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

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 9023

Plaintiff,

۷s.

:

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

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EUNICE B. BLACKMON CLERK

## 。2015年20日 J. 2015年2月1日 11

DAVID SCHALL ROSE, a minor, χ who sues by and through his father, JERRY ROSE, as next χ friend, IN THE CIRCUIT COURT OF Y Plaintiff. BALDWIN COUNTY, ALABAMA χ Vs. CASE NO. 9023 X FRANKLIN LEVI BUZBEE, FRANK BUZBEE, and PAUL S. MARTELL, and JOHN DOE, whose name is otherwise unknown at this time X but will be added when ascertained, and JAMES DOE, whose χ name is otherwise unknown at this time but will be sub-Y stituted when ascertained, and XYZ COMPANY, whether or Υ not incorporated, and its partners if an unincorporχ ated association whose name is otherwise unknown at X this time but will be added when ascertained, and ABC, χ INC., a corporation whose name is otherwise unknown χ but will be substituted when ascertained, jointly and χ severally, X Defendants. χ

### 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 certainty 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.

By:

CHASON, STONE & CHASON,

for Defendants

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....day

19 70.

JAN 16 1970

ALIGE J. DIGHT CLERK REGISTER

DAVID SCHALL ROSE, a minor who sues by and through his	)	IN THE CIRCUIT COURT
<pre>father, JERRY ROSE, as next friend,</pre>	)	OF BALDWIN COUNTY, ALABAMA
Plaintiff,	) )	
Vs.	) )	
FRANKLIN LEVI BUZBEE, FRANK	)	
BUZBEE, PAUL S. MARTELL,	)	
et al,	)	
	)	
Deferd ants,	)	CASE NO. 9023

## MOTION TO REINSTATE

Comes Robert E. McDonald, Jr., attorney for plaintiff, and shows unto this Honorable Court that when the aforesaid case was set for trial in March he had an agreement with the Hon. John Chason, attorney for the plaintiff, that the above case would be continued as neither side was ready for trial and the pleadings were not settled. That Plaintiff's attorney has not been notified of any hearings on the pleadings or demurrers.

WHEREFORE, THE PREMISES CONSIDERED, plaintiff asks this Honorable Court to reinstate this cause.

ROBERT E. MCDONALD, JR. Attorney for Plaintiff

day of hornest and first class penden prepaid, or by personal defivery.

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CERTIFICATE OF SELVICE

FILED

APR 27 1971

DAVID SCHALL ROSE, a minor, ) IN THE CIRCUIT COURT who sues by and through his father, JERRY ROSE, as next OF BALDWIN COUNTY, ALABAMA ) friend. Plaintiff, Vs. • FRANKLIN LEVI BUZBEE, FRANK BUZBEE, and PAUL S. MARTELL, Ì and JOHN DOE, whose name is otherwise unknown at this time 1 but will be added when ascertained. and JAMES DOE, whose name is otherwise unknown at this time but will be substituted when Ì ascertained, and XYZ COMPANY. whether or not incorporated, 1 and its partners if an unincorporated 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,) ) CASE NO. 2023

#### COUNT ONE

Defendants.

Plaintiff claims of the defendants, jointly and severally, the sum of TEM THOUSAND AND MO/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 8, 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 injuxed and plaintiff suffered injuxies 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 aforegaid 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

An 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. MCDOWALD, 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

0608 999

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

ATTER O. DUNK CLERK REGISTER

# STATE OF ALABAMA

Circuit Court, Baldwin County

	Baldwin County	No. 9023
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	TO	O ANY SHERIFF OF THE STATE OF ALABAMA:
You A:	e Hereby Commanded to Summon	FRANKLIN LEVI BUZERD, FRANK DEZEER & PAUL S. MARTELL
••••••		
•••••		
		within thirty days from the service hereof, to the complaint  ty, State of Alabama, at Bay Minette, against
	I ALS	
bу	MAVID SCHALL ROSE, a minor	who sucs by and through is father JERRY ROSE, as
<u> </u>	text friend,	Plaintiff
Witness	my hand this	lay of December 19 59  Clerk Clerk

No	Page	
STATE OF	ALABAMA	Defendant lives at
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Daldwii	County	
CIRCUI	COURT	Received In Office
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		Sheriff
	Plaintiffs	I have executed this summons
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v Standards	S.	by leaving a copy with
1. And \$400 (100 ) 100 (100 )	Alexander Alexander	
*.	Defendants	
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Filed	19	
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		4 <sup>1</sup>
		S. Allerian Control
••••••••••••••••••••••••••••••••••••••	Plaintiff's Attorney	Sheriff
	Defendant's Attorney	Deputy Sheriff
	····	

ne failing to warn traffic, the praintiff cas badly bruised, conused 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, emetionally and physically.
series presentiff brings this suit and sets judgment in the above amount.

ROBERT B. MCDORALD, JK

Plaintiff respectfully domands trial by jury.

SOMER E NOSONALD, JR.
ALLOTROY for Plaintiff

piezce serva the pelephants as follows:

Franklin Levi Busbae, a minor, by acrving his father. Frank Busbee, atr Route 1, box 318 Daphne, Alabam

> Frank Burbse, at: Route 1, Box 310 Daphne, Alabams

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

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IN THE CIRCUIT COURT DAVID SCHALL ROSE, a minor, ) who sues by and through his ) father, JERRY ROSE, as next OF BALDWIN COUNTY, ALABAMA friend, Plaintiff, ۷s. 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 unincorporated 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,)

#### COUNT ONE

)

Defendants.

CASE NO. 9013

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 aforegaid 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 The state of the s

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# STATE OF ALABAMA Baldwin County

Circuit Court, Baldwin County

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		÷ J	**		.TERM, 19	
	NP.	TO AN	Y SHERIFF OF TH	E STATE OF A	LABAMA:	
You Are Hereby	Comm	anded to Summon FRAN	KLIN LEVI BUZBEE	, FRANK BUZBEE	& PAUL S. MART	ŒLL
				.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	·····	
***************************************	;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;	2	······································			
to appear and	plead,	answer or demur, withi	in thirty days from t	he service hereof,	to the complaint	
filed in the Circu	iit Cour	of Baldwin County, Stat	te of Alabama, at Ba	y Minette, against.	FRANKLIN LEVI	BUZBEE

Defendant......

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

No. 9023

\_\_\_\_\_next\_friend,\_\_\_\_\_\_\_Plaintiff.\_\_\_\_\_

Witness my hand this. 3rd day of December 19 69

Elsel & Due R Clerk

STATE OF ALABAMA Baldwin County  CIRCUIT COURT  Received In Office  DAVID SCHALL ROSE, a. minor who sugs by and through its 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  Clerk  Clerk  Defendant's Attorney	No9023 Page	
CIRCUIT COURT  Received In Office  DAVID SCHALL ROSE, a minox who sugs by and through its 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  Sheriff Clairie Jerry Sheriff  Robert E. McDonald, Jr.  Plaintiff's Attorney  Received In Office  19 69  Sheriff Clairie Sheriff  Received In Office  19 69  Sheriff Clairie Sheriff  Received In Office  19 69  Sheriff Clairie Sheriff  Reputy Sheriff  Reputy Sheriff  Reputy Sheriff  Reputy Sheriff  Reputy Sheriff  Reputy Sheriff	STATE OF ALABAMA	Defendant lives at
DAVID SCHALL ROSE, a. minox who sues by and through its 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  Shoulf claims  January Mellery Sheriff  Received In Office  19 27  19 27  19 27  19 27  19 27  19 27  19 27  19 27  19 27  19 28  19	Baldwin County	Dag Lore Ma
DAVID. SCHALL ROSE, a. minox. who. sugs by and through his father, JERRY ROSE, as next friend, Plaintiffs  vs. Plaintiffs  TRANKLIN LEVI BUZBEE, ET AL  Defendants  SUMMONS AND COMPLAINT  Filed December 3, 19 69  Alice J. Duck Clerk  Shorist claims  Trylor Wilkins, Sheriff  Robert E. McDonald, Jr.  Plaintiff's Attorney  Sheriff  Sheriff  Sheriff  Sheriff  Sheriff	CIRCUIT COURT	-
and through its 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  Sheriff claims  IAYLOR WILKINS, Sheriff  Robert E. McDonald, Jr.  Plaintiff's Attorney  Sheriff  Sheriff  Sheriff  Sheriff	DAVID SCHALL ROSE, a minor who sugs by	12/4/69 19/69
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FRANKLIN LEVI BUZBEE, ET AL  Defendants  SUMMONS AND COMPLAINT  Filed December 3, 19 69  Alice J. Duck Clerk  Sheriff claims Filly  I'en Cents per mile Total \$  I'AYLOR WILKINS, Engriff  Robert E. McDonald, Jr.  Plaintiff's Attorney  Sheriff	vs.	€ <u>.</u>
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Filed December 3, 19 69  Alice J. Duck Clerk  Sheriff claims Fille  Jen Cents per mile Total \$  JAYLOR WILKINS, Sheriff  Robert E. McDonald, Jr.  Plaintiff's Attorney  Sheriff	***************************************	JABARARAMAN THE
Alice J. Duck  Clerk  Sheriff claims  Jen Cents per mile Total \$  JAYLOR WILKINS, Sheriff  RY  DEPUTY SHERIFF  Robert E. McDonald, Jr.  Plaintiff's Attorney  Sheriff	SUMMONS AND COMPLAINT	Frank Buyley
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Ten Cents per mile Total \$  IAYLOR WILKINS, Sheriff  RY  DEPUTY SHERIFF  Plaintiff's Attorney  Sheriff	Alice J. Duck Clerk	
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Robert E. McDonald, Jr.  Plaintiff's Attorney  Sheriff		JAYLOR WILKINS, Shoriff
Plaintiff's Attorney		
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Defendant's Attorney  A Down Land Deputy Sheriff  In Spanish Fort		1070 ()//
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