

1199

Cora Dell Smith, Plaintiff \*

IN THE CIRCUIT COURT OF

vs \*

BALDWIN COUNTY, ALABAMA

Jack Lawrence Castille and  
E. Menard, Defendants \*

AT LAW

TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

I, Sibyl Pool, Secretary of State, hereby certify that on July 1, 1948 I sent by registered mail, in an envelope addressed as follows:

"Mr. E. Menard  
Sunset, Louisiana"

"Registered mail  
Return receipt requested  
Deliver to Addressee only"

bearing sufficient and proper prepaid postage, a notice bearing my signature and the Great Seal of the State of Alabama in words and figures as follows:

"Mr. E. Menard  
Sunset, Louisiana

You will take notice that on July 1, 1948 there was served upon me, in my official capacity, summons and complaint in a case entitled Cora Dell Smith, Plaintiff vs Jack Lawrence Castille and E. Menard, Defendants in the Circuit Court of Baldwin County, Alabama, At Law, No. 1200, a true copy of which summons and complaint is hereto attached and the said service upon me as Secretary of State of the State of Alabama has the force and effect of personal service upon you.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 1st day of July 1948.

Signed) Sibyl Pool  
Sibyl Pool  
Secretary of State "

Enclosure - 1

I further certify that the notice above set out which was so mailed in the envelope addressed as above set forth had attached to it a true copy of the summons and complaint in the above entitled cause, there being mailed in the envelope at the time shown the notice with copy of the summons and complaint attached thereto.

I further certify that the attached receipt was received by me on July 9th, 1948 showing the receipt by the designated addressee of said notice with the attached summons and complaint aforesaid, which receipt I attach hereto.

WITNESS MY HAND and the Great Seal of the State of Alabama, this the 9th, day of July 1948.

*Sibyl Pool*  
Sibyl Pool  
Secretary of State

Enclosure - 1



Cora Dell Smith, Plaintiff \*

IN THE CIRCUIT COURT OF

vs \*

BALDWIN COUNTY, ALABAMA

Jack Lawrence Castille and \*  
E. Menard, Defendants \*

AT LAW

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

I, Sibyl Pool, Secretary of State, hereby certify that on July 1, 1948 I sent by registered mail, in an envelope addressed as follows:

"Mr. Jack Lawrence Castille  
Sunset, Louisiana"

"Registered mail  
Return Receipt Requested  
Deliver to addressee only"

bearing sufficient and proper prepaid postage, a notice bearing my signature and the Great Seal of the State of Alabama in words and figures as follows:

"Mr. Jack Lawrence Castille  
Sunset, Louisiana"

You will take notice that on July 1, 1948, there was served upon me, in my official capacity, summons and complaint in a case entitled Cora Dell Smith, Plaintiff vs Jack Lawrence Castille and E. Menard, Defendants in the Circuit Court of Baldwin County, Alabama, At Law No. 1200, a true copy of which summons and complaint is hereto attached and the said service upon me as Secretary of State of the State of Alabama has the force and effect of personal service upon you.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 1st day of July 1948.

Signed) Sibyl Pool

Sibyl Pool

Secretary of State "

Enclosure - 1

I further certify that the notice above set out which was so mailed in the envelope addressed as above set forth had attached to it a true copy of the summons and complaint in the above entitled cause, there being mailed in the envelope at the time shown the notice with copy of the summons and complaint attached thereto.

I further certify that the attached receipt was received by me on July 7, 1948 showing the receipt by the designated addressee of said notice with attached summons and complaint aforesaid, which receipt I attach hereto.

WITNESS MY HAND and the Great Seal of the State of Alabama, this the 9th day of July 1948.

*Sibyl Pool*  
Sibyl Pool  
Secretary of State

Enclosure - 1



MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

P.O. BOX 1070

MOBILE 6, ALABAMA

GESSNER T. MCCORVEY  
BEN D. TURNER  
C. M. A. ROGERS  
C. A. L. JOHNSTONE, JR.  
R. F. ADAMS

JAMES L. MAY, JR.  
CHAUNCEY MOORE

August 5, 1948

Mrs. Alice Duck  
Clerk,  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Re: Cora Dell Smith vs.  
Jack Lawrence Castille and  
E. Menard

Dear Mrs. Duck:

We certainly appreciate your telephone call relative to the transcript in the above matter.

We are enclosing both copies of the transcript and the original copy of the notice to plaintiff's attorney, showing his acceptance of service and a waiver signed by him. Please include this notice and waiver in both copies of the transcript of the record.

We have noted that the cover on the original copy of the transcript shows the name of one of the defendants to be "Manard", and ask that it pleased be changed to Menard. Also, we would appreciate your changing the name of the U. S. Court on the cover of the original transcript to read "District Court of the United States for the Sourthern District of Alabama, Southern Division."

Again, we certainly appreciate your many courtesies in this matter.

Yours very truly,

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

By: *James L. May, Jr.*

JLM/mj  
Encls.

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

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C. M. A. ROGERS  
C. A. L. JOHNSTONE, JR.  
R. F. ADAMS

JAMES L. MAY, JR.  
CHAUNCEY MOORE

July 31, 1948

Mrs. Alice J. Duck  
Clerk,  
Circuit Court of Baldwin County, Alabama  
Bay Minette, Alabama

Dear Mrs. Duck:

You will recall on July 29, 1948 we obtained the transfer to the Federal Court of the case of Cora Dell Smith vs. E. Menard and Jack Lawrence Castille. You mentioned that it would be the following Tuesday before you could prepare the certified copy of the record in that suit to be sent to the District Court of the United States for the Southern District of Alabama, Southern Division.

This is to request that when the certified copy of the record in that suit has been prepared by you, that it be sent directly to our office so that we personally might file it in the Federal Court at the proper time. We, of course, assume full responsibility for seeing that it is filed in the Federal Court within the proper time after it has been sent by you to our office.

The writer appreciates the courtesies extended to him during his recent visit to your office.

With our firm's best regards, we are,

Yours very truly,

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

By: *James L. May, Jr.*

JLM/mj

STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Jack Lawrence Castille and E. Menard 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 Cora Dell Smith.

WITNESS my hand this 30th day of June, 1948.

*Alice J. Duck*  
Clerk of the Circuit Court, Baldwin  
County, Alabama.

The Defendants are each non-residents of the State of Alabama and reside in Sunset, Louisiana.

: :

COMPLAINT

CORA DELL SMITH,

Plaintiff,

VS.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

JACK LAWRENCE CASTILLE and  
E. MENARD,

Defendants.

AT LAW.

1. The Plaintiff claims of the Defendants the sum of Fifty Thousand Dollars (\$50,000.00) as damages, for that, heretofore on, to-wit, the 8th day of February, 1948, the Defendant, Jack Lawrence Castille, the agent, servant or employee of the Defendant, E. Menard, while acting within the line and scope of his authority, so negligently operated a motor truck on United States Highways Number Thirty-one (31) and Number Ninety (90) in Baldwin County, Alabama at a point on the bridge across Blakely River, that the same was run into, upon or against the automobile in which the Plaintiff was riding and as a proximate consequence, Plaintiff's skull was fractured, her right leg broken, her body was cut and bruised, her

face was bruised and cut, she was caused to suffer great physical pain and mental anguish, she was permanently injured, she suffered and continues to suffer great pain and mental anguish and was caused to incur expenses for doctor bills, hospital bills and medical expenses. Plaintiff avers that she suffered the said injuries and consequent damages as a proximate consequence of the aforesaid negligence of the Defendants.

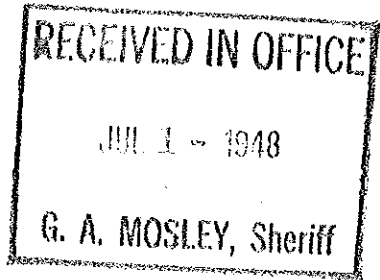
J. B. Blaschman  
Attorney for Plaintiff.

Plaintiff demands a trial of this cause by jury.

J. B. Blaschman  
Attorney for Plaintiff.

693

RECORDED



Received in Sheriff's Office  
this 30 day of June, 1948  
TAYLOR WILKINS, Sheriff

DELIVERED BY DELIVERING  
to copy of the within

7-1-48

TO Sylva Pool  
Secretary of State  
OF THE State of Ala  
AND SAID Sylva Pool  
WAS SUCH WHEN SO SERVED

G. A. Mosley  
Sheriff  
Goodwyn

RECORDED

Original

no 1200

## SUMMONS AND COMPLAINT

CORA DELL SMITH,

VS.

Plaintiff,

JACK LAWRENCE CASTILLE and  
E. MENARD,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

FILED

JUN 30 1948

ALICE J. DUCK, Clerk

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

CORA DELL SMITH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	IN THE CIRCUIT COURT
	)	
JACK LAWRENCE CASTILLE and	)	OF BALDWIN COUNTY, ALABAMA.
E. MENARD,	)	
Defendants.	)	AT LAW NO. _____
	)	

KNOW ALL MEN BY THESE PRESENTS that we, Jack Lawrence Castille and E. Menard, as principals, and Hartford Accident & Indemnity Company, as surety, are held and firmly bound unto Cora Dell Smith, the Plaintiff in the above-entitled cause, her heirs and assigns, in the penal sum of FIVE HUNDRED AND NO/100 (\$500.00) DOLLARS, lawful money of the United States of America, for the payment of which, well and truly to be made, we and each of us bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

The conditions of this obligation are that whereas the said Jack Lawrence Castille and the said E. Menard have applied by petition to the Circuit Court of the County of Baldwin, and State of Alabama, for the removal of the above-entitled cause, from the said Circuit Court to the District Court of the United States for the Southern District of Alabama, Southern Division;

Now if the said Jack Lawrence Castille and E. Menard shall enter into the said District Court of the United States for the Southern District of Alabama, Southern Division, within thirty days from the date of filing of the petition of such removal, a certified copy of the record in said suit, and shall well and truly pay all the costs that may be awarded by said District Court if it shall hold that said suit was wrongfully or improperly removed thereto, then this obligation to be void, otherwise to remain in full force and effect.



IN WITNESS WHEREOF the said Jack Lawrence Castille and E. Menard have caused this instrument to be executed in their behalf and in their names by McCorvey, Turner, Rogers, Johnstone & Adams, their duly authorized attorneys, and the said Hartford Accident & Indemnity Company, a corporation, has caused this instrument to be executed in its behalf and its name by F. E. Patrick, its attorney-in fact, on the 28th day of July, 1948.

JACK LAWRENCE CASTILLE and  
E. MENARD, Principals

BY: MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS,  
as their attorneys.

BY: Lawrence M. McCorvey  
Of Counsel

HARTFORD ACCIDENT & INDEMNITY COMPANY (SEAL)  
as surety.

BY: F. E. Patrick  
As its attorney-in fact

Taken and approved this 29 day of July,  
1948.

F. W. Hare  
Circuit Judge

Taken and approved this 29th day of July,  
1948.

Allice L. Luck  
Circuit Clerk.

CORA DELL SMITH,

Plaintiff,

vs.

JACK LAWRENCE CASTILLE and  
E. MENARD,  
Defendants.

IN THE CIRCUIT COURT  
OF BALDWIN COUNTY, ALABAMA  
AT LAW NO. 1200

TO THE HONORABLE JUDGE OF SAID COURT:

Your Petitioners, Jack Lawrence Castille and E. Menard, Defendants in the above styled cause, appearing specially for the purpose of filing this their petition to remove this action to the United States District Court for the Southern Division, of the Southern District of Alabama, and not otherwise, respectfully show unto this Honorable Court:

(1.) That the Plaintiff, Cora Dell Smith, was at the time of the commencement of the said suit and ever since has been and is now, a citizen and resident of the State of Alabama, and that the Defendants, Jack Lawrence Castille and E. Menard, were at the time of the commencement of this suit and still are, citizens and residents of the State of Louisiana; that the said suit was at the time of filing thereof, and still is, between citizens of different states.

(2.) That this is a suit for damages and personal injuries which the Plaintiff alleges the Defendant Jack Lawrence Castille, the agent, servant or employee of the Defendant E. Menard, while acting within the line and scope of his authority, inflicted upon the Plaintiff.

(3.) That the amount sued for and involved in the controversy is Fifty Thousand and No/100 (\$50,000.00) Dollars and that the amount in dispute in this action exceeds the sum of \$3,000.00, exclusive of interest and costs; that your Petitioners, the Defendants, have filed no pleading in said

cause and that the time within which these Defendants are required by state law or rule of the Court to answer or plead to Plaintiff's complaint has not expired; and that the Defendants have a good defense to the said cause.

(4.) That written notice of the intention of the Petitioners to file this petition for removal and removal bond has been given prior to the filing of this petition, to Mr. J. B. Blackburn, attorney of record for the Plaintiff in this action, and that at the time of giving such notice of petition and removal bond filed herewith, a copy of this petition and the removal bond was handed to said attorney of record for the Plaintiff.

(5.) Petitioners desire to remove this action into the District Court of the United States for the Southern Division of the Southern District of Alabama, in pursuance to the acts of Congress in that behalf made and provided. Your Petitioners therefore file and offer herewith a bond with good and sufficient surety in the penal sum of \$500.00, conditioned as required by law for entry in the said District Court of the United States in the manner and at the time provided for by law of a copy of the record in this matter and to pay all costs that may be awarded in said District Court of the United States aforesaid if said Court should hold that this action was wrongfully or improperly removed thereto.

Your Petitioners, therefore, pray that the said bond may be accepted as good and sufficient and that this Court will make and enter an order for the removal of this action into the said District Court of the United States, to be held in and for the Southern District of Alabama, in which District this action is pending, and will cause the record herein to be removed to the said District Court of the United States, and that no further or other proceedings may be had with respect to this matter in the Circuit Court of Baldwin County, Alabama pending the final decision of this controversy in the United States Court.

And your Petitioners will ever pray, etc.

Dated this 29<sup>th</sup> day of July, 1948.

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS  
Attorneys of Record for Defendants

Of Counsel

VERIFICATION

State of Alabama,  
County of Mobile.

Gessner T. McCorvey, being first duly sworn deposes and says that he is a member of the firm of attorneys of record for the Defendants in the above styled cause and is authorized to execute this affidavit in behalf of the said Defendants; that he has read the foregoing petition and knows the contents thereof and that the facts stated therein are true.

Sworn to and subscribed to  
before me, this the 29<sup>th</sup> day of  
July, 1948.

Grace G. Pugh  
Notary Public for the State of Alabama at Large

*Petition* RECORDED

*Filed*  
*7-29-48*  
*Alice J. Luck*  
*clerk*

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