

JAMES IRVINE,

Plaintiff

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

vs.

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

CASE NO. 8230

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*

JAMES 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. 8230

DEMURRER

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 high-  
way at the time of the accident.

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

BY

*William E. Johnston*

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 10th day of January, 1969  
William E. Johnston  
Attorney for defendant

FILED

JAN 15 1969

ALICE J. DUCK

CLERK  
REGISTER

JAMES 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. 8230  
:

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 Co. 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, 19 69

Attorney for

*William E. Johnston*

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 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.

James Irvine  
Clerk

JAMES 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	# 8230
Defendants.	X	

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. DICK CLERK  
REGISTER

84-8-1-68

Received 25 Day of July  
 and on 1 Day of July  
 I served a Copy of the within  
 on Smith - Kelly Supply Co, Inc  
 by service on Mr. Walberg Auditor  
 RAY D. BRIDGES, Sheriff  
 J. J. Johnson D. S.

RETURNED 8-2-68  
 Michael L. Taylor  
 Not found in my County after dili-  
 gent search and inquiry.  
 RAY D. BRIDGES, Sheriff  
 By W. Estes D. S.

JUL 23 1968  
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 Co. No. 4909  
 No. 82-30

James Irvine

vs.

Smith - Kelly  
 Supply Co, Inc  
 and  
 Michael L. Taylor

FILED

JUL 23 1968

ALICE J. DUCK  
 CLERK  
 REGISTER

Cham, Storer Cham

JAMES 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 D. Kendall*

**FILED**

AUG 28 1968

**ALICE J. DUCK** CLERK  
REGISTER

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 28 day of August, 1968

Robert B. Hall  
Attorney for