

WILLIAM J. MORRIS,

Plaintiff,

vs.

JOHN B. HADLEY, individually  
and doing business as HADLEY  
MOTOR COMPANY,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

LAW SIDE.

1904

INTERROGATORIES PROPOUNDED BY THE PLAINTIFF TO THE  
DEFENDANT, JOHN B. HADLEY, INDIVIDUALLY AND DOING  
BUSINESS AS HADLEY MOTOR COMPANY

1. Please state your name, age and address.

(a) Are you the sole owner of Hadley Motor Company, a business being operated in Bay Minette, Alabama, or is it a partnership or corporation?

(b) If you state that you are not the sole owner of Hadley Motor Company, please state the names and addresses of the other owners or partners in such business.

2. If you state in answer to Interrogatory #1 that you are the sole owner of Hadley Motor Company, please state whether you were the sole owner of Hadley Motor Company on May 31, 1952.

(a) Do you operate a towing company or tow automobiles for hire as a part of your business and did you do so on May 31, 1952?

(b) Were you, either personally or through your agent, servant or employee, employed by William J. Morris on May 31, 1952, to tow his 1952 Lincoln Coupe from a point about two miles Southwest of Bay Minette, Alabama, on U.S. Highway #31, to Mobile, Alabama?

(c) On May 31, 1952, did you have in your employment a man named Floyd Whittaker, and was he sent by you or someone in your employment to tow the automobile above mentioned, as above set out?

(d) Please state whether it is true when towing a new Lincoln automobile with a hydramatic drive that it is necessary or proper to disconnect the drive shaft or Hydramatic drive or raise the rear wheels off the ground and to tow the same at a speed not exceeding 25 miles per hour when such vehicle is being towed the distance this vehicle was being towed.

3. If you state that you were employed to tow the Lincoln automobile of William J. Morris from a point about two miles Southwest of Bay Minette on U. S. Highway #31, to Mobile, Alabama, and that Floyd Whittaker was driving your vehicle which was towing such automobile, was he at that time and place, acting as your agent, servant or employee and acting within the line and scope of his employment as such?

(a) Please state how long Floyd Whittaker had been employed by you prior to May 31, 1952.

(b) Please state how long Floyd Whittaker had been operating your towing vehicle prior to May 31, 1952.

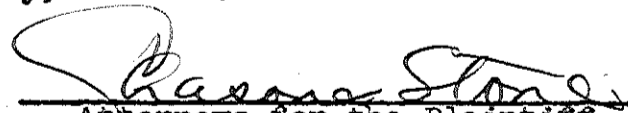
(c) Was the said Floyd Whittaker experienced in towing a new Lincoln automobile on May 31, 1952?

(d) On May 31, 1952, did Floyd Whittaker know how to tow an automobile with a hydramatic drive?

4. On Saturday, May 31, 1952, at about 2:30 P. M. was a Mr. Paul employed by you in any capacity at your shop in Bay Minette, Alabama?

(a) If you state that he was, did Mr. Paul send Floyd Whittaker to operate your wrecker and tow the automobile owned by Mr. William J. Morris from a point about two miles Southwest of Bay Minette, Alabama, to Mobile, Alabama?

(b) Have you been paid for towing the automobile owned by William J. Morris on May 31, 1952, from a point about two miles Southwest of Bay Minette, Alabama, to where it burned near the Apalachee River in Baldwin County, Alabama?

  
Attorneys for the Plaintiff.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, a Notary Public, in and for said State and County, personally appeared John Chason, who is one of the Attorneys for the Plaintiff in the above styled cause and who, after being by me first

duly and legally sworn deposes and says that if the answers to the Interrogatories propounded to the Defendant are well and truly made, they will be material evidence for the Plaintiff on the trial of this cause.

John H. Hason

Sworn to and subscribed before me

this 21st day of January,

1953.

Alice L. Miller  
Notary Public, Baldwin County, Ala.

this 22 day of Jan, 1953  
TAYLOR WILKINS, Sheriff

INTERROGATORIES PROPOUNDED BY  
THE PLAINTIFF TO THE DEFENDANT

WILLIAM J. MORRIS,

Plaintiff,

vs.

JOHN B. HADLEY, individually  
and doing business as HADLEY  
MOTOR COMPANY,

Defendant.

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

Filed: January 21, 1953.

*Angie French*  
Clerk

LAW OFFICES  
~~H. BART~~, CHASON & STONE  
BAY MINETTE, ALABAMA

by serving copy of within Summons and  
Complaint on

*John B. Hadley*  
*Individually and doing*  
*business as Hadley*  
*Motor Co.*

*Taylor Wilkins* Sheriff  
By *P. B. Allen* Deputy Sheriff

WILLIAM J. MORRIS,	)	
	Plaintiff,	)
VS.		)
		IN THE CIRCUIT COURT OF
		BALDWIN COUNTY, ALABAMA
JOHN B. HADLEY, individually,	)	
and doing business as Hadley	)	AT LAW
Motor Company,	)	NO. 1904
	Defendant.	)

# ANSWERS TO INTERROGATORIES

Now comes the defendant and for answers to the interrogatories propounded to him by the plaintiff in this cause, says:

1. John B. Hadley  
42  
Bay Minette, Alabama

(a) Yes

(b) Answered above

2. Yes

(a) Yes

(b) I, or my company, was employed by William J. Morris on or about May 31, 1952, to tow a Lincoln coupe with a boat and trailer attached to Mobile, Alabama.

(c) Yes

(d) This interrogatory cannot be properly answered in its present form and defendant, therefore, declines to answer it, because a proper answer depends on several things that are not stated in the interrogatory.

3. Yes

(a) Since about August 8, 1949.

(b) Since about August 8, 1949.

(c) I do not recall any occasion when Floyd Whittaker had been called upon to tow a new Lincoln automobile, but he was an experienced automobile mechanic on May 31, 1952 and familiar with automobiles having hydromatic drive.

(d) Answered above

4. Defendant declines to answer this interrogatory on the ground that it calls for incompetent, irrelevant and immaterial testimony.

(a) Defendant declines to answer this interrogatory on the ground that it calls for incompetent, irrelevant and immaterial testimony.

(b) Yes.

John B. Hadley  
Defendant.

STATE OF ALABAMA )  
                          \*  
BALDWIN COUNTY    )

Before me, the undersigned authority, within and for said County in said State, personally appeared JOHN B. HADLEY, who, after being by me first duly and legally sworn, deposes and says: That he has read over the foregoing answers to interrogatories and that the same are true.

John B. Hadley

Sworn to and subscribed before me on  
this the 23rd day of March, 1953.

Mary Lou Blackburn

Notary Public, Baldwin County, Alabama.

WILLIAM J. MORRIS,

Plaintiff,

VS.

JOHN B. HADLEY, individually, and  
doing business as Hadley Motor  
Company,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 1904

*Filed 3-23-53  
Hess French  
Clerk*

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

WILLIAM J. MORRIS,	)	
	)	
Plaintiff,	)	
VS.	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
JOHN B. HADLEY, individual-	)	
ly, and doing business as	)	AT LAW
Hadley Motor Company,	)	NO. 1904
	)	
Defendant.	)	

INTERROGATORIES PROPOUNDED BY THE DEFENDANT TO  
THE PLAINTIFF, WILLIAM J. MORRIS.

Now comes the defendant, John B. Hadley, and files the  
following interrogatories to the plaintiff:

1. Did your automobile become disabled before it was  
taken in tow by the defendant's wrecker?

2. If your answer to the above question is "Yes", where  
did your automobile become disabled and how was it transported or  
moved from the place where it became disabled to the place where it  
was taken in tow by the defendant's wrecker?

3. Did you employ the defendant to tow your automobile  
only, or was there a trailer attached to your automobile?

4. If your answer to the foregoing question discloses  
that there was a trailer attached to your automobile, what was  
loaded in or on the trailer?

5. What disposition did you make of your automobile after  
it was damaged by fire, that is, if it was sold, to whom was it sold?  
If it was repaired, by whom and where was it repaired and where is  
it now located?

6. When and where did you purchase the Lincoln automobile  
involved in this suit and what was the purchase price thereof?

7. After your Lincoln automobile was taken in tow by  
the defendant's wrecker, did you ride in the wrecker or in the  
automobile?

8. After your Lincoln automobile was taken in tow by the  
defendant's wrecker, did any passenger or passengers ride therein?  
If so, give the names and ages of those who rode in the said auto-  
mobile.

9. Was the transmission housing on your Lincoln automobile cracked or broken before the automobile was damaged by fire?

10. Was the transmission housing on your Lincoln automobile cracked or broken after the automobile was damaged by fire?

11. If your answer to either of the above questions is "Yes", then please explain in detail where and how the transmission housing was cracked or broken.

J. B. Blackburn  
Attorney for the defendant.

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

Before me, the undersigned authority, within and for said County in said State, personally appeared J. B. BLACKBURN, who, after being by me first duly and legally sworn, deposes and says:

That he is attorney for the defendant in the above styled cause; that the answers to the foregoing interrogatories, if truthfully made, will be material evidence for the defendant in the trial of the said cause.

J. B. Blackburn

Sworn to and subscribed before me on  
this the 14th day of July, 1953.

Mary Lou Blackburn

Notary Public, Baldwin County, Alabama.

INTERROGATORIES PROPOUNDED BY THE  
DEFENDANT TO THE PLAINTIFF.

WILLIAM J. MORRIS,

Plaintiff,

VS.

JOHN B. HADLEY, individually, and  
doing business as Hadley Motor  
Company,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW NO. 1904

ALICE J. DUCK, Clerk

JUL 14 1953

FILED

FILED

J. B. BLACKBURN

ATTORNEY AT LAW

BAY MINETTE, ALABAMA

JUL 14 1953

ALICE J. DUCK, Clerk

Received 14 day of July 1953  
and on 14 day of July 1953  
I served a copy of the within  
on \_\_\_\_\_

By service on John Chason Attorney  
for Plaintiff  
TAYLOR WILKINS, Sheriff  
By H. F. Hall D. S.

STATE OF ALABAMA )

BALDWIN COUNTY )

IN THE CIRCUIT COURT - LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon John B. Hadley, individually and doing business as Hadley Motor Company, 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, then and there to answer the complaint of William J. Morris.

Witness my hand this 21<sup>st</sup> day of January, 1953.

Alfred J. Revick  
Clerk.

COMPLAINT:

WILLIAM J. MORRIS,

Plaintiff,

vs.

JOHN B. HADLEY, individually  
and doing business as HADLEY  
MOTOR COMPANY,

Defendant.

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

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Five Thousand Dollars (\$5,000.00) as damages for that heretofore on, to-wit, May 31, 1952, the Plaintiff employed the Defendant to tow Plaintiff's automobile which was a 1952 Lincoln Coupe from a point about two miles Southwest of Bay Minette in Baldwin County, Alabama, on U. S. Highway #31, to Mobile, Alabama, and that the Defendant, acting by and through his agent, servant or employee, who was then and there acting within the line and scope of his employment as such, so negligently towed such automobile of the Plaintiff along U. S. Highway #31 and U. S. Highway #90 at said time and place as to cause the automobile of the Plaintiff to catch on fire and be completely destroyed by such fire; that at the time such automobile caught on fire it was being towed by the agent, servant or employee of the Defendant, who was then and there acting within the line and scope of his

employment as such, on U. S. Highway #90, at a point just East of the Apalachee River in Baldwin County, Alabama, and Plaintiff avers that said injuries and damages were proximately caused by result of the negligence of the Defendant, his agent, servant or employee, acting within the line and scope of his employment as such in towing such automobile.

#### COUNT TWO

The Plaintiff claims of the Defendant the sum of Five Thousand Dollars (\$5,000.00) as damages for that heretofore on, to-wit, May 31, 1952, the Plaintiff employed the Defendant to tow Plaintiff's automobile, which was a 1952 Lincoln Coupe from a point about two miles Southwest of Bay Minette in Baldwin County, Alabama, on U. S. Highway #31, to Mobile, Alabama, and that the Defendant, acting by and through his agent, servant or employee, who was then and there acting within the line and scope of his employment as such, so negligently towed such automobile of the Plaintiff, without disengaging or disconnecting the hydramatic drive or the drive shaft of such Lincoln automobile before towing such automobile or without raising the rear wheels off the ground, at a speed in excess of 25 miles per hour and thereby causing such automobile of the Plaintiff to catch on fire and be completely destroyed by fire at a point just East of the Apalachee River in Baldwin County, Alabama, on U. S. Highway #90 and the Plaintiff avers that such injuries and damages were proximately caused by result of the negligence of the Defendant, his agent, servant or employee, acting within the line and scope of his employment as such, in so towing such automobile of the Plaintiff.

#### COUNT THREE

The Plaintiff claims of the Defendant the sum of Five Thousand Dollars (\$5,000.00) as damages for that, heretofore on to-wit, May 31, 1952, the Defendant operated a garage and towing business in the City of Bay Minette, Baldwin County, Alabama, and in connection with such towing business he would tow automobiles for hire from Bay Minette, Alabama, to Mobile, Alabama, and the Plaintiff avers that

on May 31, 1952, he employed the Defendant to tow a 1952 Lincoln Coupe belonging to the Plaintiff, from a point about two miles Southwest of Bay Minette, Alabama, on U. S. Highway #31 to Mobile, Alabama, and that the Defendant, acting by and through his agent, servant or employee, who was then and there acting within the line and scope of his employment as such, so negligently towed such automobile of the Plaintiff, without disconnecting the drive shaft or hydramatic drive on such automobile and without raising the rear wheels off the ground, at a speed in excess of 25 miles per hour, that he caused the same to catch on fire and be completely destroyed at a point on U. S. Highway #90 just East of Apalachee River in Baldwin County, Alabama, and the Plaintiff avers that his injuries and damages were proximately caused by result of the negligence of the Defendant, its agent, servant or employee, acting within the line and scope of his employment as such, in so towing such automobile.

COUNT FOUR:

The Plaintiff claims of the Defendant the sum of Five Thousand Dollars (\$5,000.00) as damages for that heretofore, on to-wit, May 31, 1952, the Plaintiff delivered to the Defendant, who operated a garage and towing business in Bay Minette, Alabama, the possession, custody and control of a certain automobile, the property of the Plaintiff, said automobile being a 1952 Lincoln Coupe, and thereupon the Defendant became the bailee of said automobile. That such automobile was delivered by the Plaintiff to the Defendant to be towed by such Defendant, for a proper consideration, from a point about two miles Southwest of Bay Minette, Alabama, on U. S. Highway #31, to Mobile, Alabama, and the Plaintiff avers that while said automobile was in the possession of the Defendant, acting by and through his agent, servant or employee, who was then and there acting within the line and scope of his employment as such, he so negligently towed the automobile of the Plaintiff along such highway and along U. S. Highway #90, in such a manner as to cause the automobile of the Plaintiff to catch on fire and to be completely destroyed by fire, while still in Baldwin County, Alabama, at a point just East of the Apalachee River in Baldwin County, Alabama, on U. S. Highway #90,

and as a proximate cause and consequence of such negligence, the Plaintiff lost said automobile and the value thereof, all to the damage of the Plaintiff as aforesaid.

COUNT FIVE:

The Plaintiff claims of the Defendant the sum of Five Thousand Dollars (\$5,000.00) as damages for that heretofore, on to-wit, May 31, 1952, the Plaintiff delivered to the Defendant, who operated a garage and towing business in Bay Minette, Alabama, the possession, custody and control of a certain automobile, the property of the Plaintiff, said automobile being a 1952 Lincoln Coupe, and thereupon the Defendant became the bailee of said automobile. That such automobile was delivered by the Plaintiff to the Defendant to be towed by such Defendant, for a proper consideration, from a point about two miles Southwest of Bay Minette, Alabama, on U. S. Highway #31, to Mobile, Alabama, and the Plaintiff avers that while said automobile was in the possession of the Defendant, acting by and through his agent, servant or employee, who was then and there acting within the line and scope of his employment as such, he so negligently towed the automobile of the Plaintiff along such highway and along U. S. Highway #90, without first having disconnected the drive shaft or hydraulic drive on the automobile of the Plaintiff or without raising its rear wheels off the ground, at a speed in excess of 25 miles per hour, thereby causing the automobile of the Plaintiff to catch on fire and to be completely destroyed by fire, while still in Baldwin County, Alabama, at a point just East of the Apalachee River on U. S. Highway #90, and as a proximate cause and consequence of such negligence, the Plaintiff lost said automobile and the value thereof, all to the damage of the Plaintiff as aforesaid.

CHASON & STONE

BY: 

Attorneys for the Plaintiff.

Plaintiff demands a trial  
of this cause by a Jury.

CHASON & STONE

BY: 

Attorneys for the Plaintiff.

this 21 day of Jan, 1953  
TAYLOR WILKINS, Sheriff

SUMMONS AND COMPLAINT

executed Jan. 22 1953  
by serving copy of within Summons and  
Complaint on

John B. Hadley

Individually and doing

business as Hadley

Motor Company

Taylor Wilkins Sheriff

By Deputy Deputy Sheriff

WILLIAM J. MORRIS,

Plaintiff,

vs.

JOHN B. HADLEY, individually  
and doing business as HADLEY  
MOTOR COMPANY,

Defendant.

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

Filed: January 21, 1953.

Deputy  
clerk.

LAW OFFICES

~~HARRIS~~, CHASON & STONE

BAY MINETTE, ALABAMA

WILLIAM J. MORRIS,	)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
VS.	)	
	)	AT LAW
JOHN B. HADLEY, individual-	)	NO. 1904
ly, and doing business as	)	
HADLEY MOTOR COMPANY,	)	
	)	
Defendant.	)	

# DEMURRER

Comes the defendant in the above styled cause and demurs to the plaintiff's complaint and to each count thereof, separately and severally, upon the following separate and several grounds:

1. Because it is not alleged in nor shown by the averments thereof that the defendant or his agent, servant or employee violated a duty to the plaintiff.
2. Because it is not shown that the defendant or his agent, servant or employee owed to the plaintiff a duty and that there was a breach of this duty proximately causing the injury and damage of plaintiff.
3. Because said count is vague, indefinite and uncertain.
4. Because the allegation that the defendant so negligently towed the automobile of plaintiff as to cause it to catch on fire is but the statement of a conclusion of the pleader, and no facts are alleged to substantiate said conclusion.
5. Because the allegations of said count purport to set out the quo modo of defendant's negligence, and that the facts alleged do not, of themselves, constitute negligence.
6. Because the facts averred as to the quo modo of the alleged negligence do not support the conclusion of the pleader that they constitute negligence.
7. Because the negligence alleged in said count is alleged in the alternative.
8. Because no causal connection is shown between the negligence charged to defendant and the injury and damage alleged to have been suffered by plaintiff.

The defendant assigns the following additional separate

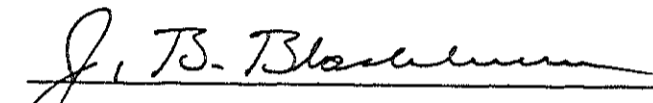
and several grounds to Counts Four and Five of the complaint, separately and severally:

A. Because the terms of the alleged bailment are not set forth in said count.

B. Because the nature of the bailment is not made clear.

C. Because the allegation that the automobile was delivered by the plaintiff to the defendant to be towed by the defendant for a proper consideration is but the statement of a conclusion of the pleader.

D. Because sufficient facts are not shown to acquaint defendant with the nature of the charges against him.

  
\_\_\_\_\_  
Attorney for defendant.

DEMURRER

WILLIAM J. MORRIS,

VS.

Plaintiff,

JOHN B. HADLEY, individually, and  
doing business as HADLEY MOTOR  
COMPANY,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW NO. 1904

FILED

FEB 19-1953.

MRS. J. DUEY, Clerk

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