

HENRY HESSE,

Plaintiff,

vs.

ROY WHATLEY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE

NO. 1881.

Comes now the Defendant, by his Attorneys, and for
answer to the Complaint filed in the above styled cause, says:

1. That he is not guilty of the matters alleged
therein.

FILED

2-27-53

J. DUCK, Clerk

CHASON & STONE

BY:

Marlboro Stone
Attorneys for Defendant.

HENRY HESSE,

Plaintiff,

vs.

ROY WHATLEY,

Defendant.

ANSWER

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE.

NO. 1881.

FILED

2-27-53.

ALICE J. LONG, CLERK

H. BART, CHASON & STONE

BAY MINETTE, ALABAMA

HENRY HESSE.

Plaintiff,

vs.

ROY WHATLEY.

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE.

NO. 1881.

Comes now the Defendant by his attorneys, and demurs to the Complaint heretofore filed against him in the above styled cause, and assigns the following separate and several grounds in support thereof:

1. That said Complaint fails to state a cause of action.
2. That said Complaint fails to allege a duty owing by the Defendant to the Plaintiff.
3. For aught that appears from said Complaint there was no duty owing from the Defendant to the Plaintiff at the time and place complained of.
4. That said Complaint is vague and indefinite and uncertain.
5. That said Complaint fails to allege who was the the agent, servant or employee of the Defendant.
6. That said Complaint does not allege with sufficient certainty the place at which said accident occurred.
7. That said Complaint seeks damages in excess of those allowed by law.
8. That the damages claimed in the Complaint are excessive.
9. For aught that appears from the Complaint the Plaintiff's automobile was not totally destroyed.
10. For aught that appears from the Complaint the injuries and damages complained of were not the proximate result of any negligence of the Defendant.
11. For aught that appears from the Complaint the damages and injuries complained of were not the proximate result of any negligence of any servant, agent or employee of the Defendant.

FILED

Nov. 17, 1952

ALICE J. BUCK, Clerk

Respectfully submitted,
CHASON & STONE

BY:

DEMURRER

HENRY HESSE,
Plaintiff,

vs.

ROY WHATLEY,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE

NO. 1881.

FILED
NOV 17 1952
ALICE L. DUCK, Clerk

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

HENRY HESSE,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	BALDWIN COUNTY, ALABAMA.
VS	*	AT LAW.
ROY WHATLEY,	*	NO. 1881
Defendant.	*	

COUNT ONE:

Plaintiff claims of the defendant the sum of Fifty Thousand and no/100 (\$50,000.00) Dollars as damages for that heretofore on, to-wit, the 1st day of August, 1952, the agent, servant, or employee of the defendant, while acting within the line and scope of his authority as such, so negligently operated an automobile westwardly on Alabama Highway No. 89, a public road in Baldwin County, Alabama at a point about two miles east of the city limits of Foley, Alabama, 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 highway 89 at said time and place, and as a direct and proximate result of the said negligence as aforesaid, 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 three cracked, broken, and fractured ribs, he suffered cuts and bruises in and about the face, head and ears, he suffered cuts and bruises all over his body, his eye glasses were broken, he suffered a bruised or pulled muscle in his left leg, his teeth were cracked, he was caused to suffer and will continue to suffer great physical pain and mental anguish, he was caused to incur medical expense in and about the care and treatment of his said injuries and will continue to incur

medical expense in the future in caring for his said injuries; he was made sick and sore; he was caused to lose time from his work; he was and will be permanently scarred, disfigured, disabled, and injured, he was caused to have a knot in his right leg, his ankles were caused to swell, and become sore, and he was caused to lose a contract of employment, all to the plaintiff's damage, hence this suit.

Howell & Johnston
ATTORNEYS FOR PLAINTIFF

Plaintiff demands a trial by jury.

Howell & Johnston
ATTORNEYS FOR PLAINTIFF

Defendant resides at P. O. Box 473, Dequincy, Louisiana.

FILED

OCT. 28, 1952

ALICE J. DUCK, Clerk

First the fact that the parties are not of equal status
and the fact that the parties are not of equal status
and the fact that the parties are not of equal status
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and the fact that the parties are not of equal status
and the fact that the parties are not of equal status
and the fact that the parties are not of equal status
and the fact that the parties are not of equal status

We, the Jury, cannot agree.

J. A. Ward
Foreman

FILED
OCT 28 1952
ALICE J. BUCH, CLERK

SUMMONS AND COMPLAINT

Moore Printing Co.

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 1881

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon ROY WHATLEY

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

ROY WHATLEY, Defendant

by HENRY HESSE

, Plaintiff

Witness my hand this 28th day of October 1952

Henry Hesse, Clerk

BOOK 002 PAGE 437

No. 1881

Page

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Henry Hesse

Plaintiffs

vs.

Roy Whattery

Defendants

SUMMONS and COMPLAINT

Filed 10-28 1952

Aerie French Clerk

Plaintiff's Attorney

Defendant's Attorney

1037

Defendant lives at

OCT 30 1952

RECEIVED IN OFFICE

W. H. Moseley, Sheriff

19

W. H. Moseley, Sheriff

I have executed this summons

this Oct 30 1952
by leaving 3 copy with

Agnes Baggett
in Dept of State

L. H. Moseley Sheriff
Deputy Sheriff

IN THE CIRCUIT COURT

of

Henry Hesse, Plaintiff

BALDWIN COUNTY, ALABAMA

vs

AT LAW No. 1881

Roy Whatley, Defendant

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

I, Agnes Baggett, Secretary of State, hereby certify that on October 30, 1952, I sent by registered mail in an envelope addressed as follows:

" Roy Whatley
P.O.Box 473
Dequincy, Louisiana "

"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:

"Roy Whatley
P.O.Box 473
Dequincy, Louisiana

You will take notice that on October 30, 1952 the Sheriff of Montgomery County, Alabama served upon me, in my official capacity, summons and complaint in a case entitled
Henry Hesse, Plaintiff vs Roy Whatley,

Defendants/ in the Circuit Court of Baldwin County, Alabama at Law ~~County, Alabama~~, Case No. 1881, 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 30th day of October, 1952.

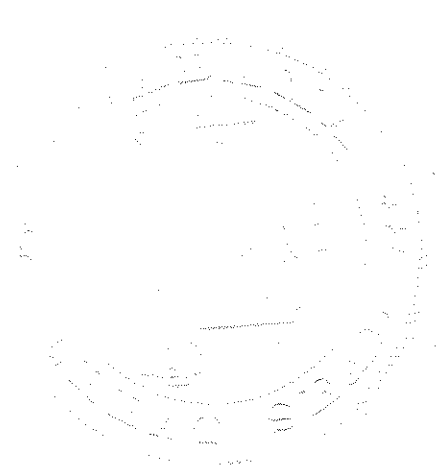

Signed) Agnes Baggett
Mrs. Agnes Baggett
Secretary of State "

Enclosures - 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.

I further certify that on November 5, 1952, I received the return card, showing receipt by the designated addressee of the aforementioned matter, at
Dequincy, Louisiana on November 3, 1952.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 5th day of November, 1952.



Mrs. Agnes Baggett
Secretary of State

Enclosures - (Return card
and copy of summons and
complaint)

SUMMONS AND COMPLAINT

Moore Printing Co.

THE STATE OF ALABAMA,
BALDWIN COUNTY

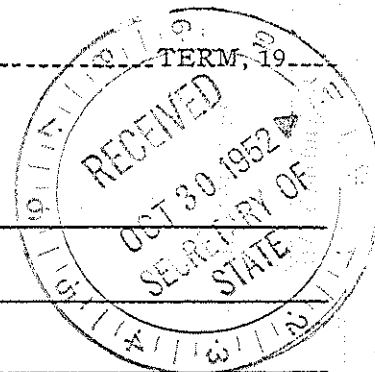
CIRCUIT COURT, BALDWIN COUNTY

No. 1221

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon



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

_____, Defendant

by _____

_____, Plaintiff

Witness my hand this 28th day of October 1952

Reverie J. Leach, Clerk

No.

Page

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Plaintiffs

vs.

Defendants

SUMMONS and COMPLAINT

Filed _____, 19 ____

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

19

_____, Sheriff

I have executed this summons

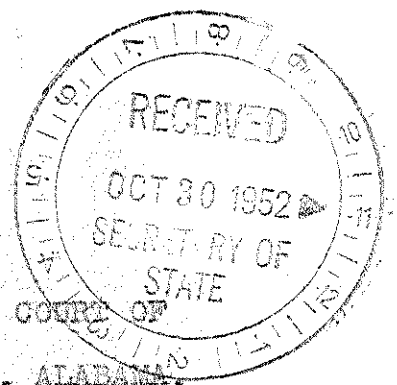
, 19

this _____, 19 _____
by leaving a copy with _____

Sheriff

Deputy Sheriff

Deputy Sheriff



HENRY HESSE,

Plaintiff,

VS

ROY WHATLEY,

Defendant.

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

COUNT ONE:

Plaintiff claims of the defendant the sum of Fifty Thousand and no/100 (\$50,000.00) Dollars as damages for that heretofore on, to-wit, the 1st day of August, 1952, the agent, servant, or employee of the defendant, while acting within the line and scope of his authority as such, so negligently operated an automobile westwardly on Alabama Highway No. 89, a public road in Baldwin County, Alabama at a point about two miles east of the city limits of Foley, Alabama, 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 highway 89 at said time and place and as a direct and proximate result of the said negligence as aforesaid, 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 three cracked, broken, and fractured ribs, he suffered cuts and bruises in and about the face, head and ears, he suffered cuts and bruises all over his body, his eye glasses were broken, he suffered a bruised or pulled muscle in his left leg, his teeth were cracked, he was caused to suffer and will continue to suffer great physical pain and mental anguish, he was caused to incur medical expense in and about the care and treatment of his said injuries and will continue to incur

1881
medical expense in the future in caring for his said injuries; he was made sick and sore; he was caused to lose time from his work; he was and will be permanently scarred, disfigured, disabled, and injured, he was caused to have a knot in his right leg, his ankles were caused to swell, and become sore, and he was caused to lose a contract of employment, all to the plaintiff's damage, hence this suit.

Howell & Johnston
ATTORNEYS FOR PLAINTIFF

Plaintiff demands a trial by jury.

Howell & Johnston
ATTORNEYS FOR PLAINTIFF

Defendant resides at P. O. Box 473, Dequincy, Louisiana.

FILED
OCT 29 1925
COURT HOUSE
DEQUINCY, LA.

FILED
OCT 28 1952
ALICE J. DUCK, Clerk

Defendant resides at P. O. Box 442, Dedrick, Tennessee.

ATTORNEYS FOR PLAINTIFF

Plaintiff demands a trial by jury.

WITNESSES FOR PLAINTIFF

[Signature]
1952

1881

employment, all of the plaintiff's damages, hence this suit.
and become sore, and he was caused to lose a contract of
a shop in his right leg, his union were caused to swell,
disturbed, disabled, and injured, he was caused to have
time from his work; he was and will be permanently scarred,
injured; he was made sick and sore; he was caused to lose
medical expense in the future in caring for his body.

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

October 27, 1952

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

Dear Mrs. Duck:

You will please find enclosed the original and three copies of complaint in a case styled Henry Hesse vs Roy Whatley. You will also find enclosed a check No. 10190 in the amount of \$3.00. You can see from this complaint that the defendant is a non resident and we are requesting that you effect service in this case through the Secretary of State as is provided by Title 7, Section 199 of the 1940 Code of Alabama.

Very truly yours,

HOWELL & JOHNSTON


Irvin J. Langford

IJL:bh
Encs.

Henry Hesse vs. Roy Whalley

NAME	OCCUPATION	RESIDENCE
1. Max Lawrence Sr.	Merchant	Foley
2. Capt. W.P. Wren	Fleet Worker	Bay Minette
3. C. Morgan	Farmer	Robertsdale
4. J. Leon Palmer	Farmer	Robertsdale
5. Julio Corte	Farmer	Belforest
6. Floyd A. Racine	Truck Driver	Robertsdale
7. Charles Fell	Brookley Field	Fairhope
8. David Barnhill	Farmer	Loxley
9. John Blocht	Farmer	Foley
10. Andy McDaniel	Farmer	Bon Secout
11. Homer Flowers	Farmer	Bon Secour
12. Joseph Sopr	Farmer	Silverhill
13. Reece McGill	Brookley Field	Perdido
14. Louis Davis Moore	Farmer	Summerdale
15. J. A. Wurst	Bank Cashier	Bay Minette
16. Walter Quinley	City Employee	Bay Minette
17. C. H. Gilland	Electrician	Bay Minette
18. Jesse M. Smith	Real Estate	Bay Minette
19. Billy Bozone	Grocery Business	Bay Minette
20. James Lindsey	Real Estate	Bay Minette
21. Chester Eubanks	Jeweler	Bay Minette
22. Woodrow Booth	P. M. A. Office	Bay Minette
23. Albert M. Thompson	Merchant	Bay Minette
24. Frank Turner	County Agent	Bay Minette
25. Robert Miller	Drug Clerk	Bay Minette
26. Harry I. West	Insurance	Bay Minette
27. George Noonan	Sign Painter	Bay Minette
28. Enoch B. Hall	Newport	Bay Minette

12
15

P XXXX XI

W XXXX XI

Handwritten notes at the top of the page, possibly a title or address, which are mostly illegible due to blurring.

NAME	OCCUPATION	RESIDENCE
1. Mrs. Lawrence	Merchant	Foley
2. Capt. W. P. Wright	Post Worker	Bay Minette
3. H. C. Morgan	Farmer	Robertabala
4. J. Leon Palmer	Farmer	Robertabala
5. J. L. C. C. C.	Farmer	Belforest
6. J. L. C. C. C.	Farmer	Robertabala
7. J. L. C. C. C.	Truck Driver	Fairhope
8. J. L. C. C. C.	Brooklyn Field	Foxley
9. J. L. C. C. C.	Farmer	Foley
10. J. L. C. C. C.	Farmer	Bay Secour
11. J. L. C. C. C.	Farmer	Bay Secour
12. J. L. C. C. C.	Farmer	Silverhill
13. J. L. C. C. C.	Brooklyn Field	Pewabdo
14. J. L. C. C. C.	Farmer	Summerdale
15. J. L. C. C. C.	Bank Cashier	Bay Minette
16. J. L. C. C. C.	City Employee	Bay Minette
17. J. L. C. C. C.	Electrician	Bay Minette
18. J. L. C. C. C.	Real Estate	Bay Minette
19. J. L. C. C. C.	Grocery Business	Bay Minette
20. J. L. C. C. C.	Real Estate	Bay Minette
21. J. L. C. C. C.	Jeweler	Bay Minette
22. J. L. C. C. C.	P. M. A. Office	Bay Minette
23. J. L. C. C. C.	Merchant	Bay Minette
24. J. L. C. C. C.	County Agent	Bay Minette
25. J. L. C. C. C.	Drug Clerk	Bay Minette
26. J. L. C. C. C.	Insurance	Bay Minette
27. J. L. C. C. C.	Sign Painter	Bay Minette
28. J. L. C. C. C.	Newport	Bay Minette

Handwritten notes and signatures on the right side of the page, including a large '1881' and various illegible scribbles.

Handwritten notes at the bottom right of the page, including the words 'HIT' and 'HIT'.

4.

*Given
Huntaker
Judge*

The Court charges the jury that if you believe from the evidence in this case that Jimmy R. Whatley was not the agent, servant or employee of the Defendant, Roy Whatley, then you must find for the Defendant.

5.

*Given
Huntaker
Judge*

The Court charges the jury that the relationship of father and son does not of itself make the son the agent of his father and unless you believe from the evidence that Jimmy R. Whatley, the son of the Defendant, Roy Whatley, was his agent, servant or employee at the time of the accident complained of then you must find for the Defendant.

6.

*Given
Huntaker
Judge*

The Court charges the jury that in order for the Plaintiff to recover in this suit you must believe from the evidence that Jimmy R. Whatley, the son of the Defendant, was the agent, servant or employee of his father and was acting within the line and scope of this agency relationship at the time of the accident complained of, and the mere fact that he is the son of the Defendant is not of itself sufficient to establish this relationship.

The Court charges the jury that in order for the Plaintiff to recover in this suit you must believe that the driver of the Defendant's automobile was the agent, servant or employee of the Defendant and was acting within the line and scope of his agency at the time of the accident complained of and further that he was guilty of negligence which was the direct cause of the damages and injuries to the Plaintiff and unless you so believe you must find for the Defendant.

*Gwin
Hudson
Judge*

The Court charges the jury that it is unlawful to park an automobile on the paved portions of the highways of this State and that to do so is a negligent act, and if you believe from the evidence in this case that Riley Byrd parked his automobile on the paved portion of the highway in violation of the laws of the State of Alabama and that his negligence in so parking his automobile was the direct and proximate cause of the damages and injuries to the Plaintiff then your verdict should be for the Defendant.

*Gwin
Hudson
Judge*

The Court charges the jury that a father is not liable for the negligent acts of his son in which he does not participate and if you believe from the evidence in this case that Jimmy Whatley had borrowed his father's car for the purpose of securing food for his household and that his father, the Defendant, did not participate in this venture in any way, but simply lent his automobile to his son, then you should find for the Defendant.

*Gwin
Hudson
Judge*

13.

The Court charges the jury that the Plaintiff in this case cannot recover if you believe from the evidence that the injuries sustained by the Plaintiff were the direct and proximate result of the fact, if it be a fact, that Riley Byrd parked his automobile on the paved portion of the highway at the time and place that the accident complained of occurred.

*Gwei
1/11/1938
Judge*

14.

*Gwei
1/11/1938
Judge*

The Court charges the jury that the Plaintiff in this suit cannot recover if you believe from the evidence that the accident complained of was unavoidable and that the driver of the Defendant's automobile, Jimmy R. Whatley, did every thing that a reasonably prudent man should have done in the circumstances at the time and place complained of.

15.

The Court charges the jury that unless you believe from the evidence that the Plaintiff suffered injuries as a direct and proximate consequence of the negligence of an agent, servant or employee of the Defendant then you cannot find for the Plaintiff.

*Gwei
1/11/1938
Judge*

The Court charges the jury that unless you are reasonably satisfied from the evidence that Jimmy Whatley did or omitted something on the occasion complained of which a reasonably prudent person similarly situated would, or would not, have done and that this proximately caused injuries to the Plaintiff, your verdict should be in favor of the Defendant.

*Given
H. M. Lee*

The Court charges the jury that if you believe from the evidence in this case that the driver of the Defendant's automobile did, or omitted to do, every thing that a reasonably prudent man should, or should not, have done in the same circumstances then your verdict should be for the Defendant.

*Given
H. M. Lee*

The Court charges the jury that in order for the Plaintiff to recover from the Defendant in this suit you must be reasonably satisfied from the evidence that the driver of the Defendant's automobile was guilty of negligence which proximately contributed to the injuries of the Plaintiff and in this regard the Court further charges the jury that if you believe from the evidence that the driver of the Defendant's automobile acted on the occasion complained of as a reasonably prudent person similarly situated would have acted then, in that event, the driver would not be guilty of negligence and your verdict should be for the Defendant.

*Given
H. M. Lee*

Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$200

POSTMARK OF DELIVERING OFFICE

Return to

Street and Number,
or Post Office Box,

REGISTERED ARTICLE

No.

INSURED PARCEL

No.

16-12421

State

RETURN RECEIPT

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

1 *Ray J. Hatley*
(Signature or name of addressee)

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

Date of delivery NOV 3 1952, 194