

167

SEAL OF THE STATE

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 Northrup, King & Co., a foreign corporation, 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 A. J. Banknight.

Witness my hand this 19 day of June, 1935.

Robert S. Duck
Clerk.

COMPLAINT.

A. J. BANKNIGHT,
Plaintiff,
-vs-
NORTHRUP, KING & CO.,
a foreign corporation,
Defendant.) IN THE CIRCUIT COURT-LAW SIDE
STATE OF ALABAMA
BALDWIN COUNTY.

COUNT 1: The Plaintiff claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) as damages for that, whereas, on, to-wit, June 17th, 1935, that while the Plaintiff was traveling along that certain public highway which runs from Robertsdale, Alabama, to Loxley, Alabama, and about two miles South of Loxley, upon a wagon, where he had a right to be, said wagon was negligently run into by an automobile or auto truck which was then and there being operated by an agent of the Defendant, viz, Vincent A. Bergstrom, who was then and there acting within the scope of his employment, causing Plaintiff to be precipitated from said wagon, causing Plaintiff to be badly injured, bruised, made sore and to suffer great physical pain and mental anguish, to his great damage in the sum aforementioned.

(page two)

COUNT 2: The Plaintiff claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) as damages for that, whereas on, to-wit, June 17th, 1935, that while the Plaintiff was traveling along that certain public highway which runs from Robertsdale Alabama, to Loxley, Alabama, and about two miles South of Loxley, upon a wagon, where he had a right to be, said wagon was willfull and wantonly run into by an automobile or auto truck which was then and there being operated by an agent of the Defendant, viz, Vince A. Bergstrom, who was then and there acting within the scope of his employment, causing Plaintiff to be precipitated from said wagon, causing Plaintiff to be badly injured, bruised, made sore and to suffer great physical pain and mental anguish, to his great damage in the sum aforementioned.

Hypert & Chason
Attorneys for Plaintiff.

Plaintiff demands a trial of
this cause by Jury.

Hypert & Chason
Attorneys for Plaintiff.

Rec in office
June 21 1935
P-32 J. W. Wilkins
Sheriff
5-11

RECEIVED IN OFFICE
JUN 24 1935
Waymond Paterson, Sheriff

167 RECORDED
Duck

SUMMONS & COMPLAINT.

A. J. BAUKNIGHT,
Plaintiff,

-vs-

NORTHROP, KING & CO., a
foreign corporation,
Minneapolis, Minnesota.
Defendant.

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

Filed June 19, 1935
Robert S. Duck
Clerk.

LAW OFFICES
HYBART, ~~HEARD~~
& CHASON
BAY MINETTE, ALABAMA



STATE OF ALABAMA
OFFICE OF SECRETARY OF STATE
MONTGOMERY

June 24, 1935

Mr. Robert S. Duck, Clerk
Circuit Court
Bay Minette, Alabama.

Dear Sir:

In Re: A. J. Bauknight
vs
Northrup, King and Company, a
foreign corporation, Minneapolis,
Minn.

In the Circuit Court of Baldwin
County, Alabama.

Enclosed herewith find copy of notice which to-
gether with copy of Summons and Complaint was sent to Northrup, King
& Company, Minneapolis, Minn. by registered mail, return receipt
requested.

I am also returning herewith original Summons
and Complaint in the above styled cause for your files.

Please acknowledge receipt.

Yours very truly,

Howell Turner,
Secretary of State.

HT:M

Copy to:
Hybart & Chason,
Bay Minette, Ala.



STATE OF ALABAMA
OFFICE OF SECRETARY OF STATE
MONTGOMERY

June 24, 1935

A. J. Banknight, Plaintiff }
vs. }
Northrup, King & Co., a }
foreign corporation, }
Minneapolis, Minn. Defendant }
In the Circuit Court
of
Baldwin County, Alabama

Northrup, King & Company,
Minneapolis, Minn.

You are hereby given notice under Act No. 32
of the General Laws of Alabama that enclosed summons and complaint
was served on me in above styled cause, as Secretary of State of the
State of Alabama.

Harold Turner

Secretary of State.

Circuit Court, Baldwin County

167 *A J Bankright*

PLAINTIFF

VS.

Franklin King - G - Corp

DEFENDANT

BILL OF COST

	Dollars	Cts.	AMOUNT BROUGHT FORWARD	\$	Cts.
CLERK'S FEES			AMOUNT BROUGHT FORWARD		
Issuing Summons and Complaint	\$1	25	Transcript to Supreme Court, 15c per hundred words	5	10
Copies of same, when over 200 words, 15c per 100		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	Certificate with Seal, 50c. Without Seal	25	
Docketing Cause 25c. Ent. Appearance, 20c	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		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			Issuing copies of same, 15c per 100 words		
Order for Alias Summons and Complaint	30		Total Clerk's Fees		
Order to Dismiss Cause	30		SHERIFF'S FEES		
Order to Set Aside Dismissal	30		Serving and Returning Summons	\$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		
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		
Taking Certiorari Bond and Filing Same	75		Sheriff's Fees		
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
TOTAL FORWARDED			Answer of Garnishee		
			Trial Tax	3	00
			Total		

Cost 2 7.29-31 *1065*

Received payment this _____ day of _____ 193_____

ATTEST

Clerk Circuit Court, Baldwin County, Ala.

A. J. BAUKNIGHT,

Versus

NORTHRUP, KING & COMPANY,
a foreign corporation,

Defendant.

Plaintiff,

IN THE CIRCUIT COURT-LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

Comes now the defendant in the above styled cause and appearing solely for the purpose of this motion, and without making a general appearance, and expressly limiting this its special appearance, to the purpose of this its motion to quash the attempted service of process in this case on it, hereby moves the court to quash the service or attempted service of process upon it in this cause and shows unto the Court;

That Northrup King & Company, defendant in the above entitled cause, is a foreign, non-resident corporation of the State of Alabama; that the Secretary of State of the State of Alabama has not been designated by said defendant as its agent for service of process issued in any action commenced in any court of said State of Alabama, and has not been authorized by said defendant to accept service of process for or on its behalf in any action commenced in any Court in said State of Alabama; that the attempt shown by the return of summons heretofore issued herein (which return and summons are hereby referred to and made a part hereof) has been made in the above entitled cause to perfect personal service upon the defendant and thereby to submit the defendant personally to the jurisdiction of this Honorable Court in the following manner and no other, viz: By leaving a copy of summons issued out of this Court in said cause accompanied by a copy of the complaint filed in said cause with the Secretary of State of the State of Alabama, and having the said Secretary of State mail a copy of the summons and complaint addressed to the defendant at Minneapolis, Minnesota by registered mail.

with return receipt requested.

And in support of said motion the defendant assigns the following separate and several grounds:

1. ~~The said attempted service of said process~~ would deprive the defendant of its property without due process of law in violation of the 14th Amendment to the Constitution of the United States.

2. The said attempted service of said process would deprive the defendant of its property without due process of law in violation of the Constitution of the State of Alabama.

3. The said attempted service of said process would deprive the defendant of its property without due process of law in violation of the laws of the State of Alabama.

4. The plaintiff seeks in said cause to recover a personal judgment against the defendant, and no personal service has been perfected on the defendant.

5. The plaintiff seeks in said cause to recover a personal judgment against the defendant, and neither the defendant nor any officer, agent, servant or employee of the defendant, while in the State of Alabama, has been personally served with summons and complaint issued out of this Court in said cause.

6. It does not appear from the complaint that this action grows out of an accident or collision in which the defendant was involved while operating a motor vehicle on a public highway in the State of Alabama, or grows out of an accident or collision in which a motor vehicle owned by the defendant was involved while being operated on a public highway in the State

of Alabama.

7. It does not appear from the complaint that the alleged injuries and damages resulted from an accident or collision which occurred within the State of Alabama.

8. Said attempted service upon the defendant was made under act number 32, Alabama General Laws approved February 8, 1935, and said act is in conflict with section 45 of the Constitution of the State of Alabama, and said Act is therefore void, inoperative and of no effect.


9. The said attempted service of process was made under Act number 32, Alabama General Laws, approved February 8th, 1935, and said act is void, inoperative and of no effect for it does not require the Secretary of State to forward a copy of the summons and complaint to such non-resident by registered mail.

Defendant alleges that said attempted service of process upon defendant is null and void and of no effect whatever, and moves this Honorable Court that the same be quashed, set aside and held to be void and of no effect.

RECORDED

Respectfully submitted,

RECORDED


Attorneys for the Defendant
appearing specially for the
purpose of this motion only.

STATE OF MINNESOTA,
COUNTY OF HENNEPIN

Before me, J. E. LEDBETTER, a notary
public in and for said state and county personally appeared

H. H. WILLIAMS known to me and known by me to
be the ASST. TREASURER of Northrup King & Company, who
being by me first duly sworn deposes and says: That affiant
is the ASST TREASURER of Northrup King & Company, a
corporation duly organized and existing under the laws of the
State of MINNESOTA, and as such ASST TREASURER
is authorized to make this affidavit. Affiant further states
that he has read the foregoing motion, is familiar with the
contents thereof, and that the matters and things as stated
therein, and as set forth in the annexed pages 1, 2 and 3 are
true and correct.

H. H. Williams
As ASST TREASURER of Northrup
King & Company, a corporation.

Subscribed and sworn to before
me this 16 day of July, 1935.

John E. Ledbetter
Notary Public in and for said state
and county.

My commission expires the _____ day of _____

JOHN E. LEDBETTER.

Notary Public, Hennepin County, Minn.

(Attach Seal) My Commission Expires March 7, 1936.

RECORDED
167
INDEXED

A. J. BAUKNIGHT,
Plaintiff,

Versus

NORTHROP, KING & COMPANY,
a foreign corporation,
Defendant.

MOTION TO QUASH SERVICE
OF PROCESS

Filed this.....day.....10.....

.....
Clerk-Register

*Filed July 1915
Robert H. Church,
Clerk*

Ambrecht & Twitty,
Attorneys for Defendant.

Bill for Guard - \$4.80

Mr. F. Northrop, President of Clay Products

State vs Clay Products Co -

Service to be had of the within Summons in accordance with an Act of the Legislature, Regular Session 1935, said Act being approved February 8th, 1935, and providing, "For the service of process in civil suits upon non-resident operators or non-resident owners whose motor vehicles are operated upon the public highways within the State of Alabama."

RECEIVED
 JUN 23 1935
 SECRETARY OF STATE

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

.....
 (Signature of name of addressee)

.....
 (Signature of addressee's agent)

Date of delivery, 1935

Form 3611

Filed July 1, 1935
 Robert S. Smith
 Clerk

U. S. GOVERNMENT PRINTING OFFICE