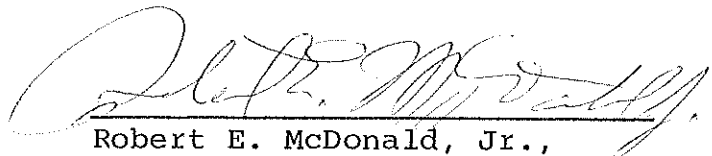


DAVID SCHALL ROSE, a minor,	:	IN THE CIRCUIT COURT OF
who sues by and through his	:	
father, JERRY ROSE, as next	:	BALDWIN COUNTY, ALABAMA
friend,	:	
	:	CASE NO. 9023
Plaintiff,	:	
	:	
Vs.	:	
	:	
FRANKLIN LEVI BUZBEE, et al.	:	
	:	
Defendants.	:	

MOTION TO WITHDRAW

Comes, Robert E. McDonald, Jr., attorney for plaintiff,
and ask that this Honorable Court will allow him to withdraw
and continue this cause and to allow plaintiff to obtain
other counsel.


Robert E. McDonald, Jr.,
Petitioner

FILED
APR 10 1972
EUNICE B. BLACKMON CIRCUIT CLERK

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9023

DAVID SCHALL ROSE, a minor,
who sues by and through his
father, JERRY ROSE, as next
friend,

Plaintiff,

Vs.

FRANKLIN LEVI BUZBEE, FRANK
BUZBEE, and PAUL S. MARTELL,
and JOHN DOE, whose name is
otherwise unknown at this time
but will be added when ascer-
tained, and JAMES DOE, whose
name is otherwise unknown at
this time but will be sub-
stituted when ascertained,
and XYZ COMPANY, whether or
not incorporated, and its
partners if an unincorpor-
ated association whose name
is otherwise unknown at
this time but will be added
when ascertained, and ABC,
INC., a corporation whose
name is otherwise unknown
but will be substituted when
ascertained, jointly and
severally,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

CASE NO. 9023

DEMURRER

Come now the Defendants in the above styled caused,
separately and severally, by and through their attorneys of record,
and demur to the Complaint heretofore filed against them in the
above styled cause and to each and every count thereof, separately
and severally, and show unto the Court the following separate and
several grounds in support thereof:

1. The said Complaint does not state a cause of action.
2. That it does not state facts sufficient to constitute
a cause of action against these defendants.
3. For that negligence is therein alleged merely as a
conclusion of the pleader.
4. For that it is vague, indefinite and uncertain,
in that it does not apprise these defendants with sufficient cer-
tainty against what act or acts of negligence defendants are called
on to defend.

5. It is not alleged with sufficient certainty where said accident occurred.

6. It is not alleged that the negligence complained of proximately caused the accident and the injuries and damages complained of.

7. For that said count is duplicitous.

8. For that each injury complained of in the alternative could not result from each alternative act allegedly causing such injury.

9. For that each alternative averment does not state facts sufficient to constitute a cause of action against these defendants.

10. It is not alleged that the wanton conduct complained of proximately caused the accident and the injuries and damages complained of.

11. There is no allegation of either a willful or wanton act committed by these defendants.

12. There is no allegation of either a willful or wanton injury committed by these defendants.

13. For that each count in the Complaint does not state a cause of action against each individual defendant named in the suit.

14. For the said Complaint does not sufficiently allege an agency relationship under the Doctrine of Respondent Superior between the defendants.

CHASON, STONE & CHASON,

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 16 day of January 1970.

By: [Signature]
Attorneys for Defendants.

FILED

JAN 16 1970

ALICE J. DUCK CLERK
REGISTER

DAVID SCHALL ROSE, a minor, who sues by and through his father, JERRY ROSE, as next friend,

Plaintiff,

V₀ =

FRANKLIN LEVI BUZBEE, FRANK
BUZBEE, and PAUL S. MARTELL,
and JOHN DOE, whose name is
otherwise unknown at this time
but will be added when ascertained,
and JAMES DOE, whose name is
otherwise unknown at this time
but will be substituted when
ascertained, and XYZ COMPANY,
whether or not incorporated,
and its partners if an uninc-
orporated association whose name
is otherwise unknown at this time
but will be added when ascertained,
and ABC, INC., a corporation
whose name is otherwise unknown
but will be substituted when
ascertained, jointly and severally,

References

CASE NO.

COUNT ONE

Plaintiff claims of the defendants, jointly and severally, the sum of TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS, damages for that heretofore, on to-wit, December 5, 1968, the defendant, Franklin Levi Buzbee, the agent, servant or employee of defendants, Frank Buzbee, John Doe and Paul S. Martell, while acting within the line and scope of his authority did so negligently operate a motor vehicle on Alabama Highway No. 59 at a point approximately 0.9 miles south of the aforesaid Alabama Highway No. 59's intersection with U. S. Highway No. 31, the aforesaid Alabama Highway No. 59 being a public road in the County of Baldwin, State of Alabama, as to cause his said vehicle to run into, upon or against an automobile in which the plaintiff was located on the side of the road of the

aforesaid Alabama Highway No. 59 and plaintiff alleges that as a direct and proximate result of the aforesaid negligence of the defendants, he was badly bruised, contused and otherwise injured and plaintiff suffered injuries to his neck, back, and body, and plaintiff has been severely and permanently injured and has suffered both mentally, emotionally and physically, hence plaintiff brings this suit and asks judgment in the above amount.

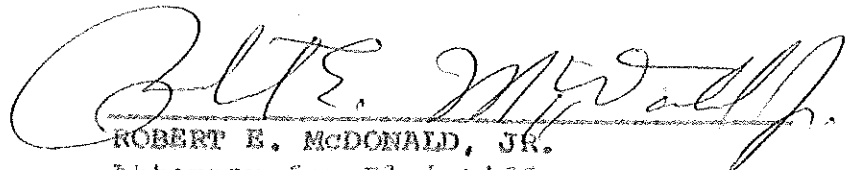
COUNT TWO

Plaintiff claims of the defendants, jointly and severally, the sum of TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS, damages, for that heretofore, on to-wit, December 5, 1968, the defendant, Franklin Levi Buzbee, the agent, servant or employee of defendants, Frank Buzbee, John Doe, and Paul S. Martell, while acting within the line and scope of his authority did so wantonly or willfully injure the plaintiff by causing an automobile to run over, upon or against an automobile which contained the plaintiff and which was parked on the edge of Alabama Highway No. 59, a public highway in the State of Alabama, County of Baldwin, at a point approximately 0.9 miles south of the aforesaid Alabama Highway No. 59's intersection with U. S. Highway No. 31 and as a proximate result plaintiff suffered injuries as follows: He was badly bruised, contused and otherwise injured and plaintiff suffered injuries to his neck, back and body, and plaintiff has been severely and permanently injured and has suffered both mentally, emotionally and physically. Plaintiff also claims punitive damages. Hence plaintiff brings this suit and asks judgment in the above amount.

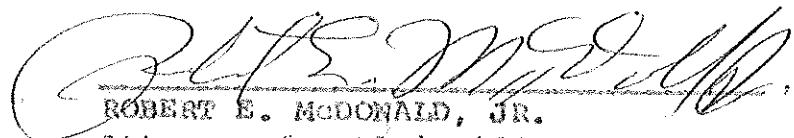
COUNT THREE

Plaintiff claims of the defendants, jointly and severally, the sum of TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS, damages, for that heretofore on to-wit, December 5, 1968, the defendant, James Doe, whose name is otherwise unknown at this time but will be substituted when ascertained, the agent, servant or employee of Richard Roe, or XYZ Company, an unincorporated association of partners and their partners whose names are otherwise unknown at this time but will be substituted when ascertained, or ABC, Inc., a corporation whose name is otherwise unknown at this time but will be substituted when ascertained, while acting within the line and scope of his authority, was in the custody and control of a motor truck which had been disabled and was stopped on the roadway or shoulder of Alabama Highway No. 59, a public highway in the State of Alabama, County of Baldwin, at a point approximately 0.9 miles south of the aforesaid Alabama Highway No. 59's intersection with U. S. Highway 31, and at the aforesaid time and place the defendant did so negligently fail to exhibit warning devices so as to warn oncoming traffic of the disabled condition of his motor truck and then and there at that time the defendant was parked on the shoulder of the aforesaid Alabama Highway No. 59 when the defendant, Franklin Levi Buzbee, the agent, servant or employee of defendants, Frank Buzbee, John Doe, and Paul S. Martell, while acting within the line and scope of his authority did so negligently operate a motor vehicle on Alabama Highway No. 59 at the aforesaid time and place as to cause his vehicle to run into, upon or against the vehicle in which the plaintiff was sitting and as a direct and proximate result of the aforesaid negligence of the defendants, including the negligence of the defendants, operators and owners of the aforesaid motor truck

in failing to warn traffic, the plaintiff was badly bruised, contused and otherwise injured and plaintiff suffered injuries to his neck, back and body, and plaintiff has been severely and permanently injured and has suffered both mentally, emotionally and physically. Hence plaintiff brings this suit and asks judgment in the above amount.


ROBERT E. McDONALD, JR.
Attorney for Plaintiff

Plaintiff respectfully demands trial by jury.


ROBERT E. McDONALD, JR.
Attorney for Plaintiff

Please serve the
Defendants as follows:

Franklin Levi Buzbee, a minor, by serving his father,
Frank Buzbee, at:
Route 1, Box 318
Daphne, Alabama

Frank Buzbee, at:
Route 1, Box 318
Daphne, Alabama

Paul S. Martell, at:
General Delivery
Robertsdale, Alabama

FILED

DEC 3 1969

ALICE J. DUCK CLERK
REGISTER

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA
Baldwin County

Circuit Court, Baldwin County

No. 9023

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon FRANKLIN LEVI BUZBEE, FRANK BUZBEE & PAUL S. MARTELL

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 FRANKLIN LEVI BUZBEE

ET ALS

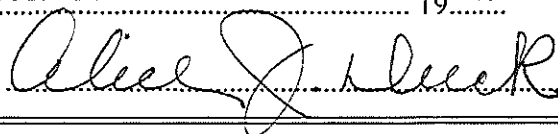
Defendant.....

by DAVID SCHALL ROSE, a minor who sues by and through is father JERRY ROSE, as

next friend,

Plaintiff.....

Witness my hand this 3rd day of December 19 69

 Clerk

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

this 19.....

by leaving a copy with

Sheriff

Deputy Sheriff

Marked

and otherwise injured and plaintiff suffered injuries to his neck, back and body, and plaintiff has been severely and permanently injured and has suffered both mentally, emotionally and physically. Hence plaintiff prays this suit and asks judgment in the above amount.

ROBERT E. McDONALD, JR.
Attorney for Plaintiff

Plaintiff respectfully demands trial by jury.

ROBERT E. McDONALD, JR.
Attorney for Plaintiff

Plaintiff avers the
defendants as follows:

Franklin Levi Buzbee, a minor, by serving his father,
Frank Buzbee, at:
Route 1, Box 318
Daphne, Alabama

Frank Buzbee, at:
Route 1, Box 319
Daphne, Alabama

Paul S. Marshall, at:
General Delivery
Robertsdale, Alabama

FILED

DEC 8 1969

CLERK
REGISTER

FILED

aforesaid Alabama Highway No. 59 and plaintiff alleges that as a direct and proximate result of the aforesaid negligence of the defendants, he was badly bruised, contused and otherwise injured and plaintiff suffered injuries to his neck, back, and body, and plaintiff has been severely and permanently injured and has suffered both mentally, emotionally and physically, hence plaintiff brings this suit and asks judgment in the above amount.

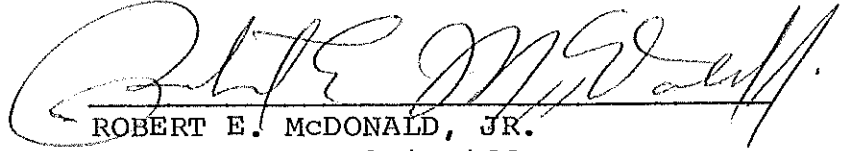
COUNT TWO

Plaintiff claims of the defendants, jointly and severally, the sum of TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS, damages, for that heretofore, on to-wit, December 5, 1968, the defendant, Franklin Levi Buzbee, the agent, servant or employee of defendants, Frank Buzbee, John Doe, and Paul S. Martell, while acting within the line and scope of his authority did so wantonly or willfully injure the plaintiff by causing an automobile to run over, upon or against an automobile which contained the plaintiff and which was parked on the edge of Alabama Highway No. 59, a public highway in the State of Alabama, County of Baldwin, at a point approximately 0.9 miles south of the aforesaid Alabama Highway No. 59's intersection with U. S. Highway No. 31 and as a proximate result plaintiff suffered injuries as follows: He was badly bruised, contused and otherwise injured and plaintiff suffered injuries to his neck, back and body, and plaintiff has been severely and permanently injured and has suffered both mentally, emotionally and physically. Plaintiff also claims punitive damages. Hence plaintiff brings this suit and asks judgment in the above amount.

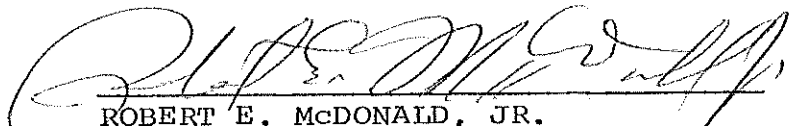
COUNT THREE

Plaintiff claims of the defendants, jointly and severally, the sum of TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS, damages, for that heretofore on to-wit, December 5, 1968, the defendant, James Doe, whose name is otherwise unknown at this time but will be substituted when ascertained, the agent, servant or employee of Richard Roe, or XYZ Company, an unincorporated association of partners and their partners whose names are otherwise unknown at this time but will be substituted when ascertained, or ABC, Inc., a corporation whose name is otherwise unknown at this time but will be substituted when ascertained, while acting within the line and scope of his authority, was in the custody and control of a motor truck which had been disabled and was stopped on the roadway or shoulder of Alabama Highway No. 59, a public highway in the State of Alabama, County of Baldwin, at a point approximately 0.9 miles south of the aforesaid Alabama Highway No. 59's intersection with U. S. Highway 31, and at the aforesaid time and place the defendant did so negligently fail to exhibit warning devices so as to warn oncoming traffic of the disabled condition of his motor truck and then and there at that time the defendant was parked on the shoulder of the aforesaid Alabama Highway No. 59 when the defendant, Franklin Levi Buzbee, the agent, servant or employee of defendants, Frank Buzbee, John Doe, and Paul S. Martell, while acting within the line and scope of his authority did so negligently operate a motor vehicle on Alabama Highway No. 59 at the aforesaid time and place as to cause his vehicle to run into, upon or against the vehicle in which the plaintiff was sitting and as a direct and proximate result of the aforesaid negligence of the defendants, including the negligence of the defendants, operators and owners of the aforesaid motor truck

in failing to warn traffic, the plaintiff was badly bruised, contused and otherwise injured and plaintiff suffered injuries to his neck, back and body, and plaintiff has been severely and permanently injured and has suffered both mentally, emotionally and physically. Hence plaintiff brings this suit and asks judgment in the above amount.


ROBERT E. McDONALD, JR.
Attorney for Plaintiff

Plaintiff respectfully demands trial by jury.


ROBERT E. McDONALD, JR.
Attorney for Plaintiff

Please serve the
Defendants as follows:

Franklin Levi Buzbee, a minor, by serving his father,
Frank Buzbee, at:
Route 1, Box 318
Daphne, Alabama

Frank Buzbee, at:
Route 1, Box 318
Daphne, Alabama

Paul S. Martell, at:
General Delivery
Robertsdale, Alabama

FILED

DEC 8 1969

ALICE J. DUCK

CLERK
REGISTER

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA
Baldwin County

Circuit Court, Baldwin County

No. 9023

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon FRANKLIN LEVI BUZBEE, FRANK BUZBEE & PAUL S. MARTELL

.....
.....
.....
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 FRANKLIN LEVI BUZBEE

ET ALS Defendant.....

by DAVID SCHALL ROSE, a minor who sues by and through is father JERRY ROSE, as
next friend, Plaintiff.....

Witness my hand this 3rd day of December 19 69

Alice J. Luck Clerk

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

DAVID SCHALL ROSE, a minor who sues by
and through his father, JERRY ROSE, as
next friend, Plaintiffs

vs.

FRANKLIN LEVI BUZBEE, ET AL
Defendants

SUMMONS AND COMPLAINT

Filed December 3, 19 69

Alice J. Duck Clerk

Robert E. McDonald, Jr.

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

12/4/69 1969

Taylor Wilkins Sheriff

I have executed this summons

this 5, Dec. 1969

by leaving a copy with

Franklin Levi Buzbee
~~Frank Buzbee~~
not found at
Paul H. Martell

Sheriff claims 88 miles
Ten Cents per mile Total \$ 8.80
TAYLOR WILKINS, Sheriff
BY Deputy Sheriff

W. C. Crook Deputy Sheriff

in Spanish Fort.
Ala