

EARL CHEATHAM,

Plaintiff,

vs

JOSEPH A. MITCHELL,

Defendant.

: IN THE CIRCUIT COURT OF
: BALDWIN COUNTY, ALABAMA

:

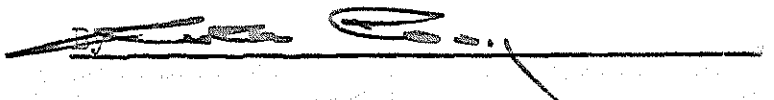
:

:

NO. 1827.

Comes now the defendant in the above entitled cause, and
enters this, his appearance, reserving the right to answer,
demur or plead specially.

LYONS, PIPES & COOK,
Attorneys for Defendant.



18 RECORDED

FILED

AUG 5 1952

ALICE J. DUCK, Clerk

LYONS AND PIPES

216-219 FIRST NATIONAL BANK BUILDING

MOBILE 8, ALABAMA

JOSEPH K. LYONS
SAM W. PIPES, III
WALTER M. COOK

September 19, 1952

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

Re:

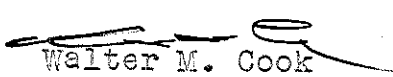
Earl Cheatham, Plaintiff vs Joseph A. Mitchell, Defendant
In the Circuit Court of Baldwin County, Alabama

Dear Miss Duck:

We understand the plaintiff will soon dismiss this case
and will appreciate your early advice as to the amount
of the cost bill through a dismissal.

Yours truly,

LYONS, PIPES & COOK


Walter M. Cook

WMC:mp

Frank G. Horne

Attorney at Law

Atmore, Ala.

FRANK G. HORNE
DOUGLAS S. WEBB

September 20, 1952.

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

Dear Mrs Duck,

This is your authority to mark "dismissed by the
Plaintiff," the case of Earl Cheatham vs. Joseph Mitchell.

Please send your cost bill to Lyons, Pipes & Cook,
Attorneys at law, First National Bank Building, Mobile,
Alabama.

Very truly yours,

Douglas S. Webb
DOUGLAS S. WEBB

DSW/iw.

LYONS, PIPES & COOK

ATTORNEYS AT LAW

517 FIRST NATIONAL BANK BUILDING

MOBILE 8, ALABAMA

JOSEPH H. LYONS
SAM W. PIPES, III
WALTER M. COOK

August 12, 1952

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

Re: Case No. 1827 Cheatham vs Mitchell

Dear Madam:

Enclosed please find demurrers to be filed in connection with this cause for which we will appreciate your acknowledging receipt of the same in the enclosed stamped self-addressed envelope.

Yours truly,

LYONS, PIPES & COOK


Walter M. Cook

WMC:mp

FILED
AUG 14 1952
ALICE J. BUCK, Clerk

SUMMONS

THE STATE OF ALABAMA |
BALDWIN COUNTY |

TO ANY SHERIFF OF THE STATE OF ALABAMA - GREETING:

You are hereby commanded to summon Joseph A. Mitchell to appear in the Circuit Court of Baldwin County, Alabama at the place of holding the same and plead, answer, or demur, within thirty days from service hereof to the complaint of Earl Cheatham.

WITNESS MY HAND THIS 10th DAY OF JULY, 1952.

Archie J. Leuch
CLERK.

C O M P L A I N T

EARL CHEATHAM
PLAINTIFF

VS.

JOSEPH A. MITCHELL
DEFENDANT.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
NO _____.

C O U N T O N E

The Plaintiff claims of the Defendant the sum of five hundred (\$500.00) Dollars as damages, for this, that on to-wit: June 1, 1952, at the intersection of U. S. Highway 31 and the Farm Road to Rabon, a paved public road running from U. S. Highway 31 through Perdido, Alabama to Rabon, Alabama, which was driven over and used by the public and on which the Plaintiff, Earl Cheatham, and the public had a right to drive; the Plaintiff was operating his pick-up truck, a motor vehicle, at the intersection mentioned above in Baldwin County, Alabama where he had a right to be, and that the Defendant at said time and place negligently ran his automobile over, upon or against the truck of the Plaintiff causing great damages and injuries to the truck of the Plaintiff in that it was demolished and rendered of no further benefit or use to the Plaintiff and Plaintiff avers that all of this damage to his truck was the proximate result of the negligence of the Defendant in the operation of the automobile he was driving at the time and place and on the occasion aforesaid.

C O U N T T W O

The Plaintiff claims of the Defendant the further and additional sum of twenty five hundred (\$2500.00) Dollars as damages for this, that on to-wit; the 1st day of June, 1952 at the intersection of U. S. Highway Number 31 and the Farm Road to Rabon, a paved public road running from U. S. Highway No 31 through Perdido, Alabama to Rabon, Alabama in Baldwin County, Alabama which was driven over and used by the public and on which the Plaintiff Earl Cheatham and the public had a right to drive; the plaintiff was operating his pick-up truck, a motor vehicle, at the said intersection in Baldwin County, Alabama, where he had a right to be, and that the Defendant, Joseph A. Mitchell, at said time and place negligently ran his automobile over, upon or against the truck driven by the Plaintiff and Plaintiff avers that as a proximate consequence of the said negligence of the Defendant in and about the operation of the automobile he was then and there driving the Plaintiff received severe personal injuries in this, to-wit: He suffered a brain concussion, He received a one and a half (1 1/2) inch laceration in the back of his head, He suffered a half (1/2) inch cut over his left eye, His tenth (10th) and eleventh (11th) ribs posteriorly on his left side were fractured, He was made sick, sore and lame, He suffered severe pain and mental anguish, He was severely and permanently injured, He was injured both externally and internally, He suffered marked contusions of the left shoulder, arm and hand and brush burns over most of his body area, He was caused to expend considerable sums of money for medical treatment, hospital care, nursing, and medicines in and about the treatment of his injuries, He has lost much time from his work; for all of which he claims damages as aforesaid. Plaintiff avers that all of his said injuries were proximately caused by the negligence of said Defendant in and about the operation of the said automobile which he was driving at the time and place and on the occasion aforesaid; hence this suit.

The Plaintiff demands a jury trial of the issues
involved herein.

Thos. R. Harn
Douglas J. Webb.
ATTORNEYS FOR PLAINTIFF.

Received
this 12 day of July, 1952
TAYLOR WILKINS, Sheriff

327 m 1827
RECORDED 802

Earl Cheatham
ER vs.
Joseph A. Mitchell

Received 17 Day of January 1952
and on 21 Day of January 1952
I served a copy of the within
on Joseph A. Mitchell
by service on

W. H. HOLCOMBE, Sheriff
By H. B. Sandlin D.S.

214
J.
FILED
JUL 10 1952
ALICE J. DUCK, Clerk

Received with 20 copies sent to various officials for
their information
JUL 10 1952
ALICE J. DUCK, Clerk

EARL CHEATHAM, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY, ALABAMA
vs :
JOSEPH A. MITCHELL, :
Defendant. : NO. _____

Comes now the defendant in the above-entitled cause and demurs to the plaintiff's complaint, and to each count thereof, and as grounds for said demurrer, sets down and assigns the following, separately and severally.

1. The Count fails to allege whether the injuries and damages received by the plaintiff were received while he was on a public highway or was a trespasser upon the property of another.

2. For aught as appears from the complaint, the accident in question did not occur on a public highway.

3. For aught that appears from said complaint, at the time of the accident the plaintiff was a trespasser to whom the defendant owed no duty except not to unduly injure him, or not to injure him after discovering his peril.

4. For that it is not alleged that the negligence of the defendant, if negligence there be, was the proximate cause of the accident.

5. For aught as appears the negligence of the defendant, if there be negligence, was not the proximate cause of the accident.

6. For aught as appears from said complaint the accident was not the proximate result of any negligence on the part of the defendant.

7. For aught that appears from said complaint the accident was not the proximate result of any act or failure to act on the part of the defendant.

8. For that it is not alleged that the negligence of the defendant, if negligence there be, was the proximate cause of the plaintiff's injuries and damages.

9. For aught that appears the negligence of the defendant, if

negligence there be, was not the proximate cause of the plaintiff's injuries and damages.

10. For aught that appears from said complaint the damages and injuries to the plaintiff were not the proximate result of any negligence on the part of the defendant.

11. For aught that appears from said complaint the injuries to the plaintiff were not the proximate result of any act or failure to act on the part of the defendant.

12. Said complaint fails to allege the violation of any duty owed by the defendant to the plaintiff.

13. For aught that appears from said complaint the defendant has not violated any duty owed by the defendant to the plaintiff.

14. Said complaint fails to allege facts showing the violation of any duty owed by the defendant to the plaintiff.

15. For that the allegation that the plaintiff's truck was

~~"demolished and rendered of no further benefit or use to the~~
plaintiff" is vague and indefinite and uncertain and but the mere conclusion of the pleader.

16. For that the allegation that the plaintiff was "made sick, sore and lame" is vague and indefinite and uncertain and but the mere conclusion of the pleader.

17. For that the allegation that the plaintiff was "severely and permanently injured" is vague and indefinite and uncertain and but the mere conclusion of the pleader.

18. For that the allegation that the plaintiff "suffered severe pain and mental anguish" is vague and indefinite and uncertain and but the mere conclusion of the pleader.

19. For that the allegation that the plaintiff was "injured both externally and internally" is vague and indefinite and uncertain and but the mere conclusion of the pleader.

20. For that the allegation that the plaintiff "was caused to expend considerable sums of money for medical treatment, hospital care, nursing, and medicines in and about the treatment of his

Page 3.

injuries" is vague and indefinite and uncertain and but the mere conclusion of the pleader.

21. For that the allegation that the plaintiff "has lost much time from his work" is vague and indefinite and uncertain and but the mere conclusion of the pleader.

LYONS, PIPES & COOK,
Attorneys for Defendant.

By

WALTER M. COOK

RECORDED

RECORDED

FILED

AUG 14 1952

ALICE J. DUCK, Clerk

LYONS, PIPES & COOK

ATTORNEYS AT LAW

517 FIRST NATIONAL BANK BUILDING

MOBILE 8, ALABAMA

JOSEPH H. LYONS
SAM W. PIPES, III
WALTER M. COOK

August 4, 1952

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

Re:

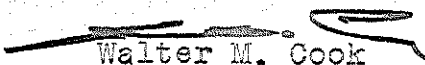
Earl Cheatham, Plaintiff vs Joseph A. Mitchell, Defendant
In the Circuit Court of Baldwin County, Alabama

Dear Miss Duck:

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Yours truly,

LYONS, PIPES & COOK


Walter M. Cook

WMC:mp

1827