

CLYDE GENTRY,

Plaintiff

vs.

W. V. PHILLIPS,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

Now comes the defendant in the above cause and demurs to the complaint therein, which consists of one count, and as grounds for such demurrer assigns the following:

1. Because said complaint shows no duty on the defendant to do otherwise than he did do.
2. Because there are no facts averred to show that the defendant breached any duty he was owing the plaintiff.
3. For aught that appears in said complaint the defendant owed the plaintiff no duty at the time and place of the matters complained of.

Merino Sam, Jr.
Gordon Emerson T. Smith
ATTORNEYS FOR DEFENDANT

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 Duck



Demurra

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CLYDE GENTRY,
Plaintiff,
vs.
W. V. PHILLIPS,
Defendant.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

Now comes the defendant and for pleas to counts

 , ~~each separately and severally~~, says:

1st. Not guilty.

2nd. For further plea, defendant says that plaintiff was guilty of negligence which proximately contributed to his injuries as alleged in that he was riding in a truck driven by T. J. Aplin, and which truck was in the collision with the defendant's truck at the time and place of matters complained of; that plaintiff knew and saw that the said Aplin was driving his truck on his left-hand side of the road, and further saw and knew that a truck (and which was defendant's truck) was meeting them on said road, and was traveling on its right side of said road; that plaintiff saw and knew that the said Aplin was making no effort to get off of said wrong side of said road and on to his right side of said road, and further knew that there was no obstruction on his right side of said road and that it was free from traffic and there was ample space for him to pass said truck which he was meeting in safety by returning to his right side of said road; that notwithstanding the above facts, and the further fact that plaintiff knew that a collision would occur if Aplin did not change his course, plaintiff negligently failed to do or say anything to avoid or prevent such collision, and as a proximate result of such negligence suffered the injuries complained of.

3rd. For further plea, defendant says that the plaintiff was guilty of negligence which contributed

proximately to his alleged injuries in that the driver of the truck in which he was riding was driving said truck on the wrong and left-hand side of said road, and that a truck was meeting them, traveling in the opposite direction from them, and that said truck was traveling on its right and proper side of said road, and all of which was known to plaintiff; that plaintiff was sitting on the front seat of said truck with the driver and was in easy reach of the brakes, the steering wheel and ignition of said truck, and which control the movement of said truck, and he saw and knew that said trucks were traveling and approaching each other on the same side of said road, and also knew that the drivers of said trucks, nor either of them, were making any effort to change his course or direction and avoid a collision; plaintiff further knew that unless one of the drivers should change his course or direction that a collision was inevitable, and further knew that the driver of the truck in which he was riding had ample time and space to get back safely on his proper side of said road, and that his said proper side of the road was free from traffic and obstructions; and defendant further avers that notwithstanding the above facts and knowledge on the part of plaintiff he negligently failed to do or say anything to avoid or prevent said collision which cause his said alleged injuries, having had ample time and opportunity to do so, and as a proximate result of his said negligence he suffered the injuries alleged, wherefore the defendant is not liable.

Mum C. Down
London & Down T. Smith
ATTORNEYS FOR DEFENDANT

RECORDED
Clyde Gentry, Piff
7-15-47

W. V. Phillips
Says

Phos.

Filed Aug 20 1947
Ruth G. Duck
Chas.

1947

STATE OF ALABAMA,
BALDWIN COUNTY.

IN THE CIRCUIT COURT-LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:-

You are hereby commanded to summon W. V. Phillips 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 Clyde Gentry.

Witness my hand this 2² day of April, 1935.

Robert S. Duck
Clerk.

COMPLAINT.

CLYDE GENTRY,

Plaintiff,

-vs-

W. V. PHILLIPS,

Defendant.

IN THE CIRCUIT COURT-LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

The Plaintiff claims of the Defendant the sum of Five Hundred Dollars (\$500.00) damages, for in this:- That while he was riding as a passenger in the automobile truck of T. J. Applin in the town of Stockton, Alabama, along that certain public highway running from Bay Minette, Alabama, to Uriah, Alabama, where he had a right to be, on, to-wit, November 26th, 1934, the Defendant, who was then and there operating an automobile truck along said highway, negligently ran the same into or against the automobile truck that Plaintiff was traveling in, and as a proximate result of said negligence Plaintiff's hand was caused to be cut, three of his ribs were broken, his body was badly bruised, that he was confined to his bed for a period of, to-wit, thirty days, that he was rendered incapacitated to do any work for a period of, to-wit, sixty days, all of which time he was forced to remain unemployed, that he was forced to contract obligations for medical services, and that he also suffered great

(page two)

mental and physical pain, all to his damage in the sum as aforementioned.

Hypert, Heard & Hanson
Attorneys for Plaintiff.

Plaintiff demands a trial of
this cause by Jury.

Hypert, Heard & Hanson
Attorneys for Plaintiff.

S.D.P-17
Rec. in office
4/22/35
M. H. Wilkins
Deputy Sheriff

Executed May 7 1935
by serving copy of within Summons and
Complaint on
W. V. Phillips

M. H. Wilkins Sheriff

Deputy Sheriff

Arch
SUMMONS & COMPLAINT.

CLYDE GENTRY,
Plaintiff,
-VS-
W. V. PHILLIPS,
Defendant.

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

Filed April 22, 1935
Robert S. Buck
Clerk.

LAW OFFICES
HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA