

1264

LILLIAN H. HOLLOWAY, as Adminis-
tratrix of the Estate of Julius
C. Holloway, Deceased,

Plaintiff,

vs.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC.,
a corporation,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

No. _____

OBJECTIONS OF THE PLAINTIFF TO INTERROGATORIES PROFOUNDED TO
THE WITNESS, FRED GUNN, JR. :

Comes the Plaintiff and objects to Interrogatory No. 6
on the following separate and several grounds:

- (a) Said interrogatory seeks no specific information.
- (b) Said interrogatory asks no direct question.
- (c) Because said interrogatory seeks to elicit no specific
fact.

The plaintiff also objects to Interrogatory No. 9 on the
following separate and several grounds:

- (a) Said interrogatory is leading.
- (b) Said interrogatory calls for a conclusion of the
witness.

The plaintiff objects to Interrogatory 18 upon the following
separate grounds:

- (a) Said interrogatory is leading.
- (b) Said interrogatory calls for several questions in one
interrogatory.
- (c) Said interrogatory is incompetent, irrelevant and im-
material.

The plaintiff objects to Interrogatory 19 upon the
ground that it assumes that minutes did elapse before any motor
vehicles or persons came to the scene of the wreck after said
wreck occurred.

The plaintiff objects to Interrogatory 23 on the following

separate grounds:

- (a) Said interrogatory is leading.
- (b) Said interrogatory calls for answers to several questions in one interrogatory.
- (c) It is augmentative.
- (d) It calls for the opinion and conclusion of the witness.
- (e) It is incompetent, immaterial and irrelevant.

CROSS-INTERROGATORIES

Without waiving the objections to the foregoing interrogatories, comes the plaintiff and propounds to the witness, Fred Gunn, Jr., the following cross-interrogatories, separately and severally:

1. Were you on the back seat of the automobile in which you were riding at the time of said collision?
2. Who was sitting on said back seat with you?
3. Is it not true that you knew nothing of the accident until the collision of the automobile in which you were riding with the said van truck?
4. Afterwards, did you not tell a number of people that you did not know how the accident happened as you were dozing at the time?
5. Please examine the document attached hereto as Exhibit "A" and state whether it is a photostatic copy of a statement which you signed on March 19, 1948.
6. Please examine said Exhibit "A" and state whether it appears to be a photostatic copy of a statement which you signed on March 19, 1948.
7. To whom was said statement given?
8. Please examine the document attached hereto as Exhibit "A" and state whether the signature thereto is a true photostatic copy of your signature.
9. Please examine said exhibit and state whether said signature attached thereto appears to be a photostatic copy of your signature.

10. Are the facts stated in said document attached hereto as Exhibit "A" true?

11. If you answer that they are not true, please state in what respect said facts are untrue.

12. Have you done this?

13. Where was the original of said statement written and where did you sign it?

14. Who was present at the time?

15. Did you see the Ford truck which collided with the van truck at a point between Bay Minette and Stepleton in Baldwin County, Alabama, between 4 and 5 o'clock in the afternoon on March 17, 1948, prior to its collision with said van truck?

16. When did you first see said Ford truck?

17. Where was it at the time?

18. Did said van truck and said Ford truck collide head-on?

19. Did you testify in the case of Clara M. Noble, as Administratrix of the Estate of Auburn H. Noble, Deceased, plaintiff, versus John Thomas Smith and the Howard Hall Company, Inc., a corporation, defendants, No. 1196 on the law side of the Circuit Court of Baldwin County, Alabama, in answer to cross-interrogatories propounded to you by the plaintiff in that case that you did not see the Ford Truck which collided with said van truck on March 17, 1948, prior to its collision with said van truck; that you saw it for the first time four or five minutes after the automobile in which you were riding collided with said van and at the time you first saw it said Ford truck was on the right side of the road in front of the van?

20. Please state if you answer interrogatory No. 20 propounded to you by the defendant in the affirmative who you first told about the facts covered by your answer.

21. When and where did you tell them?

22. Who was present at the time?

23. Did you ever state to any one prior to answering interrogatories 20, 21, and 22, propounded to you by the de-

defendants that you did see tracks or marks leading to the point where the van or tractor collided with the pick-up truck? If so, to whom did you make such statements and where?

24. Did you, prior to answering interrogatory No. 20 propounded to you in this case by the defendants, tell any one that you saw something on the shoulder of the highway east of the pavement and south of the place where the collision or collisions occurred and something on the highway running from the shoulder on the east side thereof to the place the collision occurred? If so, to whom, when and where did you tell the same and what did you say at the time.

25. Did you testify to any such thing in your deposition taken in the case of Clara M. Noble, as Administratrix of the Estate of Auburn H. Noble, Deceased, plaintiff, versus John Thomas Smith and the Howard Hall Company, Inc., a corporation, defendants, No. 1196 on the law side of the Circuit Court of Baldwin County, Alabama, ?

26. Did you in said deposition testify to having seen any track or tire marks on said highway leading to the point where the van or tractor collided with the pick-up truck? If so, please quote from your deposition what you said at the time?

27. Has any one sought to get you to testify that you did see something on the shoulder of the highway east of the pavement and south of the place where the collision or collisions occurred and something on the highway running from the shoulder on the east side thereto to the place where the collision occurred? If so, who got you to testify to this?

28. Did either defendant or any representative of either get you to so testify? If so, when and where did they talk with you and what did you tell them?

29. When did you first tell any one in answer to interrogatory No. 23 propounded to you by the defendants that you found the tracks of the pick-up truck showed that the pick-up truck had run off of the paved portion of the highway on the right side of the said pick-up truck and that said tracks in-

icated it was driven off the paved portion of the highway?

30. Who did you tell the same to and where?

31. Did you testify to these facts in your deposition in the case of Clara M. Noble, as Administratrix of the Estate of Auburn H. Noble, Deceased, plaintiff, versus John Thomas Smith and the Howard Hall Company, Inc., a corporation, defendants, No. 1196 on the law side of the Circuit Court of Baldwin County, Alabama? If so, please state what you did testify to in your said deposition concerning said tracks.

32. How far did the van truck travel from the point of collision before it left the highway?

33. Did you see a Highway Patrolman at the scene of the accident measure the distance from the point of collision to where it left the highway?

34. Was not that distance approximately 96 feet? If not, please state what distance it was.

35. You do not know, do you, which side of the road the van truck was on at the time the car in which you were traveling collided with it?

36. You do not know, do you, which side of the road said van truck was on at the time of its collision with the Ford truck?

37. If you knew which side of the road on which the two said collisions took place, please state if you mentioned that fact to Mr. C. H. Fisher or such other person who took the statement, a copy of which is hereto attached as Exhibit "A".

38. Do you know why such a fact was not put in said statement?

39. Who wrote the statement, a copy of which is hereto attached and marked Exhibit "A"?

40. Were you present in Mobile, Alabama, on March 18, 1948 when Mr. Lawrence C. Tharo, Jr. gave a written statement to Mr. C. H. Fisher or some other person?

41. If you answer "yes", please state who was present at the time and where said statement was given.

42. Who was said statement given to?

43. Did you hear Mr. Lawrence C. Pharo, Jr. tell Mr. Fisher or the person taking such statement at the time; "my car struck the van before it left the highway and while it was still traveling forward."?

44. Will you please state whether the car in which you were riding struck the van before it left the highway and while it was still travelling forward?

45. At said time, did you further hear Mr. Lawrence C. Pharo, Jr. state to Mr. Fisher or such person who took such statement, as follows: "When said truck turned off the highway to the right, the left rear of the van extended over the center line of the road." ?

46. Will you please state whether when said van truck turned off the highway to the right the left rear of the van extended over the center line of the road?

47. How far did said van truck travel southwardly on the highway after its collision with the Ford truck before it left the paved portion of said highway?

48. How far did said van truck travel southwardly on the highway after the collision of the car in which you were riding with it before it left the highway?

49. Have you talked to any one about what your answers would be to these interrogatories after October 16, 1948, and before the time you were to appear before the Commissioner to answer them?

50. Whom have you talked with concerning your answers?

Hyland, Chasen & Atkins

William J. Chasen, Jr.
Attorneys for Plaintiff

The undersigned, as one of the attorneys for the defendants in the above entitled cause, hereby accepts service of a copy of the foregoing objections to interrogatories and a copy of the cross-interrogatories on this 8th day of March, 1949.

W. A. Brown
Attorney for the defendants

Mobile, Alabama March 19, 1948

Report of accident of Mr. Fred W. Gunn, Jr., 2059 Foster Lane, Fulton Ridge,
Mobile, Alabama

I am 19 years of age and a student of Alabama Polytechnic Institute at Auburn, Alabama. I was an occupant of the car driven by Mr. Lawrence C. Pharo, Jr. when we were involved in an accident near Stapleton, Ala. on U. S. Highway 31. I sustained no injury as result of this accident. I occupied the rear seat on the left side of the car. In other words, I was sitting directly behind the driver. I was observing the road ahead just before and at the time of the accident. I noticed we were overtaking a large van truck and that we were in a curve bearing to the right at the time. ~~I understand we were about 30-40 feet behind the van truck~~ I imagine we were running about 40 miles per hour and our car was about 30-40 feet behind the van when it suddenly started making an emergency stop.

I immediately jerked Miss Holloway down in the seat and ducked. After the accident I noticed the van truck had gone off the highway to its right and later learned it had collided headon with a light Ford truck. I did not see the Ford truck before that. I understand it was meeting the large van.

I noticed Mr. Pharo cutting his car suddenly to the left and I know the right side of our car struck the left corner of the van and that our car stopped practically at the point of collision. I looked at the van where our car struck it and noticed no noticeable damage to the van caused by our car. The top of our car was severely damaged.

We had not been following this van truck but had just caught up with it, when the accident started to happen. As I recall it was slightly cloudy but visibility was good.

Fred W. Gunn, Jr.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
RECORDED

AT LAW No. 1264.

LILLIAN H. HOLLOWAY, as
Administratrix of the Es-
tate of Julius C. HOLLOWAY,
Deceased,

Plaintiff,

VS.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC.
a corporation,

Defendants

OF PLAINTIFF
OBJECTIONS/TO CERTAIN
INTERROGATORIES PROFOUNDED
BY THE DEFENDANTS TO THE
WITNESS, FRED GUMM, JR.,
and
CROSS-INTERROGATORIES
PROFOUNDED BY THE PLAINTIFF
TO THE WITNESS, FRED GUMM,
JR.

Filed 3-9-49
Alice J. Hunch
Clerk

JOHNSTON, MCCALL & JOHNSTON
LAWYERS
SUITE 804, FIRST NATIONAL BANK ANNEX
MOBILE 4, ALABAMA

LILLIAN H. HOLLOWAY, as Adminis-
tratrix of the Estate of Julius C.
Holloway, Deceased,

Plaintiff,

vs.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC., a
corporation,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

No. 1264

INTERROGATORIES PROPOUNDED TO EACH OF THE DEFENDANTS BY THE
PLAINTIFF:

1. Please give the age and address of the defendant,
John Thomas Smith. (a) How long had he been in the employ of the
defendant, Howard Hall Company, Inc. on the 17th day of March,
1948? (b) How long had he been driving trucks on that date?
(c) When was he employed by the defendant, Howard Hall Company,
Inc.? (d) Had he ever made any trips along Highway 31 between
Bay Minette and Stapleton in Baldwin County, Alabama, prior
to March 17, 1948? (e) If so, for how long a time had he been
driving trucks or other motor vehicles along said highway past
said towns? (f) When was the last time, prior to March 17,
1948, that he passed on highway 31 between Bay Minette and
Stapleton in Baldwin County, Alabama? (g) Please state whether
a motor truck operated by the defendants on March 17, 1948,
between Bay Minette and Stapleton in Baldwin County, Alabama,
had a collision while travelling south on said highway at said
time and place with another motor vehicle travelling north on
~~said highway at said time and place.~~

2. On or about March 17, 1948, was the defendant, John
Thomas Smith, operating a motor vehicle on Highway 31 between
Bay Minette and Stapleton in Baldwin County, Alabama? If so,
please state the type of motor vehicle he was operating. (a)
What was the length of the same, including the trailer? (b)
What was the length of said motor vehicle, excluding the trail-
er? (c) What was the weight of said motor vehicle? (d) What was
its width at its widest point? (e) What was the width of the

trailer at its widest point? (f) What was the weight of said motor truck and trailer without a load? (g) What was its weight with the load it was transporting March 17, 1948 between Bay Minette and Stapleton? (h) What make of motor vehicle was it? (i) What year model was said motor vehicle? (j) Please state the nature of the brakes with which it was equipped?

(3) Did the motor vehicle owned and operated by the Howard Hall Company, Inc. and driven by John Thomas Smith on March 17, 1948, have a collision in Baldwin County, Alabama, on Highway 31 near Stapleton with another motor vehicle? (a) If you answer yes, please state how far north of Stapleton said collision occurred. (b) What was the width of the pavement at the point of the collision? (c) What type of pavement was said highway constructed of at the point of the collision? (d) Was the road straight at the point of the collision looking north? (e) If so, for what distance? (f) Was the highway at the point of collision straight looking south? (g) If so, for what distance? (h) If you answer that there was a slight curve looking south from the point of collision, please state how far south on said highway a driver in a motor vehicle of the type the defendants were operating on said date, could see from the point of the collision? (i) What time of day did said collision occur? (j) What was the condition of the weather? (k) Was it fair or cloudy? (l) Was the pavement wet or dry?

4. If you answer that the motor vehicle driven by John Thomas Smith collided with another motor vehicle near Stapleton on Highway 31 in Baldwin County on March 17, 1948, please state the time of day said collision occurred. (a) When did said John Thomas Smith first see the motor vehicle with which the motor vehicle he was driving collided prior to the collision? (b) How far was he from said motor vehicle when he first saw it prior to the collision? (c) How far was he from the point of collision when he first saw said motor vehicle with which he collided prior to the collision? (d) How fast was the motor vehicle which said John Thomas Smith was driving travelling when he first saw the other motor vehicle with which he had a collision? (e)

How fast was said motor vehicle which said John Thomas Smith was driving travelling at the time of the collision? (f) How fast was the other motor vehicle travelling at the time John Thomas Smith first saw it? (g) How fast was the other motor vehicle travelling at the moment of the collision?

(5). What precautions, if any, did John Thomas Smith take to avoid a collision with the motor vehicle with which he did collide on March 17, 1948, on Highway 51 between Bay Minette and Stapleton in Baldwin County, Alabama? (a) Did said John Thomas Smith slow down said motor vehicle prior to the collision in an effort to avoid colliding with said other motor vehicle? (b) If so, how far from the point of collision did he slow said motor vehicle down? (c) Did the brakes hold? (d) In which direction was the motor vehicle driven by said John Thomas Smith travelling at the time of the collision? (e) In which direction was the other motor vehicle travelling at the time of the collision? (f) On which side of the center of the highway did said collision occur? (g) Please state exactly how said collision did occur. (h) What part of the motor vehicle operated by the defendants came in contact with the other motor vehicle? (i) Please state the exact point on the motor vehicle operated by the defendants where contact was made with the other motor vehicle. (j) What part of the other motor vehicle came in contact with the motor vehicle operated by the defendants? (k) Did John Thomas Smith see the driver of the other truck prior to the collision? (l) Did he see the driver of the other truck do anything to cause the collision? (m) If so, please state what the other driver did to cause the collision. (n) Please describe the route the motor vehicle which collided with the defendants' said motor vehicle at said time and place followed from the time John Thomas Smith first saw it up to the time of the collision. (o) Please state fully everything John Thomas Smith did from the time he saw the motor vehicle with which he had a collision approaching him up until the time of the collision. (p) Please

state everything he observed the driver of the other motor vehicle with which he collided do from the time said John Thomas Smith first saw it up until the time of the collision. (q) Have you fully state in detail how said collision occurred? (r) If not, please do so now.

(6) How far south of the point of collision did the motor vehicle operated by the defendants come to rest? (a) On which side of the highway did it come to rest? (b) Did it run off the highway? (c) What became of the motor vehicle with which it collided? (d) Where did it come to rest? (e) Where was it located with respect to the point of collision after the defendants' motor vehicle came to rest? (f) On which side of the highway was it when the defendants' motor vehicle came to rest?

(7) Were the occupants of the other motor vehicle injured by said collision? (a) Did they die? (a-1) Who were said occupants? (b) If so, when? (c) Did said John Thomas Smith aid in getting them out of their motor vehicle after the collision? (d) If so, who assisted him?

(8) Did another motor vehicle run into the back end of the defendant's motor vehicle shortly after the above collision? (a) If so, please state who ran into defendants' motor vehicle at said time and place from the rear, the kind of motor vehicle which ran into it and give the names and addresses of the occupants of said motor vehicle. (b) Where did this collision take place?

(9) For the purpose of qualifying the jury, please state whether the defendant, Howard Hall Company, carried public liability insurance covering said collision. (a) If you answer yes, please state who the insurer was, its address and the amount of the insurance so carried. (b) Please attach a copy of said insurance policy to your answers to these interrogatories.

Hyunsoo Choo
John McCall & J. H. Eaton
Attorneys for the Plaintiff

STATE OF ALABAMA
COUNTY OF MOBILE

Before me the undersigned authority in and for said state and County, personally appeared Sam M. Johnston, one of the attorneys for the plaintiff, who, being by me first duly sworn on oath deposes and says that if the answers to the interrogatories propounded to the defendants are well and truly made, they will be material evidence for the plaintiff on the trial of this cause.

Sam M. Johnston

Subscribed and sworn to before me

this 3rd. day of November, 1948.

Oliver A. Widenor
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

Defendant John Thomas Smith's address:
3130 Third Avenue, So., Birmingham, Alabama

Defendant Howard Hall Company, Inc., address:
3130 Third Avenue, So., Birmingham, Alabama

Received in Sheriff's Office
this 5 day of Nov, 1948
TAYLOR WILKINS, Sheriff

Executed this the 8 day of Nov. 1948
on Howard Hall Company
Inc. a corporation

by leaving a copy of within with
Madeline Maddox
Agent.
of said company.
HOLT A. McDOWELL, Sheriff
Jefferson County, Alabama
By W. W. Griffin, Jr. D. S.

EXECUTED this the 8 day of Nov. 1948
by leaving a copy of the within with
Howard Hall, Agent for
John Thomas Smith
HOLT A. McDOWELL, Sheriff
Jefferson County, Alabama
By W. W. Griffin, Jr. D. S.

IN THE CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA

AT LAW No. 1264

LILLIAN E. HOLLOWAY, as
Administratrix of the
Estate of Julius C.
Holloway, Deceased,

Plaintiff,

vs.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC.,
a corporation,

76111 Defendants.

THIS DECREE WAS FORWARDED
TO EACH OF THE DEFENDANTS
BY THE PLAINTIFF

FILED

NOV 4 1948

ALICE J. DUCK, Clerk

JOHNSTON, MCCALL & JOHNSTON
LAWYERS
SUITE 804, FIRST NATIONAL BANK ANNEX
MOBILE 4, ALABAMA

LILLIAN H. HOLLOWAY, et al

Plaintiffs,

VS.

JOHN THOMAS SMITH & HOWARD HALL
COMPANY, INCORPORATED,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 1264.

This day came the parties by their attorneys and the Defendants' Demurrer to the Bill of Complaint as Amended being argued by the counsel and understood by the Court, and being considered by the Court, it is considered, ordered and adjudged by the Court that the Defendant's Demurrers to the Complaint be and the same are hereby overruled.

And Defendants file Pleas to the Complaint and the Plaintiffs file Demurrers to the Pleas and Plaintiffs' Demurrers to Defendants' Pleas being argued by counsel and understood by the Court, and being considered by the Court it is considered, ordered and adjudged that Plaintiffs' Demurrer to Defendants' Plea No. 3 be and the same is hereby sustained in so far as said Plea purports to answer to the complaint as a whole and be sustained in so far as it purports to answer Count No. 2 of the Complaint, and it is further considered and ordered and adjudged that said Demurrer be overruled as to Count No. 1.

Plaintiffs join issue and the cause is set down for trial during the third week in March, 1949.

Dated this 11th day of February, 1949.

Jelfair A. Marshall, Jr.
Judge

1264

FILED

FEB 16 1949

ALICE A. DUCK, Clerk

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

VS.

AT LAW No. 1264

Defendants.

1. Not guilty.
2. The allegations of the complaint are untrue.
3. The plaintiff's intestate was himself guilty
ence at the time and place alleged in the complaint
ximately contributed to his injury and death,
plaintiff cannot recover in this cause.

By: A. Adams

Attorneys for the Defendants.

PLEAS

LILLIAN H. HOLLOWAY, as Adminis-
tratrix of the Estate of Julius
C. Holloway, Deceased,

Plaintiff,

VS.

JOHN THOMAS SMITH and the HOWARD
HALL COMPANY, INC., a corporation.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 1264.

LILLIAN H. HOLLOWAY, as Adminis-
tratrix of the Estate of Julius C.
Holloway, Deceased,

Plaintiff,

vs.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC., a
corporation,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

No. 124

Come the defendants in the above styled cause and de-
mur to the plaintiff's complaint and to each count thereof
separately and severally and as grounds for said demurrer assign
separately and severally:

1. Because the complaint does not allege or show that
the defendants violated a duty owing by them to the plaintiff,
nor to plaintiff's intestate.

2. Because the complaint does not show that the
defendants owed to plaintiff's intestate a duty and that there
was a breach of this duty proximately causing plaintiff's damage.

3. Because the averment that the defendant, John Thomas
Smith, who was then and there a servant or agent of the defendant,
Howard Hall Company, Inc., so negligently operated a motor vehicle
as to cause or allow it to run against or collide with the truck
in which plaintiff's intestate was riding does not constitute
an averment of actionable negligence on the part of the defendants.

The defendants assign the following additional separate
and several grounds for demurrer to count two of the complaint:

1. Because said count undertakes to allege the quo modo
of the wantonness but is insufficient in that respect because it
does not allege knowledge by the defendant Smith of the dangerous
condition and other essentials of wantonness.

2. Because said count purports to set out the quo modo
of the wanton misconduct of the defendant Smith, and the facts
averred do not constitute wanton misconduct.

3. Because the facts set up in said count as constituting
wantonness do not in themselves, as a matter of law, show wantonness.

4. Because said count fails to aver or show that defendant Smith was conscious at the time that his conduct would probably result in injury to the plaintiff's intestate.

5. Because it does not appear from the averments of said count that defendant Smith had knowledge that plaintiff's intestate was being endangered, or likely to be endangered, by his operating a motor vehicle at the time, place and speed, and in the manner in which he was operating the same.

6. Because it is not averred that the defendant Smith knew, or was conscious of the fact that the operating of the motor vehicle in the manner in which he was operating the same would cause or allow it to collide with the truck in which plaintiff's intestate was riding.

7. Because the act of the defendant Smith in so operating a motor vehicle as to drive or run the same into a truck in which the plaintiff's intestate was riding did not constitute wantonness.

McCreary, Smith, Rogers, Johnston, Adams
J. B. Blackburn
Attorneys for Defendants

1264

1264

FILED
DEC 29 1948
ALICE J. DUCK, Clerk

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

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA, }
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 1264

-----TERM, 194-----

TO ANY SHERIFF OF THE STATE OF ALABAMA :

You Are Hereby Commanded to Summon John Thomas Smith and the Howard Hall
Company, Inc; A Corporation

to appear and plead, answer or demur, within thirty days from the service hereof, to the Complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

John Thomas Smith et als; Defendant.---

by Lillian H. Holloway, as Administrator of the estate of Julius
Holloway, deceased, Plaintiff.---

Witness my hand this 4th day of November 1948

Alvin J. Leuck, Clerk.

No. **1264**

Page _____

THE STATE of ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT

Defendant lives at _____

RECEIVED IN OFFICE

_____, 194_____

_____, Sheriff

LILLIAN H. HOLLOWAY, as Administrator I have executed this summons
of the estate of **Julius Holloway**
deceased Plaintiffs

vs.

this _____, 194_____
by leaving a copy with

JOHN THOMAS SMITH and

HOWARD HALL COMPANY, INC
A CORPORATION Defendants

SUMMONS and COMPLAINT

Filed **11-4-48**, 194_____

W. J. Smith Clerk

Plaintiff's Attorney

Defendant's Attorney

Sheriff

Deputy Sheriff

LILLIAN H. HOLLOWAY, as Adminis-
tratrix of the Estate of Julius C.
Holloway, Deceased,

Plaintiff,

vs.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC., a
corporation,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

No. _____

COUNT ONE

The plaintiff claims of the defendants the sum of FIFTY THOUSAND and no/100 (\$50,000.00) DOLLARS, as damages, for that on, to-wit, the 17th day of March, 1948, the defendant John Thomas Smith, who was then and there a servant or agent of the defendant, Howard Hall Company, Inc., while acting within the line and scope of his employment as such, so negligently operated a motor vehicle on public highway 31, at a point between Bay Minette, Alabama, and Stapleton, Alabama, about two miles north of Stapleton in Baldwin County, Alabama, as to cause or allow said motor truck to then and there run against or collide with the motor truck in which plaintiff's intestate, Julius C. Holloway, was riding on said highway, as a proximate result of which negligence, plaintiff's intestate suffered injuries from which he died, all to her damage as aforesaid; wherefore plaintiff brings this suit and asks judgment in the above amount.

COUNT TWO

The Plaintiff claims of the defendants the sum of FIFTY THOUSAND and no/100 (\$50,000.00) DOLLARS, as damages, for that on, to-wit, the 17th day of March, 1948, the said John Thomas Smith, who was then and there a servant or agent of the defendant, Howard Hall Company, Inc., while acting within the line and scope of his employment as such, wantonly injured plaintiff's intestate, Julius C. Holloway, on public highway 31, between Bay Minette and Stapleton in Baldwin County, Alabama, about two miles north of Stapleton, by then and there

wantonly driving a motor truck against a motor truck in which plaintiff's intestate was then and there riding, as a proximate result of which wantonness, plaintiff's intestate suffered injuries from which he died; wherefore plaintiff brings this suit and asks judgment in the above amount.

Hyport & Chasom
Johnston, McCulloch & Johnston

Attorneys for Plaintiff

Plaintiff demands a trial by jury in the above entitled cause.

Hyport & Chasom
Johnston, McCulloch & Johnston
Attorneys for Plaintiff

Received in Sheriff's Office
this 5 day of Nov., 1948
TAYLOR WILKINS, Sheriff

1948 NOV 6 AM 11:27

Executed this the 8 day of Nov. 1948
on Howard Hall Company,
Inc. a corporation

by leaving a copy of within with

Madeline Maddox
Agent

of said company.

HOLT A. McDOWELL, Sheriff
Jefferson County, Alabama

W.W. Guffey, Jr. D. S.

4
I did this on Dec. 1948
day of Dec.
by leaving a copy of the within with
Howard Hall, Agent for
John Thomas Smith
HOLT A. McDOWELL, Sheriff,
Jefferson County, Alabama
W. L. Dickerson D. S.

[Signature]

THE CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA

No. 1264

MILLIE H. HOLLOMAN, as
Administratrix of the
Estate of Julius C.
Holloway, deceased,

Plaintiff,

vs.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC.,
a corporation,

Defendants.

FILED

NOV 4th 1948

ALICE J. DUCK, Clerk

JOHNSTON, MCCALL & JOHNSTON
LAWYERS
SUITE 804, FIRST NATIONAL BANK ANNEX
MOBILE 4, ALABAMA

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1264

LILLIA H. HOLLOWAY,
as Administratrix of the
Estate of Julius C. Holloway,
Deceased,

Plaintiff,

vs.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC.,
a corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA:
AT LAW. NUMBER 1196.

TO MRS. GLENN BYRD, POST OFFICE BOX 272, OPELIKA, ALABAMA:

Know Ye, That we, reposing confidence in your integrity, skill and ability, have appointed you Commissioner to take the testimony of Fred Gunn, Jr., a material witness for the Plaintiff in this cause and we hereby authorize and empower you to cause to come before you, Fred Gunn, Jr., Pi Kappa Phi House, Auburn, Alabama, the said witness and take his deposition on oath on the attached interrogatories and cross-interrogatories, which deposition, when so taken, shall be signed by said witness and certified by you as Commissioner. You are further commanded, the deposition, when so taken, with this commission, to return under your hand and seal to the Clerk of said Court with all convenient speed.

WITNESS my hand this 9th day of March, 1949.

Alice J. Dyer
Clerk.

LILLIA H. HOLLOWAY , as
administratrix of the
Estate of Julius C. Holloway,
Deceased,

IN THE CIRCUIT COURT
BALDWIN COUNTY, ALABAMA

PLAINTIFF.

AT LAW Number 1196

vs.

JOHN THOMAS SMITH and
the HOWARD HALL COMPANY, INC.,
a corporation,

DEFENDANTS.

By virtue of the Commission hereto annexed
issued from the office of the Clerk of the Circuit Court
of Baldwin County, State of Alabama, I, the Commissioner
therein named, have called and caused to come before me
the said Fred Gunn, jr., the witness named in said com-
mission on this the 16th day of March, 1949, at 255 South
College Street, Auburn, Alabama, and having duly cau-
tioned and sworn the said witness to speak the truth,
the whole truth, and nothing but the truth, Fred Gunn, jr.
the said witness, deposeth and saith as follows;

1st. To first interrogatory he saith my name
is Fred W. Gunn, jr.; twenty years of age, student at the
Alabama Polytechnic Institute, Auburn, Alabama.

2nd. To second interrogatory he saith, "Yes."

3rd. To third interrogatory he saith, "somewhere
about that time."

4th. To fourth interrogatory he saith, "We
were pulling up to the van, not following directly behind
it on said occasion."

5th. To fifth interrogatory he saith, "Yes."

6th. To sixth interrogatory he saith, "The
car in which I was riding was pulling up to the rear of
the van when the tail lights flashed on the van and our
car cut sharply to the left."

7th. To seventh interrogatory he saith, "We
were only a short distance as we were pulling up behind the
van."

8th. To eighth interrogatory he saith, "As well
as I can remember the van was well on the right side of the
center line."

9th. To ninth interrogatory he saith, "Yes."

10th. To tenth interrogatory he saith, "As well as I remember, the van and tractor didn't."

11th. To eleventh interrogatory he saith, "As well as I remember, the van and tractor didn't; however, I wasn't noticing."

12th. To twelfth interrogatory he saith, "Not that I can remember."

13th. To thirteenth interrogatory he saith, "No."

14th. To fourteenth interrogatory he saith, "When I saw the van and tractor lights flash on, the van was on the right side of the road."

15th. To fifteenth interrogatory he saith, "I don't remember."

16th. To sixteenth interrogatory he saith, "L.C. Pharo, Miss Mamye Holloway, Miss Anne Bailey."

17th. To seventeenth interrogatory he saith, "In the seat behind the driver."

18th. To eighteenth interrogatory he saith, "Neither the van nor the car overturned. Our car stayed on the highway and the van and tractor went off the highway to the right leaving the rear wheels of the van on the right edge of the highway."

19th. To nineteenth interrogatory he saith, "I don't remember; however, I believe it was several minutes."

20th. To twentieth interrogatory he saith, "There was a drop-off of about two or three inches." "This is all I noticed."

21st. To twenty-first interrogatory he saith, "All I saw was drop-off mentioned above."

22nd. To twenty-second interrogatory he saith, "I did not look for any tire marks at all."

23rd. To twenty-third interrogatory he saith, "I didn't look for any tire marks at all. I noticed that there was a shoulder on the other side of the road, and that is all I noticed."

Frederic W. Gunn, Jr.

Sworn to and subscribed before me, this
16th day of March, 1949.

Mrs. Glenn Boyd
Commissioner.

- 1st. To cross-interrogatory 1 he saith, "Yes."
- 2nd. To second cross-interrogatory he saith, "Miss Mamye Holloway."
- 3rd. To third cross-interrogatory he saith, "I did not know anything about the accident until our collision with the van."
- 4th. To fourth cross-interrogatory he saith, "No."
- 5th. To fifth cross-interrogatory he saith, "I believe it is."
- 6th. To sixth cross-interrogatory he saith, "Yes."
- 7th. To seventh cross-interrogatory he saith, "I don't remember."
- 8th. To eighth cross-interrogatory he saith, "Yes."
- 9th. To ninth cross-interrogatory he saith, "Yes."
- 10th. To tenth cross-interrogatory he saith, "To the best of my knowledge."
- 11th. To eleventh cross-interrogatory he saith "See answer above."
- 12th. To twelfth cross-interrogatory he saith, "See answers above."
- 13th. To thirteenth cross-interrogatory he saith, "In an insurance office in the First National Bank Building in Mobile, Alabama."
- 14th. To fourteenth cross-interrogatory he saith, "Myself, Pharo, Miss Bailey, Miss Holloway, an insurance adjustor."
- 15th. To fifteenth cross-interrogatory he saith, "No."
- 16th. To sixteenth cross-interrogatory he saith, "Two or three minutes after we had gotten Miss Holloway and Miss Bailey on the way to the hospital."
- 17th. "On the right hand side of the road looking south, in a smashed condition in the front of the van," he saith to seventeenth cross-interrogatory.
- 18th. To eighteenth cross-interrogatory he saith, "Apparently."
- 19th. To nineteenth cross-interrogatory he saith, "Yes."
- 20th. To twentieth cross-interrogatory he saith, "I remarked to some passer-by that there was a drop-off after it was called to my attention by another passer-by."
- 21st. To twenty-first cross-interrogatory he saith, "We were on the highway just after the accident."
- 22nd. To twenty-second cross-interrogatory he saith, "I don't know."
- 23rd. To twenty-third cross-interrogatory he saith, "No."

24th. To twenty-fourth cross-interrogatory he saith,
"I only saw the drop-off and I don't remember whom I
pointed it out to other than the passers-by mentioned
above."

25th. To twenty-fifth cross-interrogatory he saith,
"No."

26th. To twenty-sixth cross-interrogatory he saith,
"No."

27th. To twenty-seventh cross-interrogatory he saith,
"No."

28th. To twenty-eighth cross-interrogatory he saith,
"No."

29th. To twenty-ninth cross-interrogatory he saith,
"I haven't told anyone."

30th. To thirtieth cross-interrogatory he saith, "See
above."

31. To thirty-first cross-interrogatory he saith, "No."

32nd. To thirty-second cross-interrogatory he saith,
"I don't remember."

33. To thirty-third cross-interrogatory he saith,
"No."

34. To thirty-fourth cross-interrogatory he saith,
"I don't know."

35. To thirty-fifth cross-interrogatory he saith
"As well as I remember the van truck was on the right
side ^{going} off the road."

36. To thirty-six cross-interrogatory he saith,
"When I saw the lights of the van truck flash, it was
well on the right side of the road."

37. To thirty-seventh cross-interrogatory he saith,
"No."

38. To thirty-eighth cross-interrogatory he saith,
"I didn't say it, I don't believe."

39. To thirty-ninth cross-interrogatory he saith,
"I don't know but believe it was Mr. Fisher."
- 40 To fortieth cross-interrogatory he saith,
"Yes."
41. To forty-first cross-interrogatory he saith,
"Mr. Pharo, Miss Bailey, Miss Holloway, and myself
and an insurance adjustor, whoever it was."
42. To forty-second cross-interrogatory he saith,
"I don't know but believe it was Mr. Fisher."
43. To forty-third cross-interrogatory he saith,
"I am not sure whether he said it or not."
44. To forty-fourth cross-interrogatory he saith,
"It did."
45. To forty-fifth cross-interrogatory he saith,
"I am not sure whether he said this or not."
- 46 . To forty-sixth cross-interrogatory he saith,
"It did."
47. To forty-seventh cross-interrogatory he saith,
"Not having seen the Ford truck, I don't know when it
collided with the van so I can't state how far
the van truck travelled."
48. To forty-eighth cross-interrogatory he saith,
"I do not know; however, the van truck cut sharply
to the right almost immediately."
49. To forty-ninth cross-interrogatory he saith,
"No."
50. To fiftieth cross-interrogatory he saith,
"No one."

Frank W. Sumner, Jr.

Sworn to and subscribed before me
on this the 16th day of March, 1949.

Mrs. Glenn Byrd
Commissioner.

I, Mrs. Glenn Byrd, the Commissioner in said commission named, do hereby certify that the foregoing testimony and answers, taken down and written by me in the words of the witness, Fred Gunn, jr., were read over to him; that he assented, swore to and subscribed the same in my presence, at the time and place herein mentioned; that he was made known to me as the person who was named and designated as the witness in the foregoing commission and to whom the interrogatories were propounded; that I am not of counsel of kin to either of the parties of said cause, nor interested in the event thereof. And I enclose the testimony, together with the said commission and the interrogatories, direct and cross, to the said Clerk of the Circuit Court, whence the same emanated, as my full execution of said commission.

Given under my hand and seal this 16th day of March, 1949.

Mrs. Glenn Byrd (L.S.)

Commissioners fee \$15.00

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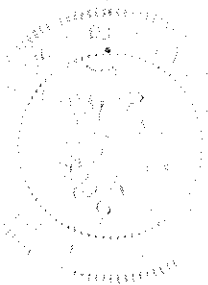
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COPIES OF ...

Filed 3-19-49

Alice J. Rich
Clerk



LILLIAN E. HOLLOWAY, As Admin-
istratrix of the Estate of
Julius C. Holloway, Deceased,

Plaintiff,

vs.

JOHN THOMAS SMITH and HOWARD
HALL COMPANY, INC., A Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

No. _____

Comes the plaintiff and demurs separately and severally
to Plea Three as pleaded by each defendant, separately to the
Complaint as a whole, and as pleaded separately to Count Two,
on the following separate and several grounds:

1. A plea of contributory negligence is no defense to a
wanton count.

2. Because said plea of contributory negligence is no
answer to a wanton count.

3. Even though plaintiff's intestate may have been guilty
of contributory negligence, still if the defendants wantonly
injured him, they would be liable.

4. Because the Complaint contains both a simple negligence
and a wanton count, and said plea is no answer to the Complaint
as a whole unless it is a good defense to each count thereof.

And the plaintiff demurs to Plea No. Three as pleaded
separately to Count One, on the following separate and several
grounds:

1. For that the allegation that plaintiff was guilty of
negligence is a mere conclusion of the pleader.

2. For that sufficient facts are not set out therein to
show the acts, omissions, conduct or behavior relied on as
constituting contributory negligence.

3. Because said plea fails to aver any facts showing
plaintiff breached any duty owed to defendants.

Shenton McCall, Jr.
Attorneys for the Plaintiff
Hyatt, Chasen & Stone
Shenton M. McCall, Jr.
Attorneys for the Plaintiff

No — 1264

Lillian H. Holloway,
as admx, Plaintiff

vs
John Thomas Smith
et al. Defendants,

Verdicts to
Plea No 3

LILLIAN H. HOLLOWAY, as Adminis-
tratrix of the Estate of Julius
C. Holloway, Deceased,

Plaintiff,

vs

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC.,
a corporation,

Defendants.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. _____

Come the defendants in the above styled cause and respectfully show unto the Court that Lawrence C. Pharo, Jr. is absent from the State of Alabama, residing in Norfolk, Virginia, and that the said Lawrence C. Pharo, Jr. is a material witness in this cause, wherefore defendants request that a commission be issued by the Clerk of this Court to one or more persons to take the deposition of said witness, after prescribing the notice to be given the opposing party, or his attorney, of the time and place of taking same. Defendants respectfully suggest that J. M. Knight, Court Reporter, National Bank of Commerce Building, Norfolk, Virginia, is a suitable person to be named as Commissioner to be appointed for the taking of the testimony of said witness in this cause.

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS
and J. B. BLACKBURN

BY

R. F. Adams
Attorneys for Defendants

State of Alabama
Mobile County

Before me, Cordie R. Bostic, a Notary Public in and for said state and county personally appeared R. F. Adams, who is known to me and being by me first duly sworn deposes and says that he is one of the attorneys for defendants in the above styled cause; that he is informed and believes, and on such information and belief avers that the allegations hereinabove contained are true and correct.

R. F. Adams

Sworn to and subscribed before me
on this the 18th day of January, 1949.

Cordie R. Bostic
Notary Public, Mobile County, Alabama.

The defendants request that the following interrogatories be propounded to Lawrence C. Pharo, Jr. by the Commissioner appointed to take his testimony in this cause:

1. What is your name, age, address and occupation?
2. Were you, on or about March 17, 1948 driving from Auburn, Alabama to Mobile, Alabama?
3. Were you, on said occasion, driving southwardly on U. S. Highway No. 31 between Bay Minette and Mobile, Alabama at about 4:30 P. M.?
4. Were you, at said time on said highway, at a point 9 or 10 miles south of Bay Minette, Alabama, following a van up a slight grade on said highway?
5. Did said van or the tractor pulling it collide with another vehicle approaching it from the opposite direction, and did the automobile you were driving collide with said van?
6. If you have answered the preceding interrogatory in the affirmative, please state in your own words the circumstances under which said collision or collisions occurred.
7. How long had you travelled behind, and in sight of said van which was ahead of you going in the same direction you were going, before said collision or collisions occurred?
8. On which side of the center line of the highway were the van and tractor which was pulling it travelling at the time of and prior to the time of said collisions?
9. Was it travelling well on its right hand side of the highway?
10. Did the van and tractor within the last 100 yards travelled before it was involved in said collisions get over on its left of the center of said highway?
11. Did the van and tractor within the last 500 yards travelled before it was involved in said collisions get over on its left of the center of said highway?
12. Did the van and tractor at any time while you were close enough to it to observe its position on the highway get

over on its left of the center of said highway?

13. Had you, prior to your collision with the van seen the Ford truck which was involved in the accident?

14. On what side of the center line of said highway did the Howard Hall Company tractor and van collide with the Ford truck?

15. Had the tractor pulled off to the shoulder on its right of the pavement prior to its collision with the Ford truck?

16. Who was in the car with you?

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS
and J. B. BLACKBURN

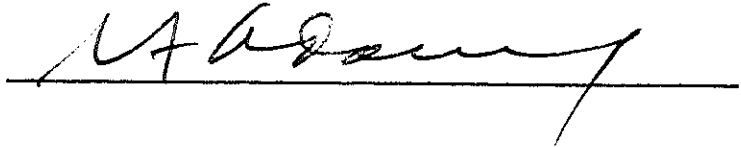
By



Attorneys for Defendants

State of Alabama
Mobile County

Before me, Cordie R. Bostic, a Notary Public in and for said state and county, personally appeared R. F. Adams, one of the attorneys for defendants, who, being by me first duly sworn, on oath deposes and says that if the answers to the interrogatories propounded to the above named witness are well and truly made, they will be material evidence for the defendant in the trial of this cause.



Sworn to and subscribed before
me on this the 18th day of January, 1949.

Cordie R. Bostic
Notary Public, Mobile County, Alabama.

Service accepted and further notice waived on
this the 4th day of March, 1949

Hylat, Chason and Stone
By: Marbome P. Stone
Attys. for Plaintiff

INTERROGATORIES PROPOUNDED TO
LAWRENCE C. PHARO, JR.

LILLIAN H. HOLLOWAY, as Adminis-
tratrix of the Estate of Julius
C. Holloway, Deceased,

Plaintiff,

vs

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC.,
a corporation,

Defendants.

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

Filed 3-4-49
Reice J. Duck
Clerk

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

LILLIAN H. HOLLOWAY, as Adminis-
tratrix of the Estate of Julius
C. Holloway, Deceased,

PLAINTIFF,

vs.

JOHN THOMAS SMITH and the
HOWARD HALL COMPANY, INC.,
a corporation,

DEFENDANTS.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

No. _____

ANSWERS TO INTERROGATORIES BY EACH OF THE DEFENDANTS

1. Fifty-seven years old. 3130 Third Avenue, South, Birmingham, Alabama. (a) Approximately nine years. (b) Has been driving a car since 1914 and has been driving trucks ever since trucks were first built. (c) In Spring of 1939. (d) Yes. (e) On an average of twice each month since he became employed by Howard Hall Company, Inc., and in 1938 he made regular trips over that part of Highway 31 three times each week while driving for Transportation, Inc., at Montgomery, Alabama. (f) Approximately two weeks. (g) A motor truck being owned by Howard Hall Company, Inc., and driven by John Thomas Smith in a southerly direction on said highway at said time and place was struck by another vehicle which had been headed in a northerly direction about said time and place, at a point entirely off the west edge of the pavement of the highway.

2. Yes. 1947 International K-8, 1½ ton truck. (a) About 39 feet. (b) About 10 feet. (c) About 10,000 pounds. (d) About 7½ feet (standard width). (e) 7 feet 6 inches. (f) 20,150 pounds. (g) About 31,000 pounds. (h) International. (i) 1947. (j) Westinghouse straight air.

3. See answer to 1 (g). (a) About two miles. (b) About twenty feet. (c) Black-top. (d) No. Impact in a slight curve. (e) A short distance. (f) No. Impact in a slight curve. (g) A short distance. (h) 300 or 400 yards. (i) About 4:30 P.M.

(j) Cloudy. (k) Cloudy. (l) Dry.

4. See answers to 1 (g) and 3 (i). (a) After John Thomas Smith came up to top of the hill north of point of impact. (b) About 300 to 400 yards. (c) About 75 to 100 yards. (d) Between 25 miles per hour and 35 miles per hour. (e) About 20 miles per hour. (f) About 40 miles per hour to about 45 miles per hour. (g) About 45 - 50.

5. When I came over the hill and saw the approaching truck 300 or 400 yards away, I saw that its right wheels were off the pavement, and I therefore touched my brakes and started slowing down, and pulling off the edge of the pavement on my right, as I sensed he was in trouble. When the approaching pick-up truck was about 25 feet in front of me he got his right wheels up on the pavement and I could see he was headed across the road toward my truck. I therefore cut more sharply to the right and applied my brakes, and had pulled the front end of my truck and trailer completely off the pavement, the left front wheels of my tractor being about $2\frac{1}{2}$ to 3 feet off the right or west edge of the pavement, and my left rear trailer wheels being about 2 feet on the pavement, when he hit me. I knew there was a car following behind me, and was therefore unable to stop dead still, so took the only other alternative of slowing down and pulling off the highway. (a) Yes. (b) I started slowing down as soon as I saw the other truck, which, as stated above was between 300 or 400 yards away. (c) Yes, perfectly. (d) South. (e) North or Northeast. (f) Entirely off the pavement on the west side or Smith's right side. (g) See above. After Smith had pulled the front of his truck completely off the highway and had slowed down as much as he could in view of the close proximity of the automobile following his truck, the northbound pick-up truck cut almost straight across the road and crashed into the left front headlight of the Smith truck. (h) See (g). (i) See (g). (j) Practically the

center of its radiator. (k) Yes. (l) Mr. Smith saw the driver of the other truck trying to pull back on the paved portion of the highway, and in doing so, because of his excessive speed, and because there was a 5 or 6 inch drop from the pavement to the shoulder, when he mounted the high place he started fighting the wheel trying to regain control of it, but was apparently unable to prevent the truck from cutting almost straight across the road into Mr. Smith's truck. (m) See (l). (n) From the time Smith first saw the other vehicle its right wheels were off its right edge of the pavement, and they continued either to try to get it back on the pavement or to play with it, until it reached a point approximately 25 feet away from Smith's truck, when it cut across the highway and into Smith, as above stated. Mr. Smith, having seen that the truck was apparently in trouble, had already started slowing down and pulling his truck off the highway on the right, before the other truck succeeded in pulling back on the pavement. (o) See above. (p) See above. (q) Yes.

6. About 35 to 40 feet, but before travelling this distance the back of the Smith truck had been crashed into by the automobile following it, which gave it a further impetus forward. (a) On the west or Smith's right side. (b) It was already practically off before the collision, as stated above. (c) It came to rest under the front of the Smith truck, in about the same position as that in which it hit the Smith truck. (d) Also on the west side of the highway. (e) See above. (f) See above.

7. Yes. (a-1) Defendants were subsequently informed that the occupants of the pick-up truck were Aubrey H. Noble and Julius C. Holloway. (a) Yes. (b) One was apparently killed instantly and the other died about the time he reached the hospital. (c) Yes. (d) Passing motorists.

8. Yes. (a) Defendants are informed that the 1942 Dodge Coupe which ran into defendants' truck was driven by Lawrence

C. Pharo, Jr., of 1820 Old Government Street, Mobile, Alabama, and Ann Bailey of 1556 Blair Avenue and Mamie Halloway of 105 Marine Street, Mobile, Alabama, were passengers in said automobile.

(b) Within a matter of seconds after the pick-up truck crashed into Smith's truck.

9. Defendants object to the question on the ground it seeks to get before the jury highly prejudicial matter and cause for irrelevant, incompetent and immaterial testimony and defendants decline to answer it unless directed to do so by the court.

HOWARD HALL COMPANY, INC.

By John T. Smith
-----As its agent-----

John T. Smith

Defendants

Subscribed and sworn to
before me on this the 16
day of ~~January~~ ^{Feb}, 1949.

Mae Jones
Notary Public, Jefferson County, Alabama

My commission expires Nov. 21, 1949

I hereby accept service of the foregoing answers
to interrogatories.

2/25/49

Killian E. Johnston

1264

Filed 3-4-49
Wick
clerk

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