

LYONS, THOMAS & PIPES

ATTORNEYS AT LAW

517-519 FIRST NATIONAL BANK BUILDING

MOBILE 8 ALABAMA

JOSEPH H. LYONS  
DANIEL H. THOMAS  
SAM W. PIPES, III

September 16th, 1948.

Clerk, Circuit Court  
Baldwin County, Ala.  
Bay Minette, Ala.

E. H. English v. C. Henry Bryars. At Law #1227.

Dear Sir:

Enclosed herewith please find demurrer on behalf of the defendant in the above case, together with our appearance on behalf of the defendant.

You have heretofore notified us that Civil pleadings day will be Monday, September 27th. I assume that these demurrers will be heard on that day, and I will be present to argue them. Will you kindly acknowledge receipt of the enclosed?

Thanking you in advance, I am,

Very truly yours,

  
Daniel H. Thomas

DHT:ee

E. H. ENGLISH,

Plaintiff,

VS.

C. HENRY BRYARS,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
AT LAW. NO. 1227.

PLEAS.

Comes the Defendant in the above entitled cause and for answer to Counts 1 and 2 of Plaintiff's Complaint, files the following separate and several pleas:

1. Not Guilty.
2. General issue.
3. Not guilty of the matters and things alleged in Plaintiff's Complaint.
4. At the time and place complained of in Plaintiff's Complaint, the Plaintiff himself was guilty of negligence which proximately contributed to his own injury and damage.

*Lyons Thomas & Pyles*

Attorneys for Defendant.

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#1227

Filed  
9-27-48  
Rice

RECORDED

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E. H. ENGLISH,

Plaintiff,

VS.

C. Henry Bryars,

Defendant.

IN THE

CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

AT LAW. No. 1227

Comes the Plaintiff in the above styled cause and demurs to  
Plea 4 to the Complaint and as grounds therefor says:

1. That said Plea states no ground of defense to Count  
2 of the complaint.

2. That said Plea fails to allege in what manner the  
Plaintiff was guilty of negligence which contributed to his injury.

3. That said plea fails to state what act of the  
Plaintiff was negligent.

4. That the act of negligence of the Plaintiff complained  
of in said Plea is vague and uncertain.

5. That said Plea fails to state wherein Plaintiff was  
guilty of negligence.

  
Attorneys for the Plaintiff.

C. H. English  
Plaintiff

B

L. Harry Bryans  
Defendant

RECORDED

Filed 9-27-48  
Alice J. Duck  
Clerk

E. H. ENGLISH,  
PLAINTIFF

VS.

C. HENRY BRYARS,  
DEFENDANT.

) IN THE CIRCUIT COURT OF  
) BALDWIN COUNTY, ALABAMA  
)  
) AT LAW NO. 1227.

We appear for the defendant in the above entitled cause  
with leave to plead, answer or demur specially.

*Lynn Thomas & Pipes*  
ATTORNEYS FOR THE DEFENDANT.

RECORDED

FILED

SEP 17 1948

ALICE J. DUCK, Clerk

E. H. ENGLISH,  
PLAINTIFF.

VS.

C. HENRY BRYARS.  
DEFENDANT.

IN THE CIRCUIT COURT OF BALDWIN COUNTY,

ALABAMA.    AT LAW. 1227.

Comes the defendant in the above entitled cause and demurs separately and severally to Counts one and two of plaintiff's complaint and as grounds therefor set forth the following separate and several grounds of demurrer.

1. From aught that appears in said count said accident did not occur on a public thoroughfare in Baldwin County, Alabama.
2. The location of said accident is not sufficiently designated in said count.
3. Said count sets out the breach of no duty owed to the plaintiff by the defendant.
4. From aught that appears in said Count the injury and damage complained of was not the proximate result of the negligence complained of.
5. Said count does not sufficiently allege the time during which the plaintiff lost the use of his said automobile.

  
ATTORNEYS FOR THE DEFENDANT.



1227

RECORDED

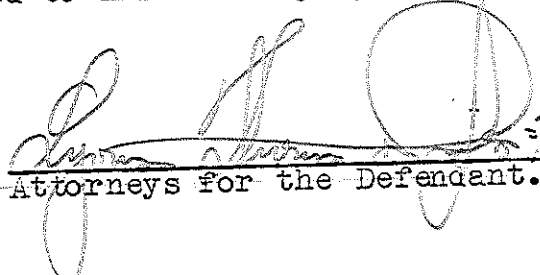
FILED  
SEP 17 1948  
ALICE J. DUCK, Clerk

E. H. ENGLISH, ) IN THE CIRCUIT COURT OF  
Plaintiff ) BALDWIN COUNTY, ALABAMA  
VS. )  
C. HENRY BRYARS, )  
Defendant. ) AT LAW NO. 1227.

PLEA

Comes the defendant in the above entitled cause and for further answer to Count One of plaintiff's complaint, refiles Plea #4, which is in words and figures as follows:

4. At the time and place complained of in plaintiff's complaint, the plaintiff himself was guilty of negligence which proximately contributed to his own injury and damage.

  
Attorneys for the Defendant.

E. H. ENGLISH, ) IN THE CIRCUIT COURT OF  
PLAINTIFF ) BALDWIN COUNTY, ALABAMA  
VS. )  
C. HENRY BRYARS, )  
DEFENDANT. ) LAW SIDE. NO. 1227.

Comes the defendant in the above entitled cause and states to the Court that the plaintiff in the above styled cause is claiming damages for personal injuries, and further states that the defendant has been unable to obtain a copy of the findings of plaintiff's physician following an examination by said physician of the plaintiff, subsequent to the accident in question.

WHEREFORE defendant moves the court to appoint a physician of good standing who is disinterested in the outcome of said cause, for the purpose of examining the plaintiff in this cause, and further moves the Court to direct the plaintiff to submit to such examination by the physician appointed by the Court.

Lynn Thomas & Pipes  
J. B. Blackburn  
ATTORNEYS FOR THE DEFENDANT.

I hereby accept service of a copy of  
Above motion this 27<sup>th</sup> day of Oct - 1948

Phil Mason  
As one of the attys for Pla.

MOTION TO REQUIRE EXAMINATION  
OF PLAINTIFF.

E. H. ENGLISH,

**RECORDED**

Plaintiff,

VS.

C. HENRY BRYARS,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

LAW SIDE. NUMBER 1227.

**FILED**

OCT 26<sup>th</sup> 1948

ALICE J. DUCK, Clerk

E. H. ENGLISH,

Plaintiff,

VS.

C. HENRY BRYARS,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
AT LAW. NO. 1227.

NOTICE

TO MESSRS. HYBART AND CHASON, ATTORNEYS FOR THE PLAINTIFF:

You are hereby notified that the motion to require the Plaintiff in this case to submit to a physical examination by a physician to be appointed by the Court and the objections which you filed to the said motion will be submitted to the Judge of the Circuit Court of Baldwin County, Alabama for a ruling thereon on Monday, November 1, 1948.

*Lyons Thomas & Pikes*

*J. B. Blackburn*

Attorneys for the Defendant.

I hereby certify that I delivered a copy of the foregoing notice to the office of Hybart and Chason, Attorneys for the Plaintiff in this cause, on the 28th day of October, 1948.

*J. B. Blackburn*

Of counsel for the Defendant.

NOTICE

RECORDED

E. H. ENGLISH,

Plaintiff,

VS.

C. HENRY BRYARS,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
AT LAW. NO. 1227.

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT FOR THE DISTRICT OF

ON or Monday, November 1, 1918,  
the Circuit Court of Baldwin County, Alabama for a ruling  
you asked to the said motion will be submitted to the Court  
a Division to be appointed by the Court and the objection  
disputed in this case to submit to a physical examination by  
You are hereby notified that the motion to require  
10-28-48  
Filed  
Rec'd  
Clerk

Attorneys for the Defendant.

Of counsel for the Defendant.

C. HENRY BRYARS,  
AS  
E. H. ENGLISH,

AT LAW. NO. 1227.  
BALDWIN COUNTY, ALABAMA.  
IN THE CIRCUIT COURT OF

STATE OF ALABAMA

()

IN THE CIRCUIT COURT

BALDWIN COUNTY

()

LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon C. Henry Bryars 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 E. H. English.

Witness my hand this 25 day of August, 1948.

Alice J. Luck  
Clerk.

COMPLAINT

E. H. ENGLISH,

¶

Plaintiff,

¶

IN THE CIRCUIT COURT OF

vs.

¶

BALDWIN COUNTY, ALABAMA.

C. HENRY BRYARS,

¶

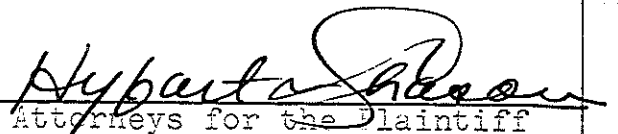
LAW SIDE.

Defendant.

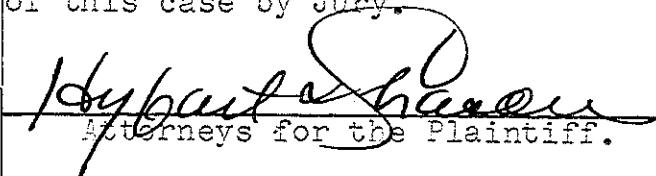
¶

COUNT 1: The Plaintiff claims of the Defendant Sixty-Five Hundred Dollars (\$6500.00) damages for that whereas, on to-wit, August 9, 1948, Plaintiff was driving an automobile, the property of the Plaintiff, on U.S. Highway No. 31, in Stapleton, in Baldwin County, Alabama, where he had a right to be and while so driving or operating his said automobile, an agent, servant or employee of the Defendant while acting within the line and scope of his authority and employment negligently drove an automobile truck, the property of the Defendant into or against the Plaintiff's automobile and as a proximate cause and direct consequence thereof, Plaintiff was severely injured, jarred, bruised, shocked, made sore, cause to suffer great mental and physical pain; he was internally injured and caused to incur medical bills, medicine and X-Ray expenses. The Plaintiff's said automobile was struck on its right side and turned over on its left side, crushing the body, bending the frame, the motor was injured and his said car was almost demolished and Plaintiff was caused to lose the use of said automobile, all to the damage of the Plaintiff as aforesaid, hence this suit.

COUNT 2: The Plaintiff claims of the Defendant Sixty-Five Hundred Dollars (\$6500.00) damages for that whereas, on to-wit, August 9, 1948, Plaintiff was driving an automobile, the property of the Plaintiff, on U.S. Highway No. 31, in Stapleton, in Baldwin County, Alabama, where he had a right to be and while so driving or operating his said automobile, an agent, servant or employee of the Defendant while acting within the line and scope of his authority and employment wilfully and wantonly drove an automobile truck, the property of the Defendant, into or against the Plaintiff's automobile and as a proximate cause and direct consequence thereof, Plaintiff was severely injured, jarred, bruised, shocked, made sore, caused to suffer great mental and physical pain; he was internally injured and caused to incur medical bills, medicine and X-Ray expenses. The Plaintiff's said automobile was struck on its right side and turned over on its left side, crushing the body, bending the frame, the motor was injured and his said car was almost demolished and Plaintiff was cause to lose the use of said automobile, all to the damage of the Plaintiff as aforesaid, hence this suit.

  
Attorneys for the Plaintiff

Plaintiff demands a trial  
of this case by Jury.

  
Attorneys for the Plaintiff.



Received in Sheriff's Office  
this 25 day of Aug, 1948  
TAYLOR WILKINS, Sheriff

Executed 8-25 19 48  
by serving copy of within Summons and  
Complaint on

C. Henry Bryars

Taylor Wilkins Sheriff  
H. F. Hall Deputy Sheriff

701227  
**RECORDED**  
SUMMONS AND COMPLAINT

E. H. ENGLISH,  
Plaintiff,  
vs.

C. HENRY BRYARS,  
Defendant.

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

FILED AUGUST 25<sup>th</sup>, 1948.

Alice J. Leuck  
Clerk.

LAW OFFICES  
**HYBART & CHASON**  
BAY MINETTE, ALABAMA

E. H. ENGLISH,  
Plaintiff,  
vs.  
C. HENRY BRYARS,  
Defendant

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
LAW SIDE NO. 1227.

OBJECTIONS TO DEFENDANT'S MOTION TO REQUIRE  
PHYSICAL EXAMINATION OF THE PLAINTIFF

Comes the Plaintiff in the above styled cause and for objection to the motion filed by the Defendant, C. Henry Bryars to require Plaintiff to submit to a physical examination assigns the following separate and several grounds of objection:

1. Said motion was not seasonably made.
2. Plaintiff did not have reasonable notice of the filing of said motion.
3. There is insufficient time between the filing of this motion and the hearing thereof to give Plaintiff reasonable notice of the filing of the same.
4. There is an insufficient length of time between the filing of this motion and the date of the trial of this cause in which to hear said motion and if necessary, to have the Plaintiff examined by a disinterested physician.
5. Said motion for a physical examination of the Plaintiff was not timely made.
6. To require the Plaintiff to submit to a physical examination would cause the trial of this case to be postponed.
7. To require the Plaintiff to submit to a physical examination would cause the trial of this case to be delayed.
8. To require the Plaintiff to submit to said examination would require a continuance of this cause.
9. To require the Plaintiff to submit to said examination would probably cause the postponement of the trial of this case.

*Hybart and Chason*  
Attorneys for Plaintiff.

RECORDED

OBJECTIONS TO DEFENDANT'S  
MOTION FOR PHYSICAL EX-  
AMINATION

E. H. ENGLISH,  
Plaintiff,  
vs.  
C. HENRY BRYARS,  
Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
LAW SIDE. No. 1227.

Filed October 28<sup>th</sup>, 1948

*Rebecca J. Enck*

Clerk  
LAW OFFICES

**HYBART & CHASON**  
BAY MINETTE, ALABAMA

English  
vs  
Bryans-

# JURY LIST

## BALDWIN COUNTY CIRCUIT COURT

### JURY LIST

| No.           | Name                               | Residence                   |
|---------------|------------------------------------|-----------------------------|
| <del>1</del>  | <del>Dan Camp</del>                | <del>Bay Minette</del> D6   |
| <del>2</del>  | <del>Fred McKenzie</del>           | <del>Magnolia Springs</del> |
| <del>3</del>  | <del>Clarence Moore</del>          | <del>Fairburn</del> P2      |
| <del>4</del>  | <del>W. D. White</del>             | <del>Bay Minette</del> P3   |
| 5             | Ned Noonan                         | Bay Minette.                |
| <del>6</del>  | <del>William A. Glover</del>       | <del>Daphne</del> P2        |
| <del>7</del>  | <del>Jack Matthews</del>           | <del>Bay Minette</del>      |
| <del>8</del>  | <del>Wm. P. Baldwin</del>          | <del>Robertsdale</del>      |
| <del>9</del>  | <del>Henry S. Skipper</del>        | <del>Loxley</del> D3        |
| <del>10</del> | <del>Elmer V. Lovell</del>         | <del>Silverhill</del>       |
| <del>11</del> | <del>C. C. Brown</del>             | <del>Josephine</del>        |
| 12            | J. A. Mothershead                  | Lottie.                     |
| <del>13</del> | <del>Joseph Lynd</del>             | <del>Bay Minette</del>      |
| <del>14</del> | <del>Lawrence F. Boeschon</del>    | <del>Bay Minette</del>      |
| <del>15</del> | <del>John Broughton</del>          | <del>Bay Minette</del>      |
| <del>16</del> | <del>Elwood G. Poos</del>          | <del>Robertsdale</del>      |
| <del>17</del> | <del>Charles Wenzel</del>          | <del>Foley</del>            |
| <del>18</del> | <del>George Heidelberg</del>       | <del>Silverhill</del>       |
| <del>19</del> | <del>Coleman Armstrong</del>       | <del>Bay Minette</del> D5-  |
| <del>20</del> | <del>Jessie M. Paantley</del>      | <del>Daphne</del> D7        |
| <del>21</del> | <del>Roy Mahathay</del>            | <del>Stapleton</del> P4     |
| <del>22</del> | <del>Thomas J. Davidson, Sr.</del> | <del>Bay Minette</del> P6   |
| 23            | George Holk                        | Foley.                      |
| <del>24</del> | <del>Young A. Cox</del>            | <del>Stockton</del>         |
| <del>25</del> | <del>Bedford Mullins</del>         | <del>Bay Minette</del> P7   |
| <del>26</del> | <del>Albert Martin</del>           | <del>Bay Minette</del> D4-  |
| 27            | Wilson Beasley                     | Bay Minette.                |
| 28            | Ludie E. Scarborough               | Bay Minette.                |
| 29            | J. Simpson Lowery                  | Bay Minette.                |
| <del>30</del> | <del>Maxwell D. Reed</del>         | <del>Bay Minette</del> P2-  |
| 31            | Norman P. Durant                   | Bay Minette.                |
| 32            | Virgil V. Rhodes, Jr.              | Bay Minette.                |
| 33            | Eugene Reed                        | Bay Minette.                |
| <del>34</del> | <del>Philip M. Mason</del>         | <del>Bay Minette</del>      |
| <del>35</del> | <del>W. Devon Stapleton</del>      | <del>Bay Minette</del> P1   |
| 36            | Shelby W. Langston                 | Bay Minette.                |
| 37            | Louis R. White                     | Bay Minette.                |
| <del>38</del> | <del>Martin Timberlake</del>       | <del>Bay Minette</del> D    |
| 39            | William S. Friel                   | Bay Minette.                |

P. + + + + +

D. + + + + +