

T. J. APLIN, : IN THE CIRCUIT COURT OF
Plaintiff, :
vs. : BALDWIN COUNTY, ALABAMA.
W. V. PHILLIPS, :
Defendant :

Now comes the defendant, and for pleas to
counts 1 and 2, ^{as amended,} each separately and severally, says:

1st. Not guilty.

2nd. For further plea the defendant says that the plaintiff was guilty of negligence which proximately contributed to the alleged injuries and damages in this- Thatat the time and place of the matters complained of, the plaintiff was driving a truck in a northerly direction on said alleged road, and that defendant's truck was going in a southerly direction on said road, meeting each other; that just before the said trucks met each other, the plaintiff who was then and there driving his said truck on his right side of the road, turned and drove said truck on his left hand side of the road, and on which side of said road defendant's truck was lawfully traveling; that while plaintiff was so driving his truck on said wrong side of said road and just as it was getting in dangerous proximity of defendant's truck and plaintiff was making no effort to get back on his proper side of the road, the driver of defendant's truck in an effort to avoid a collision turned his truck to his left, and thereupon the plaintiff negligently turned back to his right and drove his truck upon or against defendant's truck and as a proximate result thereof, plaintiff suffered the damages and injuries alleged, whereupon the plaintiff should not recover.

3rd. For further plea the defendant says that the plaintiff was guilty of negligence which proximately contributed to his injuries and damages in this- At about the time and place of the matters complained of the defendant's truck was being driven on its right and

proper side of said road in a southerly direction, and the plaintiff was on his right side of said road going in a northerly direction, meeting each other; that just before the said trucks collided, the plaintiff turned and drove his truck on his left-hand side of the road, and when it had gotten within a few feet and in dangerous proximity to defendant's truck, and plaintiff was making no effort to get back on his proper side of the road, the driver of defendant's truck turned his truck toward the center of the road, and whereupon the plaintiff negligently turned his truck in the same direction and ran upon or against defendant's truck and as a proximate result of said negligence on his part, plaintiff suffered the alleged damages.

4th. For further plea the defendant says that the plaintiff ought not to recover for that he was guilty of negligence which proximately contributed to his alleged damages in that he negligently was driving his truck on his left-hand side of the road although he saw and knew that defendant's truck was meeting him on said side of said road, and which was its proper side of the road, and plaintiff saw and knew that the driver of said truck was trying to avoid a collision with his (plaintiff's) said truck, and which negligence contributed proximately to the alleged damages.

5th. For further plea, the defendant says that the plaintiff ought not to recover in this cause for that he was guilty of negligence which was the proximate cause of his alleged damages, in that plaintiff at the time and place of the matters alleged was driving his truck on the left-hand and wrong side of the alleged road, and saw and knew that a truck, and which was this defendant's truck, was meeting him and which latter truck was on its proper side of the road; that notwithstanding these facts the plaintiff continued to drive his truck on the wrong side of said road, his proper side of the road

being all the while open and unobstructed, until it got within a few feet and in dangerous proximity of defendant's truck; that defendant's driver seeing and knowing that plaintiff was making no effort to get on his right and proper side of said road turned his truck sharply to his left side of the road to avoid a collision and when his said truck had reached about the center of said road then plaintiff then and there negligently turned his truck back toward the proper side of said road, ran upon or against defendant's truck, shoving it across said road, which said negligence was the proximate cause of plaintiff's damages.

Wm. C. Jones
Gordon, Langster & Smith
ATTORNEYS FOR DEFENDANT.

RECORDED

J. J. Appier Duck
7-118
Off

W. V. Phillips,
Mys.

Phas:

Filed Aug 20 - 1935
Rufus S. Dean
Phas

T. J. APPLIN,

Plaintiff

vs.

W. V. PHILLIPS,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

Now comes the defendant and demurs to Counts 1 and 2, each separately and severally, and as grounds therefor as to each count, separately and severally, assigns the following:

1. Because said count fails to allege that plaintiff's alleged damages were the proximate result of any negligence on the part of the defendant.

2. Because it is not averred or shown in said count that the defendant's damages resulted from any negligence on the part of this defendant.

The defendant further demurs to Count 1 of said complaint upon the following grounds:

(a) Because the averment "was so badly bent and broken that it was rendered practically of no value" is but the conclusion of the pleader and no facts are averred to support such conclusion.

(b) Because it is not averred with any degree of definiteness as to what parts of said automobile truck were injured.

(c) Because the injury alleged to have been occasioned ~~to~~ plaintiff's automobile truck is not alleged with sufficient definiteness to inform the defendant of what he is called upon to defend.

Wm. Dorn
Gordon E. Smith
ATTORNEYS FOR DEFENDANT

civil ~~jury~~ **RECORDED**
Duck
7-45-8

J. J. Applin

VS

W. V. Phillips

Demurrers

Filed May 22 1935
Robert L. Duck
Dennis R. Duck
Diplomas as amended
Aug. 28 1935
Robert L. Duck

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 T. J. Applin.

Witness my hand this 22 day of April, 1935.

Robert S. Duck
Clerk.

COMPLAINT.

T. J. APPLIN,

Plaintiff,

-vs-

W. V. PHILLIPS,

Defendant.

IN THE CIRCUIT COURT--LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

COUNT 1: The Plaintiff claims of the Defendant the sum of Six Hundred Dollars (\$600.00) as damages, for in this:- That while he, Plaintiff, was operating an automobile truck on the public highway that leads from Bay Minette, Alabama, to Uriah, Alabama, on November 28th, 1934, at Stockton, Alabama, the Defendant then and there negligently ran an automobile truck against the automobile truck of the Plaintiff, and as a proximate ^{result} ~~cause~~ of said negligence Plaintiff's automobile truck was so badly bent and broken that it was rendered practically of no value, thereby damaging Plaintiff in the sum as aforementioned.

COUNT 2: The Plaintiff claims of the Defendant the sum of Five Hundred Dollars (\$500.00) as damages, for in this:- That while the Plaintiff was operating an automobile truck near Stockton, Alabama, on, to-wit, November 28th, 1934, over that ^{public} certain highway leading from Bay Minette, Alabama, to Uriah, Alabama, as he had a right to do, the Defendant, who was then and

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Duck
7-45-8

J. J. Applin
VS
W. V. Phillips

Demurrers

Filed May 22 1935
Robert L. Duck
Chas. R. Phillips
Deputy Clerk
May 28 1935
Robert L. Duck

(page two)

there also operating an automobile truck over said highway, negligently ran the same, or caused the same to be run, against the automobile truck in which Plaintiff was then and there riding, and that, as a proximate ^{result} ~~cause~~ of said negligence, Plaintiff's hand was broken, his back was hurt, he was caused to be confined to his bed for a period of, to-wit, thirty days, and was unable to do any work and was forced to employ a doctor, and was caused to suffer great physical and mental pain, all to his damage in the sum as aforementioned.

Hybart, Heard & Sharon
Attorneys for Plaintiff.

Plaintiff demands a trial of this cause by Jury.

Hybart, Heard & Sharon
Attorneys for Plaintiff.

S.D.P.-17 -
Rec. in office

4/22/35

M. Wilkins
Sheriff

Executed May 7 1935
by serving copy of within Summons and
Complaint on

W. V. Phillips

M. Wilkins
Sheriff

By Deputy Sheriff

SUMMONS & COMPLAINT.

T. J. APPLIN,
Plaintiff,

--VS--

W. V. PHILLIPS,
Defendant.

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

Filed April 22, 1935
Robert S. Black
Clerk.

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Robert S. Black
LAW OFFICES
HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA

141 RECORDED
Duck
7-457

May 24 5
Complaint of
M. V. Phillips
M. Wilkins
Deputy Sheriff