
Attorneys for Plaintiff

The Plaintiff respectfully demands  
a trial of this cause by a jury.

CHASON, STONE & CHASON

By: John E. Chason  
Attorneys for Plaintiff

ADDRESSES FOR SERVICE:

Smith-Kelly Supply Company, Inc.  
450 South Royal Street  
Mobile, Alabama

Michael L. Taylor  
Route 1, Box 148C  
Citronelle, Alabama

FILED

JUL 23 1968

ALICE J. DUCK CLERK  
REGISTER

Received 25<sup>th</sup> Day of July 1968  
and on 1<sup>st</sup> Day of Aug. 1968  
I served a copy of the within SD 86  
on Smith-Kelly Supply Co., Inc.  
by service on Mr. Walker, Auditor

RAY D. BRIDGES, Sheriff  
By L. J. Tullman D.S.

RETURNED 8-2-68  
Michael L. Taylor  
Not found in my county after diligent search and inquiry.  
RAY D. BRIDGES, Sheriff  
By W. E. Esler D.S.

gar  
Full Co. No. 4909

W  
R No. 6229

Clara W. Irvine

VS  
Smith-Kelly Supply Co.  
Inc.  
Michael L. Taylor

FILED

JUL 23 1968

ALICE J. DUCK CLERK  
REGISTER

Chas. and Stone & Chas.

CLARA IRVINE, : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
VS. : AT LAW  
SMITH-KELLY SUPPLY COMPANY, :  
INC., and MICHAEL L. TAYLOR :  
Defendants. : CASE NO. 8229  
:

A N S W E R

Comes now the defendant in the above styled cause  
and for answer to the complaint says:

1. Not Guilty.

JOHNSTON, JOHNSTON & NETTLES  
Attorneys for Smith-Kelly Supply  
Company, Inc.

BY

William E. Johnston

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for  
all parties in the foregoing matter with a copy of this  
pleading by depositing in the United States Mail a copy of  
same in a properly addressed envelope with adequate postage  
thereon.

This 16<sup>th</sup> day of June, 1969

William E. Johnston  
Attorney for

FILED

JUN 18 1969

ALICE J. DUCK CLERK  
REGISTER

STATE OF ALABAMA

IN THE CIRCUIT COURT - LAW SIDE

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Smith-Kelly Supply Company, Inc. and Michael L. Taylor 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, Alabama, At Law, by Clara W. Irvine.

Witness my hand this 23 day of July, 1968.

*Alvin J. ...*  
Clerk

CLARA W. IRVINE,

X

Plaintiff,

X

IN THE CIRCUIT COURT OF

X

BALDWIN COUNTY, ALABAMA

vs.

X

X

AT LAW

SMITH-KELLY SUPPLY  
COMPANY, INC. and  
MICHAEL L. TAYLOR,

X

# 8229

X

Defendants.

X

COUNT ONE:

The Plaintiff claims of the Defendants Twenty Thousand Dollars (\$20,000.00) as damages for that on heretofore, to-wit: the 27th day of July, 1967, the Defendant, Michael L. Taylor, the agent, servant or employee of the Defendant Smith-Kelly Supply Company, Inc., and who was then and there acting within the line and scope of his employment as such, so negligently operated a

motor vehicle on U. S. Highway 90 at its intersection with Relham Drive in Loxley, Baldwin County, Alabama, as to cause or allow the same to run into, upon and against an automobile being then and there operated by the Plaintiff, and as a proximate consequence and result of the negligence of the Defendant Michael L. Taylor, aforesaid, while acting within the line and scope of his employment as the agent, servant or employee of the Defendant, Smith-Kelly Supply Company, Inc., the Plaintiff sustained serious personal injuries in this: her back was injured, she was caused to have and continues to have muscle spasms in her back and neck, she suffers severe headaches and discomfort, she was made sick, sore and lame, she was caused to incur medical and drug bills in and about the care and treatment of her injuries, she was made nervous, and she was caused great mental pain and suffering; all to her damage aforesaid wherefore she brings this suit and asks judgment in the above amount.

COUNT TWO:

The Plaintiff claims of the Defendants Twenty Thousand Dollars (\$20,000.00) as damages for that on heretofore, to-wit: the 27th day of July, 1967 on U. S. Highway 90 at its intersection with Relham Drive in the Town of Loxley, Baldwin County, Alabama, the Defendant, Smith-Kelly Supply Company, Inc., acting by and through its agent, servant or employee, the Defendant Michael L. Taylor, who was then and there acting within the line and scope of his employment as such, wantonly injured the Plaintiff by then and there wilfully and wantonly operating a motor vehicle so as to cause the same to run into, upon and against an automobile being then and there operated by the Plaintiff and as a proximate consequence and result of the wilful and wanton conduct of the Defendants aforesaid, the Plaintiff was injured in this: her back



was injured, she was caused to have and continues to have muscle spasms in her back and neck, she suffers severe headaches and discomfort, she was made sick, sore and lame, she was caused to incur medical and drug bills in and about the care and treatment of her injuries, she was made nervous, and she was caused great mental pain and suffering; all to her damage aforesaid wherefore she brings this suit and asks judgment in the above amount.

CHASON, STONE & CHASON

By: John E. Chason  
Attorneys for Plaintiff

The Plaintiff respectfully demands  
a trial of this cause by a jury.

CHASON, STONE & CHASON

By: John E. Chason  
Attorneys for Plaintiff

ADDRESSES FOR SERVICE:

Smith-Kelly Supply Company, Inc.  
450 South Royal Street  
Mobile, Alabama

Michael L. Taylor  
Route 1, Box 148C  
Citronelle, Alabama

FILED

JUL 23 1968

ALICE J. DUCK

CLERK  
REGISTER

was injured, she was caused to have and continues to have muscle spasms in her back and neck, she suffers severe headaches and discomfort, she was made sick, sore and lame, she was caused to incur medical and drug bills in and about the care and treatment of her injuries, she was made nervous, and she was caused great mental pain and suffering, all to her damage aforesaid wherefore she brings this suit and asks judgment in the above amount.

CHASON, STONE & CHASON

By: [Signature]  
Attorneys for Plaintiff

12 to 22 p

Lives in Fairview  
May 98 (Baird)

Citronelle,

Michael Taylor  
At 1 Box 1480-C

~~Post Office~~ ~~Box~~ ~~1480-C~~

The Plaintiff respectfully demands a trial of this cause by a jury.

CHASON, STONE & CHASON

By: [Signature]  
Attorneys for Plaintiff

ADDRESSES FOR SERVICE:

Smith-Kelly Supply Company, Inc.  
450 South Royal Street  
Mobile, Alabama

Michael L. Taylor  
Route 1, Box 1480  
Citronelle, Alabama

FILED

JUL 23 1968

ALICE J. DUCK  
REGISTERED  
CLERK

CLARA W. IRVINE,

Plaintiff

: IN THE CIRCUIT COURT OF  
BALDWIN  
: ~~MOBILE~~ COUNTY, ALABAMA

vs.

SMITH-KELLY SUPPLY COMPANY,  
INC., and MICHAEL L. TAYLOR,

CASE NO. 8229

Defendants.

NOTICE OF TAKING OF DEPOSITION UPON ORAL EXAMINATION

TO: Hon. Norborne C. Stone  
Attorney at Law  
Bay Minette, Alabama

Please take notice that at 6:00 o'clock p.m. Central  
Daylight  
Standard Time on Monday, the 16 day of June  
1969, at 1710 Center Street, Mobile, Alabama  
Defendant in the above entitled cause, will take the deposition  
of Dr. Frederick H. DeVane, whose address is 1710 Center Street  
, Mobile, Alabama, upon oral examination pursuant to an  
act of the legislature of the State of Alabama, designated  
as Act No. 375, Regular Session, 1955, approved September 8,  
1955, before Charles A. Howard, a Notary Public in and for  
the County of Mobile, State of Alabama, who is duly authorized  
to take depositions and swear witnesses in and for said County  
in said State. The examination will continue from day to day  
until completed. You are invited to attend and examine this  
witness.

JOHNSTON, JOHNSTON & NETTLES

BY

Robert G. Kendall  
ATTORNEYS FOR DEFENDANT

I, Robert G. Kendall, attorney for Smith-Kelly Supply  
Company Defendant in the above entitled cause, do hereby  
certify that I served the above and foregoing notice to take  
the deposition of Dr. Frederick H. DeVane, upon oral  
examination by leaving the same with Hon. Norborne C. Stone  
or mailing a copy to him, postage prepaid, at his law  
office in (or at) Bay Minette, Alabama, on the  
11 day of June, 1969.

FILED

JUN 12 1969

ALICE J. DUCK

CLERK  
REGISTER

Robert G. Kendall

CLARA W. IRVINE,  
Plaintiff,

vs.

SMITH-KELLY SUPPLY  
COMPANY, INC. and  
MICHAEL L. TAYLOR,

Defendants.

X IN THE CIRCUIT COURT OF  
X BALDWIN COUNTY, ALABAMA

X

X AT LAW

X

X CASE NO. \_\_\_\_\_

D E M U R R E R

Comes now the defendant Smith-Kelly Supply Company, Inc. and demurs to the complaint and to each count thereof, separately and severally and assigns the following separate and several grounds:

1. For that said count fails to state a cause of action.
2. For that there is no allegation of any duty owed by this defendant to the plaintiff.
3. For that it is not alleged that this defendant breached any duty owed to the plaintiff.
4. For that it is not made to appear that the plaintiffs' automobile was on a public street or highway at the time of said accident.
5. For that it is not made to appear that the automobile allegedly being operated by an agent, servant or employee of this defendant was being operated on a public street or highway at the time of the accident.

JOHNSTON, JOHNSTON & NETTLES  
Attorneys for Smith-Kelly  
Supply Co., Inc.

BY Robert B. Kinslow

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 25 day of August, 1968  
Robert D. Kinsell  
Attorney for

**FILED**

AUG 28 1968

**ALICE J. DUCK** CLERK  
REGISTER

STATE OF ALABAMA

IN THE CIRCUIT COURT - LAW SIDE

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Smity-Kelly Supply Company, Inc. and Michael L. Taylor 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, Alabama, At Law, by James Irvine.

Witness my hand this 23 day of July, 1968.

Reice J. Neuch  
Clerk

JAMES IRVINE,

Plaintiff,

vs.

SMITH-KELLY SUPPLY  
COMPANY, INC., and  
MICHAEL L. TAYLOR,

Defendants.

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

COUNT ONE:

The Plaintiff claims of the Defendants Ten Thousand Dollars (\$10,000.00) as damages for that, on heretofore, to-wit: the 27th day of July, 1967, the Defendant Michael L. Taylor, who was then and there acting as the agent, servant or employee of the Defendant Smith-Kelly Supply Company, Inc., so negligently operated a motor vehicle on U. S. Highway 90 at its intersection with Relham Drive in Loxley, Baldwin County, Alabama, as to cause or allow the

same to run into, upon and against an automobile which Clara W. Irvine, who was then and is now the wife of the Plaintiff, was operating and as a proximate consequence and result of the negligence of the Defendant Michael L. Taylor, aforesaid, the said Clara W. Irvine suffered severe and permanent personal injuries and was made sick, sore and lame. As a proximate consequence of the injuries and sickness of the Plaintiff's wife, the Plaintiff lost the services and society of his said wife for a long period of time, and will likely continue to lose her said services and society for a long time, and the Plaintiff was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his efforts to heal and cure his said wife's injuries and sickness; wherefore, he brings this suit and asks judgment in the above amount.

CHASON, STONE & CHASON

By: John E. Chason  
Attorneys for Plaintiff

The Plaintiff respectfully  
demands a trial of this  
cause by a jury.

CHASON, STONE & CHASON

By: John E. Chason  
Attorneys for Plaintiff

ADDRESSES FOR SERVICE:

Smith-Kelly Supply Company, Inc.  
450 South Royal Street  
Mobile, Alabama

Michael L. Taylor  
Route 1, Box 148C  
Citronelle, Alabama.

FILED

JUL 23 1968

ALICE J. DUCK CLERK  
REGISTER

