

1880

PLAINTIFF'S MOTION FOR A NEW TRIAL

CHESTER MARSHALL

PLAINTIFF

VS

NATHAN FOULLION

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

*Plain*  
Comes the Defendant in the above entitled cause and moves the court to set aside the verdict of the jury in the above entitled cause and the judgment of the court thereon and grant to him a new trial, and for grounds of said motion alleges the following, separately and severally:

1.

Because the verdict of the jury was against the great weight of the evidence.

2.

Because the court erred in denying defendant's motion for permission to file an answer in said cause as filed on December 29, 1952.

3.

Because the Court erred in denying Defendant permission to file an amended motion for permission to file his answer in said cause, which motion was filed on February 26, 1953.

4.

For that the verdict of the jury is contrary to the law and the evidence in the case.

5.

For that the verdict of the jury is not sustained by the great preponderance of the evidence.

6.

*Directed*  
X For that the verdict of the jury is not sustained by the great preponderance of the evidence and is contrary to both the law and the facts in the case.

7.

*Directed*  
X For that the verdict of the jury is contrary to the law in the case.

8.

*Directed*  
X For that the verdict of the jury is contrary to the facts in the case.

9.

For that the verdict of the jury and the judgment entered thereon are contrary to the great weight and preponderance of the evidence in the case.

10.

For that the verdict of the jury is excessive.

11.

For that the verdict of the jury is so excessive as to shock the conscience of the court and was a result of bias, passion, and prejudice against the defendant.

12.

For that the verdict of the jury is excessive and a result of bias, passion, and prejudice against the defendant.

13.

For that the verdict of the jury is grossly excessive in this that there is no competent medical testimony that the plaintiff is permanently and totally disabled.

And as further grounds for a new trial the Defendant shows unto this Honorable Court as follows:

14.

That heretofore on, to-wit, December 22, 1952, an entry was made on Docket Sheet on said case, to-wit, a default judgment, rendered in the above styled cause by the Judge then presiding in this Honorable Court in favor of the Plaintiff herein and against Nathan Poullion as Defendant, which interlocutory judgment or decree was not completed until a writ of inquiry was had and verdict therein, a final judgment, rendered against the said Defendant herein on March 9, 1953, for \$1600.00 besides cost of court which date is within 30 days.

15.

That in addition to this fact that the said Attorney, C. LeNoir Thompson, was engaged as Attorney of record in a matter that was before the Supreme Court of the United States and that on the day following the return of the letter, addressed to Nathan Poullion, the said C. LeNoir Thompson left for Washington and was gone some days, and that upon his return from Washington because of illness in his family he did not locate your Petitioner. Your Petitioner is now further informed that shortly after his return from Washington as stated that the said C. LeNoir Thompson was again called to

Washington, D. C. on a matter pending before the Indian Claims Commission, a Federal Tribunal, and that upon the return of said Attorney on this occasion sickness again being present in his family that he was unable to give his attention to locating the individual named in the complaint but that on, to-wit, December 29th a motion filed for a default judgment in behalf of said Plaintiff was served on me and I brought said notice to the said C. LeNoir Thompson, Attorney, who immediately and at once filed a motion for permission to file an answer setting out the facts alleged herein as to absence and sickness together with the further allegations that in the absence of said Attorney said complaint had been lost or mislaid.

16.


And further your Petitioner has since said writ of inquiry learned of and eye witness, who was in the car with Chester Marshall the night of the wreck and who knows and will testify that the said Chester Marshall was under the influence of alcoholic beverages or vinous alcoholic beverages and that despite of a warning from said witness and his wife, said Chester Marshall wilfully and in disregard of the consequences drove his automobile out of the side road where he has parked on to the right-of-way of the Rosinton-Loxley road across the left lane of said paved road and into the path of the Petitioner's motor vehicle when the said motor vehicle was about 30 steps or less from the said Chester Marshall's entry into the road; that despite of the warning of said witness and his wife said Chester Marshall wilfully drove past a stop sign and into the lane used by your Petitioner, who had no warning of the said Chester Marshall's intentions and accordingly had no means of preventing said accident, and further that your Petitioner has just learned since said writ of inquiry that the testimony of this witness is available to him and the testimony of the wife of said witness is also available to your Petitioner, and further that your Petitioner applied the brakes of his pickup truck immediately and did all within his power to avoid the accident as promptly as he could. Your Petitioner was at the time of the accident operating his motor vehicle at a reasonable speed along a public highway where he had a right to be and the said Chester Marshall came without warning into the lane used by your Petitioner and that said action on the part of the said Chester Marshall was the proximate cause of the accident and of all injuries and damages incurred by the said Chester Marshall. (Note affidavit hereto attached.)

17.

That your Petitioner was injured as a result of the accident aforesaid which occurred without fault on the Petitioner's part and that your Petitioner's motor vehicle was damaged and ruined and that said damages were, to-wit to the radiator, grill, fenders, bumper, and front end of pickup truck operated by your Petitioner said damages being the approximate amount of Four Hundred (\$400.00) Dollars and your Petitioner was injured personally about his knees, legs and head and said injuries being the cause of considerable pain and suffering to your Petitioner.

18.

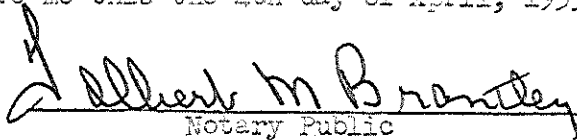
That by virtue of the allegations in the foregoing [paragraph] your Petitioner verily believes that he has a good and meritorious defense to this cause of action, and that there was no negligence on his part in the operation of his motor vehicle, which could have contributed to the proximate cause of the action.

  
Attorney for the Defendant

Before me the undersigned authority personally appeared, C. LeNoir Thompson, attorney, who being duly sworn deposes and says: That the foregoing facts are true and correct to the best of his knowledge, information, and belief.



Sworn to and subscribed before me this the 4th day of April, 1953.

  
Notary Public

 , the undersigned, as attorney of record for the Plaintiff, hereby accept service of a copy of the foregoing motion.

This the 4th day of April, 1953.

  
Attorney for Plaintiff.

Filed in office April 4, 1953.

\_\_\_\_\_  
Clerk.

The foregoing motion was presented to me on this the 4th day of April, 1953, and the same is hereby continued to the day of 13th day of April, 1953, at 10:00 o'clock A. M. and execution is hereby ordered stayed pending the final disposition of said motion.

This the 4th day of April, 1953.

Hubert M. Hae  
Judge.

no 1880  
RECORDED

Motion

FILED

4-4-52

ALICE J. DUCK, Clerk

CHESTER MARSHALL,  
PLAINTIFF,  
VS  
NATHAN POULLICK  
DEFENDANT.

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

ANSWER

Comes the Defendant in the above styled cause and for answer to each count thereof, separately and severally says as follows:

1.

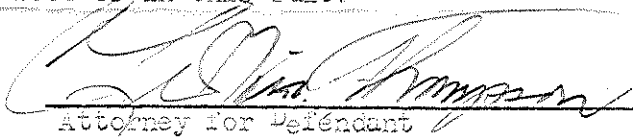
As to Count One, not guilty.

2.


As to Count Two, not guilty.

3.

For further answer to counts one and two, the Defendant says that the Plaintiff ought not to recover <sup>in</sup> this case, for that on the occasion complained of Plaintiff was himself guilty of negligence proximately contributing to his alleged injuries and damages, in this, that the Plaintiff was operating his said automobile, in which he was riding having parked on a side road at the intersection of said side road and the Rosinton-Loxley road, and that said Plaintiff was or had been drinking intoxicating beverages, and that despite a warning by a passenger in said plaintiff's car, of an approaching car the said Plaintiff drove into and on said intersection, so that said Plaintiff's automobile was in collision with the Defendants automobile on said occasion complained of, and said actions proximately contributed to the said Plaintiff's alleged injuries and damages; hence the Plaintiff ought not to recover in this suit.

  
Attorney for Defendant

Defendant demands a trial by jury.

  
Attorney for the Defendant.

1888

CHESTER MARSHALL

PLAINTIFF

VS

NATHAN FOULLION

DEFENDANT

ANSWER

FILED

4-21-53

ALICE J. BOCK, Clerk



AMENDED MOTION

CHESTER MARSHALL	§	IN THE CIRCUIT COURT OF
PLAINTIFF	§	BALDWIN COUNTY, ALABAMA
VS	§	AT LAW
NATHAN PULLIAN	§	CASE NO. 1880
DEFENDANT	§	

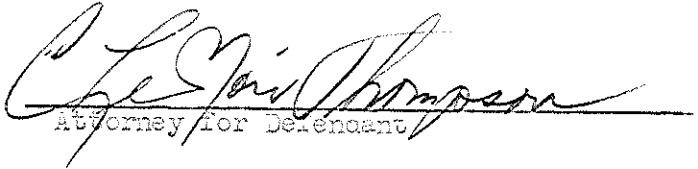
TO THE HONORABLE JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA  
AT LAW:

Now comes the Defendant, by his Attorney and moves this Honorable Court to grant permission to file his answer in the foregoing cause, and as a basis for such motion sets out the follow facts:

That the Defendant brought the summons and complaint to said attorney's office during the 30 day period allowed by law, but that on or about the day following, said attorney was called to Washington, D. C. in a matter that was before the United States Supreme Court, and a matter that was before the Indian Claims Commission, a federal tribunal, and that the time expired while search was being made for any unanswered pleading, following the attorney's return, inasmuch as the papers had been mislaid during said attorney's absence.

AND FURTHER, that during the search for the paper, said attorney was called upon to return to Washington, D. C., and that upon his return in December that said pleading was located, but that sickness in the attorney's home, had interfered with the preparation and filing of said answer; and that your Defendant has a meritorious defense to said action.

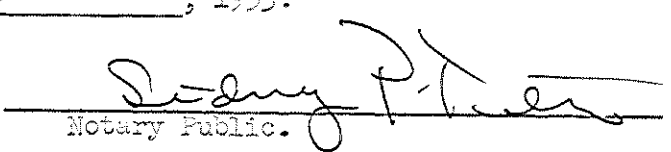
WHEREFORE, this motion.

  
Attorney for Defendant

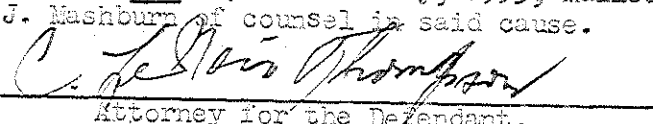
STATE OF ALABAMA  
BALDWIN COUNTY

Before me the undersigned authority, personally appeared C. LeNoir Thompson Attorney, who is known to me, and who being duly sworn, says the foregoing facts are true.

This the 26 day of Feb, 1953.

  
Notary Public.

I hereby certify that I have this the 26 day of February, 1953, mailed a copy, postage prepaid to Telfair J. Mashburn of counsel in said cause.

  
Attorney for the Defendant.

1882  
RECORDED

CHESTER MARSHALL

PLAINTIFF

VS

NATHAN PULLIAN

DEFENDANT

Amended Motion

FILED

2-24-53

ALICE L. DUCK, Clerk

CHESTER MARSHALL  
Plaintiff

Vs

NATHAN PULLIAN  
Defendant

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

Case No. 1880

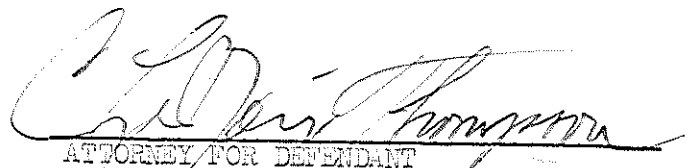
TO THE HONORABLE JUDGES OF THE CIRCUIT COURT OF BALDWIN COUNTY,  
ALABAMA, AT LAW:

Now comes the defendant, by his Attorney and moves this Honorable Court to grant permission to file his answer in the foregoing cause, and as a basis for such motion sets out the follow facts:

That the defendant brought the summons and complaint to said attorney's office during the 30 day period allowed by law, but that on or about the day following, said attorney was called to Washington, D. C. in a matter that was before the United States Supreme Court, and a matter that was before the Indian Claims Commission, a federal tribunal, and that the time expired while search was being made for any unanswered pleading, following the attorney's return, inasmuch as the papers had been mislaid during said attorney's absence.

AND FURTHER, that during the search for the paper, said attorney was called upon to return to Washington, D. C., and that upon his return in December that said pleading was located, but that sickness in the Attorney's home, had interfered with the preparation and filing of said Answer;


WHEREFORE, this motion.

  
ATTORNEY FOR DEFENDANT

STATE OF ALABAMA  
BALDWIN COUNTY

Before me the undersigned authority, personally appeared C. LeNoir Thompson, Attorney, who is known to me, and who being duly sworn, says the foregoing facts are true.

This the 29th day of December, 1952

  
NOTARY PUBLIC

RECORDED

FILED

DEC 29 1952

ALICE L. RUCK, Clerk

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  
ALICE LOUISE MANRY

December 11, 1952

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

Re: Chester Marshall  
Vs: Nathan Poullion  
No: 1860, At Law

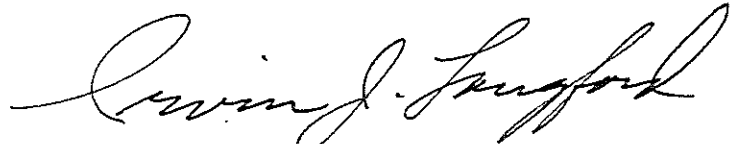
Dear Mrs. Duck:

Please advise us whether or not the defendant Nathan Poullion has filed any pleas, demurrers, or appearance in the above styled case. If a check of your records reveals that the defendant has filed no appearance, please advise us as to what steps we should take to have a default judgment entered against the defendant, and whether or not a non-military affidavit will be necessary in order to take said default judgment.

We would sincerely appreciate your early advice in regard to this matter.

Very truly yours,

HOWELL & JOHNSTON



Irvin J. Langford

IJL:bh

CHESTER MARSHALL,	*	IN THE CIRCUIT COURT
Plaintiff,	*	OF BALDWIN COUNTY,
VS	*	ALABAMA. AT LAW.
NATHAN POUILLION,	*	NO.
Defendant.	*	

COUNT ONE:

Plaintiff claims of the defendant the sum of Ten Thousand and no/100 (\$10,000.00) Dollars as damages for that heretofore on, to-wit, the 19th day of July, 1952, defendant so negligently operated an automobile eastwardly on the Rosinton-Loxley Road, a public road in Baldwin County, at a point 21 feet east of Jerkins Road, as to cause or allow said automobile to run into, upon and against the automobile belonging to and being driven by the plaintiff, which was then and there being driven in a eastwardly direction on said Rosinton-Loxley Road at said time and place and as a direct and proximate result of said negligence, plaintiff's automobile was badly broken, bent and damaged, and the plaintiff lost the use of his automobile, which was used in his business, for a long period of time; and the plaintiff was seriously and permanently injured and damaged, his body was bruised and lacerated, he suffered a broken rib and a punctured lung; he suffered a crushed arm; he was bruised and cut on and about his head; he suffered a skinned leg; and was caused to suffer and will continue to suffer great physical pain and mental anguish; and he was caused to incur medical expense in and about the care and treatment of his said injuries and will continue to incur such expense in the future; he was made sick and sore; and he was caused to lose time from his work; he was and will be permanently scarred and disabled, all to the plaintiff's damage, hence this suit.

COUNT TWO:

Plaintiff claims of the defendant the further sum of Ten Thousand and no/100 (\$10,000.00) Dollars as damages for that heretofore on, to-wit, July 19, 1952, the defendant wantonly damaged plaintiff's motor vehicle and wantonly injured the plaintiff by so wantonly operating a motor vehicle eastwardly on the Rosinton-Loxley Road, a public highway in Baldwin County, Alabama, at a point 21 feet east of its intersection with the Jerkins Road, that said motor vehicle ran upon and against the motor vehicle belonging to and being driven by the plaintiff, which was then and there being operated in a eastwardly direction on said Rosinton-Loxley Highway at said time and place, and as a direct and proximate result of said wantonness plaintiff was wantonly injured as follows: Plaintiff's motor vehicle was badly broken, bent, and damaged, and the plaintiff was caused to lose the use of his motor vehicle, which was used in his business for a long period of time; the plaintiff was seriously and permanently injured and damaged, his body was bruised and lacerated, he suffered broken ribs, and a punctured lung, and his arm was crushed and was made stiff and bruised; he suffered cuts and bruises on and about his head; his leg was skinned and bruised; and he was caused to suffer and will continue to suffer great physical pain and mental anguish; and he was caused to incur medical expense in and about the care and treatment of his said injuries; he was made sick and sore; he was caused to lose time from his work; and he was, and will be, permanently disabled, all to plaintiff's damage, hence this suit.

  
ATTORNEYS FOR PLAINTIFF

Plaintiff respectfully requests this cause be tried by jury.

  
ATTORNEYS FOR PLAINTIFF

DEFENDANT'S ADDRESS:

Rosinton, Alabama or Route 1, Robertsdale, Alabama

STATE OF ALABAMA    )  
BALDWIN COUNTY        )

You are hereby commanded to summon Nathan Poullion to appear within thirty days from the service of this writ in the Circuit Court, to be held for said county at the place of holding same, and then and there to answer the complaint of Chester Marshall.

WITNESS my hand, this 28<sup>th</sup> day of OCT, 1952,  
1952.

Herbert. Such  
CLERK, CIRCUIT COURT, BALDWIN  
COUNTY, ALABAMA.



no ~~145~~ <sup>1889</sup> RECORDED

Chester Marshall

vs.

Nathan Poullion

We, the jury, find  
the damages due the  
plaintiff by the defendant  
to be \$600.00 property  
damage and \$1000.00  
physical damage.

G. I. Smyth  
Foreman

FILED  
OCT 28 1952  
ALICE J. DUCK, Clerk

Received in Sheriff's Office  
this 28<sup>th</sup> day of Oct, 1952  
TAYLOR WILKINS, Sheriff

RECORDED

Executed, Oct 31, 1952

By Serving copy on

Nathan Poullion

Sheriff

Taylor Wilkins

By

Edleizh Steerhan

CHESTER MARSHALL  
PLAINTIFF  
VS  
NATHAN POUILLION  
DEFENDANT

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

PETITION FOR REHEARING

Now comes the Defendant, Nathan Poullion, Defendant in the above styled cause and files this petition varified by oath showing unto the Court as follows:

1.

That heretofore on, to-wit, December 22, 1952, an entry was made on Docket Sheet on said case, to-wit, a default judgment, rendered in the above styled cause by the Judge then presiding in this Honorable Court in favor of the Plaintiff herein and against Nathan Poullion as Defendant, which interlocutory judgment or decree was not completed until a writ of inquiry was had and verdict therein, a final judgment, rendered against the said Defendant herein on March 9, 1953, for \$1600.00 besides cost of court which date is within 30 days.

2.

That this cause arose in this Court by a summon and complaint against Nathan Poullion served on your Petitioner on November 3, 1952, and that your Petitioner went immediately to C. LeNoir Thompson, a practicing attorney to represent him in said cause.

3.

That Petitioner is now informed that the said C. LeNoir Thompson became of the mistaken opinion that, in as much as, he had an action of law against an individual known as Overdike Pullian, that he believed your Petitioner and the Overdike Pullian to be the one and the same and informed your Petitioner that he notified him by U. S. Mail, Postage prepaid to Loxley, Alabama, and that said letter was returned to the said Attorney.

4.

That in addition to this fact that the said Attorney, C. LeNoir Thompson, was engaged as Attorney of record in a matter that was before the Supreme Court of the United States and that on the day following the return of the letter, addressed to Nathan Poullion, the said C. LeNoir Thompson left for Washington and was gone some days, and that upon his return from Washington

because of illness in his family he did not locate your Petitioner. Your Petitioner is now further informed that shortly after his return from Washington as stated that the said C. LeNoir Thompson was again called to Washington, D. C. on a matter pending before the Indian Claims Commission, a Federal Tribunal, and that upon the return of said Attorney on this occasion sickness again being present in his family that he was unable to give his attention to locating the individual named in the complaint but that on, to-wit, December 29th a motion filed for a default judgment in behalf of said Plaintiff was served on me and I brought said notice to the said C. LeNoir Thompson, Attorney, who immediately and at once filed a motion for permission to file an answer setting out the facts alleged herein as to absence and sickness together with the further allegations that in the absence of said Attorney said complaint had been lost or mislaid.

5.

Your Petitioner is now further informed that because of extreme sickness on the part of his aged parents and continued sickness in his own home your Petitioner's Attorney failed to obtain a hearing on his motion within 30 days from December 22nd, on which date the interlocutory judgment or decree was entered before service of said motion for default judgment was had on the Defendant.

6.

And further your Petitioner has since said writ of inquiry learned of and eye witness, who was in the car with Chester Marshall the night of the wreck and who knows and will testify that the said Chester Marshall was under the influence of alcoholic beverages or vinous alcoholic beverages and that despite of a warning from said witness and his wife, said Chester Marshall wilfully and in disregard of the consequences drove his automobile out of the side road where he was parked on to the right-of-way of the Rosinton-Loxley road across the left lane of said paved road and into the path of the Petitioner's motor vehicle when the said motor vehicle was about 30 steps or less from the said Chester Marshall's entry into the road; that despite of the warning of said witness and his wife said Chester Marshall wilfully drove past a stop sign and into the lane used by your Petitioner, who had no warning of the said Chester Marshall's intentions and accordingly had no means of preventing said accident, and further that your Petitioner has just learned since said writ of inquiry that the testimony of this witness

is available to him and the testimony of the wife of said witness is also available to your Petitioner, and further that your Petitioner applied the brakes of his pickup truck immediately and did all within his power to avoid the accident as promptly as he could. Your Petitioner was at the time of the accident operating his motor vehicle at a reasonable speed along a public highway where he had a right to be and the said Chester Marshall came without warning into the lane used by your Petitioner and that said action on the part of the said Chester Marshall was the proximate cause of the accident and of all injuries and damages incurred by the said Chester Marshall.

7.

That your Petitioner was injured as a result of the accident aforesaid which occurred without fault on the Petitioner's part and that your Petitioner's motor vehicle was damaged and ruined and that said damages were, to-wit to the radiator, grill, fenders, bumper, and front end of pickup truck operated by your Petitioner said damages being the approximate amount of Four Hundred (\$400.00) Dollars and your Petitioner was injured personally about his knees, legs and head and said injuries being the cause of considerable pain and suffering to your Petitioner.

8.

That further when the cause was set on the Jury calendar for hearing on the writ of inquiry on March 9, 1953, that the letter from his attorney to your Petitioner notifying him of said setting did not reach him, and that your Petitioner was accidentally in Bay Minette on that date without witnesses to present to the Court on the damages alleged by the said Plaintiff and that on each instance herein petitioned. Defendant in said cause, was prevented from making his defense in said cause by surprise, accident or mistake and without fault on his part.

9.

That by virtue of the allegations in the foregoing paragraph your Petitioner verily believes that he has a good and meritorious defense to this cause of action, and that there was no negligence on his part in the operation of his motor vehicle, which could have contributed to the proximate cause of the action.

Nathan H. Pulliam  
Petitioner.

STATE OF ALABAMA

BALDWIN COUNTY

Before me the undersigned authority personally appeared Nathan Pullian  
who is known to me and who being duly sworn deposes and says:

That the facts alleged in the foregoing petition are true and correct  
to the best of his knowledge, information and belief.

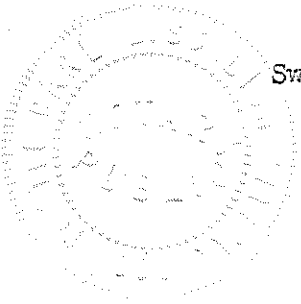
Nathan H. Pullian

Sworn to and subscribed before me this the 24th day of March, 1953.

Carl L. Schlich

Nathan H. Pullian

Notary Public.



1880

CHESTER MARSHALL

PLAINTIFF

VS

NATHAN FOULLION

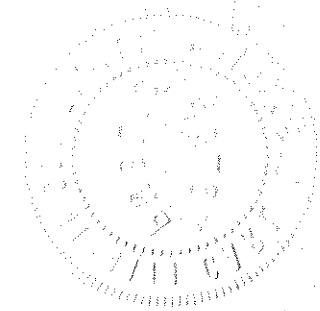
DEFENDANT


Petition for Rehearing

FILED

3-27-53

ALICE J. DUCK, Clerk





AT LAW.

No. 1880

AT LAW:

As to each count separately and severally thereof, your defendant says:

*C. S. Thompson*  
ATTORNEY FOR DEFENDANT

RECORDED

FILED

DEC 29 1952

ALICE A. DUCK, Clerk



CHESTER MARSHALL,

Plaintiff,

VS.

NATHAN PULLIAN,

Defendant.

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IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

MOTION TO STRIKE.

Comes the Plaintiff in the above styled cause, CHESTER MARSHALL, by his attorney, and Moves this Honorable Court to Strike from the Record the "Petition For Rehearing" heretofore filed in said cause, and for grounds for said motion to strike assigns, separately and severally, the following:

1. That said Petiti<sup>1</sup>on is unnecessarily prolix.
2. That said Petition is irrelevant.
3. That said Petition is frivolous.
4. That said Petition is unnecessarily repeated.
5. That said Petition is irrelevant in that it shows on its face that this Honorable Court has lost jurisdiction this cause and has no authority to grant a re-hearing.
6. That said Petition is a nullity.

Julius A. Mable  
Attorney for Plaintiff.

CHESTER MARSHALL,

Plaintiff,

VS.

NATHAN PULLIAN,

Defendant.

\*\*\*\*\*

MOTION TO STRIKE.

\*\*\*\*\*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

AT LAW.

*Filed 4-4-57  
10 miles jrs*

CHESTER MARSHALL,

Plaintiff,

VS

NATHAN POUILLION,

Defendant.

\* IN THE CIRCUIT COURT OF  
\* BALDWIN COUNTY, ALABAMA.  
\* AT LAW.  
\* NO. 1880  
\*

TO THE HONORABLE JUDGES OF THE CIRCUIT COURT OF BALDWIN COUNTY,  
ALABAMA, AT LAW.

Now comes the plaintiff in the above styled cause, Chester  
Marshall, and respectfully shows unto your Honors as follows:

ONE

That on, to-wit, October 29, 1952, he did file in the  
Circuit Court of Baldwin County, Alabama, at law the complaint  
in the above styled cause, and that on, to-wit, October 31,  
1952, a copy of said complaint was duly served on the defendant,  
Nathan Poullion, and the plaintiff avers that to date neither  
the defendant, nor any person in his behalf has filed any demurrer,  
appearance, plea or other answer to said complaint.

Therefore, the premises considered, the plaintiff respect-  
fully moves that judgment by default be rendered against the  
defendant, Nathan Poullion, under the authority of Title 7, Sec-  
tion 248 of the 1940 Code of Alabama, and that a writ of inquiry  
be issued at the next jury term of this Honorable Court.

  
HOWELL & JOHNSTON, ATTORNEYS FOR PLAINTIFF.

RECORDED

[illegible]

**Figure 1**

Figure 1 shows two panels of plots. The top panel displays four scatter plots arranged in a 2x2 grid, showing the relationship between various variables. The bottom panel displays four scatter plots arranged in a 2x2 grid, showing the relationship between various variables.

10

23

Filed 12-19-57  
Rising Sun

CHESTER MARSHALL

Plaintiff.

VS.

NATHAN POUILLION

Defendant.

0

0

IN THE CIRCUIT COURT

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OF

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BALDWIN COUNTY,

0

~~XXXXXXXXXXXX~~, ALABAMA.

0

AT LAW

0

NO. 1880

0

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NON-MILITARY AFFIDAVIT

STATE OF ALABAMA 0

COUNTY OF MOBILE 0

NOW comes, Irvin J. Langford, attorney,  
who being first duly sworn, deposes and says that the defendant  
herein, Nathan Poullion, was not at the time of  
the filing of this suit, and is not now, in the Military or Naval  
Service of the United States.

The Defendant resides at Rosinton, Alabama or Route 1,  
Robertsdale, Alabama.

Irvin J. Langford

Sworn to and subscribed before me,  
this the 19th day of December,  
19 52.

Merlene Schultz  
Notary Public, Mobile County, Alabama

Filed \_\_\_\_\_,

CLERK.

RECEIVED

filed 10-19-52  
Aerie J. J. J.  
clerk

CHESTER MARSHALL,  
Plaintiff,  
VS  
NATHAN PULLIAN,  
Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW.  
NO. 1880

D E M U R R E R.

Comes the Plaintiff in the above entitled cause and demurs to the Amended Motion heretofore filed in said cause by the Defendant, and separately and severally to each count thereof, and for grounds of demurrer, assigns, separately and severally the following:

1. No facts are alleged to show that the Defendant is entitled to relief for which he asks.

2. That the facts alleged in said Motion show that the Defendant, or his attorney, was guilty of negligence in failing to defend this suit within the time allowed by law and the practice of this Honorable Court.

3. That the said Motion shows on its face that it was not filed within the time allowed by law, and that this Honorable Court has lost jurisdiction over the Default Judgment heretofore rendered in this cause.

4. That the relief for which Defendant asks, to-wit: "To grant permission to file his answer in the foregoing cause" is a nullity and would avail him nothing, because a judgment has already been rendered against him.

5. That said Motion fails to set out facts showing that he has a meritorious defense to Plaintiff's cause of action.

Jeffrey J. Madhubue Jr.  
ATTORNEY FOR PLAINTIFF.

I hereby certify that I have on this 28th day of February, 1953 mailed a copy of this Demurrer, postage prepaid, to Hon. C. LeNoir Thompson, attorney for the Defendant.

Jeffrey J. Madhubue Jr.  
Attorney for Plaintiff.

AT LAW---NO.

RECORDED

CHESTER MARSHALL,

Plaintiff,

VS.

NATHAN PULLIAN,

Defendant.

\*\*\*\*\*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

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DEMURRER TO AMENDED MOTION.

Filed 2-28-53  
Alice J. French  
clerk



STATE OF ALABAMA

BALDWIN COUNTY

I, James Dailey, was in the car with Chester Marshall the night of the wreck, it happened on the Rosinton Road, we were coming in from the North side. Mr. Pullian was 35 or 40 steps from us, when Chester pulled out in front of him.

There were only three in the car, myself, my wife, Mildred Dailey and Chester Marshall, when he started to pulled in front of Mr. Pullian I warned him not to pull out in front of the truck, and when I told him to wait he said let them wait, we had been to Fairhope to a dance, and then went bought some beer and then went to a house about a mile from the road on which we were parked to finish drinking the wine, we had been drinking a pretty good while. We had been out all night drinking.

James Dailey

STATE OF ALABAMA  
BALDWIN COUNTY

Before me C. LeNoir Thompson, a Notary Public in and for said County in said State, personally appeared James Dailey, who being duly sworn states that the foregoing statement made by him is true and correct.  
Witness my hand and seal this the 24th day of March, 1953.

C. LeNoir Thompson  
Notary Public.