

310

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA  
COUNTY OF BALDWIN

CIRCUIT COURT.

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:--

You are hereby commanded to summon Alabama Power Company, a corporation, to appear before the Circuit Court of Baldwin County, Alabama, at the place of holding the same and plead, answer or demur, within thirty days from service hereof to the complaint of Joe Hastie.

WITNESS my hand this 7 day of October, 1936.

R. D. Lusk CLERK.

IF THE DEFENDANT FAILS TO APPEAR AND PLEAD, ANSWER OR DEMUR WITHIN THIRTY DAYS AFTER SERVICE, THE PLAINTIFF MAY TAKE JUDGMENT BY DEFAULT.

COMPLAINT

JOE HASTIE,  
PLAINTIFF.

VS.

IN THE CIRCUIT COURT OF BALDWIN  
COUNTY, ALABAMA. AT LAW.

ALABAMA POWER COMPANY,  
a Corporation,  
DEFENDANT.

COUNT ONE:--

Plaintiff claims of the Defendant the sum of Ten Thousand & no/100 Dollars (\$10,000.00) damages for this, that on or about to-wit: August 16, 1936, the Defendant by its agent, servant or employees acting within the line and scope of his employment negligently and unlawfully parked a motor truck on the Mobile and Montgomery public highway known as United States Highway Number 31

at a point in Baldwin County about two and one-half ( $2\frac{1}{2}$ ) miles west of Perdido, Alabama, during the period of from one-half hour after sunset to one-half hour before sunrise without the same being equipped with lighted front and rear lamps and as a proximate result thereof the Plaintiff while driving an automobile along said highway at said time at about the hour of 2:00 o'clock, a. m., ran into said truck and as a proximate result thereof Plaintiff's automobile was wrecked and was practically destroyed, a gash was cut on his head of about two inches, his chest was hurt, a deep gash was cut in his knee and his body was badly bruised and that he was made sick and sore and was forced to obtain medical assistance at a considerable expense to himself and Plaintiff alleges that he has lost much time from his labors and that his capacity for work has been greatly reduced and that he has not recovered from the effects of the said collision and Plaintiff alleges that said injuries and damages were proximately caused by Defendant's negligence and its unlawfulness in parking said motor truck on said highway.

COUNT TWO:-

Plaintiff claims of the Defendant the sum of Ten Thousand & no/100 Dollars (\$10,000.00) damages for this that on or about, to-wit, August 16, 1936, the Defendant by its agent, servant or employees acting within the line and scope of his employment negligently parked a motor truck on the Mobile and Montgomery public highway in Baldwin County, Alabama, said highway being known as United States Highway Number 31 at a point about two and one-half ( $2\frac{1}{2}$ ) miles west of Perdido, Alabama, during the period of one-half hour after sunset to one-half hour before sunrise without having caused to be displayed in a prominent position above the surface of the highway at a distance of approximately 300 feet from said truck in the direction whence it was coming and was in the direction in which it was proceeding a brilliant burning, danger or caution signal and as a proximate result thereof the Plaintiff while

driving an automobile along said highway at said time at about the hour of 2:00 o'clock, a. M., ran into said truck and as a proximate result thereof Plaintiff's automobile was wrecked and was practically destroyed, a gash was cut on his head of about two inches, his chest was hurt, a deep gash was cut in his knee and his body was badly bruised and that he was made sick and sore and was forced to obtain medical assistance at a considerable expense to himself and Plaintiff alleges that he has lost much time from his labors and that his capacity for work has been greatly reduced and that he has not recovered from the effects of the said collision and Plaintiff alleges that said injuries and damages were proximately caused by Defendant's negligence and its unlawfulness in parking said truck on said highway and Plaintiff further avers that said motor truck was parked outside of the corporate limits of any city or town and Plaintiff further avers that said motor truck was parked for a purpose other than taking on or discharging passengers or freight or complying with traffic requirements.

*Horne & Hodnette*  
HORNE & HODNETTE

*Hybart & Chason*  
HYBART & CHASON

ATTORNEYS FOR PLAINTIFF.

Plaintiff demands a trial by jury.

*Horne & Hodnette*  
HORNE & HODNETTE

*Hybart & Chason*  
HYBART & CHASON.

ATTORNEYS FOR PLAINTIFF.

*Entered O.R. 7-19-36  
by serving copy of writ  
out on  
C. A. Bodden as  
local agent for  
Ala. Power Co.*

Original - RECORDED

7-5-36

THE STATE OF ALABAMA  
COUNTY OF BALDWIN.  
IN THE CIRCUIT COURT.

JOE HASTIE,  
PLAINTIFF

VS.

ALABAMA POWER COMPANY,  
A CORPORATION,  
DEFENDANT.

SUMMONS AND COMPLAINT.

Filed in office this 2  
day of October, 1936.

*R. L. Week*  
..... CLERK.

*Received in office  
O.R. 7. 1936*

*W. H. Wilkerson Sheriff*

LAW OFFICE OF  
HORNE & HODNETTE

JOE HASTIE,

Plaintiff,

vs.

ALABAMA POWER COMPANY,  
a corporation,

Defendant.

)  
)  
) IN THE CIRCUIT COURT OF  
)  
) BALDWIN COUNTY, ALABAMA, AT LAW.  
)

No.

DEMURRER

Comes Alabama Power Company, defendant in above styled cause, and demurs to each count of the complaint therein, separately and severally, and for grounds of such demurrer, separately and severally, assigns the following:

1. Such count fails to state facts showing a breach of duty owed to the plaintiff by the defendant.

2. It does not appear from such count that the plaintiff suffered any injury or damage as the proximate consequence of a breach of duty owed by the defendant to the plaintiff.

3. The allegation that defendant's agents, servants or employees negligently and unlawfully parked a truck on the occasion complained of is a mere conclusion of the pleader.

4. For aught that appears from such count the acts or omissions charged to the agents, servants or employees of the defendant were entirely rightful and lawful.

5. The allegation that the defendant's agents, servants or employees negligently parked a truck on the occasion complained of is a mere conclusion of the pleader.

6. It does not appear that plaintiff suffered the injuries complained of as a proximate consequence of the acts or omissions charged.

*Duke Hall & Duke*  
*Martin Turner McWhorter*  
Attorneys for Defendant

Joe Hester 7-575-  
vs

Al. Porter Co

Remmers

Filed Oct. 19, 1936

R. S. Duck,  
clerk

JOE HASTIE,	)		
	:		
Plaintiff	)	IN THE CIRCUIT COURT OF	
	:		
Vs.	)	BALDWIN COUNTY, ALABAMA	
	:		
ALABAMA POWER COMPANY,	)	AT LAW.	NO. _____
a corporation.	:		
	)		
Defendant.	:		

Now comes the Plaintiff, Joe Hastie, in his own proper person and for answer to the interrogatories heretofore filed in this cause says as follows:-

1. Answer to interrogatory #1. The accident occurred about 1:30 A. M. on August 16th, 1936. at a point on Highway #31 between Perdido, Alabama, and Bay Minette, Alabama, and about one (1) mile West of the East line of Baldwin County.

2. Answer to interrogatory #2. I was riding in a Ford V8 Coupe, 1936 Model, automobile.

3. Answer to interrogatory #3. I was driving the car.

4. Answer to interrogatory #4. I was the owner of the car in which I was driving.

5. Answer to Interrogatory #5. There were two (2) persons in my car and their names are Mrs. Siddie Allen and Charles Paul.

6. Answer to interrogatory #6. A. At about five hundred feet (500ft) before the collision occurred I was driving at the rate of about forty (40) miles per hour. B. At three hundred feet (300 ft.) before the collision I was driving at about the same rate of speed. C. When I was about seventy-five (75) or one hundred (100) feet from where the collision occurred I ran into pretty heavy fog and I released my accelerator to slow down but as I saw no obstruction I did not clamp on my brakes and when I did see the truck I was only a few feet from the truck and I devoted my time trying to turn the course of my car knowing that it was too late to stop the same by the use of my brakes and I cannot say definitely that I ever got my brake pedal

to the floor. D. At the time of the collision to my best judgement I was driving at about the rate of thirty (30) miles per hour.

7. Answer to interrogatory #7. Sometime less than one-half hour.

8. Answer to interrogatory # 8. I had come from Atmore, Alabama, where I had been from about 8 P.M. until nearly 1 A.M. and I was going to Stockton, Alabama, where my home is located and the purpose of my trip from Atmore to Stockton was to get home.

9. Answer to interrogatory # 9. There were no flares on the right hand side of the Highway at any point between Perdido and the place where the collision occurred. There was no burning flares of any kind three hundred (300) feet from the truck from the direction that I was coming.

10. Answer to interrogatory # 10. is answered by interrogatory # 9.

11. Answer to interrogatory # 11. Yes, I deny that there was any flares or lights or tail light on the truck or any other light about the truck to give me any warning.

12. Answer to interrogatory # 12. Yes, I saw the truck just before I collided with it, I cannot say how many feet it was, just a few feet however before the collision occurred.

13. Answer to interrogatory # 13. I cannot say definitely how far the truck was from my car when I first saw it however I was so close on it before I saw it that I was unable to change the direction of my car sufficient to miss it.

14. Answer to interrogatory # 14. I placed my foot on the brake and sort to change the direction of my car sufficient to miss the truck.

15. Answer to interrogatory # 15. I was knocked unconscious by the impact and did not see the position of the truck and automobile after the collision.

16. Answer to interrogatory # 16. I claim that it was a illegal act for the truck to be parked as it was on the Highway in such manner as to obscure the traffic; I further claim that there was negligence on the part of the agents, servants or employees in not placing flares when they did park along the Highway; I further claim that the agents, servants or employees were negligent in not having a tail light or other warning lights on the truck; I claim further that the manner in which the agents, servants or employees of the Defendant parked the truck was such as to obscure the visibility of a tail light on the said truck if there had been one burning; I claim further that the said agents, servants or employees of the Defendant company were negligent in permitting and allowing long poles or couplings or rods or other paraphernalia to extend some six (6) or eight (8) feet from the rear end of the said truck.

17. Answer to interrogatory # 17. I did not see any tail olight nor did I see any range of light in front of the said truck or to the side of the said truck or any where about the said truck which warned me of it beeing parked where it was and I am certain that there was no tail light visible from the truck from whence I was coming.

18. Answer to interrogatory # 18, is answered by # 17.

19. Answer to interrogatory # 19. Answer to interrogatory # 17 sufficient answer to this interrogatory.

20. Answer to interrogatory # 20. To my best judgement no burning light was ever bisible to me at any time, however, the fact that the truck was parked diagonally across the Highway would have made a tail light invisible approaching from the truck as I came providing the tail light was on the left hand side of the truck.

21. Answer to interrogatory # 21. The following physicians treated me.

Dr. J. O. Lisenby, Atmore, Alabama.  
Dr. P. N. Hodgson, Stockton, Alabama.  
Dr. J. C. McLeod, Bay Minette, Alabama.

I received first aid treatment in the Atmore Hospital and was given

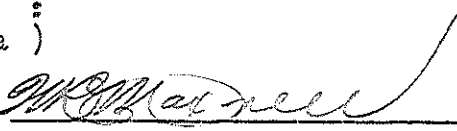
this treatment by Dr. J. O. Lisenby. I was then carried by Ardis Allen, to the home of my aunt and uncle G. C. Arant and from there Mrs. G. C. Arant carried me to my home and I was treated that morning by Dr. P. N. Hodgson and was treated by him for about two (2) weeks. He dressed my wounds each day for the first four (4) days and then the rest of the time I went to his office. The stitches were removed from my wounds by Dr. J. C. McLeod and that the extent of his treatment in my case, and after this I was treated a few more days by Dr. Hodgson.

22. Answer to interrogatory # 22. I was cut in and about my face and head and I was also hurt on my left knee and my right leg. I was bruised about my body and I was scratched about my body and arms and was badly bruised over most of my body.

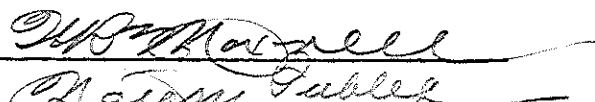
23. Answer to interrogatory # 23. I was employed by Bryant and Cox, General Merchandise, Stockton, Alabama, at the time of the accident. I returned to my employment two (2) weeks and two (2) days after the accident but I was not able to do my regular duties for some time after that owing to the pain and soreness, et cetera.

  
Joe Hastie, Plaintiff

State of Alabama     )  
                              :  
County of Escambia   )

Before me  a Notary Public in and for said State and County personally came Joe Hastie who is known to me and who being first duly sworn by me doth depose and say as follows: That the answers to the above interrogatories are true and correct according to his inclination, knowledge and belief.

Sworn to and subscribed to before me this the 15th day of December, A. D. 1936.

  
W. B. Maxwell  
Notary Public

State of Alabama  
County of Baldwin

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Joe Hastie,  
Plaintiff

vs.

Alabama Power  
Company,  
Defendant.

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Answers to Interrogatories

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Filed December 18, 1936  
Robert S. Duck,  
Clerk.

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JOE HASTIE,

Plaintiff,

VS.

ALABAMA POWER COMPANY,  
a Corporation,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. \_\_\_\_\_

Comes Alabama Power Company, defendant in the above styled cause, and desiring the testimony of the plaintiff propounds to him the following interrogatories, which if well and truly answered will be material testimony for the defendant in said cause:

1. State as definitely as possible the date, the time of day and the place of the accident complained of.
2. In what kind of car were you riding, giving the make and model of such car?
3. Were you driving such car? If not, state who was driving such car.
4. Who was the owner of such car?
5. State how many passengers were in such car with you, giving the names of such passengers.
6. State in your best judgment the speed of the car in which you were traveling; (a) 500 feet before the collision occurred; (b) 300 feet before the collision occurred; (c) 100 feet before the collision occurred; (d) at the time of the collision.
7. How long had you been riding in such automobile before the collision occurred?
8. From what place had you come, where were you going and what was the purpose or object of such trip?
9. Did you see the light or flare on the right hand side of the road about 300 feet north of the point of the collision?
10. If you say that you did see such flare, did you slacken the speed of the automobile in which you were riding or did you call the attention of the driver to such flare and request the he slacken the speed of such automobile?

11. Do you deny that there was any such flare or light?
12. Did you see the truck with which the automobile collided before the collision occurred?
13. If you state that you did see such truck, state how far away such truck was when you first saw it and whether or not you called the attention of the driver to the presence of such truck and if so, what was said in that regard?
14. If you were driving the automobile, state what you did to avoid the collision after you became aware of the presence of such truck.
15. State as nearly as you are able the relative positions of the truck and the automobile in which you were riding after the collision occurred.
16. State in detail each act or omission on the part of the agents, servants or employees which you claim was negligent or unlawful.
17. Did you see the tail light on the rear of the truck with which the automobile collided before the collision?
18. If you state that you did see such light, state whether you slackened the speed of the automobile which you were driving or in any manner requested the driver of the automobile to slacken such speed.
19. How far were you from such truck when you first saw such tail light?
20. Do you deny that such tail light was burning?
21. State the name and address of each physician who has treated you for the injuries complained of, giving the dates of such treatment or treatments and the nature thereof.
22. State in detail each and every injury and symptom of injury which you claim to have sustained on the occasion complained of.
23. Where and by whom were you employed at the time of the accident?
24. When did you return to such employment after the accident?

BEEBE, HALL & BEEBE,  
MARTIN, TURNER & McWHORTER,  
Attorneys of Defendant.

STATE OF ALABAMA )  
JEFFERSON COUNTY )

Before me, the undersigned authority in and for said county, in said State, personally appeared Walter Bouldin, who being by me first duly sworn, deposes and says that he is one of the attorneys for the defendant, Alabama Power Company, and as such is authorized to make this affidavit; that the answers of the plaintiff to the foregoing interrogatories, if well and truly made, will be material testimony for the defendant on the trial of the above cause.

WALTER BOULDIN.

Sworn to and subscribed  
before me this the 17  
day of October, 1936.

A. L. WEAVER,  
Notary Public.



No.

1. State as definitely as possible the date, the time of day and the place of the accident complained of.
2. In what kind of car were you riding, giving the make and model of such car?
3. Were you driving such car? If not, state who was driving such car.
4. Who was the owner of such car?
5. State how many passengers were in such car with you, giving the names of such passengers.
6. State in your best judgment the speed of the car in which you were traveling; (a) 500 feet before the collision occurred; (b) 300 feet before the collision occurred; (c) 100 feet before the collision occurred; (d) at the time of the collision.
7. How long had you been riding in such automobile before the collision occurred?
8. From what place had you come, where were you going and what was the purpose or object of such trip?

9. Did you see the light or flare on the right hand side of the road about 300 feet north of the point of the collision?
10. If you say that you did see such flare, did you slacken the speed of the automobile in which you were riding or did you call the attention of the driver to such flare and request that he slacken the speed of such automobile?
11. Do you deny that there was any such flare or light?
12. Did you see the truck with which the automobile collided before the collision occurred?
13. If you state that you did see such truck, state how far away such truck was when you first saw it and whether or not you called the attention of the driver to the presence of such truck and if so, what was said in that regard?
14. If you were driving the automobile, state what you did to avoid the collision after you became aware of the presence of such truck.
15. State as nearly as you are able the relative positions of the truck and the automobile in which you were riding after the collision occurred.
16. State in detail each act or omission on the part of the agents, servants or employees which you claim was negligent or unlawful.
17. Did you see the tail light on the rear of the truck with which the automobile collided before the collision?
18. If you state that you did see such light, state whether you slackened the speed of the automobile which you were driving or in any manner requested the driver of the automobile to slacken such speed.
19. How far were you from such truck when you first saw such tail light?
20. Do you deny that such tail light was burning?
21. State the name and address of each physician who has treated you for the injuries complained of, giving the dates of such treatment or treatments and the nature thereof.

3.

22. State in detail each and every injury and symptom of injury which you claim to have sustained on the occasion complained of.

23. Where and by whom were you employed at the time of the accident?

24. When did you return to such employment after the accident?

*Duke Hall Beebe*  
*Martin James McWhorter*  
Attorneys of Defendant.

STATE OF ALABAMA )  
JEFFERSON COUNTY )

Before me, the undersigned authority in and for said county, in said State, personally appeared Walter Bouldin, who being by me first duly sworn, deposes and says that he is one of the attorneys for the defendant, Alabama Power Company, and as such is authorized to make this affidavit; that the answers of the plaintiff to the foregoing interrogatories, if well and truly made, will be material testimony for the defendant on the trial of the above cause.

Sworn to and subscribed  
before me this the 17  
day of October, 1936.

*A. L. Wear*  
Notary Public.

*Walter Bouldin*

Joe Hastie  
M

Ulla Power es

Interrogatories

2 copies made

Filed Oct. 19, 1936

G. S. Deek,  
Clerk

"Horne & Hadnutt"  
attorneys, etc.

Oct 22, 1936

we hereby accept service  
of the within interrogatories

Horne & Hadnutt

and  
Hyatt & Chason

by Robert E. Hadnutt

Attorneys for Joe Hastie.

Executed By Serving  
copy of writ on Robert  
Hadnutt. 10/22/1936

JR Roby

Sheriff, Escambia Co

By W W Wise

DS