

JOHN M. O'SHAUGHNESSY,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
IRMA ULRICH,	X	AT LAW CASE NO. 9540
Defendant.	X	

PLEAS

Comes now the Defendant, Irma Ulrich, by and through her attorneys of record and files the following separate and several Pleas to the Plaintiff's Complaint and to each Count thereof separately and severally:

FIRST:

That she is not guilty of the matters alleged therein.

SECOND:

That on, to-wit, the 10th day of January, 1970 on Laurel Avenue approximately One Hundred Thirty-five (135) feet West of its intersection with Cypress Street, both being public roads in the city of Foley, Baldwin County, Alabama, the Plaintiff, John M. O'Shaughnessy, was guilty of negligence which proximately contributed to the accident resulting in damage to the automobile which he was then and there operating.

THIRD:

The Defendant, Irma Ulrich, claims of the Plaintiff, John M. O'Shaughnessy, by way of recoupment, the sum of Eight Hundred Dollars (\$800.00) as damages for that heretofore on, to-wit, January 10, 1970 at a point on Laurel Avenue approximately One Hundred Thirty-five (135) feet West of its intersection with

Cypress Street, both being public roads in the city of Foley Baldwin County, Alabama, and at the same time and place referred to in the Plaintiff's Complaint, the said Plaintiff, John M. O'Shaughnessy, so negligently operated his automobile as to cause the Defendant's automobile to collide with it and as a proximate consequence of said negligence the Defendant's automobile was damaged as follows: The said automobile was bent smashed, broken, and the market value thereof was permanently depreciated, the right front and side were severely damaged, the frame was bent and warped and the front wheels were severely and permanently damaged.

CHASON, STONE & CHASON

By: Shepherd E. Ball

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 11 day

of Nov, 1971.

Shepherd E. Ball

FILED

NOV 11 1971

EUNICE B. BLACKMON CIRCUIT CLERK

JOHN M. O'SHAUGHNESSY,	)	IN THE CIRCUIT COURT OF
	(	
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
	(	
VS.	)	AT LAW
	(	
IRMA ULRICH,	)	
	(	
Defendant.	)	CASE NO. 9540

JOINT MOTION FOR A DISMISSAL

Come now the Plaintiff and the Defendant by and through their Attorneys of Record, and jointly move the Court to dismiss this case with prejudice, taxing one-half the costs against the Plaintiff and one-half the costs against the Defendant.

OF COUNSEL:


CHASON, STONE AND CHASON



EBERHARD E. BALL  
Attorney for Defendant

OF COUNSEL:

LYONS, PIPES AND COOK



WESLEY PIPES  
Attorney for Plaintiff

**FILED**

DEC 9 1971

EUNICE B. BLACKMON CIRCUIT CLERK

JOHN M. O'SHAUGHNESSY, X  
Plaintiff, X IN THE CIRCUIT COURT OF  
X  
vs. X BALDWIN COUNTY, ALABAMA  
X  
IRMA ULRICH, X  
Defendant. X AT LAW CASE NO. 9540  
X

DEMURRER

Comes now the Defendant, Irma Ulrich, by and through her attorneys of record, and demurs to the Complaint heretofore filed against her and to each count thereof, separately and severally, and assigns the following separate and several grounds:

1. For that said Complaint fails to state a cause of action.
2. For that there is no allegation of any duty owing by this Defendant to the Plaintiff.
3. For that there is no allegation that this Defendant breached any duty owed to the Plaintiff.
4. For that there is no allegation that the Plaintiff was wantonly injured by the alleged willfull and wanton conduct of the Defendant.
5. For that there is a misjoinder of causes of action.

CHASON, STONE & CHASON

By: Charles E. Ball  
Attorneys for Defendant

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 24 day of DEC, 1970.

Charles E. Ball

FILED

DEC 24 1970

ALICE J. BECK

CLERK  
REGISTERED

LYONS, PIPES & COOK

ATTORNEYS AT LAW

2510 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

JOSEPH H. LYONS (1900-1957)

36601

AREA CODE 205  
TEL. 432-4463  
P.O. DRAWER 2525

SAM W. PIPES

WALTER M. COOK

GORDON B. KAHN

G. SAGE LYONS

AUGUSTINE MEAHER, III

JAMES B. KIERCE, JR.

WESLEY PIPES

NORTON W. BROOKER, JR.

COOPER C. THURBER

November 3, 1970

Mrs. Alice J. Duck  
Circuit Clerk  
Baldwin County Courthouse  
Bay Minette, Alabama 36507

Re: O'Shaughnessy vs. Ulrich  
LPF File No. 5575

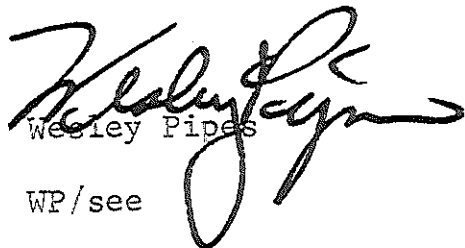
9540

Dear Mrs. Duck:

Enclosed herewith is the original and one copy of a Complaint which we ask that you file and have served upon the Defendant. Also enclosed is our file copy of the Complaint which we ask that you mark filed and return to us in the enclosed, self-addressed envelope.

Yours truly,

LYONS, PIPES AND COOK

  
Wesley Pipes

WP/see

Enclosure

JOHN M. O'SHAUGHNESSY,	)	IN THE CIRCUIT COURT OF
	(	
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
	(	
VS.	)	AT LAW
	(	
IRMA ULRICH,	)	
	(	
Defendant.	)	CASE NO. <u>9540</u>

C O U N T     O N E

Plaintiff claims of the Defendant the sum of TWO THOUSAND AND NO/100 (\$2,000.00) DOLLARS as damages for that heretofore and on, to-wit, the 10th day of January, 1970, the Defendant so negligently operated an automobile on Laurel Avenue approximately ONE HUNDRED AND THIRTY-FIVE (135) feet West of its intersection with Cyprus Street, both being public roads in the City of Foley, County of Baldwin, State of Alabama, as to run into, upon and against the motor vehicle of the Plaintiff which the Plaintiff was then and there lawfully operating on and along Laurel Avenue; and as a proximate result of said negligence the Plaintiff's said motor vehicle was damaged in that the following parts and pieces thereof were bent, broken and smashed: The front bumper, the radiator grill, the grill molding, the right headlights, the radiator, the fan, the water pump, the air-conditioner, the hud latch, the battery, the transmission mount, the right front fender, the right front door, the left front fender, the motor supports and the frame, and the value of the entire vehicle was diminished; and the Plaintiff lost the use thereof for a considerable period of time; all to the Plaintiff's damages as aforesaid; WHEREFORE, this suit.

C O U N T     T W O

Plaintiff claims of the Defendant the sum of TWO THOUSAND AND NO/100 (\$2,000.00) DOLLARS as damages for that heretofore and on, to-wit, the 10th day of January, 1970, the

Defendant so willfully or wantonly operated an automobile on Laurel Avenue approximately ONE HUNDRED AND THIRTY-FIVE (135) feet West of its intersection with Cyprus Street, both being public roads in the City of Foley, County of Baldwin, State of Alabama, as to run into, upon and against the motor vehicle of the Plaintiff which the Plaintiff was then and there lawfully operating on and along Laurel Avenue; and as a proximate result of said willful or wanton act the Plaintiff's said motor vehicle was willfully or wantonly damaged in that the following parts and pieces thereof were bent, broken and smashed: The front bumper, the radiator grill, the grill molding, the right headlights, the radiator, the fan, the water pump, the air-conditioner, the hud latch, the battery, the transmission mount, the right front fender, the right front door, the left front fender, the motor supports and the frame, and the value of the entire vehicle was diminished; and the Plaintiff lost the use thereof for a considerable period of time; all to the Plaintiff's damages as aforesaid; WHEREFORE, this suit.

### C O U N T     T H R E E

The Plaintiff claims of the Defendant the sum of SEVEN HUNDRED FIFTY AND NO/100 (\$750.00) DOLLARS, as damages for that heretofore and on, to-wit, the 10th day of January, 1970, the Defendant so negligently operated an automobile on Laurel Avenue approximately ONE HUNDRED AND THIRTY-FIVE (135) feet West of its intersection with Cyprus Street, both being public roads in the City of Foley, County of Baldwin, State of Alabama, as to run into, upon and against the motor vehicle of the Plaintiff which the Plaintiff was then and there lawfully operating on and along Laurel Avenue; as a proximate result of said negligence, the Plaintiff was injured in that his head was bruised, and he suffered

from headaches for several days, he was caused to expend money for medical attention, and was caused to lose time from his regular employment; WHEREFORE, this suit.

C O U N T   F O U R

The Plaintiff claims of the Defendant the sum of SEVEN HUNDRED FIFTY AND NO/100 (\$750.00) DOLLARS, as damages for that heretofore and on, to-wit, the 10th day of January, 1970, the Defendant so willfully and wantonly operated an automobile on Laurel Avenue approximately ONE HUNDRED THIRTY-FIVE (135) feet West of its intersection with Cyprus Street, both being public roads in the City of Foley, County of Baldwin, State of Alabama, as to run into, upon and against the motor vehicle of the Plaintiff which the Plaintiff was then and there lawfully operating on and along Laurel Avenue; as a proximate result of said willfulness or wantonness, the Plaintiff was injured in that his head was bruised, and he suffered from headaches for several days, he was caused to expend money for medical attention, and was caused to lose time from his regular employment; WHEREFORE, this suit.

LYONS, PIPES AND COOK  
Attorneys for the Plaintiff

BY:

  
WESLEY PIPES

Defendant may be served at P.O. Box 19 , Elberta, Alabama.

**FILED**

NOV 5 1970

**ALICE J. DUCK** CLERK  
REGISTER



SUMMONS AND COMPLAINT

**THE STATE OF ALABAMA**  
**BALDWIN COUNTY**

Circuit Court, Baldwin County

} No. 9540

.....TERM. 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon IRMA ULRICH

.....  
.....  
.....

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.....

IRMA ULRICH ... Defendant.....

by JOHN M. O'SHAUGHNESSY

....., Plaintiff.....

Witness my hand this..... 5th ..... day of..... November ..... 1970

Alice J. Luck Clerk

No. 9540

Page.....

**THE STATE OF ALABAMA**  
**BALDWIN COUNTY**

**CIRCUIT COURT**

JOHN M. O'SHAUGHNESSY

Plaintiffs

vs.

IRMA ULRICH

Defendants

**SUMMONS AND COMPLAINT**

Filed Nov. 5, 1970

Alice J. Duck Clerk

Lyons, Pipes & Cook

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Recieved In Office

Nov. 5 1970

Taylor Wilkins Sheriff

I have executed this summons

this Dec. 8 1970

by leaving a copy with

Irma (Ulrich)

Sheriff claims 8 1/2 miles at

Ten Cents per mile Total \$ 8.70

TAYLOR WILKINS, Sheriff

BY [Signature] DEPUTY SHERIFF

[Signature] Sheriff

[Signature] Deputy Sheriff



8. For that it does not appear from said Plea that this Plaintiff owed any duty to the Defendant at the time and place complained of.

9. For that the averments set up, if true, do not show any liability on the part of this Plaintiff.

10. Said Plea attempts to set forth the facts showing negligence on the part of this Plaintiff, but the facts alleged do not constitute negligence as a matter of law.

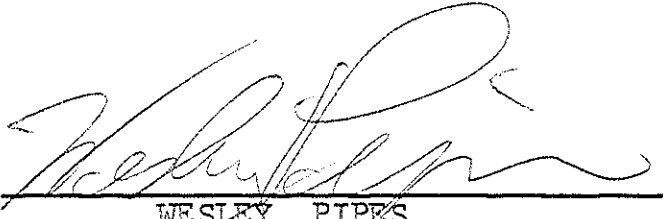
11. For that said Plea seeks to charge the quo modo, but the facts alleged therein are insufficient to constitute negligence as a matter of law.

12. Said Plea fails to allege facts showing that the Defendant's damages were the proximate result of any negligence on the part of this Plaintiff.

13. Said Plea fails to allege any causal connection between the alleged negligence of this Plaintiff and the alleged damages of the Defendant.

OF COUNSEL:

LYONS, PIPES AND COOK  
Attorneys At Law  
2510 First National Bank Bldg.  
Mobile, Alabama

  
WESLEY PIPES  
Attorney for Plaintiff

**FILED**

NOV 18 1971

EUNICE B. BLACKMON CIRCUIT CLERK

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CERTIFICATE OF SERVICE  
I do hereby certify that I have on this 12 day of November, 1971, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.  
