

VS

AT LAW.

Attorneys for defendant.

Robert Gray, Jr. 1904
Chas. A. Stone
1904

RECORDED
1904

THE STATE OF ALABAMA,
Baldwin County.

No. 45

CIRCUIT COURT

August Term, 1934

TO ANY SHERIFF OF THE STATE OF ALABAMA. GREETING:

You are hereby commanded, That of the goods and chattels, lands and tenements of

You are hereby commanded, That of the goods and chattels, lands and tenements of James Hoerka Plaintiff in the suit, you cause to be made the sum of _____ Dollars.

costs of suit, created by said Plaintiff _____, for that, whereas, on the 22 day of August 1934, the said Plaintiff _____ recovered by the Judgment of the said Circuit Court of said County, against _____

to the suit, the sum of Plaintiff takes a non-suit Defendant
besides Dollars Dollars cost of suit

~~upon which Judgment an Execution has been issued and returned by the Sheriff "No Property Found."~~

AND HAVE YOU THAT MONEY ready to render to

Clerk of said Court, and make return of this Writ and the execution thereof, according to law.

Witness my hand, this 11 day of Sept 1934

-Clerk.

[illegible]

Copy
No. 45 Page _____

THE STATE OF ALABAMA,
Baldwin County.
CIRCUIT COURT

James Hoerka
Plaintiff..

VS

G. B. Kerr
Defendant ..

Civil Execution for Costs
Against Plaintiff.

Costs, - - - \$ 11.35

Civil Fee Book H Page _____

Execution Docket H Page _____

Filed Sept 11, 1934

M. A. Stone, Clerk.

Hybart, Hard & Chason
Plaintiff's Attorney.

Beebe & Hall
Defendant's Attorney.

COLLECT COSTS FROM

The State of Alabama
BALDWIN COUNTY

I hereby certify that the within...
and costs in this case are correct, and there was
..... waiver of exemption as to personal pro-
perty under the Constitution and Laws of
Alabama.

This day of 193..

Clerk

Received in office

..... 193.....

Sheriff

Sheriff's Execution Docket, Page

Sheriff's Fee Book, - - - Page

Sheriff.

THE STATE OF ALABAMA,
Baldwin County.

By virtue of the within Execution, I have at

o'clock M., this day of 193....., levied

(page two)

miles east of Robertsedale, Alabama, on said highway, the Defendant who was then and there driving an automobile willfully and wantonly ran said automobile against the body of James Hoerka Jr., Deceased, and as a proximate cause thereof the said James Hoerka Jr., Deceased, was killed.

Hybart, Head & Shanon
Attorneys for Plaintiff.

Plaintiff demands a trial of

this cause by jury.

Hybart, Head & Shanon
Attorneys for Plaintiff.

STATE OF ALABAMA,
BALDWIN COUNTY.

IN THE CIRCUIT COURT-LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:-

You are hereby commanded to summon G. B. Kerr to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the Complaint of James Hoerka.

Witness my hand this 4th day of May, 1934.

W. J. Stone
Clerk.

COMPLAINT.

JAMES HOERKA,

Plaintiff,

-VS-

G. B. KERR,

Defendant.

IN THE CIRCUIT COURT-LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

1st. The Plaintiff, as the father of James Hoerka Jr., Deceased, claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) for in this:- That while the said James Hoerka Jr., Deceased, a minor about seven years of age, was traveling along that certain highway which leads from Robertsdale to Pensacola, Florida, on ^{the} 6th day of March, 1934, and at a point about two miles east of Robertsdale, Alabama, on said highway, the Defendant who was then and there driving an automobile negligently ran said automobile against the body of James Hoerka Jr., Deceased, and as a proximate cause thereof the said James Hoerka Jr., Deceased, was killed.

2nd. The Plaintiff, as the father of James Hoerka Jr., Deceased, claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) for in this:- That while the said James Hoerka Jr., Deceased, a minor about seven years of age, was traveling along that certain highway which leads from Robertsdale to Pensacola, Florida, on ^{the} 6th day of March, 1934, and at a point about two
(page one)

SUMMONS & COMPLAINT.

JAMES HOERKA,

Plaintiff,

--VS--

G. B. KERR,

Defendant.

IN THE CIRCUIT COURT--LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

Filed May 14th, 1934

Clerk.

LAW OFFICES

HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA

Executed May 9th 1934
by serving copy of within Summons and
Complaint on

Kerr the
Defendant

W. K. Chason
Deputy Sheriff

W. K. Chason

Circuit Court, Baldwin County

#45 1/2

James Horvath

VS.

W. J. B. Kerr

PLAINTIFF

DEFENDANT

BILL OF COST

CLERK'S FEES		Dollars	Cts.	AMOUNT BROUGHT FORWARD		\$	Cts.
Issuing Summons and Complaint	\$1 25	1	25	Transcript to Supreme Court, 15c per hundred words			
Copies of same, when over 200 words, 15c per 100	30		30	Copies, 5c per hundred words			
Issuing Alias Summons and Complaint	1 25			Citation to Appellee in Appeal, 20c per hundred words			
Entering Sheriff's Return on Summons and Complaint	20		20	Certificate with Seal, 50c. Without Seal	25		
Docketing Cause 25c. Ent. Appearance, 20c	45		45	Witness Certificate	25		
Subpoena for Witness	30			Taking Bond Not Above Mentioned	75		
Making Certificate of Judgment	50			Entering Order of Court not above named	30		
Filing	10		30	Administering Oath	25		
Trial and Incidents	75			Taking Bond for Costs of Non-Resident Plaintiff	75		
Entering Judgment, or copy of same	30			Copy of any paper not above named, 15c per hundred words			
Order for Continuance	10			Filing Writ of Prohibition and Entering Return	15		
Issuing Execution	50			Issuing Writ of Prohibition	75		
Docketing Execution	25			Issuing copies of same, 15c per 100 words			
Issuing copy of same	50			Filing Mandamus and Entering Return	15		
Entering Sheriff's Return on Execution, 15c per hundred words	20			Issuing Writ of Mandamus	75		
Final Record, 15c per hundred words			50	Issuing copies of same, 15c per 100 words			
Order for Alias Summons and Complaint	30		30	Total Clerk's Fees		4	30
Order to Dismiss Cause	30			SHERIFF'S FEES			
Order to Set Aside Dismissal	30			Serving and Returning Summons	\$1 50	1	50
Order Overruling Motion to Set Aside Dismissal	75			Serving and Returning Subpoenas	65		
Order Granting New Trial	30			Collecting Execution for Costs	1 50		
Order Overruling Motion for New Trial	30			Serving and Returning Sci. Fa. Notice, etc.	65		
Order Overruling Motion for Continuance	30			Executing Writ of Possession	2 50		
Order Overruling Motion to Set Aside Default	30			Levying Attachment	3 00		
Order for Notice to Non-Resident Defendant	30			Entering and Returning Attachment	25		
Issuing Notice for Publication and Copy 20c per hundred words				Entering and Returning Execution	25		
Order to Give Security for Costs	30			Summoning and Returning Garnishee	1 50		
Order to Give Additional Bond	30			Taking and Approving Garnishee Bond	75		
Order to Execute Writ of Inquiry	30			Serving and Returning Writs	1 50		
Order of Sale in Attachment	30			Serving and Returning Summons on Forcible Entry	1 00		
Order for Leave to Amend Complaint	30			Executing Writ of Restitution in such cases	2 00		
Order for Leave to Amend Pleas	30			Taking and Approving Bonds of Every Kind	1 00		
Order for Leave to Amend Writ of Process	30			Taking and Approving Claim Bond	1 00		
Order for Attachment for Witness	30			Taking and Approving Forthcoming Bond	1 00		
Filing Deposition	10			Taking and Approving Bail Bond	1 00		
Issuing Commission to Take Deposition	75			Taking and Approving Plaintiff's Detinue Bond	1 00		
Issuing copy of same, per hundred words	15			Taking and Approving Defendant's Detinue Bond	1 00		
Issuing Copy of Interrogatories, 15c per hundred words, but not less than	50			Making Deed	2 50		
Endorsing each Pet. Deposition Opened	10			Serving Attachment for Contempt of Court	1 50		
Taking Bond in Garnishment on Summons	75			Collecting Money on Execution			
Summons to Garnishee	50			Empanelling Jury	75		
Copies of same, 20c per hundred words				Sheriff's Commission for Property Sold under Attachment			
Notice to Defendant in Garnishee on Summons, and copy, per hundred words	20			Seizing Personal Property on Writ of Detinue	3 00		
Swearing Garnishee and Recording Answer, 15c per hundred words, but not less than	50			Total Sheriff's Fees		1	50
Filing Attachment	10			RECAPITULATION			
Issuing Attachment Writ and Taking Bond	1 00			Judgment			
Issuing Copies of Attachment Writ, 15c per hundred words				Interest			
Filing Certiorari and Entering Return	15			Clerk's Fees		4	30
Taking Certiorari Bond and Filing Same	75			Sheriff's Fees		1	50
Issuing Writ of Certiorari	75			Justice's Fees			
Issuing copies of same, 15c per 100 words				Constable's Fees			
Issuing Writ of Scieri Facias, or Notice in Nature of	75			Witnesses' Fees			
Issuing copies of same, 15c per 100 words				Commissioners' Fees			
Taking Supersedeas Bond and Filing same	75			Printer's Fees			
Taking Appeal Bond and Filing same	75			Stenographer's Fees	5 00		
				Answer of Garnishee			
				Trial Tax	3 00	3	00
TOTAL FORWARDED		4	30	Total	\$	8	80

Received payment this _____ day of _____ 193 _____

ATTEST

Clerk Circuit Court, Baldwin County, Ala,

Circuit Court, Baldwin County

No. 115 1/2

VS.

Civil Cost Bill

Paid _____ 193 _____

Clerk. _____

MOORE PRINTING CO., DAY MINETTE, ALA.

\$ 6.00

25 1

05

56 1

01

61

11.20

8.80

20.00

115 1/2

clerk 4.30

Sho 5.50

JX 3.00

8.80

115

clerk 4.95

Sho 3.25

JX 2.00

11.20

STATE OF ALABAMA,
BALDWIN COUNTY.

IN THE CIRCUIT COURT-LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:-

You are hereby commanded to summon W. J. B. Kerr to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the Complaint of James Hovorka.

Witness my hand this 24th day of May, 1954.

M. D. Stoney

Clerk

COMPLAINT.

JAMES HOVORKA,

Plaintiff,

-vs-

W. J. B. KERR,

Defendant.

IN THE CIRCUIT COURT-LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

1st. The Plaintiff, as the father of James Hovorka Jr., Deceased, claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) for in this:- That while the same James Hovorka Jr., Deceased, a minor about seven years of age, was traveling along that certain highway which leads from Robertsdale to Pensacola, Florida, on the 6th day of March, 1954, and at a point about two miles east of Robertsdale, Alabama, on said highway, the Defendant who was then and there driving an automobile negligently ran said automobile against the body of James Hovorka Jr., Deceased, and as a proximate cause thereof the said James Hovorka Jr., Deceased, was killed.

2nd. The Plaintiff, as the father of James Hovorka Jr., Deceased, claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) for in this:- That while the said James Hovorka Jr., Deceased, a minor about seven years of age, was traveling along that certain highway which leads from Robertsdale to Pensacola, Florida, on the 6th day of March, 1954, and at a point about two

(page two)

miles east of Robertsdale, Alabama, on said highway, the Defendant who was then and there driving an automobile willfully and wantonly ran said automobile against the body of James Hovorka Jr., Deceased, and as a proximate cause thereof the said James Hovorka Jr., Deceased, was killed.

J. H. H. Heard & Chason
Attorneys for Plaintiff.

Plaintiff demands a trial of

this cause by jury.

J. H. H. Heard & Chason
Attorneys for Plaintiff.

200-80

SUMMONS & COMPLAINT.

JAMES NOVORKA,

plaintiff,

-VS-

W. J. B. KERR,

defendant.

Mar Silver Hill

IN THE CIRCUIT COURT-LAW SIDE
STATE OF ALABAMA
BALDWIN COUNTY.

Filed May 24th, 1934.

[Signature]
Clerk.

LAW OFFICES
HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA

Served May 26th 1934
by serving copy of within Summons and
Complaint on

W J B Kerr

W R Stuart Sheriff
By *M H Wilkins* Deputy Sheriff

JAMES HOVORKA,

Plaintiff,

VS

W.J.B. KERR,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

Comes the defendant in the above styled cause and
and to each count of the complaint and demurs
demurs to the complaint of the plaintiff, and says ;

1. Said complaint does not state a cause of action.
2. For aught that appears from the said complaint James Hovorka Jr. was not lawfully upon the highway upon which the alleged action occurred.
3. For aught that appears from said complaint, the said James Hovorka Jr., was a trespasser upon the highway upon which the said accident is alleged to have occurred.
4. Said complaint does not allege the negligence of which the plaintiff is alleged to have been guilty.
5. The allegation of negligence of said complaint is a conclusion of the pleader.
6. Said complaint does not allege facts showing negligence on part of defendant.

It is not alleged that the act complained of occurred in Baldwin County
Boone & Hall
Attorneys for defendant.

RECORDED

James Hovorka,

VS.

W.J.B.Kerr,

Demurrers

Filed June 1st, 1934.

W. A. [Signature]

REGISTER

JAMES HOVORKA,

Plaintiff,

-vs-

W. J. B. KERR,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Comes the Defendant, and for answer to the Plaintiff's complaint, and to each Count thereof, separately and severally, says:

ONE:

That the facts therein alleged are untrue.

TWO:

That he is not guilty of the facts alleged.

THREE:

That the said James Hovorka, Jr., was a minor over eight years of age; that he lived on or near the said highway; had occasion to travel along or over said highway almost daily, and had the opportunity to observe and knew that numerous cars passed along the said highway during the day; that he had sufficient age, judgment, and discretion to appreciate, and did realize and appreciate the danger of traveling along or crossing said highway without keeping a look out for approaching automobiles; that on the date and at the time alleged he suddenly ran in front of the approaching automobile of the defendant without stopping to look, which negligence proximately contributed to the injuries complained of.

FOUR:

That the said James Hovorka, Jr. was a minor over eight years of age; that he lived on or near the said highway; had occasion to travel along or over said highway almost daily, and had the opportunity to observe and knew that numerous cars passed along the said highway during the day; that he had sufficient age, judgment and dis-

cretion to appreciate, and did realize and appreciate the danger of traveling along or crossing said highway without keeping a look out for approaching automobiles; that on the date and at the time alleged he attempted to cross over the said highway without stopping to look for and observe the approaching automobile of the defendant, which negligence proximately contributed to the injuries complained of.

FIVE:

That the Plaintiff, who was the father of the decedent, James Hovorka, Jr., a minor over eight years of age, was guilty of negligence which proximately contributed to the injuries alleged, in that he permitted the said decedent to travel over or along the alleged highway, knowing that numerous cars passed over the same, without an adult or person of mature age to care for him.


Beebe Hall
Attorneys for the Defendant.

43 1/2 July
RECORDED

JAMES HOVORKA,
Plaintiff,

-VS-

W. J. B. KERR,
Defendant.

PLEAS

Filed August 22, 1934.

W. A. Stone
Clerk.

BEEBE & HALL
LAWYERS
BAY MINETTE, ALA.

JAMES HOVORKA,

Plaintiff,

-VS-

W. J. B. KERR,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

In the above named suit, the said Plaintiff, as the father of James Hovorka Jr., seeks damages for the death of James Hovorka Jr., alleged to have been caused by the negligence of the said W. J. B. Kerr, and the parties to the said cause have agreed to the following settlement:

The said W. J. B. Kerr will pay to the said James Hovorka Sr., the sum of Two Hundred Twenty-five (\$225.00) in full settlement of all damages and expenses recoverable in said suit, whether specifically claimed therein or not. The Plaintiff agrees to pay the costs in said suit.

The said James Hovorka Sr., agrees and does hereby accept said sum of Two Hundred Twenty-five (\$225.00) in full settlement of the said suit and any and all damages and expenses which he might recover therein, and does hereby acknowledge receipt of the said Two Hundred Twenty-five Dollars (\$225.00), and consents and directs that the said cause be dismissed and to pay said costs.

A copy of this agreement for settlement shall be filed in the said cause and the said cause dismissed.

JAMES HOVORKA SR.,

By


As his Attorney-of-Record.

W. J. B. KERR,

By


As his Attorney of Record.

43
Civil Jury
~~CHASON~~

AGREEMENT.

JAMES HOVORKA,

Plaintiff,

-VS-

W. J. B. KERR,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Filed January 19, 1935

Robert S. Quirk
Clerk.

LAW OFFICES
HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA