

-----	:	
Anna O. Erickson,	:	
Plaintiff	:	
	:	
-vs-	:	IN THE CIRCUIT COURT
	:	
R. A. York and Maryland Casualty	:	OF BALDWIN COUNTY, ALABAMA
Company, a corporation of Baltimore,	:	
Maryland,	:	AT LAW.
Defendants	:	
-----	:	

Now comes the defendant Maryland Casualty Company in the above styled cause and demurs to each and every count of the plaintiff's complaint, separately and severally, upon the following separate and several grounds:

1. Because there are no facts alleged in the said count showing that the alleged act of the defendant R. A. York was done in the performance of any duty imposed by law upon him as a State Highway Patrolman.

2. Because for aught that appears from the allegations of the said count the alleged act of the defendant R. A. York was not done in the performance of any duties imposed by law upon him as a State Highway Patrolman.

3. Because there are no facts alleged in the said count showing that the alleged act of the defendant R. A. York was committed under color of his office as a State Highway Patrolman.

4. Because for aught that appears from the allegations of the said count the alleged act of the defendant R. A. York was not committed under color of his office as a State Highway Patrolman.

5. Because the allegation in the said count that the defendant R. A. York then and there was acting within the line and scope of his employment is a conclusion of the pleader.

6. Because the allegation in the said count that the defendant R. A. York then and there was acting within the line and scope of his employment is a conclusion of the pleader, and is not sufficient as against defendant Maryland Casualty Company as the alleged surety on the bond of the said R. A. York.

7. Because there are no facts and circumstances alleged in said count showing that the alleged act of the defendant R. A. York was done in the line and scope of his employment as a State Highway Patrolman.

8. Because for aught that appears from the allegations of the said count the alleged act of the defendant R. A. York was not done by him in the line and scope of his employment as a State Highway Patrolman.

9. Because for aught that appears from the allegations in the said count the alleged act of the defendant R. A. York was a mere private act not pertaining to any function the law cast on him as a State Highway Patrolman.

10. Because it is not alleged in said count that the said R. A. York as a member of the State Highway Patrol was authorized in writing by the Governor to have the power of a Peace Officer in this State.

11. Because it is not alleged in the said count that the said act of defendant R. A. York was committed by him in the performance of any duty required of him as a member of the State Highway Patrol by the Governor.

12. Because the allegation in the said count that "such negligence constituted a failure on the part of the said defendant R. A. York to faithfully perform his duties as State highway patrolman as aforesaid" is a mere conclusion of the pleader.

13. Because the allegation in the said count that "such negligence constituted a failure on the part of the said defendant R. A. York to faithfully perform his duties as State highway patrolman as aforesaid" is a mere conclusion of the pleader, and is not sufficient as against the defendant Maryland Casualty Company as the alleged surety on the bond of the said R. A. York.

14. Because the allegation in the said count that "such negligence constituted a failure on the part of the said defendant R. A. York to faithfully perform his duties as State highway patrolman as aforesaid" is a mere conclusion of law.

15. Because the allegation in the said count that under and by virtue of the terms of the bond referred to in said count, the said defendant Maryland Casualty Company, is liable to the plaintiff for the damages received by him as aforesaid is a mere conclusion of the pleader.

16. Because the allegation in the said count that under and by virtue of the terms of the bond referred to in said count, the said defendant Maryland Casualty Company, is liable to the plaintiff for the damages received by him as aforesaid is a mere conclusion of law.

17. Because the allegation in the said count that under and by virtue of the terms of the bond referred to in said count, the said defendant Maryland Casualty Company, is liable to the plaintiff for the damages received by him as aforesaid is not an allegation of fact but a conclusion of law.

18. Because no facts are alleged in said count showing that defendant R. A. York in his alleged official capacity as a State Highway Patrolman owed any duty to the plaintiff.

19. Because no facts are alleged in said count showing that defendant R. A. York was performing an official duty as a State Highway Patrolman in driving an automobile at the time and place alleged in said count.

20. Because no facts are alleged in said count showing that defendant R. A. York was performing any duty imposed by law upon him as a State Highway Patrolman in driving an automobile at the time and place alleged in said count.

20A. Because the allegation in said count that defendant R. A. York was acting under color of his office is made only in the alternative.  
 20B. Because the allegation in said ~~the~~ count that defendant R. A. York was then and there acting within the line and scope of his authority is made only in the alternative.

21. Because no facts are alleged in said count showing that defendant R. A. York was performing any act under color of his office as a State Highway Patrolman in driving an automobile at the time and place alleged in said count.

22. Because in the said count the plaintiff claims of both of the defendants the sum of \$5,000.00 as damages and it affirmatively appears from the allegations of the said count that the bond on which the defendant Maryland Casualty Company is alleged to be a surety is in the penal sum of only \$2,000.00.

23. Because the said count unites two distinct alleged causes of action in that the allegations of said count purport to show a claim of \$5,000.00 damages against defendant R. A. York and purport to show a claim of only \$2,000.00 damages against defendant Maryland Casualty Company.

24. Because there is a misjoinder of parties defendant in said count in that the allegations of said count purport to show a claim of \$5,000.00 damages against defendant R. A. York and purport to show a claim of only \$2,000.00 damages against defendant Maryland Casualty Company.

25. Because there is a misjoinder of parties defendant in said count in that it affirmatively appears on the face of said count that the liability, if any, of each of the defendants is separate and distinct.

26. Because there is a misjoinder of parties defendant in said count in that it affirmatively appears on the face of said count that the liability, if any, of the defendant R. A. York is separate and distinct from the liability, if any, of the defendant Maryland Casualty Company.

27. Because the said count attempts to join an alleged cause of action against the defendant R. A. York and an alleged cause of action against the defendant Maryland

Casualty Company although it appears on the face of said complaint that each of said defendants may have separate and distinct defenses.

28. Because two separate and distinct causes of

action to each of which there may be separate and distinct defenses are attempted to be joined in the said count.

29. Because it does not appear from the allegations of the said count that the car of the said Hans G. Erickson was on a public highway at the time alleged in the said count.

30. Because the location of the car of the said Hans G. Erickson at the time alleged in the said count does not appear from the allegations of the said count.

And for further and additional grounds for demurrer to Count Three of the plaintiff's complaint the defendant Maryland Casualty Company assigns the following separate and several grounds:

31. Because there is not averred in the said count a wanton or willful injury of the plaintiff.

32. Because it is not averred in said count that the defendant R. A. York willfully or wantonly injured the plaintiff.

33. Because there is merely averred in the said count the wanton and willful doing of an act by the defendant R. A. York which is alleged to have resulted in an injury to the plaintiff but it is not alleged that the said defendant R. A. York wantonly or willfully inflicted the said injury.

34. Because there is merely averred in the said count the wanton and willful doing of an act by the defendant R. A. York which is alleged to have resulted in an injury to the plaintiff but there are no facts alleged in said count showing that the wanton or willful doing of the act was equivalent to a willful or wanton injury of the plaintiff by said defendant R. A. York.

35. Because no facts are averred in said count showing that the alleged wanton or wilful act of the defendant R. A. York in running the said automobile on, over, or upon the car of the said Hans G. Erickson was equivalent to a wanton or intentional injury of the plaintiff.

*McCormey, McClellan, Turner & Rogers*  
Attorneys for defendant Maryland  
Casualty Company

I hereby accept service of a copy of the foregoing demurrers and hereby waive notice of the filing of the same and of the date set for the hearing thereof.

Dated August 30, 1940.

*J. P. Buel*  
Attorney for Plaintiff

AT LAW

CIRCUIT COURT OF BALDWIN  
COUNTY, ALABAMA

---

ANNA O. ERICKSON,  
PLAINTIFF

-VS-

R.A. YORK AND MARYLAND CASUALTY  
COMPANY, A CORPORATION OF  
BALTIMORE, MARYLAND,  
DEFENDANTS

---

DEMURRERS OF DEFENDANT  
MARYLAND CASUALTY COMPANY  
TO COMPLAINT

---

*Filed Aug. 30<sup>th</sup> 1940,  
D. W. Hare  
Judge*

MCCORVEY, McLEOD, TURNER & ROGERS  
ATTORNEYS AT LAW  
NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING  
MOBILE, ALABAMA





5. Because the portion of said count sought to be stricken improperly attempts to join in said suit the surety on the bond of said R. A. York.

6. Because the portion of said count sought to be stricken improperly attempts to join in the same count a cause of action entirely separate and distinct from the cause of action alleged elsewhere in the said count.

Without waiving the foregoing motion but expressly insisting thereon, this defendant moves to strike from Count Two and Count Three of the plaintiff's complaint and from each of said counts separately and severally, that portion thereof reading as follows:

"The plaintiff further avers that under and by virtue of the laws of the State of Alabama the defendant, R. A. York as a member of the Alabama State Highway Patrol was required to and did enter into a bond with the said Maryland Casualty Company, a corporation of Baltimore, Maryland, in the penal sum of Two Thousand Dollars (\$2,000) payable to the State of Alabama, conditioned upon the faithful performance of the duties of the said R. A. York as State Highway Patrolman, as required of him by law, and that the plaintiff's injuries were the proximate result of the negligence of the said R. A. York as aforesaid, and that such negligence constituted the failure on the part of the said defendant R. A. York, to faithfully perform his duties as State Highway Patrolman as aforesaid.

The Plaintiff avers that under and by virtue of the terms of said bond heretofore referred to the said defendant, Maryland Casualty Company, a corporation of Baltimore, Maryland, is liable to the said plaintiff for the damages received by her as aforesaid."

and for grounds for said motion this defendant sets out and assigns separately and severally each of the separate and several grounds assigned in support of ~~each of~~ the foregoing motions.

Without waiving the foregoing motions, or either of them, this defendant moves to strike from Count One of the plaintiff's complaint that portion thereof reading as follows:

"and that the plaintiff's injuries were the proximate result of the negligence of the said R. A. York as aforesaid, and that such negligence of the said R. A. York constituted a failure on the part of the said defendant R. A. York to faithfully perform his duties as State Highway Patrolman as aforesaid."

and for grounds for said motion this defendant sets out and assigns separately and severally each of the separate and several grounds assigned in support of each of the foregoing motions.

Without waiving the foregoing motions, or any of them, this defendant moves to strike from Count Two and Count Three of the plaintiff's complaint and from each of said counts separately and severally that portion thereof reading as follows:

"and that the plaintiff's injuries were the proximate result of the negligence of the said R. A. York as aforesaid, and that such negligence constituted the failure on the part of the said defendant R. A. York, to faithfully perform his duties as State Highway Patrolman as aforesaid."

and for grounds for said motion this defendant sets out and assigns separately and severally each of the separate and several grounds assigned in support of each of the foregoing motions.

Without waiving the foregoing motions, or any of them, this defendant moves to strike from Count One, Count Two and Count Three of the plaintiff's complaint and from each of said counts separately and severally that portion thereof reading as follows:

"The plaintiff avers that under and by virtue of the terms of said bond heretofore referred to the said defendant, Maryland Casualty Company, a corporation of Baltimore, Maryland, is liable to the said plaintiff for the damages received by her as aforesaid."

and for grounds for said motion this defendant sets out and assigns separately and severally each of the separate and several grounds assigned in support of each of the foregoing motions.

Without waiving the foregoing motions, or any of them, this defendant moves to strike from Count One, Count Two and Count Three of the plaintiff's complaint, and from each of said counts separately and severally, that portion thereof reading as follows:

"The plaintiff further avers that under and by virtue of the laws of the State of Alabama the defendant, R. A. York as a member of the Alabama State Highway Patrol, was required to and did enter into a bond with the said Maryland Casualty Company, a corporation of Baltimore, Maryland, in the penal sum of Two Thousand Dollars (\$2,000.00), payable to the State of Alabama, conditioned upon the faithful performance of the duties of the said R. A. York as State Highway Patrolman, as required of him by law "

and for grounds for said motion this defendant sets out and assigns separately and severally each of the separate and several grounds in support of each of the foregoing motions.

*McCormey McLeod Turner & Rogers*  
Attorneys for defendant Maryland  
Casualty Company.

577  
AT LAW

---

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

---

Anna O. Erickson,  
Plaintiff

vs.

R. A. York and Maryland  
Casualty Company, a corpora-  
tion of Baltimore, Maryland,  
Defendants

---

Motions to Strike  
Portions of Complaint

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*Filed June 5th 1940*  
*R. D. Duck*  
*clerk*

McCORVEY, McLEOD, TURNER & ROGERS  
ATTORNEYS AT LAW  
NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING  
MOBILE, ALABAMA

Moore Printing Co., Bay Minette, Ala.

CIRCUIT COURT. (LAW)

January

Term, 1941

Anna O. Erickson, Plaintiff,

No. 577 vs.

R. A. York & Maryland Casualty Co.Defendant.

## BILL OF COSTS

[illegible]
$$\begin{array}{r} 62 \\ 3 \\ \hline 45 \end{array}$$

-----  
Anna O. Erickson,  
Plaintiff

-vs-

R. A. York and Maryland Casualty  
Company, a corporation of Baltimore,  
Maryland,  
Defendants  
-----

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

It being shown to the satisfaction of the Court  
that all costs in the above styled cause have been paid and  
all parties to the above styled cause having moved for dis-  
missal of said cause:

IT IS ORDERED AND ADJUDGED by the Court that  
the said cause be and the same is hereby dismissed and that  
the defendants go hence without day.

February 27, 1941.

*J. W. Hare*  
\_\_\_\_\_  
Judge

RECORDED

*Order of Dismissal*

September 23, 1941

The defendant do hence without day.

The said cause do and the same is hereby dismissed as to the

IT IS ORDERED AND ADJUDGED BY THE COURT that

dismiss of said cause;

All parties to the above styled cause having moved for

that all costs in the above styled cause have been paid and

it being shown to the satisfaction of the Court

Defendants

Walter  
Conner, a combination of Baltimore,  
B. A. York and Maryland General

-42-

Walter  
Conner, a combination of Baltimore,  
B. A. York and Maryland General

OF BALTIMORE COUNTY, ATTORNEY  
IN THE CIRCUIT COURT

Judge

*W. H. H. H.*

*Filed February 27, 1941  
R. S. Duck, Clerk*

-----  
Anna O. Erickson,  
Plaintiff

-vs-

R. A. York and Maryland Casualty  
Company, a corporation of Baltimore,  
Maryland,  
Defendants  
-----

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

Now come all parties to the above styled cause  
by their respective attorneys of record and, the costs of  
Court in said cause having been paid, move the Court to dis-  
miss the said cause.

*J P Beebe*  
Attorneys for Plaintiff

*Thomas Lawson*  
Attorneys for Defendant R. A. York

*McCoy, McLeod, Turner & Rogers*  
Attorneys for Defendant Maryland  
Casualty Company



Motion to Dismiss

was the said cause.

Now in said cause having been said, move the court to dis-  
miss the said cause with costs and, the court  
now come all parties to the above stated cause

Approved for Plaintiff

Approved for Defendant W. W. York

Approved for Defendant W. W. York

Filed January 27, 1941  
R. S. Duck, Clerk

Defendant

COMBUSTION & CORPORATION OF DISTRICT

W. W. YORK and W. W. YORK

-AS-

Plaintiff

W. W. YORK

AT THE

OF THE COUNTY OF WASHINGTON

IN THE DISTRICT COURT

-----  
Anna O. Erickson,  
Plaintiff

-vs-

R. A. York and Maryland Casualty  
Company, a corporation of Baltimore,  
Maryland,  
Defendants  
-----

:

:

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:

:

IN THE CIRCUIT COURT

OF BALDWIN COUNTY, ALABAMA

AT LAW

Now come all parties to the above styled cause  
by their respective attorneys of record and, the costs of  
Court in said cause having been paid, move the Court to dis-  
miss the said cause.

\_\_\_\_\_  
Attorneys for Plaintiff

\_\_\_\_\_  
Attorneys for Defendant R. A. York

\_\_\_\_\_  
Attorneys for Defendant Maryland  
Casualty Company

Anna O. Erickson,  
Plaintiff

-VS-

R. A. York and Maryland Casualty  
Company, a corporation of Baltimore,  
Maryland,  
Defendants

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

It being shown to the satisfaction of the Court  
that all costs in the above styled cause have been paid and  
all parties to the above styled cause having moved for dis-  
missal of said cause:

IT IS ORDERED AND ADJUDGED by the Court that  
the said cause be and the same is hereby dismissed and that  
the defendants go hence without day.

Judge

STATE OF ALABAMA.

BALDWIN COUNTY.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon R. A. YORK and the MARYLAND CASUALTY COMPANY, a corporation of Baltimore, Maryland, to appear within thirty (30) days from the service of this writ in the Circuit Court, to be held for said County, at the place of holding the same, then and there to answer the complaint of ANNA O. ERICKSON.

Witness my hand this the 5 day of April, 1940.

R. S. Dush

Clerk, Circuit Court, Baldwin  
County, Alabama.

ANNA O. ERICKSON,

Plaintiff,

vs.

R. A. YORK and MARYLAND  
CASUALTY COMPANY, a cor-  
poration of Baltimore,  
Maryland,  
Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

COUNT ONE.

The plaintiff claims of the defendants the sum of FIVE THOUSAND DOLLARS (\$5,000.00) as damages for that heretofore on, to-wit, the 11th day of February, 1940, the said defendant, R. A. York, a State highway patrolman for the State of Alabama, was operating an automobile the property of the State of Alabama, and then and there *authority under while acting under color of his office* was acting within the line and scope of his ~~employment~~, negligently proceeded on, over or along U. S. Highway Number 90, which is a public highway in Baldwin County, Alabama, to a point about one-half mile East of Blackwater Creek, in said County, when the said defendant, R. A. York, negligently ran said automobile on, over or against the car of one Hans G. Erickson, in which said plaintiff was traveling at the time, and who was then and there lawfully on said highway in said County, and by reason of said negligence of the said R. A. York and as a proximate consequence thereof, the plaintiff was thrown from the said car to the pavement and was injured in the manner fol-

lowing: Her left arm was broken between elbow and wrist, she was cut on the right side of her head about three inches, both of her legs were badly bruised, her body severely bruised, her upper and lower plate of false teeth lost, her breast badly injured, her left hand was crushed, her nerves were shattered and she was otherwise injured in a more or less permanent nature; that as a result thereof the said plaintiff was confined to a hospital for eight (8) days under the care and supervision of a physician, and was forced to incur hospital and doctor's bills; that the said plaintiff suffered extreme physical pain and mental anguish and was rendered unable to do any type of work.

The plaintiff avers that the said injuries were the proximate result of the negligence of the said defendant, R. A. York, in operating the said automobile as aforesaid, and as a proximate result of said negligence the said plaintiff was injured as aforesaid to the damages as aforesaid.

~~The plaintiff further avers that under and by virtue of the~~ laws of the State of Alabama the defendant, R. A. York, as a member of the Alabama State Highway Patrol, was required to and did enter into a bond with the said Maryland Casualty Company, a corporation of Baltimore, Maryland, in the penal sum of Two Thousand Dollars (\$2,000.00), payable to the State of Alabama, conditioned upon the faithful performance of the duties of the said R. A. York as State highway patrolman, as required of him by law, and that the plaintiff's injuries were the proximate result of the negligence of the said R. A. York as aforesaid, and that such negligence constituted a failure on the part of the said defendant, R. A. York, to faithfully perform his duties as State highway patrolman as aforesaid.

The plaintiff avers that under and by virtue of the terms of said bond heretofore referred to the said defendant, Maryland Casualty Company, a corporation of Baltimore, Maryland, is liable to the said plaintiff for the damages received by her as aforesaid.

COUNT TWO.

The plaintiff claims of the defendants the sum of FIVE THOUSAND DOLLARS (\$5,000.00) as damages for that heretofore on, to-

wit, the 11th day of February, 1940, the said defendant, R. A. York, State highway patrolman for the State of Alabama, was operating an automobile the property of the State of Alabama, and then and there *and while acting under color of his office* was acting within the line and scope of his ~~employment~~, proceeded on, over and along U. S. Highway Number 90, which is a public highway in Baldwin County, Alabama, to a point about one-half mile East of Blackwater Creek in said County, when the said defendant, R. A. York, so negligently and recklessly operated said automobile that the same collided with the car of one Hans G. Erickson, in which the said plaintiff was traveling at the time, and who was then and there lawfully on said highway in said County, and by reason of so negligently and recklessly operating said automobile and as a proximate consequence thereof, the plaintiff was thrown from the said car to the pavement and was injured in the manner following: Her left arm was broken between elbow and wrist, she was cut on the right side of her head about three inches, both of her legs were badly bruised, her body severely bruised, her upper and lower plate of false teeth lost, her breast badly injured, her left hand was crushed, her nerves were shattered and she was otherwise injured in a more or less permanent nature; that as a result thereof the said plaintiff was confined to a hospital for eight (8) days under the care and supervision of a physician, and was forced to incur hospital and doctor's bills; that the said plaintiff suffered extreme physical pain and mental anguish and was rendered unable to do any type of work.

The plaintiff avers that the said injuries were the proximate result of the negligent and reckless operation of the said automobile by the said R. A. York as aforesaid, and as a result of such negligent and reckless operation of the said automobile, the said plaintiff received the said injuries as aforesaid to her damages as aforesaid.

The plaintiff further avers that under and by virtue of the laws of the State of Alabama the defendant, R. A. York, as a member of the Alabama State Highway Patrol, was required to and did enter into a bond with the said Maryland Casualty Company, a corporation

of Baltimore, Maryland, in the penal sum of Two Thousand Dollars (\$2,000.00), payable to the State of Alabama, conditioned upon the faithful performance of the duties of the said R. A. York as State highway patrolman, as required of him by law, and that the plaintiff's injuries were the proximate result of the negligence of the said R. A. York as aforesaid, and that such negligence constituted a failure on the part of the said defendant, R. A. York, to faithfully perform his duties as State highway patrolman as aforesaid.

The plaintiff avers that under and by virtue of the terms of said bond heretofore referred to the said defendant, Maryland Casualty Company, a corporation of Baltimore, Maryland, is liable to the said plaintiff for the damages received by her as aforesaid.

COUNT THREE.

The plaintiff claims of the defendants the sum of FIVE THOUSAND DOLLARS (\$5,000.00) as damages for that heretofore on, to-wit, the 11th day of February, 1940, the defendant, R. A. York, a

State highway patrolman for the State of Alabama, was operating an

automobile, the property of the State of Alabama, and then and there *authorizing and while acting under color of his office* was acting within the line and scope of his employment, proceeded

on, over or along U. S. Highway Number 90, which is a public highway in Baldwin County, Alabama, to a point about one-half mile

East of Blackwater Creek, in said County, when the said defendant,

R. A. York, so recklessly, wantonly and wilfully ran said automobile on, over or upon the car of one Hans G. Erickson, in which

the said plaintiff was traveling at the time, who was then and

there lawfully on said public highway, in said County, and by

reason of said recklessness, wantonness and wilfullness and as a

proximate consequence thereof, the plaintiff was thrown from the

said car to the pavement and was injured in the manner following:

Her left arm was broken between elbow and wrist, she was cut on the

right side of her head about three inches, both of her legs were

badly bruised, her body severely bruised, her upper and lower plate

of false teeth lost, her breast badly injured, her left hand was

crushed, her nerves were shattered and she was other wise injured

in a more or less permanent nature; that as a result thereof the

said plaintiff was confined to a hospital for eight (8) days under the care and supervision of a physician, and was forced to incur hospital and doctor's bills; that the said plaintiff suffered extreme physical pain and mental anguish and was rendered unable to do any type of work.

The plaintiff avers that the said injuries were the proximate result of the recklessness, wantonness and wilfullness of the said defendant, R. A. York, in operating said automobile as aforesaid and as a proximate result of the wilfull and wanton negligence on the part of the said R. A. York the said plaintiff received the said injuries as aforesaid to her damages as aforesaid.

The plaintiff further avers that under and by virtue of the laws of the State of Alabama the defendant, R. A. York, as a member of the Alabama State Highway Patrol, was required to and did enter into a bond with the said Maryland Casualty Company, a corporation of Baltimore, Maryland, in the penal sum of Two Thousand Dollars (\$2,000.00), payable to the State of Alabama, conditioned upon the faithful performance of the duties of the said R. A. York as State highway patrolman, as required of him by law, and that the plaintiff's injuries were the proximate result of the negligence of the said R. A. York as aforesaid, and that such negligence constituted a failure on the part of the said defendant, R. A. York, to faithfully perform his duties as State highway patrolman as aforesaid.

The plaintiff avers that under and by virtue of the terms of said bond heretofore referred to the said defendant, Maryland Casualty Company, a corporation of Baltimore, Maryland, is liable to the said plaintiff for the damages received by her as aforesaid.

John P. Beebe  
Attorney for Plaintiff.

The Plaintiff demands a trial  
by Jury:

John P. Beebe  
Attorney for Plaintiff.



STATE OF ALABAMA,  
JEFFERSON COUNTY.

I have executed this Writ this \_\_\_\_\_ day of \_\_\_\_\_, 1940, by serving a copy of the within Summons and Complaint on Perry-Rosamond & Company, Inc., as the agents of Maryland Casualty Company, a corporation, of Baltimore, Maryland.

Sheriff, Jefferson County.

EXECUTED BY DELIVERING  
a copy of the within

TO Frank N. Julian  
AS Supt. of clm  
OF THE State of Ala  
AND SAID Frank N. Julian  
WAS SUCH WHEN SO SERVED 4/13/40  
H.A. Mosley  
Sheriff Montgomery County  
By H & C  
Deputy Sheriff

577 **RECORDED**  
ANNA O. ERICKSON,  
Plaintiff,

vs.

R. A. YORK and MARYLAND  
CASUALTY COMPANY, a cor-  
poration of Baltimore,  
Maryland,  
Defendants.

ORIGINAL  
SUMMONS & COMPLAINT.

Filed April 5, 1940,

R.S. Duck  
Clerk.

JOHN P. BEEBE  
ATTORNEY AT LAW  
LAMBERT BUILDING  
BAY MINETTE, ALABAMA

Received in Sheriff office  
April 5<sup>th</sup> 1940

321 W.R. Stuart Sheriff

Executed this the 5 day of April 1940  
on Maryland Casualty  
Company a corporation  
of Baltimore Maryland  
by leaving a copy of within with

Roger E. Rice  
adjuster  
of said company.

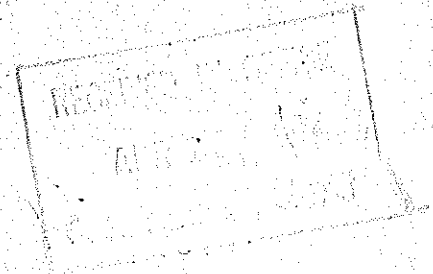
HARRY E. SMITH, Sheriff,  
Jefferson Co., Ala.

By R.M. Travis D.S.

Executed 4/9 1940  
by serving copy of within Summons and  
Complaint on

R.A. York

W.R. Stuart Sheriff  
By J.B. Hamilton Deputy Sheriff



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

Comes the defendant, R. A. York, and demurs to the complaint in the above styled cause and as grounds therefor he assigns the following:

1. That said complaint states no cause of action.
2. That for aught that appears from said complaint the alleged acts of this defendant, which plaintiff complains of, were not done by virtue of nor under color of his office as a State Highway Patrolman.
3. For aught that appears from the allegations of said complaint, or any or all of the counts thereof, this defendant, in his capacity as a State Highway Patrolman, owed no official duty to the plaintiff in and about the matters and things complained of.
4. That it affirmatively appears that any duty owed by this defendant to the plaintiff in and about the matters and things complained of was an individual duty as contradistinguished with an official duty in his capacity as a Highway Patrolman of the State of Alabama.
5. That no facts are alleged in said complaint sufficient to show a breach of this defendant's official bond as a Highway Patrolman of the State of Alabama.

2.

And specially demurring to Count One of said complaint he assigns the following:

6. That said count states no cause of action.

7. That for aught that appears from said count the alleged acts of this defendant, which plaintiff complains of, were not done by virtue of nor under color of his office as a State Highway Patrolman.

8. For aught that appears from the allegations of said count, any duty which this defendant owed to the plaintiff was an individual duty as contradistinguished with a duty he owed on account of the fact that he was a State Highway Patrolman acting in the due course of his authority as such.

9. That said count is duplicitous in that there are incorporated therein two separate and distinct causes of action, viz., action on the case against this defendant, and action in assumpsit on defendant's official bond against the defendant, Maryland Casualty Company, a corporation.

10. For aught that appears from the allegations of said count, the acts of this defendant, rather than the injury to the plaintiff, were negligently done.

11. For aught that appears from the allegations of the said count, this defendant was not engaged in the performance of any official act or function at the time that it is alleged the plaintiff sustained injury.

12. That the said count is duplicitous in that it declares upon one cause of action seeking damages for \$5,000 as against this defendant and declares upon another cause of action seeking \$2,000 as damages against another defendant, to wit, Maryland Casualty Company, a corporation.

3.

13. For aught that appears, this defendant was not engaged in the performance of any official act, duty or function at the time of the commission of the alleged acts out of which the alleged injury to the plaintiff arose.

14. That for aught that appears, the automobile of the said Hans G. Erickson, with which it is alleged the automobile being operated by this defendant collided, was not in, upon or occupying that part or portion of the said highway upon which the operator thereof at said time and place was lawfully entitled to operate the same.

And specially demurring to Count Two of said complaint, he assigns the following:

15. That said count states no cause of action.

16. That for aught that appears from said count the alleged acts of this defendant, which plaintiff complains of, were not done by virtue of nor under color of his office as a State Highway Patrolman.

17. That simple negligence and gross negligence are both charged in said count.

18. That said count is duplicitous in that there are incorporated therein two separate and distinct causes of action, viz., action on the case against this defendant, and action in assumpsit on defendant's official bond against the defendant, Maryland Casualty Company, a corporation.

19. For aught that appears from the allegations of said count, the acts of this defendant, rather than the injury to the plaintiff, were negligently and recklessly done.

20. For aught that appears from the allegations of the said count, this defendant was not engaged in the performance of any official act or function at the time that it is alleged the plaintiff sustained injury.

21. That the said count is duplicitous in that it declares upon one cause of action seeking damages for \$5,000 as against this defendant and declares upon another cause of action seeking \$2,000 as damages against another defendant, to wit, Maryland Casualty Company, a corporation.

22. That for aught that appears, the automobile of the said Hans G. Erickson, with which it is alleged the automobile being operated by this defendant collided, was not in, upon or occupying that part or portion of the said highway upon which the operator thereof at said time and place was lawfully entitled to operate the same.

And specially demurring to Count Three thereof, he assigns the following:

23. That said count states no cause of action.

24. That for aught that appears from said count the alleged acts of this defendant, which plaintiff complains of, were not done by virtue of nor under color of his office as a State Highway Patrolman.

25. That simple negligence and gross negligence are both charged in said count.

26. That simple negligence and wanton negligence are both charged in said count.

27. That said count is duplicitous in that there are incorporated therein two separate and distinct causes of action, viz., action on the case against this defendant, and action in assumpsit on defendant's official bond against the defendant, Maryland Casualty Company, a corporation.

28. That it affirmatively appears from the allegations of said complaint that the alleged acts of the defendant and not the alleged injuries to the plaintiff were recklessly, wantonly and wilfully done.

29. For aught that appears from the allegations of the said count, this defendant was not engaged in the performance of any official act or function at the time that it is alleged the plaintiff sustained injury.

30. That the said count is duplicitous in that it declares upon one cause of action seeking damages for \$5,000 as against this defendant and declares upon another cause of action seeking \$2,000 as damages against another defendant, to wit, Maryland Casualty Company, a corporation.

31. That for aught that appears, the automobile of the said Hans G. Erickson, with which it is alleged the automobile being operated by this defendant collided, was not in, upon or occupying that part or portion of the said highway upon which the operator thereof at said time and place was lawfully entitled to operate the same.

32. For aught that appears from the allegations of said complaint, or any or all of the counts thereof, this defendant, in his capacity as a State Highway Patrolman, owed no official duty to the plaintiff in and about the matters and things complained of.

Thos. S. Lawson

Thos. S. Lawson,  
Attorney General,

Chas. L. Rowe

Chas. L. Rowe,  
Assistant Attorney General,

Attorneys for the defendant, York.

Demmer

RECORDED

Filed May 4, 1940  
R.S. Duck, Clerk