

J. W. JONES,

Plaintiff,

vs.

NEWPORT INDUSTRIES, INC.,  
A corporation, and JAMES  
H. CHAFFIN,

Defendants

IN THE CIRCUIT COURT OF BALDWIN

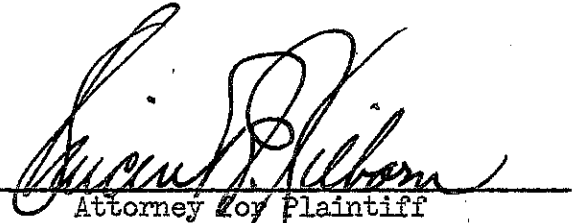
COUNTY, ALABAMA

AT LAW

NO. 1971

The Plaintiff claims of the Defendants the sum of TWO THOUSAND FIVE HUNDRED AND NO/100ths (\$2,500.00) DOLLARS as damages for that heretofore and on January 8, 1953, the Plaintiff's truck, being a 1948 Dodge 1½ ton dump truck, was being operated Southwestwardly on U. S. Highway 31 approximately one and one half miles East of Spanish Fort in Baldwin County, Alabama. At that time and place one James H. Chaffin who was then and there an agent or servant of the Defendant, Newport Industries, acting within the line and scope of his authority and duty as such was operating a 1951 Mack tractor and trailer on such highway immediately in the rear of the truck of the Plaintiff and was attempting to pass the truck of the Plaintiff. The Plaintiff avers that in passing the Plaintiff's truck the Defendant Chaffin negligently pulled such tractor and trailer immediately in front of the truck of the Plaintiff in such manner as to cause the Plaintiff's truck to overturn and be wrecked. As a direct and proximate consequence of the negligence of the Defendant Chaffin in cutting such tractor and trailer immediately in front of the truck of the Plaintiff the Plaintiff's truck was caused to over turn, was wrecked and demolished. The Plaintiff was deprived of the use of the vehicle for a great period of time, to-wit, two months and the Plaintiff was riding in such at the time of the accident and was himself thrown from the truck and was cut and bruised about the body and was caused to suffer abrasions and cuts above his eye and was caused to suffer expense for ambulance service and medical treatment all to the damage of the Plaintiff in the amount claimed.

Wherefore this suit.

  
Attorney for Plaintiff

The Plaintiff demands a trial by jury.

  
Attorney for Plaintiff

Defendant's address:  
James Chaffin - Perdido, Alabama  
Newport Industries - Bay Minette, Alabama

FILED

4-23-53

ALICE A. DUCK, Clerk

FILED  
4-29-57  
ALICE L. BUCK, Clerk

THE STATE OF TEXAS, COUNTY OF DALLAS, ss. I, the undersigned, Clerk of the County, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears of record in my office.

WITNESS my hand and the seal of said County at Dallas, Texas, this 29th day of April, 1957.

ALICE L. BUCK, Clerk

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said County at Dallas, Texas, this 29th day of April, 1957.

ALICE L. BUCK, Clerk

SUMMONS AND COMPLAINT

Moore Printing Co.

THE STATE OF ALABAMA,  
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 1971

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Newport Industries and James H. Chafin

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

Newport Industries and James H. Chafin, Defendant

by J. W. JONES

, Plaintiff

Witness my hand this 23rd day of April 1953

Archie J. Leitch

, Clerk

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No. 1971

Page

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

J. W. JONES

Plaintiffs

vs.

NEWPORT INDUSTRIES, INC., A Corp

and JAMES H. CHAFIN

Defendants

SUMMONS and COMPLAINT

Filed 4-23-53, 19

Alice J. French, Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

April 23, 1953

Myer Walker, Sheriff

I have executed this summons

this 5/9, 1953  
by leaving a copy with

Buy Suring copy  
on New Port Buy  
Suring on  
Dean Bushnell  
and James H. Chafin

Myer Walker, Sheriff  
R. H. Allen, Deputy Sheriff

J. W. JONES,	*	
Plaintiff,	*	IN THE CIRCUIT COURT OF BALDWIN
		COUNTY, ALABAMA
vs.	*	
		AT LAW
NEWPORT INDUSTRIES, INC.,	*	
A corporation, and JAMES	*	
H. CHAFFIN,	*	NO. 1971
Defendants.	*	

DEMURRER TO THE COMPLAINT

Come now the defendants, and each of them separately and severally, and demur to the complaint therein and to each count thereof, separately and severally, on the following separate and several grounds:

1. Sufficient facts are not alleged therein to constitute a cause of action.

2. Sufficient facts are not alleged therein to show the existence of any legal duty owing from this defendant to the plaintiff at the time and place of the matters and things therein complained of.

3. Sufficient facts are not alleged therein to show any breach of any legal duty owing from this defendant to the plaintiff at the time and place of the matters and things therein complained of.

4. It does not sufficiently appear therefrom that the alleged breach of duty was the proximate cause of the alleged injuries and damage.

5. Sufficient causal connection between the alleged negligence and the alleged injuries and damages does not appear therein.

6. The defendant Chaffin was under no legal duty to

refrain from pulling said tractor and trailer immediately in front of the truck of the plaintiff as alleged in said count.

7. Said count is vague, indefinite and uncertain in that it does not sufficiently appear therefrom how or in what manner the alleged negligence caused the plaintiff's truck to overturn and to be wrecked.

8. For aught appearing in said count, the said tractor and trailer driven by the defendant Chaffin did not run into or against or collide with the plaintiff's truck.

9. The allegation therein that the defendant Chaffin negligently pulled such tractor and trailer immediately in front of the truck of the plaintiff "in such manner as to cause the plaintiff's truck to overturn and be wrecked" is a conclusion of the pleader not supported by sufficient allegation of fact.

10. The defendant Chaffin had a legal right to pass the truck of the plaintiff and to pull said tractor and trailer immediately in front of the truck of the plaintiff.

FILED

5-23-53

ALICE J. DUCK, Clerk

*James M. Pemberton & Johnson*  
Attorneys for Defendants

Service accepted this 20  
day of May, 1953.

*[Signature]*  
Attorney for Plaintiff

1971

ALICE J. DICK

FILED

MAY 28 1953

ALICE J. DICK, Register

J. W. JONES,	*	IN THE CIRCUIT COURT
Plaintiff,	*	
	*	OF
vs.	*	
	*	BALDWIN COUNTY, ALABAMA
NEWPORT INDUSTRIES, INC.,	*	
a Corporation, and JAMES H.	*	
CHAFFIN,	*	
Defendants.	*	At Law No. 1971
	*	

Comes now the Defendants, NEWPORT INDUSTRIES, INC., a Corporation, and JAMES H. CHAFFIN, and moves the Honorable Court to enter a judgment of dismissal in the above styled cause and for reason therefore alleges as follows:

That said suit was instituted by the Plaintiff, J. W. JONES, by a complaint and summons filed on April 23, 1953; that on May 21, 1953, service was had on the attorney for the Plaintiff of demurrers to the complaint by the above named Defendants; that on August 18, 1953, this Honorable Court sustained Defendants' demurrers to said complaint after hearing an<sup>d</sup> argument in open court; that notice of said ruling was given to the attorney for the Plaintiff by letter dated January 4, 1954; that said case was set down for hearing on the pleadings before this Honorable Court on June 15, 1954; that further hearings on the pleadings were set down before this Honorable Court on August 17, 1954; that said cause is set for trial on September 13, 1954; that over one year has elapsed since the sustaining of Defendants' demurrers to Plaintiff's complaint thereto; that there is presently no valid complaint upon which issue has been joined and Defendants are unable to properly prepare themselves for trial at the time set;

WHEREFORE, Defendants ask that the above styled case be dis-



missed; that notice of this motion be given to Plaintiff and that said motion be set down for hearing prior to September 13, 1954.

INGE, TWITTY, ARMBRECHT & JACKSON

By John W. McConnell, Jr.  
John W. McConnell, Jr.  
Attorneys for Defendants

1971

Filed 9-6-54  
Wine & Curb

J. W. JONES,	*	
Plaintiff,	*	IN THE CIRCUIT COURT OF BALDWIN
		COUNTY, ALABAMA
vs.	*	
		AT LAW
NEWPORT INDUSTRIES, INC.,	*	
A corporation, and JAMES	*	NO. 1971
H. CHAFFIN,	*	
Defendants.	*	

INTERROGATORIES PROPOUNDED BY EACH ONE OF THE DEFENDANTS  
TO THE PLAINTIFF

Come now the defendants in the above styled cause, and each of said defendants, separately and severally, and propound the following interrogatories to the plaintiff, to be answered under oath as required by law:

1. State your name, age and place of residence.
2. State in detail the purpose or purposes for which your truck was being operated at the time of the alleged accident, stating the place where said journey was begun and the intended destination thereof.
3. State whether or not your truck was being operated for the purpose of performing any mission for any person, firm or corporation at the time of the alleged accident, and if you have not already done so, state in detail the mission which was being performed and the name and address of such person, firm or corporation.
4. State whether or not you had completed your labors for the particular day on which the accident happened and, at the time of the accident, whether or not you were on the way to take the passengers in your truck to their homes.
5. Give the names and residential addresses of each one of the persons who was in your truck at the time and

place of the alleged accident.

6. State how fast your truck was being operated immediately before the alleged accident and before the vehicle of Newport Industries, Inc. began to attempt to pass your truck.

7. State whether or not any other vehicle had already passed your truck going in the same direction and immediately ahead of the vehicle of Newport Industries, Inc., and if you answer in the affirmative, give a description of the said third vehicle and state how far ahead of the said Newport Industries, Inc.'s vehicle the said third vehicle was traveling at the time of the alleged accident.

8. Is it not a fact that a truck of the Atlanta-New Orleans Motor Freight Company passed your truck going in the same direction and ahead of the said vehicle of the Newport Industries, Inc.?

9. State how fast your truck was traveling at the time said truck of Atlanta-New Orleans Motor Freight Company passed it.

10. State how far the Atlanta-New Orleans Motor Freight Company truck ran from the time it first began to attempt to pass your truck to the time it completed said passage.

11. State whether or not the speed of your truck was increased or decreased during the time which the said Atlanta-New Orleans Motor Freight Company truck was attempting to pass it, and if so, state the maximum speed and the minimum speed of your truck during that time.

12. State as nearly as you can the exact place where your truck was when the defendant Newport Industries, Inc.'s

vehicle first began to attempt to pass your truck.

13. State how far your truck ran between the time that the said Newport Industries vehicle first attempted to pass your truck until the time of the alleged accident.

14. State how far your truck ran from the time the said Newport Industries vehicle first attempted to pass your truck until the time the said Newport vehicle completed its said passage and was back on its right hand side of the road.

15. State how fast your truck was traveling at the time that the said Newport vehicle first attempted to pass your truck.

16. State how fast your truck was traveling during all of the time the said Newport vehicle was in the act of passing your truck.

17. Is it not a fact that when the Newport vehicle was in the act of passing your truck, the driver of your truck speeded up your truck and attempted to prevent its passage.

18. State as nearly as you can exactly the position of your truck and the position of the Newport Industries vehicle and the position of the Atlanta-New Orleans Motor Freight truck at the time of the alleged accident.

19. What was the distance between the nearest point of the Newport Industries vehicle and the nearest point of your truck at the time the brakes were first applied on your truck immediately before the alleged accident.

20. State the distance that your truck travelled between the time the brakes were first applied on your

truck to the time your truck came to a complete stop.

21. State whether your truck in the alleged accident collided with any object, and if your answer is in the affirmative, describe the object in detail.

22. State whether or not your truck ran off of the paved portion of the highway at the time of or immediately prior to the alleged accident, and if your answer is in the affirmative, state what distance the said truck ran off of the highway measured longitudinally and what distance it was off of the highway measured laterally.

23. Describe in detail the damage done to your truck in the alleged accident, describing each part which was damaged and the cost of repairing or replacing each of said parts.

24. State the name and address of the garage man who repaired your truck and attach to your answer a true and correct copy of the repair bill.

25. State whether or not the above mentioned repair bill has been paid in whole or in part by you, and if so, the date and amount of each such payment.

26. State the condition of the brakes on your truck immediately before the accident.

27. State the date upon which said brakes were last repaired or adjusted before the alleged accident and give the name and address of the garage which adjusted or repaired the brakes, and describe in detail such repairs.

28. Is it not a fact that the brakes on one or more of the wheels of your truck grabbed or locked to the point that said wheel or wheels ceased to turn before the forward

motion of your truck had ceased when the brakes were applied immediately before the alleged accident?

29. If your answer to the next preceding interrogatory is in the affirmative, state which one or more of the wheels locked.

30. State whether or not any one or more of the wheels on your truck skidded between the time the brakes were first applied thereon and the time your truck came to a complete stop immediately before the alleged accident, and if your answer is in the affirmative, describe the distance which each one of said wheels skidded.

31. State the position of your truck immediately after it stopped after the alleged accident, stating the position of the truck on the pavement and whether or not all four wheels of the truck were on the pavement and if not, which wheels were not on the pavement.

32. Is it not a fact that when the brakes were applied on your truck immediately before the accident, the rear wheels went up in the air and the truck stood on its front end; if your answer is in the negative, describe the behavior of said truck in detail from the time the brakes were first applied until the time it came to a complete stop.

33. State whether or not your truck was loaded at the time of the accident; and if your answer is in the affirmative, describe the load, giving the weight of the truck and the weight of the load.

34. State whether you claim that you sustained any personal injuries in this accident, and if so, describe the injuries in detail and completely.

35. State whether or not you were treated by any physician on account of said injuries, and if so, give the name and address of each such physician who treated your injuries and the date of each treatment, the nature of each such treatment and the place where each such treatment was had, whether at home, or at office or at a hospital.

36. State whether you visited or were admitted to any hospital for the treatment of the injuries which you claim you received in this accident; if so, give the name and address of each such hospital and each one of the dates on which you were present at said hospital for treatment.

37. State whether or not you incurred any expense on account of any of the injuries which you claim to have received in said accident; if your answer is in the affirmative, itemize each said item of expense with the date and the amount of each item and a description of each item, and attach to your answer a true copy of each bill rendered to you by any physician and by any hospital or by any drug store on account of any such expense.

38. Please state whether or not you have paid any of the expenses referred to in the next preceding interrogatory, and if your answer is in the affirmative, give the date and amount of each such payment.

39. Please state whether or not you claim that you lost any time from your work on account of the injuries which you claim to have received in this accident, and if your answer is in the affirmative, itemize in detail each date that you lost time from work and give the name and address of your employer and the amount of your salary or wage.



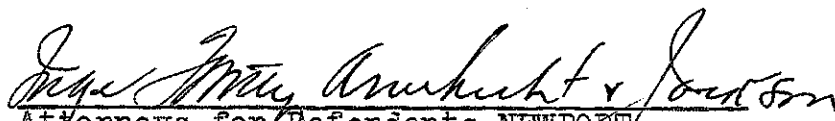
40. Please state whether or not you claim to have sustained any permanent injury on account of said accident, and if your answer is in the affirmative, describe in detail and completely the nature and extent of such injury and the symptoms thereof.

41. State the name and address of each one of the occupants of your said truck at the time of said accident, and state in detail the understanding and agreement which you had with each such occupant pertaining to your transportation of such occupant in said truck at the time of said accident.

42. State whether or not any of the occupants of said truck paid or agreed to pay to you any money or other award directly or indirectly for the transportation which was being furnished to such occupant immediately prior to said accident, and if your answer is in the affirmative, state the name of each such occupant and describe the award in detail.

43. State whether or not you are related by blood or marriage to any of the persons who occupied your truck immediately before said accident, and if your answer is in the affirmative, state the name of each such individual and describe the relationship in detail.

44. State whether or not you had any conversation with the driver of the Newport Industries vehicle after the alleged accident and pertaining to the said accident, and if your answer is in the affirmative, state when and where such conversation took place and state as nearly as you can the exact words exchanged therein by each of you.

  
Attorneys for Defendants NEWPORT  
INDUSTRIES, INC. and JAMES H. CHAFFIN

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before the undersigned Notary Public in and for said State and County personally appeared T. E. TWITTY, known by me to be one of the attorneys of record for the defendants in the above styled cause, and who, being first duly sworn on oath, deposes and says that he has read the foregoing interrogatories and that the answers thereto, if truthfully made, will be material evidence for the defendants in the trial of said cause.

*J. E. Twitty*

SUBSCRIBED and sworn to before me

this 18<sup>th</sup> day of May, 1953.

*Marie R. Cheukant*  
Notary Public, Mobile County, Alabama.

Service accepted this 20  
day ~~of~~ May, 1953.

*J. E. Twitty*  
Attorney for Plaintiff

1971

FILED

MAY 23 1953

ALICE J. DICK, Registrar

INGE, TWITTY, ARMBRECHT & JACKSON  
LAWYERS

WM. H. ARMBRECHT (1874-1941)  
FRANCIS H. INGE, COUNSEL

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MAILING ADDRESS:

P. O. BOX 1109  
MOBILE 6, ALA.

CABLE ADDRESS:  
ARMING

THOS. E. TWITTY  
WM. H. ARMBRECHT, JR.  
THEO. K. JACKSON, JR.  
RICHARD H. INGE  
NICHOLAS S. MCGOWIN  
JOHN W. MCCONNELL, JR.  
MARSHALL J. DEMOUY  
WM. H. ARMBRECHT, III  
THOS. E. TWITTY, JR.

May 21, 1953

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

Re: Andrew James Lollar vs.  
Newport Industries, Inc., et al  
At Law No. 1973

Silas Morgan vs.  
Newport Industries, Inc., et al  
At Law No. 1972

J. W. Jones vs.  
Newport Industries, Inc., et al  
At Law No. 1971

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Dear Mrs. Duck:

We are enclosing defendants' Demurrer to the Complaint and Interrogatories Propounded by Each One of the Defendants to the Plaintiff in each of the above three cases, which we will appreciate your filing for us and acknowledging receipt thereof.

You will note that service has been accepted by the attorney for the plaintiff on each of the enclosures under date of May 20, 1953.

With kindest regards,

Cordially,



TET  
ndu

Enclosures.

VINCENT F. KILBORN

LAWYER

FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

TELEPHONE 2-2635

VINCENT F. KILBORN

WALLACE L. JOHNSON

CABLE ADDRESS: VEEKAY

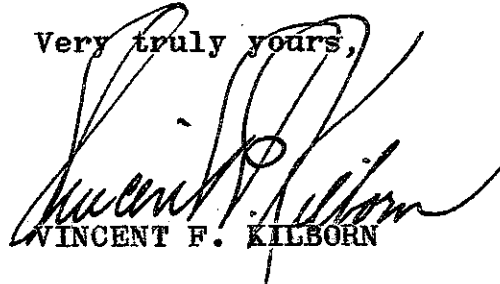
April 22nd, 1953

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

Dear Mrs. Duck:

I enclose herewith three companion suits which I would appreciate your filing for me. If and when pleadings are filed in these cases, please forward them on to me.

Very truly yours,



VINCENT F. KILBORN

jle

Encl.

1977 July

~~1977~~ J. W. Jones

VS  
Newport Industries, Inc. a corp

VS

Damages  
Filed 4-23-53

Vincent F. Kilbarn