

1421

STATE OF ALABAMA * IN THE CIRCUIT COURT OF
COUNTY OF BALDWIN * BALDWIN COUNTY, ALABAMA AT LAW.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon D. K. McLemore to appear within thirty days from the service of this writ in the Circuit Court to be held in said county at said place for holding the same, then and there to answer the complaint of Benjamin Scheiner.

Alice J. Smith
Clerk

BENJAMIN SCHEINER, * IN THE CIRCUIT COURT OF
 * BALDWIN COUNTY, ALABAMA,
 * AT LAW.
vs * NO.
DAVID K. McLEMORE, * Defendant. *

COUNT ONE:

Plaintiff claims of the defendant the sum of Three Thousand Five Hundred and no/100 (\$3,500.00) Dollars as damages, for that heretofore on, to-wit, the 6th day of November, 1948, the defendant so negligently operated the motor vehicle he was driving westwardly on U. S. Highway 90, a public highway, at a point approximately 1.2 miles west of Loxley, Alabama, in Baldwin County, Alabama, as to cause or allow said motor vehicle to run into, upon or against the motor vehicle and trailer attached thereto belonging to the plaintiff which was then and there being driven in a westwardly direction on said highway at said time and place and as a direct and proximate result of said negligence plaintiff's motor vehicle and trailer were badly broken, bent and damaged, hence this suit.

COUNT TWO:

Plaintiff claims of the defendant the sum of Twenty-five Thousand and no/100 (\$25,000.00) Dollars as damages, for that

heretofore, on, to-wit, the 6th day of November, 1948, the defendant so negligently operated a motor vehicle he was driving on U. S. Highway 90, a public highway, at a point approximately 1.2 miles west of Loxley, Alabama, in Baldwin County as to cause or allow said motor vehicle to run into, upon or against the trailer which was attached to and being towed by the automobile in which the plaintiff was riding and which was then and there being driven in a westwardly direction on said highway at said time and place and as a direct and proximate result of said negligence, plaintiff was seriously and permanently injured, he was caused to suffer great bodily pain and physical and mental anguish, he was made sick and sore, his left leg was seriously and permanently injured, he was caused to spend great sums of money for hospital and doctors and nurses, hence this suit.


ATTORNEYS FOR PLAINTIFF

Plaintiff demands a trial of this cause by a jury.

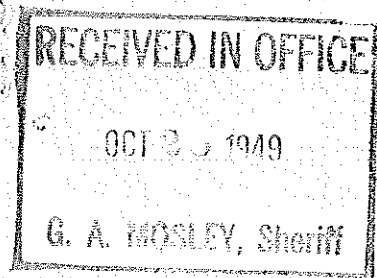

ATTORNEYS FOR PLAINTIFF

Defendant's address:

David K. McLemore
BTU-1Anaas
Whiting Field, Florida

Served defendant by serving the Secretary of State, Montgomery, Alabama.

Received in Sheriff's Office
this 24 day of Oct, 1949
TAYLOR WILKINS, Sheriff



EXECUTED BY DELIVERING

A copy of the within

To Sibyl Pool
Secretary of State
OF THE State of Ala
AND SAID Sibyl Pool
WAS SUCH WHEN SO SERVED

This the 10 - 26 1949

G. A. Mosley
Sheriff Montgomery County

By Goodwyn
Deputy Sheriff

W 1421
RECORDED

We the jury find
in favor of the defendant
J. B. Bridges
Foreman

RECORDED

FILED

OCT 24 1949

ALICE J. DUCK, Clerk

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

BENJAMIN SCHEINER,)
Plaintiff,) IN THE CIRCUIT COURT OF
VS.) BALDWIN COUNTY, ALABAMA
DAVID K. McLEMORE,) AT LAW. NO. 1421
Defendant.)

Now comes the Defendant in the above styled cause and for answer to the Complaint and to each count thereof, separately and severally, says:

1. That he is not guilty.
2. The Plaintiff himself was guilty of negligence, which proximately contributed to his damage or damages, and injury or injuries.

Lyon & Pipes
J. B. Blackburn
Attorneys for Defendant.

RECORDED
BENJAMIN SCHEINER,
Plaintiff,

VS

DAVID K. McLEMORE,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW. #1421

Answers

RECORDED

*Filed 11-17-51
A. J. French
Clerk*

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

BENJAMIN SCHEINER,
Plaintiff,
VS.
DAVID K. McLEMORE,
Defendant.

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

DEMURRERS.

Now comes the Defendant, David K. McLemore, in the above styled cause and demurs to the Complaint and to each Count thereof, separately and severally, and assigns the following demurrers, each separately and severally:

1. It does not state a cause of action.
2. The facts alleged if true do not show that the Plaintiff is entitled to recover against the Defendant.
3. There is not shown a duty upon the Defendant not to negligently injure the Plaintiff.
4. It does not show howin the Plaintiff was injured.
5. It is not shown that the Plaintiff's injuries were the proximate result of the Defendant's negligence.
6. It is not shown that the Plaintiff suffered any damages as a result of the Defendant's negligence.
7. It is not shown howin the Defendant was negligent.

Lyons, Thomas & Pyles

J. B. Blalock

Attorneys for Defendant.

1421

RECORDED

DEMURRERS.

BENJAMIN SCHEINER,
Plaintiff,
VS.
DAVID K. McLEMORE,
Defendant.

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

FILED
NOV 25 1949
ALICE J. DUCK, Clerk

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

BENJAMIN SCHEINER, PLAINTIFF) IN THE CIRCUIT COURT OF
VS.) WASHINGTON COUNTY, ALA.
DAVID K. McLEMORE, DEFENDANT) AT LAW NO. 1421.

Comes the defendant in the above entitled cause and propounds the following interrogatories to the plaintiff pursuant to Article 8, Title 7 of the Code of Alabama of 1940:

1. Please give your residence address as of November 6, 1948.
2. At the time of the accident complained of in your complaint, please give the names, ages and residence addresses of each of the occupants of the vehicle in which you were riding.
3. At the time and place complained of in your complaint, was anyone riding in the trailer which you allege was hit by the defendant's motor vehicle?
4. Were any of the occupants of the vehicle in which you were riding at the time and place complained of in your complaint, any relation to you? If so, please state what relation.
5. Were you on a trip at the time of the accident complained of?
6. What was the expected destination of said trip?
7. When did you leave your home when you started on said trip?
8. For whose benefit was said trip being made?
9. What was the expected duration of said trip?
10. What was the speed of the vehicle in which you were riding immediately prior to said accident?
11. What was the speed of the defendant's vehicle immediately prior to the said accident?
12. When did you first see defendant's motor vehicle immediately prior to the accident?
13. Assuming that you were travelling in a westwardly direction at the time of the said accident, please state on what side of the center line of the road the accident occurred?
14. Please set out in detail the injuries which you received.
15. Please list the name and address of each physician who treated you for the injuries you received in this accident.
16. Please give the name and address of each hospital in which you were a patient as a result of injuries received in this accident.

17. Please attach to your answers to these interrogatories copies of all hospital and doctors bills which you incurred as a result of injuries received in this accident.
18. Who was the driver of the vehicle in which you were riding?
19. Is it not a fact that you were attempting to pass a vehicle immediately ahead of you at the time the accident occurred?
20. Is it not a fact that the defendant's vehicle was attempting to pass the vehicle which you were driving, to its left, at the time you suddenly pulled the vehicle you were driving to its left into the right side of the defendant's motor vehicle?
21. Was the accident investigated immediately thereafter by the Alabama Highway Patrol?
22. If you answer the above interrogatory in the affirmative, please state whether or not your vehicle had been moved from the place it came to rest after the accident before the Highway Patrol made said investigation.
23. Had defendant's vehicle been moved from the place where it came to rest immediately after the accident before the Highway Patrol made said investigation?
24. Please list in detail the damage done to your motor vehicle and your trailer in this accident.
25. Please attach to your answers of these interrogatories itemized repair estimates of your motor vehicle and your trailer, for damage as received in the accident complained of in your complaint.
26. From whom did you purchase said trailer?
27. On what date did you purchase said trailer?
28. What price did you pay for said trailer at the time you purchased it?
29. Had said trailer been in any accident between the time you purchased the same and the accident complained of in your complaint?
30. When and from whom did you purchase the automobile which you were driving at the time of the accident complained of?
31. How much did you pay for said automobile when you purchased it?
32. What mileage had said vehicle travelled at the time of said accident?
33. What mileage had said trailer travelled at the time of said accident?

34. Have you sold either said automobile or said trailer since said accident, and if so, when and what price did you receive for the same.

J. B. Blackburn
Joseph Thomas & Papes
ATTORNEYS FOR THE DEFENDANT.

STATE OF ALABAMA

COUNTY OF MOBILE

Before me, the undersigned authority, personally appeared Daniel H. Thomas, who being by me first duly sworn deposes and says that he is one of the attorneys of record for the defendant in the above entitled cause and that the answers to the above and foregoing interrogatories, if well and truly made, will be material evidence for the defendant at a trial of this cause.

Daniel H. Thomas
Daniel H. Thomas.

Subscribed and sworn to before me this the 19th day of January, 1950.

Clair Ernandez
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA.

FILED
JAN 20 1950
ALICE J. DUCK, Clerk

RECORDED

652

1421

249

CD

9 months 11 days

Received 24 Day of Jan 1950
and on 25 Day of Jan 1950

I served a copy of the within on Donald H. McLean

by service on _____

W. H. HOLCOMBE, Sheriff

By M. McLean D.S.

Received in Chicago
this 22nd day of Jan 1950
TAYLOR WILSON

Rate 3.00
H. E. McLean Jr. City

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 22, 1949

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

Re: Scheiner
Vs: McLemore

Dear Mrs. Duck:


I enclose original and three copies of summons and complaint and I will appreciate your filing them in your office.

The defendant, D. K. McLemore, is a non-resident of Alabama and his address is: David K. McLemore, BTU-1Anaas, Whiting Field, Florida. I wish to secure service of process upon him by serving the Secretary of State as is provided for by Section 199, Title 7, Code of Alabama, and in accordance with that section I enclose three copies of the summons and complaint together with the \$3.00 fee.

I will appreciate your kindness in perfecting service in this manner.

Very truly yours,

HOWELL & JOHNSTON


Robert E. Hodnette, Jr.

REH:et

Encs.

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.

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Circuit Court
Baldwin County
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Vs: McLemore

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Very truly yours,

HOWELL & JOHNSTON


Robert E. Hodnette, Jr.

REH:et

Encs.

W 1421

Benjamin Scheiner,

vs.

David K. McLenore

Damages

Filed 10-24-49

Harrell Johnston

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 1421

BENJAMIN SCHEINER,

Plaintiff,)

-vs-

) ANSWER TO INTERROGATORIES

DAVID K. McLEMORE,

Defendant)

COMES NOW the plaintiff in the above entitled cause,
and for his Answers to the Interrogatories propounded by the
defendant herein, answers as follows:

1. Palm Trailer Park, 12000 NE 16th Ave., Miami, Fla.
2. Benj. Scheiner, 37 years, same address as #1.
Beatrice Scheiner, 36 yrs., " " " "
David Robert Scheiner, 1 $\frac{1}{2}$ yrs., same address as #1.
Harry Edward Scheiner, 1 $\frac{1}{2}$ " " " "
3. No.
4. Yes, wife and two children.
5. Yes.
6. California.
7. Approximately November 1, 1948.
8. Self and family.
9. Twenty (20) days.
10. Approximately thirty (30) miles.
11. Approximately seventy (70) miles.
12. Before starting to pass car in front, he being about
700 feet behind me.
13. Immediately to the North of the center line.
14. Pain and disability in the neck, and Right upper
shoulder, radiating to the upper border of the
right ear.
Traumatic Myositis of the Right Trapezius.
Traumatic Myositis of Supra-spinatus.
Right pelvic sway. Right rotation of all lumbar
vertebra right sacro-iliac subluxation. Left
accoliosis from the 5th lumbar vertebra extending
into the lower dorsal spine.
15. Dr. J. Charles Sternberg, 2280 S.W. 16th Court,
Miami, Florida
Dr. R. E. Diehl, 215 N. E. 97th Street,
Miami, Florida
16. None.

17. Benj. Scheiner in account with Dr. R. E. Diehl:
 3-25-49, 2 11x17 X-Rays Ap & Lat \$20.00
 3-25-49 to 6-10-49, Twenty Office Calls \$101.00
 10-17-49 to 11-1-49 \$ 96.00
 4-28-50, 32 Office Calls \$40.00
 " " " 2 11x36 Vert X-Rays

Benj. Scheiner in account with Dr. Jacob C. Sternberg:
 3-28-49, For professional services \$35.00
 3-31-49 " " " \$15.00

18. I was.

19. Yes.

20. No.

21. Yes.

22. No.

23. No.

24. The truck was turned on its side, leaning on the car. The rear body, fenders, bumpers brackets in the rear of the car were damaged. The trailer's body was broken, glass and interior completely demolished. Chassis and hitch bent. Refrigerator, stove, sink, beds, and all furniture and equipment demolished. Foodstuffs, drugs, and wearing apparel ruined.

25. Damage, \$4500.00. Copies of estimates for repairs not immediately available, and will be furnished at a future date.

26. Travel-Rite Trailer Sales, 19 East 19th St., Brooklyn, N. Y.

27. October, 1948.

28. \$3400.00

29. No.

30. Kings County Buick, Brooklyn, N. Y., July, 1948.

31. About \$3,000.00.

32. About 3000 miles.

33. About 1800 miles.

34. No.

Benjamin Scheiner L.S.
 BENJAMIN SCHEINER.

STATE OF FLORIDA)
 COUNTY OF DADE) SS:

Before me, the undersigned authority, personally appeared BENJAMIN SCHEINER, who being by me first duly sworn, deposes and says that he is the plaintiff in the above entitled cause, and that the Answers to the foregoing Interrogatories are true to the best of his knowledge.

Benjamin Scheiner
 Benjamin Scheiner, Plaintiff.

Subscribed and sworn to before me this
 30 day of August, 1950.

Hazel Essen, Notary Public
 BEN ESSEN, ATTORNEY AT LAW, 823 SEYBOLD BUILDING, MIAMI, FLORIDA

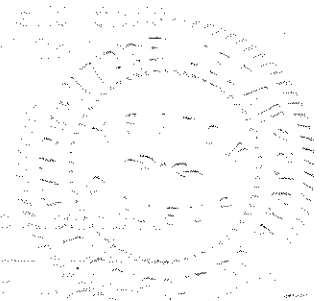
Notary Public, State of Florida at large
 My commission expires June 24, 1953.
 Issued by American Surety Co. of N. Y.

#1921

FILED

OCT 4 1950

AUGER L. DUCK, Clerk



Benjamin Scheiner, Plaintiff)
vs)
David K. McLemore, Defendant)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
At Law No. 1421.

TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

I, Sibyl Pool, Secretary of State, hereby certify that on the 25th day of October, 1949 I mailed by registered mail in an envelope addressed as follows:

"David K. McLemore
BTU-1Anaas
Whiting Field, Florida

REGISTERED MAIL
RETURN RECEIPT REQUESTED
DELIVER TO ADDRESSEE ONLY"

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

"David K. McLemore
BTU-1Anaas
Whiting Field, Florida

You will take notice that on October 25, 1949 the Sheriff of Montgomery County, Alabama served upon me, in my official capacity, summons and complaint in a case entitled Benjamin Scheiner, Plaintiff vs David K. McLemore, Defendant in the Circuit Court of Baldwin County, Alabama, At Law, No. 1421, a true copy of which summons and complaint is attached hereto and the said service upon me as Secretary of State of the State of Alabama has the force and effect of personal service upon you.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 25th day of October, 1949.

s/ Sibyl Pool
Sibyl Pool
Secretary of State

Enclosure - 1

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

I further certify that on November 2, 1949 I received a return card showing receipt by the designated addressee of the said notice with attached summons and complaint as aforesaid, which receipt I attache hereto. You will note defendant was served by registered mail at Milton, Florida (Whiting Field) on October 28, 1949, as shown by the return receipt enclosed.

WITNESS My HAND and the Great Seal of the State of Alabama this the 3rd day of November, 1949.



Sibyl Pool
Sibyl Pool
Secretary of State

Enclosures - 2
(Return Receipt and
copy of Summons and
complaint)



RECORDED

APR 11 1966

100-100000-1000

TO THE SECRETARY OF THE INTERIOR
FROM THE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT
SUBJECT: [Illegible]

1. [Illegible]
2. [Illegible]
3. [Illegible]
4. [Illegible]
5. [Illegible]

Very truly yours,
[Illegible Signature]

cc: [Illegible]
[Illegible]

1. [Illegible]
2. [Illegible]
3. [Illegible]
4. [Illegible]
5. [Illegible]
6. [Illegible]
7. [Illegible]
8. [Illegible]
9. [Illegible]
10. [Illegible]

Very truly yours,
[Illegible Signature]

cc: [Illegible]
[Illegible]

[Illegible]

cc: [Illegible]
[Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

[Illegible]

STATE OF ALABAMA
COUNTY OF BALDWIN

*
*

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA AT LAW

RECEIVED
OCT 25 1948
CLERK OF
COURT
STATE OF
ALABAMA

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon D. K. McLeMore to appear within thirty days from the service of this writ in the Circuit Court to be held in said county at said place for holding the same, then and there to answer the complaint of Benjamin Scheiner.

Alice J. Neuch
Clerk

BENJAMIN SCHEINER,

Plaintiff,

vs

DAVID K. McLEMORE,

Defendant.

*
*
*
*
*

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

COUNT ONE:

Plaintiff claims of the defendant the sum of Three Thousand Five Hundred and no/100 (\$3,500.00) Dollars as damages, for that heretofore on, to-wit, the 6th day of November, 1948, the defendant so negligently operated the motor vehicle he was driving westwardly on U. S. Highway 90, a public highway, at a point approximately 1.2 miles west of Loxley, Alabama, in Baldwin County, Alabama, as to cause or allow said motor vehicle to run into, upon or against the motor vehicle and trailer attached thereto belonging to the plaintiff which was then and there being driven in a westwardly direction on said highway at said time and place and as a direct and proximate result of said negligence plaintiff's motor vehicle and trailer were badly broken, bent and damaged, hence this suit.

COUNT TWO:

Plaintiff claims of the defendant the sum of Twenty-five Thousand and no/100 (\$25,000.00) Dollars as damages, for that

heretofore, on, to-wit, the 6th day of November, 1948, the defendant so negligently operated a motor vehicle he was driving on U. S. Highway 90, a public highway, at a point approximately 1.2 miles west of Loxley, Alabama, in Baldwin County as to cause or allow said motor vehicle to run into, upon or against the trailer which was attached to and being towed by the automobile in which the plaintiff was riding and which was then and there being driven in a westwardly direction on said highway at said time and place and as a direct and proximate result of said negligence, plaintiff was seriously and permanently injured, he was caused to suffer great bodily pain and physical and mental anguish, he was made sick and sore, his left leg was seriously and permanently injured, he was caused to spend great sums of money for hospital and doctors and nurses, hence this suit.

Harrell & Johnston
ATTORNEYS FOR PLAINTIFF

Plaintiff demands a trial of this cause by a jury.

Harrell & Johnston
ATTORNEYS FOR PLAINTIFF

Defendant's address:

David K. McLemore
BTU-lanaas
Whiting Field, Florida

Served defendant by serving the Secretary of State, Montgomery, Alabama.

W 1421

RECORDED

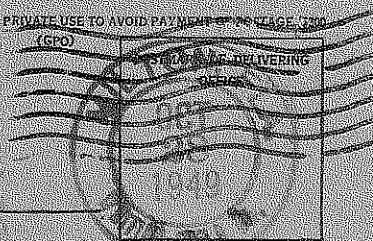
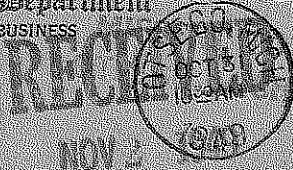
11-2-49

FILED
OCT 24 1949
ALICE J. DUCK, Clerk

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

Post Office Department
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, 7500



Return to Miss SECRETARY OF STATE, Secretary of State

Street and Number, } Room 10 Capitol, Montgomery, Ala.
or Post Office Box, }

REGISTERED ARTICLE

No. 52233

INSURED PARCEL

MONTGOMERY,

No. _____

ALABAMA.

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1

David K. McLemore

(Signature or name of addressee)

2

DELIVER TO ADDRESSEE ONLY

(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery OCT 28 1943, 194