

CASE NO. 35251

EVELYN G. LONDON

VS.

TONY BARTEL

STATE OF ALABAMA )

COUNTY OF MOBILE )

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the enclosed is a full, true and correct transcript of the orders, minutes and proceedings had in the above entitled cause and the enclosed papers Number One (1) and Two (2), both inclusive, are the original pleadings filed in this Court in the above entitled cause.



CLERK, CIRCUIT COURT, MOBILE COUNTY, ALABAMA

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW

CASE NO. 35251 - HODNETTE

M.A. MARSAL

EVELYN G. LONDON

JURY

VS. Suit for \$10,000.00 damages for personl injuries.  
(TORT)

COLLINS, GALLOWAY & MURPHY  
BY: THOMAS M. GALLOWAY

TONY BARTEL

N.J.

\*\*\*\*\*  
PLEADINGS, PROCESS, ETC, \* FILING DATE \*  
\*\*\*\*\*  
1. Complaint & Summons \* 4-15-71 \* C & S served on Tony Bartel on April 29, 1971.  
2. Plea in Abatement \* 5-18-71 \*  
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May 28, 1971 - Plea in Abatement sustained and case and file ordered  
transferred to the Circuit Court of Baldwin County,  
Alabama. /s/ Robert E. Hodnette

43-334

FILED

JUN 2 1971

EUNICE B. BLACKMON CIRCUIT CLERK

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.  
In Witness whereof I have hereunto set my hand and attached my Official Seal as such Clerk of said Court at Mobile, Mobile County, Alabama, on this the 1st day of June 19 71.

*John E. Mandeville*, Clerk

EVELYN G. LONDON,

Plaintiff,

VS

TONY BARTEL,

Defendant.

X IN THE CIRCUIT COURT OF

X MOBILE COUNTY, ALABAMA

X AT LAW

X

X CASE NO. 35251

Plaintiff claims of the defendant the sum of TEN THOUSAND AND NO/100 (\$10,000.00) DOLLARS as damages for that heretofore and on, to-wit, the 1st day of September, 1970, the defendant did so negligently operate an automotive vehicle on and along U. S. Highway #98, at or near its intersection with Faircloth Field Road, both roads being public roads in Baldwin County, Alabama, as to cause said automotive vehicle to run into, upon, over and against the plaintiff's automobile which the plaintiff was operating on U. S. Highway #98 at the time and place aforesaid, and as a direct and proximate result of the negligence of the defendant as aforesaid plaintiff sustained multiples injuries about her body, was made sick and sore and suffered physical pain and mental anguish and has been caused to incur numerous expenses in and about the treatment of her injuries and, plaintiff's automobile was badly bent, broken, dented and damaged, all for which plaintiff sues.

M. A. Marsal  
M. A. MARSAL, Attorney for Plaintiff

Plaintiff demands trial  
by jury of this cause.

M. A. Marsal  
M. A. MARSAL, Attorney for Plaintiff

Serve Defendant  
Route 3, Box 170  
Elberta, Alabama

STATE OF ALA. MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON

APR 15 3 29 PM '71

John Marshall  
CLERK

VOL

69 PAGE 203

**THE STATE OF ALABAMA**  
MOBILE COUNTY

**CIRCUIT COURT**

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

TONY BARTEL

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,  
at the place of holding the same, then and there to answer the complaint of

EVELYN G. LONDON

WITNESS: John E. Mandeville, Clerk of said Court, this 15th day of April, 19 71

Attest:

*John E. Mandeville*

Clerk

**SHERIFF'S RETURN**

Received \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and on \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, I served a copy of  
the within \_\_\_\_\_ on \_\_\_\_\_  
by service on \_\_\_\_\_

RAY D. BRIDGES, SHERIFF

By \_\_\_\_\_ D.S.

69 APR 20 1971

Ex 4-29-71

Mail

No. 35251

JUDGE \_\_\_\_\_ DOCKET \_\_\_\_\_

CIVIL DIVISION

**CIRCUIT COURT**  
MOBILE COUNTY

Evelyn G. London

VS.

Complaint and Summons

Tony Bartel

Issued 15th day of April, 1971

Defendant's Address

Route 3, Box 170  
Elberta, Alabama

M. A. MARSAL

Plaintiff's Attorney

TAYLOR WILKINS, SHERIFF OF BALDWIN  
COUNTY, ALABAMA, CLAIM \$1.50 EACH  
FOR SERVING \_\_\_\_\_ PROCESSES AND  
TRAVEL EXPENSE ON EACH OF \$10.00  
PROCESSES OR A TOTAL OF \$115.00

MOBILE SHERIFF DEPT.  
MOBILE COUNTY, ALA.

11, APR 23 3 01 PM '71

AK

By service on \_\_\_\_\_

Received \_\_\_\_\_ day of \_\_\_\_\_ April 1971  
and on \_\_\_\_\_ day of \_\_\_\_\_ April 1971  
I served a copy of the within \_\_\_\_\_  
on \_\_\_\_\_ Tony Bartel

TAYLOR WILKINS, Sheriff  
By *Taylor Wilkins*

**THE STATE OF ALABAMA**  
MOBILE COUNTY

**CIRCUIT COURT**

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

TONY BARTEL

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,  
at the place of holding the same, then and there to answer the complaint of

EVELYN G. LONDON

WITNESS: John E. Mandeville, Clerk of said Court, this 15th day of April, 1971

Attest:

*John E. Mandeville*

Clerk

**SHERIFF'S RETURN**

Received \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and on \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, I served a copy of  
the within \_\_\_\_\_ on \_\_\_\_\_  
by service on \_\_\_\_\_

RAY D. BRIDGES, SHERIFF

By \_\_\_\_\_ D.S.

69-204

Ex 4-29-71

*Mail*

No. 35251

JUDGE \_\_\_\_\_ DOCKET \_\_\_\_\_

CIVIL DIVISION

**CIRCUIT COURT**  
MOBILE COUNTY

Evelyn G. London

VS. } Complaint and Summons

Tony Bartel

Issued 15th day of April, 1971

Defendant's Address

Route 3, Box 170  
Elberta, Alabama

M. A. MARSAL

Plaintiff's Attorney

TAYLOR WILKINS, SHERIFF OF BALDWIN  
COUNTY, ALABAMA, CLAIM \$1.50 EACH  
FOR SERVING 1 PROCESSSES) AND  
TRAVEL EXPENSE ON EACH OF \$10.00  
PROCESSSES) OR A TOTAL OF \$ 11.50

Received 21 day of April, 1971  
and on 24 day of April, 1971  
I served a copy of the within 248  
on Tony Bartel  
By serving on \_\_\_\_\_  
TAYLOR WILKINS, Sheriff  
s/ *David L. Chittenden*

EVELYN G. LONDON,	:	IN THE CIRCUIT COURT OF
Plaintiff,	:	MOBILE COUNTY, ALABAMA
VS:	:	AT LAW
TONY BARTEL,	:	
Defendant	:	CASE NO. 3 5 2 5 1 <i>RA</i>

PLEA IN ABATEMENT

Comes now Tony Bartel and appearing specially and only for the purpose of filing this plea in abatement, respectfully moves the Court to abate the cause of action filed in this Court, which cause of action was heretofore filed in said Court and service of process was had upon Tony Bartel as a party defendant in this cause, and as grounds therefore, sets down and assigns the following, separately and severally:

1. For that it affirmatively appears from the face of the complaint that this is an action ex delicto and that the act or omission complained of in the plaintiff's complaint occurred in Baldwin County, Alabama.

2. For that it affirmatively appears from the face of the complaint that the defendant is a resident of Baldwin County and that service of process was had upon him in Baldwin County.

3. For that the reason set out in 1 and 2 above there is improper venue as set forth in Title 7, Section 54, which requires..."all other personal actions, if the defendant or one of the defendants, has within the state a permanent residence, may be brought in the county of such residence, or in the county in which the act or omission complained of may have been done or may have occurred."



Wherefore, the premises considered, for the reasons hereinabove assigned, separately and severally, your movant respectfully moves this Court to abate this action filed heretofore in the County of Mobile and the Circuit Court in the State of Alabama, and that this Court transfer such action to a court of proper venue, which appears from the face of the pleadings to be in Baldwin County, Alabama.

COLLINS, GALLOWAY & MURPHY

BY: Thomas M. Galloway  
Thomas M. Galloway  
ATTORNEYS FOR DEFENDANT TONY BARTEL

CERTIFICATE OF SERVICE

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

Tom M. Galloway

STATE OF ALA. MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON

MAY 18 1 20 PM '71

Robert M. Mansoelle  
CLERK

FRIDAY, MAY 28, 1971

EVELYN G. LONDON	)	PLEA IN ABATEMENT SUSTAINED, AND
	)	CASE AND FILE ORDERED TRANSFERRED
HODNETTE      -vs-      35251	)	TO THE CIRCUIT COURT OF BALDWIN
	)	COUNTY, ALABAMA
TONY BARTEL	)	

This day in open Court came the parties by their attorneys, and defendant's Plea in Abatement filed May 18, 1971 to the complaint in this cause, coming on to be heard and being argued by counsel and understood by the Court;

It is ordered and adjudged by the Court that defendant's said Plea in Abatement filed May 18, 1971 to the complaint in this cause be, and the same is hereby sustained, and case and file ordered transferred to the Circuit Court of Baldwin County, Alabama.

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STATE OF ALABAMA, }  
COUNTY OF MOBILE }

## IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby  
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

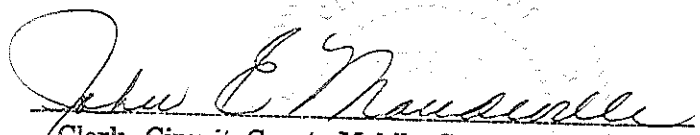
as rendered by the said Circuit Court on the 28th day of May, 19 71, in the cause  
entitled No. 35251 - EVELYN G. LONDON

\_\_\_\_\_, Plaintiff,  
— versus — TONY BARTEL

Defendant, (~~TOGETHER WITH THE DEFENDANT'S ANSWER~~), as the same remains of record in this office in  
Minute Book No. 43, Page No. 334

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office  
in the City of Mobile, Alabama, on this the 1st day of June, 19 71.

ATTEST:

  
Clerk, Circuit Court, Mobile County, Alabama.

**CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY**

EVELYN G. LONDON

Plaintiff

No. 35251

VS

TONY BARTEL

Defendant

## BILL OF COST

(Act No. 740, Reg. Session Ala. Legislature 1957  
 Appvd. Sept. 20, 1957)  
 (Amend Sec. 21, Title 11, Code Ala. 1940)

(Act No. 571, Reg. Ses. Leg. 1955)  
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

[illegible]

I respectfully beg to advise that if this bill for costs is not paid before \_\_\_\_\_ 19\_\_\_\_\_, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk

COLLINS, GALLOWAY & MURPHY

ATTORNEYS AT LAW

958 DAUPHIN STREET

MOBILE, ALABAMA 36604

FRED G. COLLINS  
THOMAS M. GALLOWAY  
M. THOMAS MURPHY (1924-1956)  
ROBERT H. SMITH  
WILSON M. HAWKINS, JR.

P. O. Box 4492  
TELEPHONE  
432-0568  
AREA CODE 205

February 7, 1972

Hon. Eunice Blackmon, Clerk  
Circuit Court  
Baldwin County Court House  
Bay Minette, Alabama

Re: Evelyn G. London  
Vs: Tony Bartel  
Case No. 9860

Dear Mrs. Blackmon:

We enclose herewith an amended answer to be filed  
in the above referred to matter.

Thank you very much.

Very truly yours,

COLLINS, GALLOWAY & MURPHY

By: Robert H. Smith Jr.  
Robert H. Smith

RHS/fs  
Encls:



EVELYN G. LONDON, : IN THE CIRCUIT COURT OF  
 Plaintiff, :  
 VS: : BALDWIN COUNTY, ALABAMA  
 :  
 TONY BARTEL, : AT LAW  
 Defendant. : CASE NO. 9 8 6 0

AMENDED ANSWER

Comes now the defendant in the above styled cause and amends his answer as heretofore filed to the plaintiff's complaint and each count thereof and amends his answer by adding the following separate and several grounds in answer to the plaintiff's complaint and each count thereof as follows:

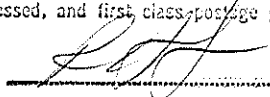
3. For that the plaintiff ought not recover in this action for at the time and place complained of in the complaint the plaintiff so negligently operated the vehicle which she was driving at said time and place as to negligently cause or allow the automobile to <sup>run</sup> onto and against the automobile operated by the defendant at said time and place and the plaintiff by so negligently operating said automobile approximately caused the injuries and damages complained of in her complaint for which she should not recover.

COLLINS, GALLOWAY & MURPHY

By:   
 THOMAS M. GALLOWAY  
  
 ROBERT H. SMITH  
 ATTORNEYS FOR DEFENDANT TONY BARTEL

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 4<sup>th</sup> day of Feb, 1972 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.



**FILED**

FEB 8 1972

EUNICE B. BLACKMON CIRCUIT CLERK

EVELYN G. LONDON,

Plaintiff,

vs.

TONY BARTEL,

Defendant.

) IN THE CIRCUIT COURT  
Baldwin

) OF ~~Mobile~~ COUNTY

) ALABAMA

) AT LAW

) CASE NO. 9860

NOTICE OF DEPOSITION

TO: Mr. Robert H. Smith, Esq.  
P.O. Box 4492  
Mobile, Alabama 36601

Please take notice that on the 11th day of April, 1972  
in the offices of SEALE, MARSAL, SEALE & DUKE, 2410 First National  
Bank Building, Mobile, Alabama, the plaintiff will take the depo-  
sition of Tony Bartel commencing at 10:00a.m. before  
Jack Love or before some other officer authorized by  
law to take depositions. The deposition is to be taken in accordance  
with and pursuant to Act No. 375 of the Alabama Legislature of 1955,  
as amended, and will continue from day to day until the completion  
of same. You are invited to attend and examine the deponent.

M. A. MARSAL, NICHOLAS KEARNEY,  
& KIRTLEY W. BROWN, Attorneys  
for Plaintiff

BY: Nicholas Kearney  
Nicholas Kearney

Issue instanter subpoena for  
Tony Bartel  
Rt. 3, Box 170  
Elberta, Alabama

FILED

APR 10 1972

EUNICE B. BLACKMON CIRCUIT  
CLERK

ALFRED R. EARL, M. D.  
ROBERT T. KING, M. D.  
JOHN E. SEMON, M. D.  
1653 SPRINGHILL AVE.  
MOBILE, ALA. 36604

ORTHOPAEDIC SURGERY

July 18, 1972

TELEPHONE 432-3521

# 9860

Eunice B. Blackmon, Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

RE: Mrs. Evelyn G. London, Plaintiff  
Rt. 2, Box 369  
Pensacola, Fla.

Dear Ms. Blackmon:

I am in receipt of a subpoena to appear in the Circuit Court of Baldwin County on Wednesday, July 26, 1972 in connection with the above captioned case, however I will be out of town on this date and will be unable to give testimony.

Very truly yours,

  
JOHN E. SEMON, M.D.

JES: rc  
CC: M. A. Marsal, Attorney

FILED

JUL 20 1972

EUNICE B. BLACKMON  
CIRCUIT CLERK



EVELYN G. LONDON,

Plaintiff,

vs.

TONY BARTEL,

Defendant.

) IN THE CIRCUIT COURT  
Baldwin

) OF ~~YAZOO~~ COUNTY

) ALABAMA

) AT LAW

) CASE NO. 9860

NOTICE OF DEPOSITION

TO: Mr. Robert H. Smith, Esq.  
P.O. Box 4492  
Mobile, Alabama 36601

Please take notice that on the 10th day of April, 1972  
J. Richard Lundquist, 208 So. Barrancas Ave.  
in the offices of ~~SEAN E. / NICHOLAS / KEARNEY / & / KIRTLLEY / W. / BROWN / ATTORNEYS / AT / LAW /~~  
Warrington, Florida  
~~SEAN E. / NICHOLAS / KEARNEY / & / KIRTLLEY / W. / BROWN / ATTORNEYS / AT / LAW /~~, the plaintiff will take the depo-

sition of Dr. J. Richard Lundquist commencing at 11:00 a.m. before

or before some other officer authorized by

law to take depositions. The deposition is to be taken in accordance  
with and pursuant to Act No. 375 of the Alabama Legislature of 1955,  
as amended, and will continue from day to day until the completion  
of same. You are invited to attend and examine the deponent.

M. A. MARSAL, NICHOLAS KEARNEY,  
& KIRTLLEY W. BROWN, Attorneys  
for Plaintiff

**FILED**

APR 10 1972

EUNICE B. BLACKMON CIRCUIT  
CLERK

BY: Nicholas Kearney  
Nicholas Kearney

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the  
opposing party in the foregoing matter with a copy of this pleading  
by depositing in the United States Mail a copy of same in a  
properly addressed envelope with adequate postage thereon.

This 6 day of April, 19 72

Attorney for

EVELYN G. LONDON,

Plaintiff,

vs.

TONY BARTEL,

Defendant.

) IN THE CIRCUIT COURT  
Baldwin

) OF ~~ALBERTA~~ COUNTY

) ALABAMA

) AT LAW

) CASE NO. 9860

NOTICE OF DEPOSITION

TO: Mr. Robert H. Smith, Esq.  
P.O. Box 4492  
Mobile, Alabama 36601

Please take notice that on the 11th day of April, 1972  
in the offices of SEALE, MARSAL, SEALE & DUKE, 2410 First National  
Bank Building, Mobile, Alabama, the plaintiff will take the depo-  
sition of Tony Bartel commencing at 10:00a.m. before  
Jack Love or before some other officer authorized by  
law to take depositions. The deposition is to be taken in accordance  
with and pursuant to Act No. 375 of the Alabama Legislature of 1955,  
as amended, and will continue from day to day until the completion  
of same. You are invited to attend and examine the deponent.

M. A. MARSAL, NICHOLAS KEARNEY,  
& KIRTLEY W. BROWN, Attorneys  
for Plaintiff

BY:   
Nicholas Kearney

Issue instanter subpoena for  
Tony Bartel  
Rt. 3, Box 170  
Elberta, Alabama

FILED

APR 10 1972

EUNICE B. BLACKMON CIRCUIT  
CLERK

EVELYN G. LONDON, : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
VS: : AT LAW  
TONY BARTEL, :  
Defendant. : CASE NO. 9 8 6 0

A N S W E R

Comes now the defendant in the above styled cause and for answer to the plaintiff's complaint heretofore filed, separately and severally says as follows:

1. Not guilty.
2. Defendant denies material allegations of the plaintiff's complaint.

COLLINS, GALLOWAY & MURPHY

BY:

  
Thomas M. Galloway  
ATTORNEYS FOR DEFENDANT, TONY BARTEL

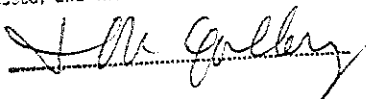
FILED

AUG 5 1971

EUNICE B. BLACKMON CIRCUIT  
CLERK

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 4<sup>th</sup>  
day of July, 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 ad-  
dressed, and first class postage prepaid.



EVELYN G. LONDON, : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
VS: : AT LAW  
TONY BARTEL, :  
Defendant. : CASE NO. 9 8 6 0

A N S W E R

Comes now the defendant in the above styled cause and for answer to the plaintiff's complaint heretofore filed, says, separately and severally says as follows:

1. Not guilty.
2. Defendant denies material allegations of the plaintiff's complaint.

COLLINS, GALLOWAY & MURPHY

BY:

  
Thomas M. Galloway  
ATTORNEYS FOR DEFENDANT, TONY BARTEL

FILED

AUG 5 1971

W. H. BLACKBURN CIRCUIT CLERK

**COLLINS, GALLOWAY & MURPHY**

ATTORNEYS AT LAW

958 DAUPHIN STREET

MOBILE, ALABAMA 36604

FRED G. COLLINS  
THOMAS M. GALLOWAY  
M. THOMAS MURPHY (1924-1956)  
ROBERT H. SMITH  
WILSON M. HAWKINS, JR.

August 4, 1971

P. O. Box 4492  
TELEPHONE  
432-0568  
AREA CODE 205

Mrs. Eunice B. Blackmon  
Clerk of Circuit Court  
Baldwin County Court House  
Bay Minette, Alabama

Re: Evelyn G. London  
Vs: Tony Bartel  
Case No. 9860

Dear Mrs. Blackmon:


Please file the enclosed "Answer" in the above referenced matter and indicate that you have done so by returning the enclosed copy of this letter.

A self-addressed, stamped envelope is enclosed for your convenience in this matter. Thank you very much.

Very truly yours,

COLLINS, GALLOWAY & MURPHY

BY:

  
Thomas M. Galloway

TMG/jk  
Enclosure

EVELYN G. LONDON,

Plaintiff,

VS:

TONY BARTEL,

Defendant.

: IN THE CIRCUIT COURT OF  
:  
: BALDWIN  
: ~~MOBILE~~ COUNTY, ALABAMA

: AT LAW

: CASE NO. 9 8 6 0

### NOTICE OF DEPOSITION

TO: HON. NICHOLAS B. KEARNEY  
ATTORNEY AT LAW  
POST OFFICE BOX 1746  
MOBILE, ALABAMA 36601

You are hereby notified that Tony Bartel  
will take the pretrial discovery  
deposition of Evelyn G. London,  
on February 1, 1972,  
commencing at 10:00 A.M. in the offices of Collins, Galloway &  
Murphy, 958 Dauphin Street, Mobile, Alabama  
before W. J. Kern, Jr., or before some other  
officer authorized by law to take depositions. The  
deposition is to be taken in accordance with and pursuant to  
Act No. 375 of the Alabama Legislature of 1955, as amended,  
and will continue from day to day until the completion of  
same. You are invited to attend and examine the deponent.  
Dated this 24th day of January, 1972.

COLLINS, GALLOWAY & MURPHY

By: 

ROBERT H. SMITH  
ATTORNEYS FOR DEFENDANT

**FILED**

JAN 27 1972

EUNICE B. BLACKMON CIRCUIT CLERK

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