

make
copy of
demurrers

LAW OFFICES OF
HOWELL AND JOHNSTON
FIRST NATIONAL BANK ANNEX
P. O. BOX 1652
MOBILE 9, ALABAMA

THOMAS O. HOWELL, JR.,
THOMAS A. JOHNSTON, III
ROBERT E. HODNETTE, JR.,
VERNOL R. JANSEN, JR.

October 28, 1949

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

Re: Vaughn W. Von Schildnecht
Vs: Corwin Williams, et al
No: 1409


Dear Mrs. Duck:

I received your card telling me that demurrers had been filed in this case on October 19, 1949. I did not get a copy of the demurrers and will appreciate your kindness in sending me a copy, if you can.

I shall also appreciate your kindness in advising when the Court will hear arguments on the demurrers.

Very truly yours,

HOWELL & JOHNSTON


Robert E. Hodnette, Jr.

REH:hd

LAW OFFICES OF
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P. O. BOX 1652
MOBILE 9, ALABAMA

THOMAS O. HOWELL, JR.
THOMAS A. JOHNSTON, III
ROBERT E. HODNETTE, JR.
VERNOL R. JANSEN, JR.

July 10, 1950

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

Dear Mrs. Duck:

We enclose answers to interrogatories in the
case of Vaughn W. Von Schildnecht vs Corwin
Williams and Eugene Laverne Battey, case No. 1409.

Very truly yours,

HOWELL & JOHNSTON


Robert E. Hodnette, Jr.

REH:hd
Enc:2

CHASON & STONE
ATTORNEYS AT LAW
BAY MINETTE, ALABAMA

February 5, 1951

JOHN CHASON
NORBORNE C. STONE

PHONE 3641

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

Dear Mrs. Duck:

Re: Vaughn W. Schildnecht
vs. Corwin Williams and
Eugene Lavern Battey

Will you please enter our appearance for the
Defendant in the above styled cause.

Yours very truly,

CHASON & STONE

JC:am

By: 

VAUGHN W. VON SCHILDNECHT,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	BALDWIN COUNTY, ALABAMA.
vs	*	AT LAW. NO. 1409
CORWIN WILLIAMS and	*	
EUGENE LAVERNE BATTEY,	*	
jointly and individually,	*	
Defendants.	*	
	*	

ANSWERS TO INTERROGATORIES

Comes the plaintiff in the above cause and for answer to the interrogatories heretofore propounded by the defendant to the plaintiff says as follows:

1. Vaughn William Von Schildnecht, 49 years of age, 357 Jackson Street, Apartment B-15, Hempstead, Long Island, New York.

2. Yes, 4479356, issued by the State of New York, Bureau of Motor Vehicles.

3. Yes, except that Registration number was 48-N.N. 30-83 N. Y.

4. Yes.

5. During the procedure of an attempted passing of a truck preceding my car, the truck made an unsignaled left turn off the highway, dragging my car with it.

6. Toward Fairhope, approximately west, speed between 35 to 40 miles per hour when horn was blown to indicate my intention of passing. As truck bore to left indicating no signal of a turn into a lane leading to a private home, speed was reduced, horn was vigorously blown and at the time of impact car was traveling less than 15 miles per hour as was indicated by the impact. Majority of damage

was done by truck dragging my car and to extent overriding the forward part.

7. The plaintiff.

8. My wife, Eleanor Von Schildnecht.

9. What appeared to be a new Ford truck driven by a very young boy who did not have his driver's license with him. This license was brought to the boy by one of his relatives who appeared to live near by, prior to the arrival of the state police.

10. In the same direction as the plaintiff.

11. (a). In feet, I do not recall. However, considerable and adequate to recognize the necessity for passing, observe the rear and forward to determine there were no other cars visible and to blow my horn several times before attempting to pass and to run parallel to each other (Blowing my horn) for a minute or two prior to the truck turning across my path.

(b). In feet, I do not recall. It was quite some few moments as the terrain will indicate that I saw the truck ahead of me before I started my passing or attempted passing procedure.

(c). No. There was none until a few minutes after the wreck.

(d). No. All present admitted there were no eye witnesses.

(e). Approximately a mile or more.

12. I do not know but what appears to be an average two lane highway.

13. A very slight down grade and at least several city blocks.

14. I do not remember. My passing procedure was a

normal legal one and with horn blowing, I was crowded off the highway to the very left hand shoulder. My car, when the truck made an unsignaled turn was caught ahead of the left rear wheel and under the bed of the truck and in an overriding effect was dragged. The damage to the car was all confined to the right forward half.

15. (a). Right fender, right hood, right windshield not broken but scratched, the hood being forced up and over it, upper half of radiator bent back. Carburetor torn off which caused car to catch fire which I put out with sand.

(b). No visible damage whatsoever as acknowledged by the owner.

16. No.

17. No.

18. Yes, and these were recorded by the State Patrol. They were or rather consisted of my braking marks and those of the course over which my car was dragged.

19. Perfect control of the car, continuous horn blowing and attempted to drop back when I was being crowded off the highway. The lane into which the truck turned is not a prominent one but my reaction was there being a home there that's where the truck was going to turn in. Hence the dropping back on my part.

20. Very definitely and had the window of the cab of the truck been open it would have been heard.

21. Yes.

22. There was no intersection. I was hit prior to meeting the lane into which the truck turned and dragged to within a few feet of where the lane turned off the highway.

23. Within 5 to 10 miles per hour less than mine

when I first saw the truck. At the time of impact the speed of the truck was by necessity a few miles per hour more than mine because I was dropping back with never a chance to have my bumper even with the cab of the truck. Remember we were both driving side by side for a short period with my horn blowing.

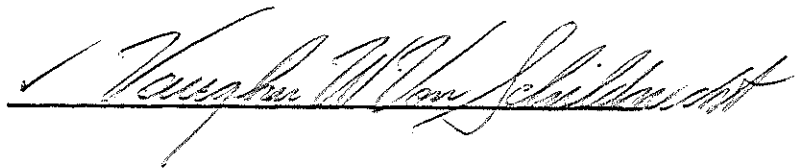
24. See answer 6. Something over my speed which was somewhere around 15 miles per hour.

25. His cutting over and continuing to ride the oncoming lane for traffic prior to making his turn. His doing this and turning without signal. Manual or otherwise. Immediately after the accident I asked the young boy, "Why didn't you signal or put out your hand?" He seemed flustered and said he did. I said, "Son, how could you put out your hand?" "Look at the glass in your cab door, it is still up and closed." He admitted then he guessed he did not. The boy or driver was not observant or he would have known a car was behind him and was also trying to pass him. The situation is obvious.

26. Failure to observe the traffic situation to his rear and to use the required turning signals and his procedure to using the oncoming lane rather than the prescribed turn from his lane into the house lane.

27. These are noted in answer number 26.

28. As stated in answer 25, 26 and 27.



STATE OF NEW YORK

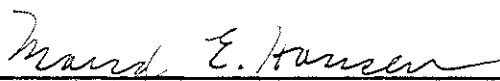
COUNTY OF NASSAU

Before me the undersigned authority personally appeared Vaughn Von Schildnecht, who by me being first duly sworn deposes and says that he is the plaintiff in the foregoing

cause and that the foregoing answers to the interrogatories propounded by the defendant to the plaintiff are true and correct.


VAUGHN W. VON SCHEIDNZECH

Subscribed and sworn to before me
on this 30th day of June, 1950.


NOTARY PUBLIC

MAUD E. HANSEN
Notary Public, State of New York
No. 30-1668100 Qualified in Nassau Co.
Term Expires March 30, 1951

RECEIVED
JUL 10 1950
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C.

RECEIVED

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WASHINGTON, D.C.

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JUL 10 1950
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C.

FILED
JUL 10 1950
ALICE J. DUCK, Clerk

Vaughn W. Von Schildnecht,
Plaintiff.

Vs.


Corwin Williams and Eugene
Laverne Battey, jointly
and individually,
Defendants.

In the Circuit Court of
Baldwin County, Alabama.
At Law, No. 1409.

The above named defendants desiring the testimony of the above named plaintiff, files the following interrogatories to said plaintiff to be answered by said plaintiff. The answers to said interrogatories will be material testimony for defendant in the above styled cause.

1. State your name, age and home address.
2. Do you have a license to drive an automobile, if so, give number of such license and state by whom issued, and by what authority,
3. On December 19, 1948 were you the owner of a Chrysler Coupe, 1941 Model, Registration number 48-H.N.30-83 N. Y. ?
4. Was the above described car or any other automobile owned by you involved in a wreck or accident at approximately 12.55 P. M., December 19, 1948?
5. If your answer to the foregoing interrogatory is "Yes", please state the particulars of the accident or wreck.
6. In what direction was your car traveling at the time of the accident, and at what rate of speed was it being driven?
7. Who was driving your car at the time of the accident?
8. Were there any other persons in your car at the time of the accident?
9. If you say there was an accident or wreck at the time mentioned in interrogatory #4, was there another vehicle involved in such accident, if so describe such vehicle.
10. In what direction was the vehicle other than your own traveling at the time of the accident and in what direction had it been traveling immediately before the accident?
11. When did you first see the vehicle involved in the accident with your car?
 - (a) At the time you first saw it how far was the vehicle from the point of impact?
 - (b) At the time you first saw said vehicle how far from the point of impact was your car?
 - (c) At the time you first saw the vehicle alleged to have been driven by the defendant, did you see any other vehicles on the highway?
 - (d) At the time of the accident were there any other vehicles, other than those involved in the accident, in sight upon the highway?
 - (e) At the time you first saw the vehicle driven by defendant, for what distance in front of you did you have a clear vision of the highway?

12. At the point of the accident what is the width of the highway upon which you were traveling?
13. At the time of the accident, were you traveling upgrade or downgrade, and for what distance had you so traveled?
14. Is the highway upon which you were traveling at the time of the accident marked with a line in the center thereof?
 - (a) If your answer to the preceding question is "Yes", then state the position of your car with reference to said line immediately before and at the time of the accident.
15. What portion of your car came into contact with the vehicle driven by defendant?
 - (a) Describe in detail the damage to your car.
 - (b) What apparent damage was done to the vehicle alleged to have been driven by defendant?
16. Was there any obstruction which prevented a clear view of the highway and the traffic thereon at or near the point of the accident?
17. Are there any curves in the highway at or near the scene of the accident?
18. Immediately after the accident were there any marks ~~xx~~ or other evidence showing the course traveled to the point of the accident by either vehicle?
19. What, if anything, did you do to prevent the accident?
20. Did you blow any horn or signal in any way your position in the highway or your intentions?
21. At the time of the accident were you ~~xxxx~~ attempting to pass the vehicle driven by defendant?
22. Were you attempting to pass the vehicle driven by the defendant at a point of intersection of said highway?
23. Prior to the time of the accident and at the time you first saw the vehicle driven by defendant what was the rate of speed at which defendant's vehicle was being driven?
24. At the time of the accident what was the rate of speed at which defendant's vehicle was being driven?
25. Of what act or acts of negligence on the part of the defendant do you complain? Explain fully.
26. What act or acts did the defendant do causing injury to your car?
27. What act or acts did the defendant fail to do that would have prevented the accident to your car?
28. Upon what act, acts or omission of the defendant do you rely to establish negligence on the part of the defendant?



Atty for Defendant

The State of Alabama }
Baldwin County }

Personally appeared before me, the undersigned authority, a Notary Public in and for said County in said State, H. A. Burns, who being by me first duly sworn, deposes and says that he is the attorney of Record for the defendants in a cause pending in the Circuit Court of Baldwin County, Alabama, entitled, Vaughn W. Von Schildnecht, Plaintiff, Vs. Corwin Williams and Eugene Laverne Battey, jointly and individually, Defendants.

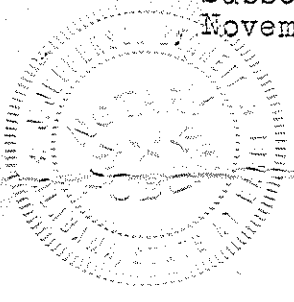
That the foregoing interrogatories were propounded by the defendant to the plaintiff in the above entitled cause.

Further deposing affiant states that the answers to said interrogatories will be material testimony for the defendant in the above entitled cause.

H. A. Burns

Subscribed and sworn to before me on this the 16 day of November, 1949.

J. J. Harrison Bennett
Notary Public.



#1409

Vaughn W. Von
Schuldruech

vs
Carlisle Williams, et al

Interrogatories to
Plaintiff

Filed 11-18-49.
Alice J. Duck
Clerk.

Received in Sheriff's Office
this 1 day of *Mar*, 19*50*
TAYLOR WILKINS, Sheriff



Received *6th* Day of *March*, 19*50*
and on *7th* Day of *March*, 19*50*
I served a copy of the within interrogatories
on *Carlisle and Williams, et al*.
by service on *Robert C. Rodnitzke*,
a member of the firm
W. H. HOLCOMBE, Sheriff
By *Wm. Brennan*, D.S.

FILED
NOV 18 1949
ALICE J. DUCK, Clerk

X³
Robert Rodnitzke a member
of Lawler & Johnson.

VAUGHN W. VON SCHILDNECHT,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	BALDWIN COUNTY, ALABAMA,
vs	*	AT LAW. NO.
CORWIN WILLIAMS and	*	
EUGENE LAVERNE BATTEY,	*	
jointly and individually,	*	
Defendants.	*	
	*	

COUNT ONE:

Plaintiff claims of the defendants the sum of One Thousand and no/100 (\$1,000.00) Dollars as damages, for that heretofore on, to-wit, the 19th day of December, 1949, the defendant Eugene Laverne Battey, who was then and there the servant, agent or employee of the defendant Corwin Williams, acting within the line and scope of employment as such, so negligently operated the motor vehicle he was driving westwarly along Highway 104, also known as the Silver Hill Road, at a point, to-wit, two miles east of its intersection with the public highway leading into Fairhope, Alabama, which said intersection is known as the Fairhope "Y", which said Highway 104, at said point, is a public highway in Baldwin County, Alabama, as to cause, or allow said motor vehicle to run into, upon or against the motor vehicle belonging to the plaintiff which was then and there being driven in a westwardly direction along said highway at said time and place, and as a direct and proximate result of said negligence plaintiff's motor vehicle was badly broken, bent and damaged, hence this suit.

Harrell & Johnston
 ATTORNEYS FOR PLAINTIFF

Defendants' addresses:

Corwin Williams
 Fairhope, Alabama
 Eugene Laverne ~~Williams~~ *Battey*
 Fairhope, Alabama

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 1109

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon CORWIN WILLIAMS AND EUGENE LAVERNE BATTEY

jointly and individually,

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 CORWIN WILLIAMS

AND EUGENE LAVERNE BATTEY JOINTLY AND INDIVIDUALLY, Defendant.

by VAUGHN W. VON SCHILDNECHT

, Plaintiff.

Witness my hand this 23 rd day of SEPTEMBER 19 49

Miss J. Duck, Clerk

THE STATE OF ALABAMA
BALDWIN COUNTY
CIRCUIT COURT

VAUGHN W. VON SCHILNECHT

vs. Plaintiffs

CORVIN WILLIAMS AND EUGENE LAVERNE
JOINTLY AND INDIVIDUALLY

Defendants

SUMMONS and COMPLAINT

Filed 9-23, 19 49

Alexis L. Muehler Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Yachats

RECEIVED IN OFFICE

Sept. 23, 19 49

Boyle's ~~Shelton~~, Sheriff

I have executed this summons

this 9-23, 19 49
leaving a copy with

Corvin W. Williams

Eugene Laverne LaVerne

Taylor Williams Sheriff

W. H. Hall Deputy Sheriff

Vaughn W. Von Schildnecht,

Plaintiff

Vs


Corwin Williams and
Eugene Laverne Battey,
Jointly and individually,

Defendants

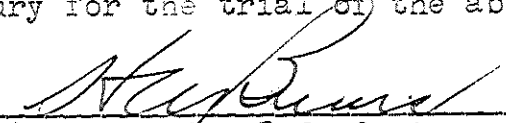
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW. No. 1409

Comes now the above named Defendants, Corwin Williams and Eugene Laverne Battey, jointly and individually, and demur to the Complaint heretofore filed in the above entitled cause, and for ground to said Demurrer, separately and severally assign the following:

1. That said Plaintiff does not state a cause of action.
2. That there is no causal connection shown by the Defendants and the injury complained of.
3. For that there are no facts alleged showing how or in what manner the Plaintiff was injured.
4. For that no facts are alleged showing that the Defendants or either of them was guilty of any negligence whatsoever.
5. For aught appearing in said Complaint, the Plaintiff himself caused the injury of which he complains.
6. For that the allegations of said Plaintiff are aught but conclusions of the Pleader.


Attorney for Defendants

Defendants hereby demand a jury for the trial of the above cause.


Attorney for Defendants.

#1409
Vergil W Von
Schildmeyer

vs
Curtis Williams
et al

Demurr

Filed 10-19-49
Alice Luck
Clerk.