

SUMMONS

STATE OF ALABAMA
BALDWIN COUNTY

IN THE CIRCUIT COURT
LAW SIDE
Jury Docket, No. 525

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

You are hereby commanded to summon ^{EDWARD} EDWARD AWAD to appear within thirty days from the service of this Writ in the Circuit Court of Baldwin County, Alabama, at the place of holding the same, then and thereto answer to the Complaint of ROSALEE JENSEN.

Witness my hand this 8 day of February, 1940.

R. S. Duck
Clerk of the Circuit Court,

by Nautilus Thompson
as Deputy Clerk.

COMPLAINT

ROSALEE JENSEN,
Plaintiff,

vs.

^{EDWARD} EDWARD AWAD,
Defendant,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

(~~of whose true name the Plaintiff is ignorant, but who is the reputed owner of the automobile designated as having caused the damages herein claimed~~).

Count One

The Plaintiff claims of the Defendant the sum of TEN THOUSAND DOLLARS (\$10,000.00), as damages, for that, whereas, heretofore, on, to-wit: the 4th day of February, 1940, at about 7:00 o'clock, P. M., the said Defendant, acting by and through one LOUIS WEISSBERG as his agent, servant, or employee, who was then and there acting within the line and scope of his employment, so negligently operated an automobile on ~~or along~~ the Montgomery-Mobile public Highway, at a point in Baldwin County, Alabama, on the Cochrane Bridge Causeway, approximately one-half mile East of the Tensas River Drawbridge and Tensas River, that said automobile ran into or against an automobile which the Plaintiff was then and there driving along or upon said Highway, and as a proximate result of said negligence, the Plaintiff was seriously injured as follows, to-wit:

Her rib was fractured; she suffered internal injuries of a permanent nature; she suffered an abrasion of her left knee and leg, large bruises on both legs and arms, and over her entire body; she was cut over the left eye; her glasses were broken; that she was otherwise cut and bruised; that she was made sick, sore, lame, nervous, and rendered in a shocked condition and suffered much physical pain and mental anguish, discomfort, and loss of sleep; and she was required to incur doctor, X-Ray, and hospital bills, and other expenses;

and the Plaintiff avers that her said injuries were proximately caused by the negligence of the said Defendant, who was acting by and through his agent, servant, or employee, the said LOUIS WEISSBERG, who was then and there acting within the line and scope of his employment in so operating said automobile along said highway at said point;

WHEREFORE, the Plaintiff sues.

Count Two

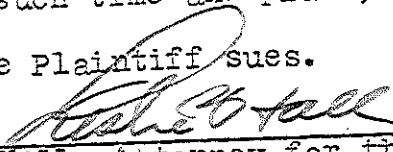
The Plaintiff claims of the Defendant the sum of TEN THOUSAND DOLLARS (\$10,000.00), as damages, for that, whereas, heretofore on, to-wit: the 4th day of February, 1940, at about 7:00 o'clock, P. M., the said Defendant intrusted his automobile to one LOUIS WEISSBERG; that the said Louis Weissberg was a careless, indifferent, heedless, and reckless driver; that the said Louis Weissberg was incompetent to drive an automobile; that the said Defendant knew at the time he intrusted his said automobile to the said Louis Weissberg that the latter was incompetent as a driver of automobiles; that the said Louis Weissberg was then and there driving the automobile of the Defendant on or along the Montgomery-Mobile public Highway, at a point in Baldwin County, Alabama, on the Cochrane Bridge Causeway, approximately one-half mile East of the Tensas River Drawbridge and Tensas River; that at such time and place the said Louis Weissberg so operated said automobile of the Defendant that the said automobile of the Defendant ran into or against an automobile which the Plaintiff was then and there driving along or upon said Highway, and as a proximate result thereof, the Plaintiff was injured in a serious manner as follows, to-wit:

Her rib was fractured; she suffered internal injuries of a permanent nature; she suffered an

abrasion of her left knee and leg, large bruises on both legs and arms, and over her entire body; she was cut over the left eye; her glasses were broken; that she was otherwise cut and bruised; that she was made sick, sore, lame, nervous, and rendered in a shocked condition and suffered much physical pain and mental anguish, discomfort, and loss of sleep; and she was required to incur doctor, X-Ray, and hospital bills, and other expenses;


and the Plaintiff avers that her said injuries were proximately caused by the action of the Defendant as aforesaid in permitting the said incompetent driver to operate the said Defendant's automobile as aforesaid at such time and place;

WHEREFORE the Plaintiff sues.


LESLIE HALL, Attorney for the Plaintiff.

The Plaintiff demands a trial of this cause by a

Jury.


LESLIE HALL, Attorney for the Plaintiff.

187

Feb. 8 1940
W.R. Stuart Sheriff

RECEIVED IN
MAR 8 1940
G.A. MOSLEY, Sheriff

Received 9 Day of February 1940
and on 9 Day of February 1940
I served a Copy of the within summons & complaint
on Edward Awad
by service on _____

W. H. HOLCOMBE, Sheriff
By W. H. Holcombe D.S.

RECORDED
Jury

185

ROSALEE JENSEN,
Plaintiff,
vs.
E. AWAD,
Defendant.

SUMMONS AND COMPLAINT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

Filed in office this
9th day of February, 1940.
R.S. Durr
Clerk of the Circuit Court
by Saulsby Thompson
as Deputy Clerk.

To Be served on
Sec'y. of State at
Montgomery

LESLIE HALL.
ATTORNEY AT LAW

Executed this the 9th day of March, 1940, on defendant E. Awad, by leaving three copies of the within summons and complaint with John Brandon, Secretary of State of Ala. the true and lawful agent or attorney of said defendant, E. Awad.

G.A. Mosley. Sheriff
by Clements. D.S.

Executed this the 18th day 18th of July, 1940. on defendant Edward Awad, of 9405 Shore Road, by leaving three copies of the within summons and complaint with Edward Awad at his place of business 1333 Broadway N. Y. by exhibiting to him the original and leaving the copy thereof.

Arthur J. Jeger
U. S. Marshal
By _____
Deputy Marshal

ROSALIE JENSEN,

Plaintiff,

-vs-

E. AWAD,

Defendant,

(of whose true name the
Plaintiff is ignorant, but
who is the reputed owner
of the automobile designated
as having caused the damages
herein claimed.)

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

Comes Victor Awad, the party upon whom the
summons and complaint was served in the above entitled
cause, in his own proper person for himself, moves this
Honorable Court for an order requiring plaintiff, a non-
resident of the State of Alabama, to deposit security for
costs in this cause, failing in which, this cause be dis-
missed.

J. T. Blackburn

Wes Berman
Attorneys for Victor Awad.

RECORDED

Filed March 9-1940

R. S. Duck
clerk
0035

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

Before me, ANNE BETTINGER, a Notary Public, in and for the aforesaid State and County, personally appeared JAY A. GILMAN, known to me, who by me first duly sworn, deposes and says: I am an attorney, duly admitted to practice in the State of New York, and am the attorney for EDWARD AWAD, one of the defendants in the within actions, and submit this affidavit in support of an application for an adjournment of the proceedings herein, due to the serious illness of the said EDWARD AWAD.

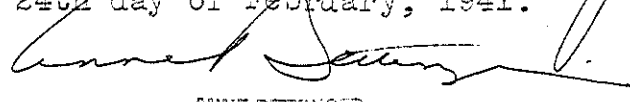
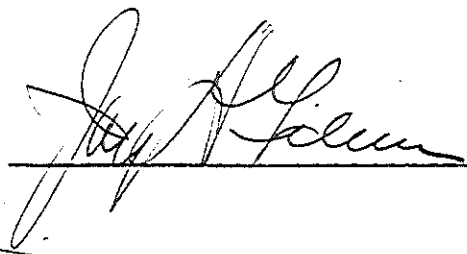
As appears from the certificate of Dr. David B. Monheit, #364 - 93rd Street, Brooklyn, N. Y., said EDWARD AWAD has been under his care and attention, suffering from a cardiac condition, as a result of which, he has been ordered by the said physician to a warm climate for an absolute rest for at least three months. That annexed hereto and made part hereof is the certificate of the said physician.

From my knowledge of this action, the testimony of said EDWARD AWAD, both as the owner of one of the cars involved in the accident, which is the basis of these actions, and as an eye-witness to the accident, Mr. Awad's testimony is absolutely essential, necessary and material in support of the defense of the action, and it would be unsafe to proceed therewith unless he was personally present at the trial.

From information given to me by a brother of said EDWARD AWAD, the latter has been almost continuously, for the past few months, confined to his home by reason of the

cardiac condition referred to, and that his present stay in Florida is calculated, in the opinion of his physician, to at least improve his state of physical health to such an extent, as may enable him to travel to Alabama for the trial of these actions, provided the trial thereof is adjourned for several months.

Sworn to before me this
24th day of February, 1941.



ANNE BETTINGER
Notary Public
Kings Co. Clerk's No. 189, Reg. No. 2206
N. Y. Co. Clerk's No. 452, Reg. No. 28394
Commission expires March 30, 1942

DAVID B. MONHEIT, M. D.

364-93RD STREET

BROOKLYN, N. Y.

Feb. 21 1941

To Whom This May Concern:

Edward Avard has been under my care for the past year & suffering from severe headaches, nervousness & cardiac condition. His condition is such that will not pass in a short time as he requires a great deal of rest. At the present time he has been sent to a warm climate where he can get absolute rest under the best climatic conditions for an extended period.

(over)

565-566-567

565

Applicant

RECORDED

RECORDED

Filed February 27, 1941
R. S. Durr, Clerk

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Attorneys for Victor Awad.

Rosalee Jenson,
Plaintiff,

vs.

Edward Awad,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW - No. 566.

Comes the Plaintiff in the above styled cause and demurs to every plea of defendant's answer, separately and severally, upon the following separate and several grounds:

1. Because the allegations of the said plea do not show any duty on the part of the plaintiff toward defendant.
2. Because there are no allegations in said plea which show that the alleged negligence of R. L. Jenson can legally be imputed to the plaintiff.
3. Because the said plea does not offer to set-off defendant's alleged claim against the claim of the plaintiff.
4. Because the said plea fails to show defendant's injuries except through conclusions of the pleader.
5. Because the said plea fails to show the nature of his alleged injuries.
6. Because the said plea fails to set out the nature of the alleged injuries to his car.
7. Because the said plea fails to set out the nature and extent of the alleged injuries on which the defendant's claim is based.

J. A. Maslbury Jr.
Attorney for Plaintiff.

RECORDED

Demurrer

Handwritten signature

*Filed Sept 30 1941
R. S. Dyer
Clerk*

ROSALEE JENSEN,

Plaintiff,

VS.

EDWARD AWAD,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW.

NUMBER 565.

MOTION TO DISMISS.

Now comes the Defendant in the above entitled cause, by his attorneys, and shows unto the Court that the Plaintiff in this cause is a non-resident of the State of Alabama and that the said Plaintiff has not given security for costs in this cause or made a deposit for costs as provided by Section 7249 of the 1923 Code of Alabama:

WHEREFORE, Petitioner prays that this said suit be dismissed.

J. T. Blackburn
W. C. Conway, M. L. Leod, James W. Rodgers
Attorneys for Defendant.

RECORDED

MOTION TO DISMISS.

ROSALEE JENSEN,

Plaintiff,

VS.

EDWARD AWAD,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NUMBER 565.

Filed September 30, 1940
R.S. Dink, Clerk

ROSALEE JENSEN,

Plaintiff,

VS.

EDWARD AWAD,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NUMBER 565.

MOTION

Now comes the Defendant in the above entitled cause and shows unto the Court that the Plaintiff in said cause is a non-resident of the State of Alabama and that the deposit for costs heretofore made by the Plaintiff is insufficient to cover the costs of Court which will accrue upon further proceedings in said cause, and no sufficient security for said costs has been given as required by Section 59 of Title 11 of the Alabama Code of 1940:

WHEREFORE, Defendant moves the Court to dismiss the said suit.

J. B. Blakeman
McCoy, Lead, Turner & Rogers

Attorneys for Defendant.

RECORDED
MOTION

ROSALEE JENSEN,

Plaintiff,

VS.

EDWARD AWAD,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW.

NUMBER 565.

Filed Sept. 30, 1941
R. S. Duck, Register-Clerk

J. B. BLACKBURN

ATTORNEY AT LAW

BAY MINETTE, ALABAMA

ROSALIE JENSEN,
Plaintiff,
vs.
EDWARD AWAD,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW, No. 565

Affidavit of Non-Residence of Defendant

STATE OF ALABAMA
BALDWIN COUNTY

Before me, Cornelia Hall, a Notary Public
in and for said County in said State, personally appeared Leslie
Hall, known to me, who, being by me first duly and legally sworn
to tell the truth and nothing but the truth, deposes and says:

"That he is Attorney for the Plaintiff in the
above styled cause, and competent in every way to
make this affidavit;

"That this is a cause of action arising out of
the operation of a motor vehicle on the public high-
ways in this State, which said automobile was, at
the time of accrual of said cause of action, owned
by the Defendant, Edward Awad; that the said Defen-
dant, Edward Awad is a non-resident of the State of
Alabama, and that his address is 9405 Shore Road,
Brooklyn, New York; that said automobile was in-
volved in an accident or collision while being
operated on a public highway within the State of
Alabama; that said accident or collision is the
basis of this cause of action."

Leslie Hall
Attorney for the Plaintiff.

Sworn to and subscribed before me this
8 day of March, 1940.

Cornelia Hall
Notary Public, Baldwin County, Alabama.

ROSALEE JENSEN, Plaintiff,
 vs.
 EDWARD AWAD, Defendant.

At Law, Jury No. 565

ROSALEE JENSEN,
 Plaintiff,
 vs.
 EDWARD AWAD,
 Defendant.

Affidavit:
 IN THE CIRCUIT COURT OF
 BALDWIN COUNTY, ALABAMA
 AT LAW
 Filed in office this 8th
 day of March 1940.
 by *R. S. Smith*
 as Deputy Clerk.

I, the undersigned, being a duly qualified
 Justice of the Peace for the County of
 Baldwin, Alabama, do hereby certify that
 the foregoing is a true and correct copy
 of the original filed in my office.

ROSALEE JENSEN,
 Plaintiff,
 vs.
 EDWARD AWAD,
 Defendant.

ROSALEE JENSEN,
 Plaintiff,
 vs.
 EDWARD AWAD,
 Defendant.

Affidavit of Non-Residence of Defendant

I, the undersigned, being a duly qualified
 Justice of the Peace for the County of
 Baldwin, Alabama, do hereby certify that
 the foregoing is a true and correct copy
 of the original filed in my office.

ROSALEE JENSEN,
 Plaintiff,
 vs.
 EDWARD AWAD,
 Defendant.

ROSALEE JENSEN,
 Plaintiff,
 vs.
 EDWARD AWAD,
 Defendant.

BALDWIN COUNTY

State of Alabama---~~Mobile County~~

CIRCUIT COURT, OCTOBER TERM 19.....

Rosalee Jensen,

Plaintiff,

vs.

Bay Minette, Alabama,

~~XXXXXX~~ March 9, 1940.

E. Awad, Defendant, (of whose true name the plaintiff is ignorant, but who is the reputed owner of the automobile designated as having caused the damages herein claimed.)

J. B. Blackburn & Leo Berman appear for

Victor Awad

~~Defendant~~

upon whom process was served

in the above entitled cause and reserve the right to demur or plead specially.

Leo Berman
J. B. Blackburn
Attorneys for
VICTOR AWAD.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NUMBER 565.

Now comes the defendant in the above styled cause and for answer to the plaintiff's complaint and to each and every count thereof, separately and severally says:

1. That he is not guilty of the matters and things alleged in said complaint.

2. That the allegations of the said complaint are untrue.

3. That he denies each and every allegation of the said complaint.

4. And for further answer to the said complaint and to each and every count thereof separately and severally defendant says that plaintiff was herself guilty of negligence which proximately contributed to cause the injuries complained of in this that at the time and place complained of the plaintiff negligently drove the automobile which she was then operating over to the left side of the center line of the said highway causing it to collide with the automobile of the defendant, and defendant avers that the alleged injuries of the plaintiff were the proximate result of the said negligent act of the plaintiff.

5. And for further answer to the said complaint and to each and every count thereof separately and severally defendant says that R. L. Jensen, Sr., an agent or servant of the plaintiff, who was then and there acting within the line and scope of his employment was guilty of negligence which proximately contributed to cause the injuries complained of in this that at the time and place complained of the said agent or servant of the plaintiff then and there acting within the line and scope of his employment negligently drove the automobile which he was then operating over to the left

side of the center line of the said highway causing it to collide with the automobile of the defendant, and defendant avers that the alleged injuries of the plaintiff were the proximate result of the said negligent act of the said agent or servant of the plaintiff.

6. For further answer to the said complaint and to each and every count thereof separately and severally defendant pleads specially by way of recoupment and avers that at the time of the commencement of this suit the plaintiff was indebted to him in the sum of to-wit, \$10,000.00, as damages for that at the time and place alleged in the complaint the plaintiff negligently drove the automobile which she was then operating over to the left side of the center line of the said highway causing it to collide with the automobile of the defendant, and that as a proximate result of said negligence defendant was severely bruised, hurt and made sick and sore, suffered great pain and mental anguish, and was caused to incur expense for medical treatment, and defendant's automobile was badly crushed, bent and broken all to defendant's damage as aforesaid.

7. For further answer to the said complaint and to each and every count thereof separately and severally defendant pleads specially by way of recoupment and avers that at the time of the commencement of this suit the plaintiff was indebted to him in the sum of, to-wit \$10,000.00 as damages for that at the time and place alleged in the complaint, R. L. Jensen, Sr., an agent or servant of the plaintiff then and there acting within the line and scope of his employment negligently drove the automobile which he was then operating over to the left side of the center line of the said highway causing it to collide with the automobile of the defendant, and that as a proximate result of said negligence defendant was severely bruised, hurt and made sick and sore, suffered great pain and mental anguish and was caused to incur expense for medical treatment, and defendant's automobile was badly crushed, bent

and broken all to defendant's damage as aforesaid.

J. B. T. Blackman 5
McCoy, McCleod, Turner & Rogers.
Attorneys for Defendant.

Circuit Court, Baldwin County, Ala.
No. 565

Rosalee Jensen,
Plaintiff,

Vs.
Edward Awad,
Defendant.

RECORDED

DEFENDANT'S PLEAS

Filed Sept 30 1941
J. S. [unclear]
Clue

9. Because it does not appear from the allegations of the said count that the alleged collision was a proximate result of the alleged fact that said Louis Weissberg was a careless, indifferent, heedless, and reckless driver.

10. Because it does not appear from the allegations of the said count that the alleged collision was a proximate result of the alleged fact that defendant intrusted his said automobile to said Louis Weissberg.

11. Because the allegation in said count that the said injuries were proximately caused by the action of defendant in permitting the alleged incompetent driver to operate defendant's automobile is a mere conclusion of the pleader.

J. T. Blackman
McCony McLeod James Rogers
Attorneys for Defendant.

NO. 565 -- AT LAW

CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

ROSALIE JENSEN,
PLAINTIFF

VS.

EDWARD AWAD,
DEFENDANT

DEMURRER

Filed September 30, 1940
R.S. Dunch, Clerk

MCORVEY, MCLEOD, TURNER & ROGERS
ATTORNEYS AT LAW
NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

ROSALEE JENSON
Plaintiff,
VS

No 565

E. AWAD,
Defendant

ESTHER O'GWYNN
Plaintiff,

NO. 566

VS

E. AWAD,
Defendant

R. L. JENSON, SR.,
Plaintiff

NO. 567

VS

E. AWAD,
Defendant.

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

Comes T. J. Mashburn, Attorney for Plaintiffs and acknowledges himself security for costs in the above style cases.

T. J. Mashburn, Jr.
Attorney for Plaintiffs

Seed Oct 24 1944
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