

A. J. BOWAB,

Plaintiff

-vs-

WILLARD BYRD, FRED BYRD,
and W. J. HALL, jointly
and severally,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 1390

COUNT ONE

The plaintiff claims of the defendant, Willard Byrd, and the defendant, Fred Byrd, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent, and the defendant W. J. Hall, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent; jointly and severally, the sum of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS, as damages, for that, on, to-wit, the 15th day of March, 1949, the defendant Willard Byrd, and the defendant, Fred Byrd, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent, and the defendant W. J. Hall, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent; jointly and severally, so negligently operated a motor vehicle on United States Highway 31, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile north of Bay Minette, Alabama, as to cause or allow said motor vehicle to collide with the motor vehicle, the property of the plaintiff, which the plaintiff was then and there operating, as a proximate result of which negligence, damages were sustained to the front, left side, right side, top, and rear of the plaintiff's motor vehicle, and as a proximate result of which negligence the plaintiff suffered multiple contusions on both legs, both knees, head, and neck, suffered severe shock, he was caused to suffer great physical pain and mental anguish, he was caused to expend a large sum of money for medical treatment, hospital bills, and medicines, he was caused to lose much time from his business, he was caused to suffer permanent

injuries to both legs, and to both knees, he was caused to suffer permanent internal injuries, and he was caused to suffer loss of future earning capacity, for all of which he brings this suit and asks judgment in the above amount.

COUNT TWO

The plaintiff claims of the defendant, Willard Byrd, and the defendant, Fred Byrd, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent, and the defendant W. J. Hall, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent; jointly and severally, the sum of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS, as damages, for that, on, to-wit, the 15th day of March, 1949, the defendant Willard Byrd, and the defendant, Fred Byrd, acting through his servant or agent Willard Byrd who was then and there acting withⁱⁿ the line and scope of his authority as^{such} servant or agent, and the defendant W. J. Hall, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent; jointly and severally, wantonly damaged the plaintiff by then and there wantonly running a motor vehicle upon or against a motor vehicle^{the property of the plaintiff,} which the plaintiff was then and there operating, on United States Highway 51, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile north of Bay Minette, Alabama, as a proximate result of which wantonness, damages were sustained to the front, left side, right side, top, and rear of the plaintiff's motor vehicle, and as a proximate result of which wantonness, the plaintiff suffered multiple contusions on both legs, both knees, head, and neck, suffered severe shock, he was caused to suffer great physical pain and mental anguish, he was caused to expend a large sum of money for medical treatment, hospital bills, and medicines, he was caused to lose much time from his business, he was caused to suffer permanent injuries to both legs, and to both knees, he was caused to suffer permanent internal injuries, and he was caused to suffer loss of future earning capacity, for all of which he brings this suit and asks judgment in the above amount.

✓
COUNT THREE

The plaintiff claims of the defendant, Willard Byrd, the sum of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS, as damages, for that, on, to-wit, the 15th day of March, 1949, the defendant Willard Byrd so negligently operated a motor vehicle on United States Highway 31, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile north of Bay Minnette, Alabama, as to cause or allow said motor vehicle to collide with the motor vehicle, the property of the plaintiff, which the plaintiff was then and there operating, as a proximate result of which negligence, damages were sustained to the front, left side, right side, top, and rear of the plaintiff's motor vehicle, and as a proximate result of which negligence the plaintiff suffered multiple contusions on both legs, both knees, head, and neck, suffered severe shock, he was caused to suffer great physical pain and mental anguish, he was caused to expend a large sum of money for medical treatment, hospital bills, and medicines, he was caused to lose much time from his business, he was caused to suffer permanent injuries to both legs, and to both knees, he was caused to suffer permanent internal injuries, and he was caused to suffer loss of future earning capacity, for all of which he brings this suit and asks judgment in the above amount.

COUNT FOUR

The plaintiff claims of the defendant, Willard Byrd the sum of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS, as damages, for that, on, to-wit, the 15th day of March, 1949, the defendant Willard Byrd wantonly damaged the plaintiff by then and there wantonly running a motor vehicle upon or against a motor vehicle, the property of the plaintiff, which the plaintiff was then and there operating, on United States Highway 31, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile north of Bay Minnette, Alabama, as a proximate result of which wantonness, damages were sustained to the front, left side, right side, top, and rear of the plaintiff's motor vehicle, and as a proximate result of which wantonness the plaintiff suffered multiple contusions on both legs, both knees, head, and neck, suffered

severe shock, he was caused to suffer great physical pain and mental anguish, he was caused to expend a large sum of money for medical treatment, hospital bills, and medicines, he was caused to lose much time from his business, he was caused to suffer loss of future earning capacity, for all of which he brings this suit and asks judgment in the above amount.

✓
COUNT FIVE

The plaintiff claims of the defendant, Fred Byrd, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent the sum of TEN THOUSAND AND 00/100 (\$1,000.00) DOLLARS, as damages, for that, on, to-wit, the 15th day of March, 1949, the defendant, Fred Byrd, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent, so negligently operated a motor vehicle on United States Highway 51, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile north of Bay Minette, Alabama, as to cause or allow said motor vehicle to collide with the motor vehicle, the property of the plaintiff, which the plaintiff was then and there operating, as a proximate result of which negligence, damages were sustained to the front, left side, right side, top, and rear of the plaintiff's motor vehicle, and as a proximate result of which negligence the plaintiff suffered multiple contusions on both legs, both knees, head, and neck, suffered severe shock, he was caused to suffer great physical pain and mental anguish, he was caused to expend a large sum of money for medical treatment, hospital bills, and medicines, he was caused to lose much time from his business, he was caused to suffer permanent injuries to both legs, and to both knees, he was caused to suffer permanent internal injuries, and he was caused to suffer loss of future earning capacity, for all of which he brings this suit and asks judgment in the above amount.

COUNT SIX

The plaintiff claims of the defendant, Fred Byrd, acting

through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent the sum of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS, as damages, for that, on, to-wit, the 15th day of March, 1949, the defendant, Fred Byrd, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent, wantonly damaged the plaintiff by then and there wantonly running a motor vehicle upon or against a motor vehicle, the property of the plaintiff, which the plaintiff was then and there operating, on United States Highway 31, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile north of Bay Minette, Alabama, as a proximate result of which wantonness, damages were sustained to the front, left side, right side, top, and rear of the plaintiff's motor vehicle, and as a proximate result of which wantonness the plaintiff suffered multiple contusions on both legs, both knees, head, and neck, suffered severe shock, he was caused to suffer great physical pain and mental anguish, he was caused to expend a large sum of money for medical treatment, hospital bills, and medicines, he was caused to lose much time from his business, he was caused to suffer permanent injuries to both legs, and to both knees, he was caused to suffer permanent internal injuries, and he was caused to suffer loss of future earning capacity, for all of which he brings this suit and asks judgment in the above amount.

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COUNT SEVEN

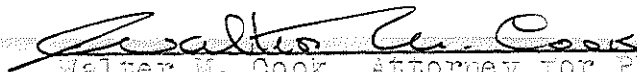
The plaintiff claims of the defendant, W. J. Hall, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent the sum of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS, as damages, for that, on, to-wit, the 15th day of March, 1949, the defendant, W. J. Hall, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent, so negligently operated a motor vehicle on United States Highway 31, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile north of Bay Minette, Alabama, as to cause or allow said motor

vehicle to collide with the motor vehicle, the property of the plaintiff, which the plaintiff was then and there operating, as a proximate result of which negligence, damages were sustained to the front, left side, right side, top, and rear of the plaintiff's motor vehicle, and as a proximate result of which negligence the plaintiff suffered multiple contusions on both legs, both knees, head, and neck, suffered severe shock, he was caused to suffer great physical pain and mental anguish, he was caused to expend a large sum of money for medical treatment, hospital bills, and medicines, he was caused to lose much time from his business, he was caused to suffer permanent injuries to both legs, and to both knees, he was caused to suffer permanent internal injuries, and he was caused to suffer loss of future earning capacity, for all of which he brings this suit and asks judgment in the above amount.

COUNT EIGHT

The plaintiff claims of the defendant, W. J. Hall, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent the sum of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS, as damages, for that, on, to-wit, the 15th day of March, 1949, the defendant, W. J. Hall, acting through his servant or agent Willard Byrd who was then and there acting within the line and scope of his authority as such servant or agent, wantonly damaged the plaintiff by then and there wantonly running a motor vehicle upon or against a motor vehicle, the property of the plaintiff, which the plaintiff was then and there operating, on United States Highway 31, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile north of Bay Minette, Alabama, as a proximate result of which wantonness, damages were sustained to the front, left side, right side, top, and rear of the plaintiff's motor vehicle, and as a proximate result of which wantonness the plaintiff suffered multiple contusions on both legs, both knees, head, and neck, suffered severe shock, he was caused to expend a large sum of money for medical treatment, hospital

bills, and medicines, he was caused to lose much time from his business, he was caused to suffer permanent injuries to both legs, and to both knees, he was caused to suffer permanent internal injuries, and he was caused to suffer loss of future earning capacity, for all of which he brings this suit and asks judgment in the above amount.


Walter M. Cook, Attorney for Plaintiff

Defendants may be served:

Willard Byrd
Bay Minette, Alabama

Fred Byrd
Bay Minette, Alabama

W. J. Hall
Bay Minette, Alabama

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

SEPTEMBER 25, 1951

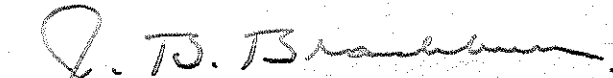
Mrs. Alice J. Duck
Clerk of the Circuit Court
Bay Minette, Alabama

Dear Mrs. Duck:

1390
The case of Bowab vs. Byrd et als was dismissed today.

Please prepare a cost bill covering the costs in this case and mail it to Mr. Walter M. Cook, C/o Lyons and Pipes, Attorneys at Law, First National Bank Building, Mobile, Alabama.

Very truly yours,


J. B. BLACKBURN.

JBB:MLB
CC: Mr. Walter M. Cook
C/o Lyons and Pipes
Attorneys at Law
First National Bank Building
Mobile, Alabama

WALTER M. COOK

ATTORNEY AT LAW

FIRST NATIONAL BANK BUILDING

MOBILE 13, ALABAMA

August 9, 1949

Clerk, Circuit Court of Baldwin County
Bay Minette, Alabama

Re: A. J. Bowab vs Willard Byrd, et al

Dear Sir:

Enclosed herewith please find original of complaint, together with 3 copies, to be filed in connection with the above captioned case.

Thanking you, I am

Very truly yours,



Walter M. Cook

WMC/ew
Encl.

A. J. BOWAB,
PLAINTIFF

VS.

WILLARD BYRD, FRED BYRD,
and W. J. HALL, jointly
and severally,

DEFENDANTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

NO. 1390

Now comes the Defendant, W. J. HALL, and moves the Court to
strike counts 3, 4, 5, 6, 7 and 8, of the original bill of com-
plaint, and for grounds thereof says:

1.

That counts 3, 5 and 7, are mere repetition of count 1.

2.

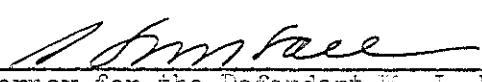
That counts 4, 6 and 8 are repetitions of count 2.

3.

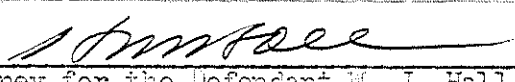
That counts 3, 4, 5, 6, 7 and 8, are mere surplusage.

4.

That all the relief prayed for under counts 3, 4, 5, 6, 7 and
8, could be awarded under counts 1 and 2.


Attorney for the Defendant W. J. Hall

The Defendant, W. J. Hall, demands a trial by jury.


Attorney for the Defendant W. J. Hall

RECORDED

A. J. BOWAB

PLAINTIFF

VS.

WILLARD BYRD, FRED BYRD,
and W. J. HALL, jointly
and severally

DEFENDANTS

NO. 1390

FILED

AUG 24 1949

ALICE A. DUCK, Clerk

A. J. BOWAB,

PLAINTIFF

VS.

WILLARD BYRD, FRED BYRD,
and W. J. HALL, jointly
and severally,

DEFENDANTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

NO. 1390

Now come the Defendants, WILLARD BYRD and FRED BYRD, and moves the Court to strike counts 3, 4, 5, 6, 7 and 8, of the original bill of complaint, and for grounds thereof says:

1.

That counts 3, 5 and 7, are mere repetition of count 1.

2.

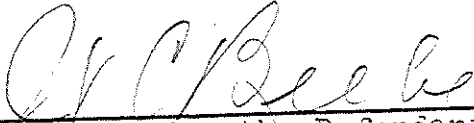
That counts 4, 6 and 8, are repetitions of count 2.

3.

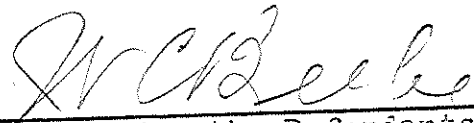
That counts 3, 4, 5, 6, 7 and 8, are mere surplusage.

4.

That all the relief prayed for under counts 3, 4, 5, 6, 7 and 8, could be awarded under counts 1 and 2.


Attorney for the Defendants Willard
Byrd and Fred Byrd.

The Defendants, Willard Byrd and Fred Byrd, demand a trial by jury.


Attorney for the Defendants Willard
Byrd and Fred Byrd.

A J Book
v2
Byrd Step

RECORDED

Notice to Ship.

Filed Sept 21/49
Alice J. Wick
Clerk

A. J. BOWAB

PLAINTIFF

VS

W. J. HALL, ET AL,

DEFENDANTS

Ø

IN THE CIRCUIT COURT OF

Ø

BALDWIN COUNTY, ALABAMA,

Ø

AT LAW

Ø

NO. 1390

Ø

Now comes the Defendant, W. H. Hall, and for answer to the Plaintiff's complaint and each count thereof separate and severally says:

1.

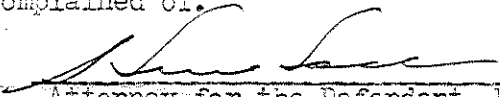
That he is not guilty.

2.

That the facts therein alleged are untrue.

3.

That the Plaintiff was guilty of negligence which proximately contributed to the injuries and damages complained of.


Attorney for the Defendant, W. J. Hall

RECORDED

A. J. BOWAB

PLAINTIFF

VS

W. J. HALL, ET AL,

DEFENDANT

ANSWER

FILED
OCT 7 1950
ALICE A. DUCK, Clerk

A. J. Bowser
 Plaintiff
 vs
 Willard Byrd, et al
 Defendants

In the Circuit Court
 of Baldwin County,
 Alabama -
 At Law
 # 1390

Now Comes the Defendant, W. J. Hays,
 and answers to the Plaintiff's Complaint
 and to each Count thereof separately
 and severally, say -

1. That said Count does not state a Cause of action
2. That said Count alleges the Negligence in the Alternative
3. That said Count Charges the act as being willful rather than the injury
4. That said Count is prolix
5. That said Count joins property damage and personal injuries in the same Count.
6. That said Count is Merely Surplusage
7. That said Count is a Merely repetition -
8. That said Count Charges No Negligence on the part of the Defendant
9. That said Count Charges no Willful or wanton Negligence on the part of the Defendant

W. J. Hays
 atty for Def. W. J. Hays

RECORDED

Filed 10-3-50
Cass French
Clerk

A J. BOWAB,

PLAINTIFF

VS

WILLARD BYRD, FRED BYRD
and W. J. HALL, jointly
and severally,

DEFENDANTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 1390

Comes the defendant, Willard Byrd, and answering
plaintiff's complaint and each court thereof separately
and severally says:

FIRST:

That the matters alleged therein are untrue.

SECOND:

That the plaintiff was guilty of contributory
negligence which was the proximate cause of the damages
sustained.

THIRD:

That, the plaintiff ought not to recover in this
suit because at the time and place of the alleged accident
the plaintiff so negligently operated his said motor
vehicle as to cause the same to collide with the motor
vehicle of the defendant and which negligence was the
proximate cause of the damages alleged to have been
sustained.

W.C. Burke
Attorney for Defendant

A. J. Baurab
Plaintiff

VS

Willard Boyd et al
Defendants

Answer

RECORDED

FILED

OCT 9 1950

ALICE J. DUCK, Clerk

RECORDED

A. J. BOWAB,

PLAINTIFF

VS

WILLARD BYRD, FRED BYRD
and W. J. HALL, jointly
and severally,

DEFENDANTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

NO. 1390

Comes the defendant, Fred Byrd, and answering plaintiff's complaint and each count thereof separately and severally says:

FIRST:

That the matters alleged therein are untrue.

SECOND:

That the plaintiff was guilty of contributory negligence which was the proximate cause of the damages sustained.

THIRD:

That the plaintiff ought not to recover in this suit because at the time and place of the alleged accident the plaintiff so negligently operated his said motor vehicle as to cause the same to collide with the motor vehicle of the defendant and which said negligence was the proximate cause of the damages alleged to have been sustained.

FOURTH:

That the plaintiff ought not to recover in this suit because at the time and place of the alleged injury the plaintiff was negligently driving an automobile at an unlawful and wreckless rate of speed and that such negligence of the plaintiff proximately contributed to

the damages complained of.

FIFTH:

That the defendant, as a defense to the action of the plaintiff says that at the time the said action was commenced, the plaintiff was indebted to the defendant in the sum of \$10,000.00, as damages, for that, on to-wit: the 15th day of March, 1949, said plaintiff was operating or driving an automobile on United States Highway 31, a public highway in the County of Baldwin, State of Alabama, at a point approximately one mile North of Bay Minette, that on said date and at said time and place the defendant's automobile truck was by one Willard Byrd, the agent of this defendant, being driven on said highway; that the said plaintiff at the said time and said place negligently ran a motor vehicle, which he was driving, against said automobile truck of the defendant, in which he was transporting certain live stock namely: one cow belonging to this defendant, and other livestock; and as a proximate result thereof defendant's said automobile truck was broken, bent, injured and demolished beyond repair and said cow injured, its back and ribs broken, and thereby rendered less valuable; that the defendant operated and used the said automobile truck in and about his business of hauling, and as a result of such damages to the said truck he was, from the date of the said injury to this date deprived of the use of the same and thereby caused to lose much money; and defendant avers that all such injuries and damages were the proximate result of the plaintiff's negligence aforesaid; which he hereby offers to set-off against the demand of the plaintiff and prays judgment for the excess.

SIXTH:

That the defendant, as a defense to the action

of the plaintiff says that at the time the said action was commenced, the plaintiff was indebted to the defendant in the sum of \$10,000.00 as damages, for that, on to-wit: the 15th day of March, 1949, said plaintiff was operating or driving a motor vehicle on United States Highway 31, a public highway in the County of Baldwin, State of Alabama, at a point approximate one mile North of Bay Minette, that on said date and at said time and place the defendant's automobile truck was, by one Willard Byrd, being driven on said highway; that the said plaintiff at the said time and said place ran the motor vehicle driven by him against the said automobile truck of the defendant, in which defendant was transporting certain livestock, namely one cow owned by defendant, and other livestock, and as a proximate consequence defendant was injured and damaged as follows: the said automobile truck was broken, bent, injured and demolished beyond repair, and said cow injured, its back and ribs broken, and thereby rendered less valuable; that the defendant operated and used the said automobile truck in and about his business of hauling and as a result of such damages to the said truck he was from the date of the said injury to this date deprived of the use of the same and thereby caused to lose much money; and the defendant avers that the said plaintiff at said time and place wantonly injured defendant by wantonly running the motor vehicle of the plaintiff against the said automobile truck, the property of the defendant, in which he was transporting the livestock aforesaid, and as a proximate consequence of said wanton conduct defendant avers that he was caused to sustain and did sustain the injury and damages complained

no —

RECORDED

A. J. Bourn
Plaintiff

vs

Willard Byrd et al
Defendants

Answer

199

FILED

OCT 9 1950

ALICE J. DUCK, Clerk

of as aforesaid; which he hereby offers to set off
against the demand of the plaintiff and prays judgment for the excess.

W.C. Beebe
Attorney for Defendant

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
Baldwin County

1390 CIRCUIT COURT, BALDWIN COUNTY

No. _____ TERM, 194____

TO ANY SHERIFF OF THE STATE OF ALABAMA :

WILLARD BYRD ET. AL

You are hereby commanded to summon

Fred Byrd
W. J. Hall

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 WILLARD BYRD,

Fred Byrd and W. J. Hall, Defendant

A. J. BOWAB

by _____

Plaintiff

Witness my hand this 11 day of AUGUST 1946

Reese J. Warrick, Clerk

No. 1390 Page

THE STATE of ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT

A. J. BO WAB

Plaintiffs

vs.

WILLARD BYRD ET. AL.

Defendants

SUMMONS and COMPLAINT

Filed AUGUST 11, 1949

Reice J. Wink Clerk

RECORDED

Plaintiff's Attorney

Defendant's Attorney

Moore Printing Co., Bay Minette, Ala.

Defendant lives at

RECEIVED IN OFFICE

8-11, 1949

Taylor Wilkins Sheriff

I have executed this summons

this 8-11, 1949
by leaving a copy with

Willard Byrd
Fred Byard
W. J. Hall

Taylor Wilkins Sheriff

James B. Griffin Deputy Sheriff