

9774

STATE OF ALABAMA
DEPARTMENT OF INSURANCE

I, the undersigned as Superintendent of Insurance for the State of Alabama,
hereby certify that on the 2nd day of April, 1971, I
sent by registered mail in an envelope as follows:

Mr. C. H. Payne, Regional Vice President
State Farm Mutual Automobile Insurance Company
2100 South 18th Street
Birmingham, Alabama 35202

REGISTERED MAIL
RETURN RECEIPT REQUESTED

bearing sufficient prepaid postage, a copy of a summons and complaint served upon
me by the Sheriff of Montgomery County, Alabama, in a cause styled as follows:

John E. Shenk, Plaintiff

VERSUS

in the Circuit Court of Baldwin County

(Name of Court)

State Farm Mutual Automobile Ins. Co., Defendant

And that on the 8th day of April, 1971, I received
the return card showing receipt by the designated addressee of said envelope on
the 6th day of April, 1971.

Witness my hand and official seal this the 9th day of April,
1971.

John D. Bookout
SUPERINTENDENT OF INSURANCE

FILED

APR 12 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

JOHN E. SHENK,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
	X		
vs.	X	BALDWIN COUNTY, ALABAMA	
	X		
STATE FARM MUTUAL	X	AT LAW	NO. 9774
AUTOMOBILE INSURANCE	X		
COMPANY,	X		
Defendant.	X		

PLEA IN ABATEMENT

Comes the Defendant, State Farm Mutual Automobile Insurance Company, and files this its Plea in Abatement and shows unto this Court as follows:

1. That the Plaintiff can not now maintain this suit for that the policy of insurance which is the foundation thereof provides that no suit or action on said policy for the recovery of any claims shall be sustained in any court of law or equity unless all of the requirements of the policy have been complied with, and that said policy provides that in case the insured and the company shall fail to agree as to the actual cash value of the amount of the loss then the claims shall be submitted for appraisal and arbitration and no such appraisal and arbitration has been undertaken, wherefore, said suit is due to be abated. The Defendant further avers and alleges that it has not by act or words waived the provisions of the policy requiring submission to appraisal in the event the insured and the company fail to agree upon the actual cash value of the amount of the loss and that it has not, by acts or conduct, waived said policy requirements.

CHASON, STONE & CHASON

FILED

JUN 23 1971

EUNICE B. BLACKMON CIRCUIT CLERK

EVOL

By:

70 Attorneys for Defendant

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Julia W. Brock a Notary Public,
in and for said County in said State, personally appeared John
Chason, who is known to me and who, after being by me first duly
and legally sworn, deposes and says on oath that he is informed
and believes and upon the basis of such information and belief
states that the facts contained in the foregoing Plea in Abatement
are true and correct.

John Chason
John Chason

Sworn to and subscribed before
me this 23rd day of June,
1971.

Julia W. Brock
Notary Public, Baldwin County, Alabama

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 23 day
of June, 1971.

John Chason

FILED

JUN 23 1971

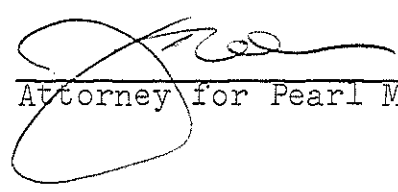
EUNICE B. BLACKMON CIRCUIT
CLERK

JOHN E. SHENK,)	
)	
Plaintiff,)	IN THE CIRCUIT COURT OF
)	
VS.)	BALDWIN COUNTY, ALABAMA
)	
STATE FARM MUTUAL AUTOMOBILE)	AT LAW
INSURANCE COMPANY,)	NO. 9774
)	
Defendant.)	

MOTION TO REVIVE

Now comes Pearl M. Shenk, as executrix of the Last Will and Testament of the plaintiff, John E. Shenk, deceased, and shows unto the court that the plaintiff, John E. Shenk, departed this life on to-wit, February 8, 1973, and Pearl M. Shenk has been duly appointed executrix of the Last Will and Testament and has qualified as such.

WHEREFORE, Pearl M. Shenk, as executrix aforesaid, moves that this cause be revived as to John E. Shenk by the substitution of Pearl M. Shenk as executrix of the Last Will and Testament of John E. Shenk, deceased, as plaintiff.

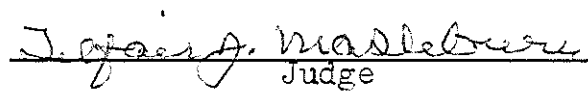

 Attorney for Pearl M. Shenk

ORDER OF REVIVER

The above petition coming on to be heard and being understood by the court, it is,

ORDERED, ADJUDGED AND DECREED that the petition of Pearl M. Shenk, as executrix of the Last Will and Testament of John E. Shenk, deceased, be substituted as plaintiff in this cause and that said cause be and the same is hereby revived with the said petitioner as plaintiff therein and she is hereby authorized to proceed as plaintiff therein to a final determination of said cause.

ORDERED, ADJUDGED AND DECREED on this the 16th day of April, 1973.


 Judge

STATE OF ALABAMA)
 *
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon State Farm Mutual Automobile Insurance 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 the same, then and there to answer the complaint of John E. Shenk.

WITNESS my hand this 29 day of March, 1971.

Ernie B. Blackner
Clerk

JOHN E. SHENK,)	
)	
Plaintiff,)	IN THE CIRCUIT COURT OF
VS.)	BALDWIN COUNTY, ALABAMA
STATE FARM MUTUAL AUTOMOBILE)	
INSURANCE COMPANY,)	AT LAW NO. _____
)	
Defendant.)	

C O M P L A I N T

COUNT ONE


Plaintiff claims of the defendant the sum of Ten Thousand Dollars (\$10,000.00) damages, with interest thereon, for that heretofore on to-wit, August 1, 1970, while the plaintiff was driving his automobile in a Northerly direction on Baldwin County Highway No. 39, which is a public road in Baldwin County, Alabama, at a point approximately 2.1 miles South of the City Limits of Bay Minette, one, Wayne V. Middleton, who was then and there an agent, servant or employee of one, Ray C. Middleton, acting within the line and scope of his authority as such agent, servant or employee, so negligently operated an automobile so as to cause it to run into, upon or against the automobile of the plaintiff and as a proximate result of the negligence of the said Wayne V. Middleton, the agent, servant or employee of the said Ray C. Middleton, acting within the line and scope of his authority as such agent, servant or employee at said time and place, the plaintiff was injured and damages as follows: he suffered cuts, bruises and contusions of his entire body; he was made sick, sore and nervous; he was caused to lose time from his employment; he was caused to spend large sums of money for hospital and doctor bills in and about the treatment of his injuries. Plaintiff avers that all of his injuries and damages were the direct and proximate result of the negligence of the said Wayne V. Middleton, the agent, servant or employee of the said Ray C. Middleton, at said time and place, acting within the line and scope of his authority as such agent, servant or employee.

Plaintiff avers that at said time and place of the aforesaid accident and at the time the aforesaid injuries occurred,

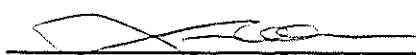
the said Wayne V. Middleton and Ray C. Middleton were uninsured motorist.

Plaintiff further avers that at the time of the aforesaid accident there was in full force and effect an insurance policy issued by the defendant to plaintiff for a valuable consideration paid by plaintiff under the terms and conditions of which insurance policy, the defendant agreed to pay all damages up to \$10,000.00 proximately resulting to the plaintiff by reason of the negligent operation of a motor vehicle by an uninsured motorist.

Plaintiff avers that he has made demand upon the defendant to pay the benefits provided for in said insurance policy according to the terms and conditions thereof; that said policy was in full force and effect at the time the plaintiff's damages were incurred; that the said Wayne V. Middleton and Ray C. Middleton are uninsured motorist under the terms and conditions of said policy; that the plaintiff is the owner of said policy of insurance; that plaintiff's damages exceed the sum of \$10,000.00 and that the defendant is obligated under the terms and conditions of said policy to pay plaintiff's damages; all of which the defendant has failed and continues to fail to pay, hence this suit.


Attorney for Plaintiff

Plaintiff demands a trial by jury of said cause.


Attorney for Plaintiff

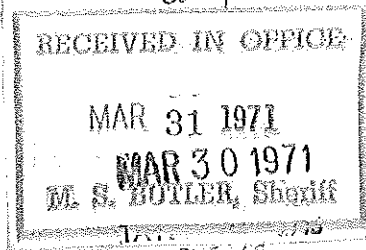
ADDRESS OF DEFENDANT:

Please serve defendant through the Commissioner of Insurance, Montgomery, Alabama.

FILED

MAR 29 1971

EUNICE B. BLACKMON
CIRCUIT CLERK



John E. Shenk

vs.

State Farm Mutual

Executed by serving 2 copies of
the within on John Borkert

Superintendent
of Insurance, State of Alabama

This the 2 day of Apr 1971

Sheriff of Montgomery County

M. S. Butler,

By W. J. Moser D. S.

FILED

MAR 29 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

M. S. Butler, Sheriff of Montgomery
County, Alabama, Claim \$1.50 each for
serving 1 process(es) and \$1.00
travel expense on each of 1
process(es) for a total of \$2.50

W. J. Moser Deputy Sheriff

J. R. Owen

Rickaby & Bentzen