

STATE OF ALABAMA)
COUNTY OF BALDWIN)

1664

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summons GULF LUMBER COMPANY, INC., a corporation, to appear within thirty days from the service of this writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the complaint of ROBERT COLTON, as administrator of the estate of Mary Ellen C. Colton, deceased.

Witness my hand this the 30 day of October, 1946.

R. S. Duck
Register.

By Alice J. Duck
D. R.

ROBERT COLTON, AS ADMINISTRATOR
OF THE ESTATE OF MARY ELLEN
COLTON, DECEASED,

PLAINTIFF

VS

GULF LUMBER COMPANY, INC.,
A CORPORATION.

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

ONE.

The plaintiff claims of the defendant FIFTY THOUSAND (\$50,000.00) DOLLARS, as damages, for that heretofore, on to-wit, the 3rd day of October, 1946, the plaintiff's intestate was a guest in an automobile riding along a public highway, commonly known as the Montgomery-Mobile highway at a point approximately 11 miles South of Bay Minette in Baldwin County, Alabama; Plaintiff avers that the defendant, acting by and through its agent, servant or employee, who was then and there acting within the line and scope of his employment, so negligently operated an automobile truck along said highway, at said time and place, as to cause it to run into, over or against the automobile in which the plaintiff's intestate was riding, as a guest, and as a proximate cause of said negligence the plaintiff's intestate was killed.

TWO.

The Plaintiff claims of the defendant FIFTY THOUSAND (\$50,000.00) DOLLARS, as damages, for that heretofore on to-wit, October 3, 1946, the Plaintiff's intestate was riding as a guest, in an automobile along highway No. 31, a public highway in Baldwin County, Alabama; that the defendant acting by and through

its servant, agent or employee, who was then and there acting within the line and scope of his employment, at a point on said highway, approximately one mile South of Stapleton, negligently drove an automobile truck into or against the automobile in which the plaintiff's intestate was riding, as a guest, and as an approximate result of said negligence the plaintiff's intestate was killed.

THREE.

The Plaintiff claims of the defendant FIFTY THOUSAND (\$50,000.00) DOLLARS, as damages, for that heretofore on to-wit, October 3, 1946, the plaintiff's intestate was riding, as a guest, in an automobile, along highway # 31, at the intersection of Highway #31 and Highway # 3, approximately one mile South of Stapleton, in Baldwin County, Alabama, the defendant acting by and through its agent, servant or employee, who was then and there acting within the line and scope of his employment wantonly, willfully or intentionally killed the plaintiff's intestate by driving an automobile truck into or against the automobile in which the plaintiff's intestate was riding, as a guest.

Jacob Warner
W C Beeler

J. M. Stace

Attorneys for the Plaintiff

The Plaintiff demands a trial by jury.

Jacob Warner
W C Beeler

J. M. Stace

Attorneys for the Plaintiff

Received 3rd Day of November 1946
and on 9th Day of November 1946
I served a copy of the within summons & complaint
on Gulf Lumber Co.
by service on C. S. Willis,
General Manager
W. H. COLTON, Plaintiff
By C. S. Willis

1386

1004 Recorded

ROBERT COLTON, as administrator
of the Estate of Mary Ellen
Colton, Deceased,

PLAINTIFF

VS

K. Lavelle
GULF LUMBER COMPANY, INC.,
A CORPORATION.

C. S. Willis
Gen. Mgr.
DEFENDANT

SUMMONS AND COMPLAINT

FILED

OCT 30 1946

R. S. DUCK, CLERK

HUBERT M. HALL
LAWYER
BAY MINETTE, ALABAMA

ROBERT COLTON, As Administrator
of the Estate of MARY ELLEN
COLTON, Deceased,

Plaintiff

-vs-

GULF LUMBER COMPANY, INC.,
A Corporation,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

Comes the defendant in the above entitled cause and demurs to the complaint heretofore filed in said cause and each and every count thereof separately and severally upon the following separate and several grounds:

1. Said count does not allege sufficient facts to constitute a cause of action against the defendant.
2. Said count does not allege sufficient facts to charge a breach of legal duty owing by the defendant to the plaintiff.
3. For aught appearing in said count the automobile in which plaintiff's intestate was alleged to have been riding was not involved in said alleged accident at the time and place complained of.
4. For that an automobile cannot of itself ride upon a public highway.
5. For that the place where said alleged accident was alleged to have occurred is vague, indefinite and uncertain.
6. It does not appear from said count that the plaintiff's intestate was killed as a proximate result of the defendant's negligence.

7. For that it affirmatively appears from said count that the death of the plaintiff's intestate was the approximate result of the defendant's negligence.
8. For aught that appears in said count said automobile truck was not operated in a wanton manner.
9. Said count fails to charge this defendant with wanton or willful misconduct.
10. For aught appearing therein the alleged breach of duty of the defendant was nothing more than a contributing cause of death of plaintiff's intestate.
11. For aught appearing from the allegations of said count plaintiff's intestate's death was not the proximate result of the negligence of an agent, servant or employee of the defendant then and there acting in the line and scope of his employment with defendant.
12. Said count fails to set forth the name of the agent, servant or employee of the defendant, whose negligence is alleged to have caused the death of the plaintiff's intestate, and said count fails to state that the name of such agent, servant or employee is unknown to the plaintiff.

Hyman Shuman
Ambrecht Inge Twitty & Jackson
Attorneys for Defendant.

7. For that it affirmatively appears from said count that the death of the plaintiff's intestate was the approximate result of the defendant's negligence.

8. For aught that appears in said count said automobile truck was not operated in a wanton manner.

9. Said count fails to charge this defendant with wanton or willful misconduct.

10. For aught appearing therein the alleged breach of duty of the defendant was nothing more than a contributing cause of death of plaintiff's intestate.

11. For aught appearing from the allegations of said count plaintiff's intestate's death was not the proximate result of the negligence of an agent, servant or employee of the defendant then and there acting in the line and scope of his employment with defendant.

12. Said count fails to set forth the name of the agent, servant or employee of the defendant, whose negligence is alleged to have caused the death of the plaintiff's intestate, and said count fails to state that the name of such agent, servant or employee is unknown to the plaintiff.

Hybas Johnson

Amendrecht Inge Twitty & Jackson
Attorneys for Defendant.

ROBERT COLTON, As Administrator of
the Estate of MARY ELLEN COLTON,
Deceased,

Plaintiff

-vs-

GULF LUMBER COMPANY, INC.,
A Corporation,

Defendant

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

Filed November 27th, 1946.

Alicia J. Smith
Clerk.

LAW OFFICES
HYBART & CHASON
Bay Minette, Alabama