

621

ALBERT B. HARTUNG,

Plaintiff,

VS.

FRANK LEMOIR, CLAUDIA

SUTTER and LOUIS P.

SUTTER,

Defendants.

IN THE CIRCUIT COURT OF

BALEWIN COUNTY, ALABAMA,

AT LAW.

And now come the Defendants, separately and severally, and for answer to the Plaintiff's complaint and to each count thereof, separately and severally, say:

FIRST:

That the facts therein alleged are untrue.

SECOND:

That they are not guilty.

THIRD:

~~That the Plaintiff was guilty of contributory negligence, which approximate-~~
ly caused the damages complained of, in that at the time and place of said accident, he was operating a motorcycle upon said highway that was not equipped with head lamps, so that they would at all times, under the conditions mentioned in the complaint, and on a level road, produce a light sufficient to render clearly discernible a person two hundred feet ahead.

FOURTH:

That the Plaintiff was guilty of contributory negligence, which proximately caused the damages complained of, in that at the time and place of the accident, he was operating a motor vehicle upon said highway carelessly and headlessly in wilful or wanton disregard of the rights or safety of others.

FIFTH:

That the Plaintiff was guilty of contributory negligence, which proximately caused the damages complained of, in that at the time and place of said alleged accident, he was operating a motorcycle upon said highway without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property upon said highway.

BERDE & HALL,

By: Shirley
Attorneys for Defendants.

621
→
RECORDED

ANSWER:

ALBERT E. HARTUNG,

Plaintiff,

VS.

FRANK LEMMON, ET AL.,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

Filed December 20th, 1940.

R. S. Duck

Clerk.

The State of Alabama,
Baldwin County

S. D. Page No. _____

Case No. 621

CIRCUIT COURT

Spring Term, 1941

To Any Sheriff of the State of Alabama, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Roscoe Jackson, John J. House

if to be found in your County, at the instance of the Defendant

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof,

by 8:30 o'clock of the forenoon, on the 17 day of April, 1941, and from day to

day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain

cause pending, wherein Albert E. Hartung Plaintiff

and Frank E. Lewis, et al., Defendant.

Herein fail not, and have you then and there this Writ.

Given under my hand and seal, this 8 day of April, 1941

R. S. Dush

CLERK.

Received in office this 8th day of

April

1944

W R Stuart

SHERIFF

4-8-44
I have executed this writ

Roseo. Jackson

John. Hons.

W. R. Stuart

Og B. H.

SHERIFF

ORIGINAL

No. 621

Page

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Albert E. Hartung,

Plaintiff

VS.

Frank L. Linn, et al.,

Defendant

CIVIL SUBPOENA

Issued this _____ day of

193

Clerk.

The State of Alabama,
Baldwin County

S. D. Page No. _____

Case No. 621

CIRCUIT COURT

Spring Term, 1941

To Any Sheriff of the State of Alabama, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

W. C. Holmes (Foley) Joseph Matysa

John J. Hona (Robertsdale)

if to be found in your County, at the instance of the

Plaintiff

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof,

by 8:30 o'clock of the forenoon, on the 17 day of April, 1941, and from day to

day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain

cause pending, wherein Albert E. Hartung Plaintiff

and Frank Lenoir Claudia Sutton + Louis P. Sutton Defendant.

Herein fail not, and have you then and there this Writ.

Given under my hand and seal, this 5 day of April, 1941

R. S. Duck

CLERK.

Received in office this 5 day of

April

1934

W R Stuart

SHERIFF

I have executed this writ

Joe Mataya 4-8-41

John Jones 4-8-41

W C Holmes - Grady

Baldwin

ORIGINAL

No. 621

Page

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Albert E. Hartung

Plaintiff

VS.

Frank Penning, et al

Defendant

CIVIL SUBPOENA

Issued this _____ day of

193

Clerk.

W R Stuart
J. B. H.

SHERIFF

The State of Alabama,
Baldwin County

S. D. Page No. _____

Case No. 621

CIRCUIT COURT

Spring Term, 1941

To Any Sheriff of the State of Alabama, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

R. A. York (Monroeville)

if to be found in your County, at the instance of the

Plaintiff

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof,

by 8:30 o'clock of the forenoon, on the 17 day of April, 1941, and from day to

day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain

cause pending, wherein

Albert E. Hartung

Plaintiff

and

Frank Lenoir, et als.

Defendant.

Herein fail not, and have you then and there this Writ.

Given under my hand and seal, this

5

day of

April

, 1941

R. S. Duck

CLERK.

Received in office this 5th day of

April 1941

193

SHERIFF

I have executed this writ

*by having
Delivered to Kaye
This 7 day April
1941*

SHERIFF

Monroe County

ORIGINAL

No. 621

Page

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Albert E. Hartung

Plaintiff

VS.

Frank Linnair, et al.

Defendant

CIVIL SUBPOENA

Issued this _____ day of

193

Clerk.

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 Frank Lenoir, Claudia Sutter and Louis P. Sutter 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 Albert E. Hartung.

Witness my hand this 9th day of November, 1940.

R. S. Duch
Clerk.

COMPLAINT.

ALBERT E. HARTUNG,

Plaintiff,

-vs-

FRANK LENOIR, CLAUDIA
SUTTER, AND LOUIS P.
SUTTER,

Defendants.

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

COUNT 1; The Plaintiff claims of the Defendants the sum of Twenty Thousand Dollars (\$20,000.00) for that on or about to-wit the 12th day of November, 1939, the Defendants Claudia Sutter and Louis P. Sutter by their agent, servant or employee Frank Lenoir, acting within the line and scope of his employment, negligently and unlawfully parked a car on the public highway leading from Roberts- dale, Alabama, to Foley, Alabama, in Baldwin County, Alabama, at a point about one and one-half miles south of Robertsdale, Alabama, during the period of time from one-half hour after sunset to one- half hour before sunrise, without the same being equipped with one or more lamps projecting a white light visible under normal atmos- pheric conditions from a distance of 500 feet to the front of such vehicle, and projecting a red light visible under like conditions from a distance of 500 feet to the rear, and as a proximate result thereof, the Plaintiff, while riding a motorcycle along said high- way and traveling from Robertsdale, Alabama toward Foley, Alabama,

at said time at about the hour of 4:30 A. M., ran into said car and as a proximate result thereof, Plaintiff's motorcycle was wrecked and his right leg was broken, both bones in his right leg crushed, his right ankle was dislocated and his thigh bone was broken. He was injured internally and suffered great physical pain and mental anguish and was permanently injured. Plaintiff alleges that by reason of the injuries which he sustained in said collision he was compelled to go to the hospital and employ a medical doctor at great expense, and Plaintiff alleges that he has lost much time from his labors and his capacity for work has been greatly reduced all to his damages as aforesaid; and Plaintiff alleges that said injuries and damages were proximately caused by Defendant's negligence as aforesaid.

COUNT 2. The Plaintiff claims of the Defendants the sum of Twenty Thousand Dollars (\$20,000.00) for that on or about to-wit the 12th day of November, 1939, the Defendants Claudia Sutter and Louis P. Sutter by their agent, servant, or employee, Frank Lenoir, willfully and wantonly parked a car on the public highway leading from Robertsdale, Alabama, to Foley, Alabama, in Baldwin County, Alabama, at a point about one and one-half miles south of Robertsdale, Alabama, during the period of time from one half hour after sunset to one half hour before sunrise without the same being equipped with one or more lamps projecting a white light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, and projecting a red light visible under like conditions from a distance of 500 feet to the rear, and as a proximate result thereof, the Plaintiff while riding a motorcycle along said highway and traveling from Robertsdale, Alabama, toward Foley, Alabama, at said time at about the hour of 4:30 A. M., ran into said truck and as a proximate result thereof, Plaintiff's motorcycle was wrecked and his right leg was broken, both bones in his right leg crushed, his right ankle was dislocated, and his thigh bone was broken. He was injured internally and suffered great physical pain and mental anguish and was permanently injured, and Plaintiff alleges that by reason of the injuries which he sustained in said collision, he was compelled to go to the hospital and employ a medical doctor at great expense, and Plaintiff alleges

(page three)

that he has lost much time from his labors and his capacity for work has been greatly reduced all to his damages as aforesaid; and Plaintiff alleges that said injuries and damages were proximately caused by Defendants willful and wanton negligence as aforesaid.

Hybert Shuman Shuman
Attorneys for Plaintiff.

Plaintiff demands a trial
of this cause by a Jury.

Hybert Shuman Shuman
Attorneys for Plaintiff.

this 7 day of _____, 1940
W. R. STUART, Sheriff

11/20/40

Executed November
20th 1940 by
handing a copy of this
Writ to the within
named defendants
Claudia Sutter and
Louis P. Sutter
W.R. Stuart Sheriff
By John R. Davis D.S.

Encl 621

RECORDED

BILL OF COMPLAINT.

ALBERT E. HARTUNG,
Plaintiff,

-v-s-

FRANK LENOIR, CLAUDIA SUTTER
AND LOUIS P. SUTTER,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

FILED NOVEMBER 9th, 1940.

R. S. Dyer

Clerk.

LAW OFFICES
HYBART & CHASON
BAY MINETTE, ALABAMA

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 Frank Lenior, Claudia Sutter and Louis P. Sutter 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 Albert E. Hartung.

Witness my hand this 9th day of November, 1940.

R. S. Duck
Clerk.

COMPLAINT

ALBERT E. HARTUNG,
Plaintiff,

-vs-

FRANK LENIOR, CLAUDIA

SUTTER, AND LOUIS P.

SUTTER,
Defendants.

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

COUNT 1; The Plaintiff claims of the Defendants the sum of Twenty Thousand Dollars (\$20,000.00) for that on or about to-wit the 12th day of November, 1939, the Defendants Claudia Sutter and Louis P. Sutter by their agent, servant or employee Frank Lenoir, acting within the line and scope of his employment, negligently and unlawfully parked a car on the public highway leading from Robertsdale, Alabama, to Foley, Alabama, in Baldwin County, Alabama, at a point about one and one-half miles south of Robertsdale, Alabama, during the period of time from one-half hour after sunset to one-half hour before sunrise, without the same being equipped with one or more lamps projecting a white light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, and projecting a red light visible under like conditions from a distance of 500 feet to the rear, and as a proximate result thereof, the Plaintiff, while riding a motorcycle along said highway and traveling from Robertsdale, Alabama, toward Foley, Alabama,

at said time at about the hour of 4:30 A. M., ran into said car and as a proximate result thereof, Plaintiff's motorcycle was wrecked and his right leg was broken, both bones in his right leg crushed, his right ankle was dislocated and his thigh bone was broken. He was injured internally and suffered great physical pain and mental anguish and was permanently injured. Plaintiff alleges that by reason of the injuries which he sustained in said collision he was compelled to go to the hospital and employ a medical doctor at great expense, and Plaintiff alleges that he has lost much time from his labors and his capacity for work has been greatly reduced all to his damages as aforesaid; and Plaintiff alleges that said injuries and damages were proximately caused by Defendant's negligence as aforesaid.

COUNT 2. The Plaintiff claims of the Defendants the sum of Twenty Thousand Dollars (\$20,000.00) for that on or about to-wit the 12th day of November, 1939, the Defendants Claudia Sutter and Louis P. Sutter by their agent, servant, or employee, Frank Lenoir willfully and wantonly parked a car on the public highway leading from Robertsdale, Alabama, to Foley, Alabama, in Baldwin County, Alabama, at a point about one and one-half miles south of Robertsdale, Alabama, during the period of time from one half hour after sunset to one half hour before sunrise without the same being equipped with one or more lamps projecting a white light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, and projecting a red light visible under like conditions from a distance of 500 feet to the rear, and as a proximate result thereof, the Plaintiff while riding a motor cycle along said highway and traveling from Robertsdale, Alabama, toward Foley, Alabama, at said time at about the hour of 4:30 A. M., ran into said truck and as a proximate result thereof, Plaintiff's motorcycle was wrecked and his right leg was broken, both bones in his right leg crushed, his right ankle was dislocated, and his thigh bone was broken. He was injured internally and suffered great physical pain and mental anguish and was permanently injured, and Plaintiff alleges that by reason of the injuries which he sustained in said collision, he was compelled to go to the hospital and employ a medical doctor at great expense, and Plaintiff alleges

that he has lost much time from his labors and his capacity for work has been greatly reduced all to his damages as aforesaid; and Plaintiff alleges that said injuries and damages were proximately caused by Defendants willful and wanton negligence as aforesaid.

HYBART, CHASON & CHASON
Attorneys for Plaintiff.

Plaintiff demands a trial of this cause by a Jury.

HYBART, CHASON & CHASON.
Attorneys for Plaintiff.

860
11-6-40-1-0-11
BILL OF COMPLAINT.

ALBERT E. HARTUNG,
Plaintiff,

-v-s-

FRANK LENOIR, CLAUDIA SUTTER
AND LOUIS P. SUTTER,
Defendants.

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

FILED NOVEMBER 25 1940.

R. S. Birch
Clerk.

Received in Sheriff's Office
this 25th day of Nov., 1940
W. R. STUART, Sheriff

RECEIVED IN OFFICE
DEC 3 - 1940
G. A. MOSLEY, Sheriff

EXECUTED BY SERVING
a copy of the within on

Frank Lenoir

12/4/40

G. A. Mosley
Sheriff Montgomery County

By G. A. Mosley
Deputy Sheriff

176

~~XX~~ Nov. Term, 1942

Albert E. Hartung. Plaintiff in the suit,

costs of suit, created by said Plaintiff, for that, whereas, on the 2nd day of August, 1919, Abated by Death of Plff.

Defendant

to the suit, the sum of ~~25X55~~
22 20 Dollars,

upon which Judgment at Execution has been issued and returned by the Sheriff, "No property found."

Witness my hand this 11th day of Jan. 194 2

Richard Clerk

CLERK'S FEES		\$	Cts	SHERIFF'S FEES		\$	Cts
For every Summons and complaint.....	1.25	1	25	For Levying an Attachment.....	3.00		
Each copy thereof.....	30		90	Entering and Returning Attachment.....	25		
Entering a Sheriff's Return.....	20		20	Summoning Garnishee.....	1.50		
Docketing.....	25		25	Serving Summons on Writ..... 3.....	1.50	4	50.
Entering Appearance.....	20		40	Serving Notice Sci. Fa. Notice, etc....	65		
Filing.....	10		50	Serving 6..... Subpoenas.....	65	3	90
Every Order made in Court.....	30		30	Empanelling Jury.....	75		
Copy thereof.....	25			Entering and Returning Execution....	25		
Every Trial with or without Jury.....	75			Collecting Costs Execution.....	1.50	1	50.
Entering up Judgment or copy threof..	30			Executing a Writ of Pessionion.....	2.50		
Issuing Execution.....	50		50	Taking and Approving Bonds.....	1.00		
Docketing Execution.....	25			Commissions.....			
Entering Return on Execution.....	20		20	Sheriff's Commission for Property			
Issuing Subpoenas..... 6.....	30	1	80	Sold Under Attachment.....			
Administering Oath.....	25			Seizing Personal Property on Writ			
Issuing Each Attachment Taking Bond	1.00			of Detinue.....	3.00		
Filing Attachment.....	10					9	9 0
Each Summons for Garnishee.....	50						
Each copy.....	50						
Notice to Deft. in Garnishee on Sum-							
mons and Copy, per 100 words.....	20			Clerk's Fees.....		9	30.
Commissions to take Depositions or				Sheriff's Fees.....		9	90.
copy.....	75			Justice's Fees.....			
Order to Execute Writ of Inquiry.....	30			Witness Fees in Justice of Peace Court			
Copy of Interrogators, 15c per hundred				Constable's Fees.....			
words or.....	50			Commissioner's Fees.....			
Filing each Deposition and endorsing				Printer's Fees.....			
same.....	20			Witness Fees in Circuit Court.....			
Final Record, per hundred words.....	15	3	00	Former Clerk's Fees.....			
Every Certificate.....	50			Stenographer's Fees.....	5.00		
Taking Bond not otherwise provided				Trial Tax.....	3.00	3	00.
for.....	75						
Witness Certificate.....	25						
Continuance.....	10						
Certificate of Judgment.....	50						
Order of Publication.....	1.00						
		9	30				22 20

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT

Albert E Hartung.

Plaintiff...

vs.

Frank Lenoir. et al.

Defendant...

Civil Execution for Costs
Against Plaintiff

Costs - - - - - \$ 22 20.

Civil Fee Book Cds. Page

Execution Docket Page

Filed Jan 11th, 1943.

R. A. Duck Clerk.

Hybart & Chason,
Plaintiff's Attorney

Beebe & Hall,
Defendant's Attorney

Received in Sheriff's Office
this 11 day of Jan, 1943
W. R. STUART, Sheriff

COLLECTION COSTS FROM

The State of Alabama, }
BALDWIN COUNTY

I hereby certify that the within.....
and costs in this case are correct, and there
was waiver of exemption as to personal
property under the Constitution and Laws of
Alabama.

This day of 194

Clerk.

Received in office

194

Sheriff

Sheriff's Execution Docket, Page

Sheriff's Fee Book, Page

*Returned this 19th day
of April 1943 no property
of the Plaintiff found
W.R. Stuart Sheriff
By M. H. ...*

Sheriff

THE STATE OF ALABAMA,
Baldwin County.

By virtue of the within execution, I have at

o'clock, M., this day of 194 levied