

CUNNINGHAM, HOUNDS & BRD
BY: Robert L. Byrd, Jr.

ALICE TERESA ROY, as Administratrix of the Estate of
EARL HARRIS ROY, JR., Deceased

JURY

VS. Suit for \$150,000.00 damages for fatal injuries.

(PORT)

GEORGE WAYNE FRAZIER; BILLY MIXON; X and Y, the owner and operator, respectively, of the motor vehicle involved in the accident made the basis of this suit, whose true names are otherwise unknown to the Plaintiff at this time but will be added by amendment when ascertained; and Z, the person, firm, partnership or corporation who was the principal employer of George Wayne Frazier at the time of the accident made the basis of this suit, whose true name is otherwise unknown to the Plaintiff at this time, but will be added by amendment when ascertained, jointly and individually

- | | | |
|--|---------|--|
| 1. Complaint & Summons | 6-11-71 | * C & S served on George Wayne Frazier on June 29, 1971. |
| 2. Interrogatories to Delt. | 6-11-71 | * C & S returned "Not Found" on July 1, 1971, as to Billy Mixon. |
| 3. Interrogatories to Delt. | 6-11-71 | * Notice of Interrogatories served on George Wayne Frazier on June 29, 1971. |
| 4. Plea in Abatement (George Frazier) | 7-15-71 | * Notice of Interrogatories returned "Not Found" on June 15, 1971 as to Billy Mixon. |
| 5. Delt. George Wayne Frazier's answers to Interrogatories | 9-2-71 | * September 24, 1971 - Plea in Abatement sustained; Case ordered transferred to the Circuit Court of Baldwin County. |
- 44-65

I, JOHN E. MENDEVILLE, 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 24th day of September 1971.

John E. Mendeville Clerk

ALICE TERESA ROY, as : IN THE CIRCUIT COURT OF
Administratrix of the :
Estate of Earnol Harris :
Roy, Jr., deceased, :

Plaintiff :

v. : MOBILE COUNTY,

GEORGE WAYNE FRAZIER; :
BILLY MIXON; X and Y, :
the owner and operator, :
respectively, of the :
motor vehicle involved :
in the accident made : ALABAMA
the basis of this suit, :
whose true names are :
otherwise unknown to :
the Plaintiff at this :
time but will be added :
by amendment when :
ascertained; and Z, : AT LAW
the person, firm, part- :
nership or corporation, :
who was the principal :
master or employer of :
George Wayne Frazier :
at the time of the ac- :
cident made the basis :
of this suit, whose true :
name is otherwise unknown :
to the Plaintiff at this :
time, but will be added :
by amendment when ascer- :
tained, jointly and :
individually, :

Defendants. : CASE NO. 35879

COUNT ONE

Plaintiff claims of the Defendants the sum of ONE
HUNDRED FIFTY THOUSAND AND NO/100 (\$150,000.00) DOLLARS,
damages, for that heretofore and on, to-wit, April 7,
1971, the Plaintiff's intestate was operating a motor
vehicle on Alabama Highway 225, at a point thereon be-
tween County Road Number 1 and Kilcrease Road, said
Alabama Highway 225 at said point being a public highway
in Baldwin County, Alabama, and at said time and place

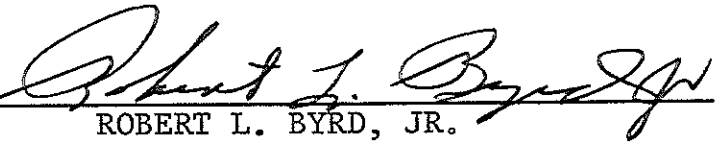
George Wayne Frazier, an agent, servant, or employee of the Defendant Billy Mixon, while acting within the line and scope of his authority as such agent, servant or employee, so negligently operated a motor vehicle as to cause or allow it to collide with a motor vehicle Plaintiff's intestate was then and there operating, and as a direct and proximate result of the Defendant's negligence as aforesaid, the Plaintiff's said intestate sustained injuries which proximately caused his death on April 12, 1971.

COUNT TWO

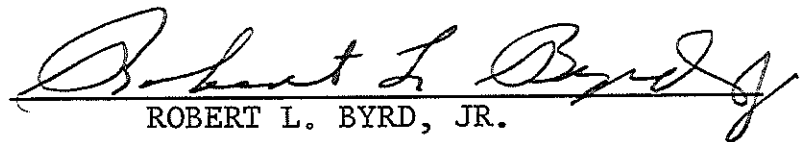
Plaintiff claims of the Defendants the sum of ONE HUNDRED FIFTY THOUSAND AND NO/100 (\$150,000.00) DOLLARS, damages, for that heretofore and on, to-wit, April 7, 1971, the Plaintiff's intestate was operating a motor vehicle on Alabama Highway 225, at a point thereon between County Road Number 1 and Kilcrease Road, said Alabama Highway 225 at said point being a public highway in Baldwin County, Alabama, and at said time and place the Defendant George Wayne Frazier, an agent, servant, or employee of the Defendant Billy Mixon, while acting within the line and scope of his employment as such agent, servant or employee, wantonly caused the death of Plaintiff's intestate by so wantonly operating a motor vehicle at said time and place as to cause or allow it to collide with the vehicle the Plaintiff's intestate was then and there operating, and as a direct and proximate result of the Defendant's wantonness as aforesaid, the Plaintiff's

said intestate sustained injuries which proximately caused his death on April 12, 1971.

CUNNINGHAM, BOUNDS & BYRD
ATTORNEYS FOR PLAINTIFF

BY 
ROBERT L. BYRD, JR.

Plaintiff respectfully demands a trial of this cause by jury.


ROBERT L. BYRD, JR.

TRIAL ATTORNEY: Robert L. Byrd, Jr.

ADDRESS OF DEFENDANTS:

GEORGE WAYNE FRAZIER
Route 1, Box 773
Millbrook, Alabama 36054

BILLY MIXON
Route 1
Millbrook, Alabama 36504

VOL 69 PAGE 672

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

JUN 11 4 12 PM '71


CLERK

THE STATE OF ALABAMA

MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:
You are hereby commanded to summon

GEORGE WAYNE FRAZIER; BILLY MIXON; X and Y, the owner and operator, respectively, of the motor vehicle involved in the accident made the basis of this suit, whose true names are otherwise unknown to the Plaintiff at this time but will be added by amendment when ascertained; and Z, the person, firm, partnership or corporation, who was the principal master or employer of George Wayne Frazier at the time of the accident made the basis of this suit, whose true name is otherwise unknown to the Plaintiff at this time, but will be added by amendment when ascertained, jointly and individually 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 _____

ALICE TERESA ROY, as Administratrix of the Estate of EARNOL
HARRIS ROY, JR., Deceased

WITNESS: John E. Mandeville, Clerk of said Court, this 11th day of JUNE, 1971

Attest: _____

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.

REC'D. SHERIFF
MOBILE COUNTY
JUN 15 3 11 PM '71

EXECUTED BY
Handing a Copy of the Within
To: *GEORGE WAYNE FRAZIER*
THIS JUN 29 1971
Sidney Thrash
SHERIFF ELMORE COUNTY, ALA.

Phil McAdams D.S.

NOT FOUND
IN ELMORE COUNTY
Billy Nixon
THIS JUL 1 - 1971
Sidney Thrash
SHERIFF ELMORE COUNTY, ALA.

Phil McAdams D.S.

The Sheriff Claims *36*
Miles at 10¢ per Mile for a Total
of \$ *3.60*

Sidney Thrash
Sheriff Elmore County, Ala.

Mail
No. *35879- R*
JUDGE *2* DOCKET
CIVIL DIVISION
CIRCUIT COURT
MOBILE COUNTY

Alice Teresa Roy, as Administratrix,
etc.

VS. } Complaint and Summons

George Wayne Frazier; et al

Issued 11th day of June, 1971

Defendant's Address

George Wayne Frazier, Rt. 1, Box 773,
Millbrook, Alabama 36054
Billy Nixon, Rt. 1, Millbrook,
Alabama 36054

Elmore Co.

ROBERT L. BYRD, JR.

Plaintiff's Attorney

ALICE TERESA ROY, as : IN THE CIRCUIT COURT OF
Administratrix of the :
Estate of Earnol Harris :
Roy, Jr., deceased, :

Plaintiff :

v. : MOBILE COUNTY,

GEORGE WAYNE FRAZIER; :
BILLY MIXON; X and Y, :
the owner and operator, :
respectively, of the :
motor vehicle involved :
in the accident made : ALABAMA
the basis of this suit, :
whose true names are :
otherwise unknown to :
the Plaintiff at this :
time but will be added :
by amendment when :
ascertained; and Z, : AT LAW
the person, firm, part- :
nership or corporation, :
who was the principal :
master or employer of :
George Wayne Frazier :
at the time of the ac- :
cident made the basis :
of this suit, whose true :
name is otherwise unknown :
to the Plaintiff at this :
time, but will be added :
by amendment when ascer- :
tained, jointly and :
individually, :

Defendants. : CASE NO. 35879

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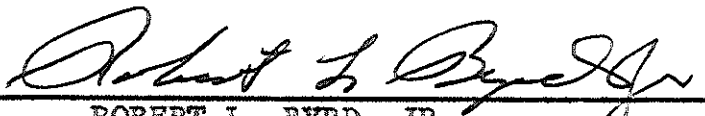
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said intestate sustained injuries which proximately caused his death on April 12, 1971.

CUNNINGHAM, BOUNDS & BYRD
ATTORNEYS FOR PLAINTIFF

BY 
ROBERT L. BYRD, JR.

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Route 1, Box 773
Millbrook, Alabama 36054

BILLY MIXON
Route 1
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THE STATE OF ALABAMA

MOBILE COUNTY

CIRCUIT COURT

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ALICE TERESA ROY, as Administratrix of the Estate of EARNOL
HARRIS ROY, JR., Deceased

WITNESS: John E. Mandeville, Clerk of said Court, this 11th day of JUNE, 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.

No. 35879

JUDGE _____ DOCKET

CIVIL DIVISION

CIRCUIT COURT
MOBILE COUNTY

Alice Teresa Roy, as Administratrix,
et c.

VS. } Complaint and Summons

George Wayne Frazier; et al

Issued 11th day of June, 1971

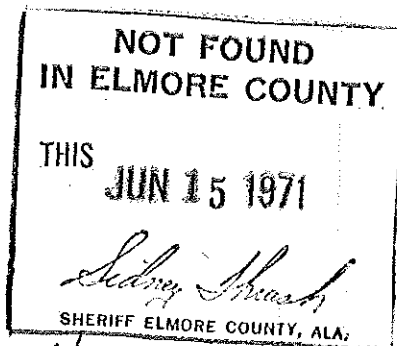
Defendant's Address

George Wayne Frazier, Rt. 1, Box 773,
Millbrook, Alabama 36054
Billy Nixon, Rt. 1, Millbrook,
Alabama 36054

ROBERT L. BYRD, JR.

Plaintiff's Attorney

"COPY"



Phil M. Adams D.S.

IN THE CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA

No. 35879

ALICE TERESA ROY, as
Administratrix, etc.,

PLAINTIFF,

VS.

GEORGE WAYNE FRAZIER;
BILLY MIXON; et al.,

DEFENDANTS

INTERROGATORIES TO DEFENDANT
GEORGE WAYNE FRAZIER

Comes the plaintiff in the above styled cause, and desiring the testimony of the defendants, propounds the following interrogatories to be answered separately and severally in the manner and form provided by law, viz:

1. (a) State your correct name, age, residence address and business address.

(b) Is your name correctly stated in the complaint on file in this cause?

(c) If you state that your name is not correctly stated, then state the correct way that you could be designated as a party plaintiff or a party defendant in an action at law:

(1) At the time that the accident which is made the basis of this suit occurred;

(2) At the time that you answer these interrogatories.

2. (a) State whether you are a person, firm, or corporation.

(b) If you state that you are a partnership, then state the name of each and every partner composing said partnership, and the name under which the partnership does business.

(c) If you state that you are a corporation, state on what date you were incorporated and at what place.

3. (a) Describe completely and in detail the vehicle occupied or owned by you on the occasion of the accident made the basis of this suit, stating in your answer the make, model, year, and body style of same.

(b) State the name and address of the owner of said motor vehicle on the date of said accident.

(c) State the name and address of the driver of said vehicle on said occasion.

(d) Describe completely and in detail every item of damage sustained by said vehicle.

(e) Give the amount of each repair estimate obtained on said damage and give the name and address of the person making said repair estimate.

(f) State whether or not any of said damage was repaired, and, if so, give the amount of the repair bill and the name and address of the person, firm, or corporation who made said repairs.

(g) Describe the condition of the brakes, signal device, steering apparatus, tires, and lighting equipment on said motor vehicle at the time of the accident made the basis of this suit.

(h) When had the brakes, signal device, steering apparatus, lights and tires on said motor vehicle last been inspected prior to said accident and by whom?

4. (a) If you have stated that the owner of the vehicle which collided with the vehicle in which plaintiff was riding was not the driver on the occasion of said accident, explain fully and in detail the presence of the driver in said vehicle.

(b) State who was the employer of the driver of the vehicle which collided with the vehicle in which plaintiff was riding at the time that said accident occurred.

- (c) State on whose business or behalf said driver was acting at the time that said accident occurred.
 - (d) State the hours of work which said driver had at the time of said accident.
5. (a) State the number of persons occupying the motor vehicle which collided with the vehicle in which plaintiff was riding and state specifically how and in what manner each of said occupants were located in said vehicle on said occasion.
- (b) State fully the purpose of the trip you were making at the time of the accident made the basis of this suit.
- (c) From what point had you departed?
- (d) What was your destination?
- (e) Were you performing a mission, errand, or duty for anybody whatsoever? If so, state the nature of same and the name and address of the person for whom you were performing it.
- (f) Give the name and address of each and every person or firm who had any interest whatsoever in the trip that was being made by the driver of the vehicle which collided with the plaintiff on the occasion of said accident, and state the nature of said interest and the connection of said person or firm with the trip.
6. Prepare and attach to your answers to these interrogatories a map portraying the scene of the accident and the physical objects involved in the accident made the basis of this suit and designate on said map the following:
- (a) The point of impact and skid marks leading up to and from same;
 - (b) The resting place of the vehicles after the accident;
 - (c) Where you were located when you first saw the plaintiff's vehicle;
 - (d) Where the plaintiff's vehicle was located when first seen by you;
 - (e) The placement of any other vehicles or physical objects which had anything to do with said accident.
7. State whether or not the accident made the basis of this suit occurred at an intersection of streets or avenues, and if so, then state:
- (a) At what intersection of streets or avenues said accident occurred;
 - (b) Whether any buildings or objects were located within any of the four corners of the intersection which would obscure the vision of any person approaching the intersection;
 - (c) State how far you, in your judgment, could see to the left and right on each of the streets entering the intersection and down each of the intersecting streets when you approached from a point fifty feet from said intersection.
 - (d) Describe the locus of said accident with reference to the contour of the land, the grade or curve of the road, highway or intersection, and any physical structures located within two hundred feet of the place of the accident;
 - (e) Describe any traffic controls located at the scene of the accident and the operation of same, stating the directions in which said traffic signals or controls faced.
8. (a) State where the motor vehicle in which plaintiff was riding was located with reference to the point of the impact in the accident made the basis of this suit when you first observed same immediately prior to said accident.
- (b) Did you see the motor vehicle in which plaintiff was riding before the actual collision?
- (c) How many feet was the motor vehicle in which plaintiff was riding from the place of the impact when you first observed same?
- (d) How many feet were you from the point of impact when you first observed the vehicle in which plaintiff was riding?
- (e) Where did the impact occur with reference to the center line of the street on which the vehicle in which plaintiff was traveling?

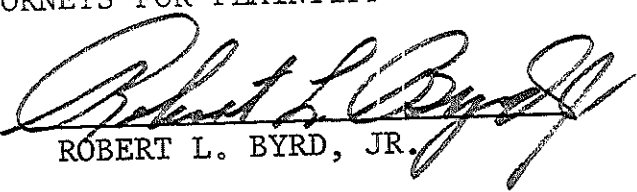
- (f) Where did the impact occur with reference to the right edge of the street on which your vehicle was traveling?
9. (a) State specifically and in detail exactly how the accident made the basis of this suit occurred and describe chronologically the events that occurred leading up to same as seen by you.
- (b) Describe each and everything which the driver of the vehicle in which plaintiff was riding failed to do to avoid said accident.
- (c) Describe each and everything done by the driver of the vehicle in which plaintiff was riding which contributed to the cause of said accident.
- (d) State each and everything done by you or which you omitted to do, which contributed proximately to cause the accident.
- (e) Describe each negligent act or omission of the driver of the vehicle in which plaintiff was riding on said occasion.
10. (a) State whether or not any of the occupants in any of the vehicles involved in the accident made the basis of this suit were intoxicated or drinking intoxicating beverages at the time of the said accident.
- (b) Give the name and address of each of said persons who was drinking or who was intoxicated.
- (c) State what each of said persons was drinking, where he or she had obtained same, the quantity or amount consumed, and the time and place where same was drunk.
11. State, according to your best judgment the speed of the vehicle in which plaintiff was riding at the following points:
- (a) When you first observed same prior to the accident made the basis of this suit;
- (b) At a point 300 feet from the place where the impact occurred;
- (c) At a point 200 feet from the place where the impact occurred;
- (d) At a point 100 feet from the place where the impact occurred;
- (e) At a point 50 feet from the place where the impact occurred;
- (f) At a point 25 feet from the place where the impact occurred;
- (g) At a point 10 feet from the place where the impact occurred;
- (h) At the time of the impact;
- (i) Immediately after the impact.
12. (a) State in what direction and along what street or avenue each of the motor vehicles involved in the accident made the basis of this suit was traveling on the occasion of said accident.
- (b) State in your best judgment, in number of feet, the width of each of said streets or avenues or highways.
- (c) If either of the vehicles involved in the accident made the basis of this suit was engaged in making a turn from a direct line of travel, describe same, and the course followed with reference to the center of the intersection and also the four corners of same, and with reference to the center line of the street, avenue or highway on which said motor vehicle had been traveling prior to said turn.
13. (a) State fully, specifically and in detail each and every act or thing done by the operator of the vehicle owned or occupied by you at the time of the accident made the basis of this suit during the last 100 feet of said vehicle's approach to the point of said collision, stating in your answer the chronological order in which said operator did each of said acts or things.
- (b) Describe each change in the course of travel made by the vehicle in which plaintiff was riding immediately prior to said accident.
- (c) Describe each change in the course of travel made by the vehicle in which you were riding immediately prior to the accident herein sued on.
14. (a) State whether or not the brakes on the vehicle occupied by you or owned by you at the time of the accident sued on were applied prior to the collision.

- (b) If so, state in your best judgment the speed in miles per hour said vehicle was traveling at the moment the brakes were applied.
 - (c) State in your best judgment the distance in number of feet said vehicle traveled from the moment the brakes were applied until said collision occurred
 - (d) State in your best judgment the distance in number of feet said vehicle traveled from the moment the brakes were applied until it came to a stop after the occurrence of the accident made the basis of this suit.
15. (a) State specifically what portion of the vehicles involved in the accident made the basis of this suit first came in contact with each other.
- (b) Describe the portions which next came in contact after the initial impact.
16. (a) State in your best judgment the distance each of the vehicles involved in the accident made the basis of this suit traveled on said occasion from the moment of the collision to the point where each of said vehicles first came to a stop immediately thereafter.
- (b) In what direction did each of said motor vehicles move from the point of said collision until they came to a complete stop?
- (c) Describe each and every skid mark which led up to the point of collision.
- (d) Describe each and every skid mark which extended from the point of collision toward the place where either of the motor vehicles involved in the accident came to rest.
- (e) Locate the point where each motor vehicle came to rest with reference to the point of impact, the center of the intersection, the four corners of same and the right edge of the street on which it had been traveling.
17. State the speed of the motor vehicle which you owned or occupied, according to your best judgment, at the following points:
- (a) When you were within a distance of 300 feet from the point of impact in the accident made the basis of this suit;
 - (b) When you were 200 feet from the point of impact;
 - (c) When you were 100 feet from the point of impact;
 - (d) When you were 50 feet from the point of impact;
 - (e) When you were 25 feet from the point of impact;
 - (f) When you were 10 feet from the point of impact;
 - (g) At the time of said impact;
 - (h) When you first observed the other vehicle involved in said accident.
18. (a) State whether any horn or other signal was given as a warning by the operator of the vehicles involved in the accident made the basis of this suit prior to the time of the collision.
- (b) If so, describe each of said signals given by each respective driver specifically and in detail.
- (c) State how far distant from the point of collision each vehicle was located at the time said signal was given.
- (d) If any signals for stopping or turning were given by each driver immediately prior to said collision, describe same, and state how far distant from the point of impact said signal was given by each driver respectively.
19. (a) State whether or not there were any other vehicles at or near the scene of the accident at the time of and immediately prior to the occurrence of same
- (b) If so, state the number of such other vehicles and where they were located with reference to the point of the accident at the moment same occurred.
- (c) State whether or not any of the other vehicles located at or near the scene of the accident played any part, or contributed in any manner, to cause the collision made the basis of this suit.

- (d) Give the name and address of each driver or owner of each of said vehicles.
20. (a) Did you make any statements in the presence of the operator of any of the vehicles involved in the collision made the basis of this suit following the occurrence of same?
- (b) If so, state when, where and what was said by you.
- (c) Did the operator of the vehicle in which plaintiff was riding make any statement in your presence following the occurrence of the accident, and if so, state when, where and what was said by said driver.
- (d) Give the name and address of each and every person who was present when the accident made the basis of this suit occurred.
- (e) Give the name and address of each and every person who was present when any statements were made either by you or the driver of the vehicle in which plaintiff was riding following the occurrence of the accident made the basis of this suit.

CUNNINGHAM, BOUNDS & BYRD
ATTORNEYS FOR PLAINTIFF

BY:


ROBERT L. BYRD, JR.

STATE OF ALABAMA)


COUNTY OF MOBILE)

Before me, the undersigned authority in and for said County in said State, this day personally appeared ROBERT L. BYRD, JR., who is known to me, and who, being by me first duly sworn, upon oath, deposes and says that he is one of the attorneys for the Plaintiff in the above entitled cause, and as such is authorized to make this affidavit; that the answers of the Defendant to the foregoing interrogatories, when well and truly made and filed, will be material testimony for said Plaintiff on the trial of this cause.


ROBERT L. BYRD, JR.

Sworn to and subscribed before me on

this 9th day of June, 19 71.

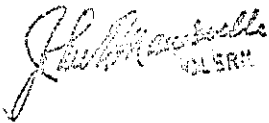

NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

ADDRESS OF DEFENDANT:

GEORGE WAYNE FRAZIER
Route 1, Box 773
Millbrook, Alabama 36054

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

JUN 11 4 20 PM '71


CLERK

**STATE OF ALABAMA,
MOBILE COUNTY**

CIRCUIT COURT, MOBILE COUNTY

ALICE TERESA ROY, AS ADMINISTRATRIX, etc. Plaintiff,

VS.

GEORGE WAYNE FRAZIER, et al Defendant,

TO GEORGE WAYNE FRAZIER

GREETINGS:

Please take notice, That in the foregoing stated cause pending in our Circuit Court of Mobile County,
interrogatories to be propounded to DEFENDANT

(a copy of herewith issues,) witness in behalf of the said _____ PLAINTIFF

have been this day filed in my office;

~~which said interrogatories will remain on file as aforesaid, ten days after service of this Notice upon you, during which time you can file Cross-Interrogatories if you think proper.~~

Witness, JOHN E. MANDEVILLE, Clerk of said Court, this 11th day of JUNE 1971

ATTEST

John E. Mandaville Clerk.

REC'D. SHERIFF DEPT.
MOBILE COUNTY, ALA.

JUN 15 3 12 PM '71

BY _____

Mail

No. 35879 - R

Judge _____ Docket _____

**CIRCUIT COURT
OF MOBILE COUNTY**

Alice Teresa Roy, as Administratrix,
etc.

VS. } **NOTICE OF
INTERROGATORIES FILED**

George Wayne Frazier, et al

Issued 11th day of June 19 71

SERVE COPY ON:

George Wayne Frazier

Rt. 1, Box 773

Millbrook, Alabama 36054

EXECUTED BY

Handing a Copy of the Within

to: *GEORGE WAYNE FRAZIER*

THIS JUN 20 1971

Sidney Thrash

SHERIFF ELMORE COUNTY, ALA.

Phil McAlister D.S.

The Sheriff Claims

Miles at 10¢ per Mile for a Total

of \$ 3.60

Sidney Thrash

Sheriff, Elmore County

ALICE TERESA ROY, as
Administratrix, etc.,

PLAINTIFF,

VS.

GEORGE WAYNE FRAZIER;
BILLY MIXON; et al.,

DEFENDANTS

IN THE CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA

No. 35879

INTERROGATORIES TO DEFENDANT
BILLY MIXON

Comes the plaintiff in the above styled cause, and desiring the testimony of the defendants, propounds the following interrogatories to be answered separately and severally in the manner and form provided by law, viz:

1. (a) State your correct name, age, residence address and business address.
(b) Is your name correctly stated in the complaint on file in this cause?
(c) If you state that your name is not correctly stated, then state the correct way that you could be designated as a party plaintiff or a party defendant in an action at law:
 - (1) At the time that the accident which is made the basis of this suit occurred;
 - (2) At the time that you answer these interrogatories.
2. (a) State whether you are a person, firm, or corporation.
(b) If you state that you are a partnership, then state the name of each and every partner composing said partnership, and the name under which the partnership does business.
(c) If you state that you are a corporation, state on what date you were incorporated and at what place.
3. (a) Describe completely and in detail the vehicle occupied or owned by you on the occasion of the accident made the basis of this suit, stating in your answer the make, model, year, and body style of same.
(b) State the name and address of the owner of said motor vehicle on the date of said accident.
(c) State the name and address of the driver of said vehicle on said occasion.
(d) Describe completely and in detail every item of damage sustained by said vehicle.
(e) Give the amount of each repair estimate obtained on said damage and give the name and address of the person making said repair estimate.
(f) State whether or not any of said damage was repaired, and, if so, give the amount of the repair bill and the name and address of the person, firm, or corporation who made said repairs.
(g) Describe the condition of the brakes, signal device, steering apparatus, tires, and lighting equipment on said motor vehicle at the time of the accident made the basis of this suit.
(h) When had the brakes, signal device, steering apparatus, lights and tires on said motor vehicle last been inspected prior to said accident and by whom?
4. (a) If you have stated that the owner of the vehicle which collided with the vehicle in which plaintiff was riding was not the driver on the occasion of said accident, explain fully and in detail the presence of the driver in said vehicle.
(b) State who was the employer of the driver of the vehicle which collided with the vehicle in which plaintiff was riding at the time that said accident occurred.

- (c) State on whose business or behalf said driver was acting at the time that said accident occurred.
 - (d) State the hours of work which said driver had at the time of said accident.
5. (a) State the number of persons occupying the motor vehicle which collided with the vehicle in which plaintiff was riding and state specifically how and in what manner each of said occupants were located in said vehicle on said occasion.
- (b) State fully the purpose of the trip you were making at the time of the accident made the basis of this suit.
 - (c) From what point had you departed?
 - (d) What was your destination?
 - (e) Were you performing a mission, errand, or duty for anybody whatsoever? If so, state the nature of same and the name and address of the person for whom you were performing it.
 - (f) Give the name and address of each and every person or firm who had any interest whatsoever in the trip that was being made by the driver of the vehicle which collided with the plaintiff on the occasion of said accident, and state the nature of said interest and the connection of said person or firm with the trip.
6. Prepare and attach to your answers to these interrogatories a map portraying the scene of the accident and the physical objects involved in the accident made the basis of this suit and designate on said map the following:
- (a) The point of impact and skid marks leading up to and from same;
 - (b) The resting place of the vehicles after the accident;
 - (c) Where you were located when you first saw the plaintiff's vehicle;
 - (d) Where the plaintiff's vehicle was located when first seen by you;
 - (e) The placement of any other vehicles or physical objects which had anything to do with said accident.
7. State whether or not the accident made the basis of this suit occurred at an intersection of streets or avenues, and if so, then state:
- (a) At what intersection of streets or avenues said accident occurred;
 - (b) Whether any buildings or objects were located within any of the four corners of the intersection which would obscure the vision of any person approaching the intersection;
 - (c) State how far you, in your judgment, could see to the left and right on each of the streets entering the intersection and down each of the intersecting streets when you approached from a point fifty feet from said intersection.
 - (d) Describe the locus of said accident with reference to the contour of the land, the grade or curve of the road, highway or intersection, and any physical structures located within two hundred feet of the place of the accident;
 - (e) Describe any traffic controls located at the scene of the accident and the operation of same, stating the directions in which said traffic signals or controls faced.
8. (a) State where the motor vehicle in which plaintiff was riding was located with reference to the point of the impact in the accident made the basis of this suit when you first observed same immediately prior to said accident.
- (b) Did you see the motor vehicle in which plaintiff was riding before the actual collision?
 - (c) How many feet was the motor vehicle in which plaintiff was riding from the place of the impact when you first observed same?
 - (d) How many feet were you from the point of impact when you first observed the vehicle in which plaintiff was riding?
 - (e) Where did the impact occur with reference to the center line of the street on which the vehicle in which plaintiff was traveling?

- (f) Where did the impact occur with reference to the right edge of the street on which your vehicle was traveling?
9. (a) State specifically and in detail exactly how the accident made the basis of this suit occurred and describe chronologically the events that occurred leading up to same as seen by you.
- (b) Describe each and everything which the driver of the vehicle in which plaintiff was riding failed to do to avoid said accident.
- (c) Describe each and everything done by the driver of the vehicle in which plaintiff was riding which contributed to the cause of said accident.
- (d) State each and everything done by you or which you omitted to do, which contributed proximately to cause the accident.
- (e) Describe each negligent act or omission of the driver of the vehicle in which plaintiff was riding on said occasion.
10. (a) State whether or not any of the occupants in any of the vehicles involved in the accident made the basis of this suit were intoxicated or drinking intoxicating beverages at the time of the said accident.
- (b) Give the name and address of each of said persons who was drinking or who was intoxicated.
- (c) State what each of said persons was drinking, where he or she had obtained same, the quantity or amount consumed, and the time and place where same was drunk.
11. State, according to your best judgment the speed of the vehicle in which plaintiff was riding at the following points:
- (a) When you first observed same prior to the accident made the basis of this suit;
- (b) At a point 300 feet from the place where the impact occurred;
- (c) At a point 200 feet from the place where the impact occurred;
- (d) At a point 100 feet from the place where the impact occurred;
- (e) At a point 50 feet from the place where the impact occurred;
- (f) At a point 25 feet from the place where the impact occurred;
- (g) At a point 10 feet from the place where the impact occurred;
- (h) At the time of the impact;
- (i) Immediately after the impact.
12. (a) State in what direction and along what street or avenue each of the motor vehicles involved in the accident made the basis of this suit was traveling on the occasion of said accident.
- (b) State in your best judgment, in number of feet, the width of each of said streets or avenues or highways.
- (c) If either of the vehicles involved in the accident made the basis of this suit was engaged in making a turn from a direct line of travel, describe same, and the course followed with reference to the center of the intersection and also the four corners of same, and with reference to the center line of the street, avenue or highway on which said motor vehicle had been traveling prior to said turn.
13. (a) State fully, specifically and in detail each and every act or thing done by the operator of the vehicle owned or occupied by you at the time of the accident made the basis of this suit during the last 100 feet of said vehicle's approach to the point of said collision, stating in your answer the chronological order in which said operator did each of said acts or things.
- (b) Describe each change in the course of travel made by the vehicle in which plaintiff was riding immediately prior to said accident.
- (c) Describe each change in the course of travel made by the vehicle in which you were riding immediately prior to the accident herein sued on.
14. (a) State whether or not the brakes on the vehicle occupied by you or owned by you at the time of the accident sued on were applied prior to the collision.

- (b) If so, state in your best judgment the speed in miles per hour said vehicle was traveling at the moment the brakes were applied.
 - (c) State in your best judgment the distance in number of feet said vehicle traveled from the moment the brakes were applied until said collision occurred
 - (d) State in your best judgment the distance in number of feet said vehicle traveled from the moment the brakes were applied until it came to a stop after the occurrence of the accident made the basis of this suit.
15. (a) State specifically what portion of the vehicles involved in the accident made the basis of this suit first came in contact with each other.
- (b) Describe the portions which next came in contact after the initial impact.
16. (a) State in your best judgment the distance each of the vehicles involved in the accident made the basis of this suit traveled on said occasion from the moment of the collision to the point where each of said vehicles first came to a stop immediately thereafter.
- (b) In what direction did each of said motor vehicles move from the point of said collision until they came to a complete stop?
- (c) Describe each and every skid mark which led up to the point of collision.
- (d) Describe each and every skid mark which extended from the point of collision toward the place where either of the motor vehicles involved in the accident came to rest.
- (e) Locate the point where each motor vehicle came to rest with reference to the point of impact, the center of the intersection, the four corners of same and the right edge of the street on which it had been traveling.
17. State the speed of the motor vehicle which you owned or occupied, according to your best judgment, at the following points:
- (a) When you were within a distance of 300 feet from the point of impact in the accident made the basis of this suit;
 - (b) When you were 200 feet from the point of impact;
 - (c) When you were 100 feet from the point of impact;
 - (d) When you were 50 feet from the point of impact;
 - (e) When you were 25 feet from the point of impact;
 - (f) When you were 10 feet from the point of impact;
 - (g) At the time of said impact;
 - (h) When you first observed the other vehicle involved in said accident.
18. (a) State whether any horn or other signal was given as a warning by the operator of the vehicles involved in the accident made the basis of this suit prior to the time of the collision.
- (b) If so, describe each of said signals given by each respective driver specifically and in detail.
- (c) State how far distant from the point of collision each vehicle was located at the time said signal was given.
- (d) If any signals for stopping or turning were given by each driver immediately prior to said collision, describe same, and state how far distant from the point of impact said signal was given by each driver respectively.
19. (a) State whether or not there were any other vehicles at or near the scene of the accident at the time of and immediately prior to the occurrence of same
- (b) If so, state the number of such other vehicles and where they were located with reference to the point of the accident at the moment same occurred.
- (c) State whether or not any of the other vehicles located at or near the scene of the accident played any part, or contributed in any manner, to cause the collision made the basis of this suit.

- (d) Give the name and address of each driver or owner of each of said vehicles.
20. (a) Did you make any statements in the presence of the operator of any of the vehicles involved in the collision made the basis of this suit following the occurrence of same?
- (b) If so, state when, where and what was said by you.
- (c) Did the operator of the vehicle in which plaintiff was riding make any statement in your presence following the occurrence of the accident, and if so, state when, where and what was said by said driver.
- (d) Give the name and address of each and every person who was present when the accident made the basis of this suit occurred.
- (e) Give the name and address of each and every person who was present when any statements were made either by you or the driver of the vehicle in which plaintiff was riding following the occurrence of the accident made the basis of this suit.

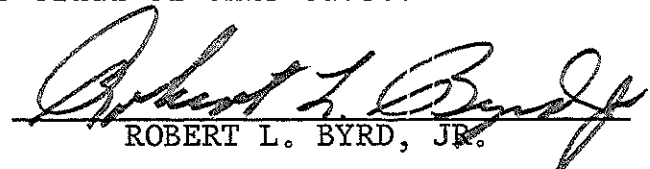
CUNNINGHAM, BOUNDS & BYRD
ATTORNEYS FOR PLAINTIFF

BY: 
ROBERT L. BYRD, JR.

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before me, the undersigned authority in and for said County in said State, this day personally appeared ROBERT L. BYRD, JR., who is known to me, and who, being by me first duly sworn, upon oath, deposes and says that he is one of the attorneys for the Plaintiff in the above entitled cause, and as such is authorized to make this affidavit; that the answers of the Defendant to the foregoing interrogatories, when well and truly made and filed, will be material testimony for said Plaintiff on the trial of this cause.


ROBERT L. BYRD, JR.

Sworn to and subscribed before me on

this 9th day of June, 19 71.

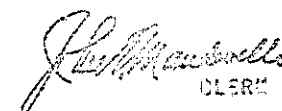

NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

ADDRESS OF DEFENDANT:

BILLY MIXON
Route 1
Millbrook, Alabama 36504

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

JUN 11 4 20 PM '71


CLERK

STATE OF ALABAMA,
MOBILE COUNTY

CIRCUIT COURT, MOBILE COUNTY

ALICE TERESA ROY, As Administratrix, etc.
Plaintiff,

VS.

GEORGE WAYNE FRAZIER; et al Defendant.

TO BILLY MIXON

GREETINGS:

Please take notice, That in the foregoing stated cause pending in our Circuit Court of Mobile County, interrogatories to be propounded to DEFENDANT

(a copy of herewith issues,) witness in behalf of the said PLAINTIFF

_____ have been this day filed in my office;
~~which said interrogatories will remain on file as aforesaid, ten days after service of this Notice upon you,~~
~~during which time you can file Cross Interrogatories if you think proper.~~

Witness, JOHN E. MANDEVILLE, Clerk of said Court, this 11th day of JUNE 1971

ATTEST

John E. Mendenhall Clerk.

REC'D. SHERIFF DEPT.
MOBILE COUNTY, ALA.
JUN 15 3 12 PM '71
BY _____

NOT FOUND
IN ELMORE COUNTY
THIS JUN 15 1971
Sheriff Elmore
SHERIFF ELMORE COUNTY, ALA.

Phil McElm...

Mail

No. 35879 - *R*

Judge _____ Docket

R

**CIRCUIT COURT
OF MOBILE COUNTY**

Alice Teresa Roy, as Administratrix,
etc.

VS. } **NOTICE OF
INTERROGATORIES FILED**

George Wayne Frazier; et al

Issued 11th day of JUNE 19 71

SERVE COPY ON:

Billy Mixon

Route 1

Millbrook, Alabama 36054

ALICE TERESA ROY, as
Administratrix, etc.,

PLAINTIFF,

VS.

GEORGE WAYNE FRAZIER;
BILLY MIXON; et al.,

DEFENDANTS

IN THE CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA.

No. 35879

INTERROGATORIES TO DEFENDANT
BILLY MIXON

Comes the plaintiff in the above styled cause, and desiring the testimony of the defendants, propounds the following interrogatories to be answered separately and severally in the manner and form provided by law, viz:

1. (a) State your correct name, age, residence address and business address.
(b) Is your name correctly stated in the complaint on file in this cause?
(c) If you state that your name is not correctly stated, then state the correct way that you could be designated as a party plaintiff or a party defendant in an action at law:
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2. (a) State whether you are a person, firm, or corporation.
(b) If you state that you are a partnership, then state the name of each and every partner composing said partnership, and the name under which the partnership does business.
(c) If you state that you are a corporation, state on what date you were incorporated and at what place.
3. (a) Describe completely and in detail the vehicle occupied or owned by you on the occasion of the accident made the basis of this suit, stating in your answer the make, model, year, and body style of same.
(b) State the name and address of the owner of said motor vehicle on the date of said accident.
(c) State the name and address of the driver of said vehicle on said occasion.
(d) Describe completely and in detail every item of damage sustained by said vehicle.
(e) Give the amount of each repair estimate obtained on said damage and give the name and address of the person making said repair estimate.
(f) State whether or not any of said damage was repaired, and, if so, give the amount of the repair bill and the name and address of the person, firm, or corporation who made said repairs.
(g) Describe the condition of the brakes, signal device, steering apparatus, tires, and lighting equipment on said motor vehicle at the time of the accident made the basis of this suit.
(h) When had the brakes, signal device, steering apparatus, lights and tires on said motor vehicle last been inspected prior to said accident and by whom?
4. (a) If you have stated that the owner of the vehicle which collided with the vehicle in which plaintiff was riding was not the driver on the occasion of said accident, explain fully and in detail the presence of the driver in said vehicle.
(b) State who was the employer of the driver of the vehicle which collided with the vehicle in which plaintiff was riding at the time that said accident occurred.


- (c) State on whose business or behalf said driver was acting at the time that said accident occurred.
 - (d) State the hours of work which said driver had at the time of said accident.
5. (a) State the number of persons occupying the motor vehicle which collided with the vehicle in which plaintiff was riding and state specifically how and in what manner each of said occupants were located in said vehicle on said occasion.
- (b) State fully the purpose of the trip you were making at the time of the accident made the basis of this suit.
- (c) From what point had you departed?
- (d) What was your destination?
- (e) Were you performing a mission, errand, or duty for anybody whatsoever? If so, state the nature of same and the name and address of the person for whom you were performing it.
- (f) Give the name and address of each and every person or firm who had any interest whatsoever in the trip that was being made by the driver of the vehicle which collided with the plaintiff on the occasion of said accident, and state the nature of said interest and the connection of said person or firm with the trip.
6. Prepare and attach to your answers to these interrogatories a map portraying the scene of the accident and the physical objects involved in the accident made the basis of this suit and designate on said map the following:
- (a) The point of impact and skid marks leading up to and from same;
 - (b) The resting place of the vehicles after the accident;
 - (c) Where you were located when you first saw the plaintiff's vehicle;
 - (d) Where the plaintiff's vehicle was located when first seen by you;
 - (e) The placement of any other vehicles or physical objects which had anything to do with said accident.
7. State whether or not the accident made the basis of this suit occurred at an intersection of streets or avenues, and if so, then state:
- (a) At what intersection of streets or avenues said accident occurred;
 - (b) Whether any buildings or objects were located within any of the four corners of the intersection which would obscure the vision of any person approaching the intersection;
 - (c) State how far you, in your judgment, could see to the left and right on each of the streets entering the intersection and down each of the intersecting streets when you approached from a point fifty feet from said intersection.
 - (d) Describe the locus of said accident with reference to the contour of the land, the grade or curve of the road, highway or intersection, and any physical structures located within two hundred feet of the place of the accident;
 - (e) Describe any traffic controls located at the scene of the accident and the operation of same, stating the directions in which said traffic signals or controls faced.
8. (a) State where the motor vehicle in which plaintiff was riding was located with reference to the point of the impact in the accident made the basis of this suit when you first observed same immediately prior to said accident.
- (b) Did you see the motor vehicle in which plaintiff was riding before the actual collision?
- (c) How many feet was the motor vehicle in which plaintiff was riding from the place of the impact when you first observed same?
- (d) How many feet were you from the point of impact when you first observed the vehicle in which plaintiff was riding?
- (e) Where did the impact occur with reference to the center line of the street on which the vehicle in which plaintiff was traveling?

- (f) Where did the impact occur with reference to the right edge of the street on which your vehicle was traveling?
9. (a) State specifically and in detail exactly how the accident made the basis of this suit occurred and describe chronologically the events that occurred leading up to same as seen by you.
- (b) Describe each and everything which the driver of the vehicle in which plaintiff was riding failed to do to avoid said accident.
- (c) Describe each and everything done by the driver of the vehicle in which plaintiff was riding which contributed to the cause of said accident.
- (d) State each and everything done by you or which you omitted to do, which contributed proximately to cause the accident.
- (e) Describe each negligent act or omission of the driver of the vehicle in which plaintiff was riding on said occasion.
10. (a) State whether or not any of the occupants in any of the vehicles involved in the accident made the basis of this suit were intoxicated or drinking intoxicating beverages at the time of the said accident.
- (b) Give the name and address of each of said persons who was drinking or who was intoxicated.
- (c) State what each of said persons was drinking, where he or she had obtained same, the quantity or amount consumed, and the time and place where same was drunk.
11. State, according to your best judgment the speed of the vehicle in which plaintiff was riding at the following points:
- (a) When you first observed same prior to the accident made the basis of this suit;
- (b) At a point 300 feet from the place where the impact occurred;
- (c) At a point 200 feet from the place where the impact occurred;
- (d) At a point 100 feet from the place where the impact occurred;
- (e) At a point 50 feet from the place where the impact occurred;
- (f) At a point 25 feet from the place where the impact occurred;
- (g) At a point 10 feet from the place where the impact occurred;
- (h) At the time of the impact;
- (i) Immediately after the impact.
12. (a) State in what direction and along what street or avenue each of the motor vehicles involved in the accident made the basis of this suit was traveling on the occasion of said accident.
- (b) State in your best judgment, in number of feet, the width of each of said streets or avenues or highways.
- (c) If either of the vehicles involved in the accident made the basis of this suit was engaged in making a turn from a direct line of travel, describe same, and the course followed with reference to the center of the intersection and also the four corners of same, and with reference to the center line of the street, avenue or highway on which said motor vehicle had been traveling prior to said turn.
13. (a) State fully, specifically and in detail each and every act or thing done by the operator of the vehicle owned or occupied by you at the time of the accident made the basis of this suit during the last 100 feet of said vehicle's approach to the point of said collision, stating in your answer the chronological order in which said operator did each of said acts or things.
- (b) Describe each change in the course of travel made by the vehicle in which plaintiff was riding immediately prior to said accident.
- (c) Describe each change in the course of travel made by the vehicle in which you were riding immediately prior to the accident herein sued on.
14. (a) State whether or not the brakes on the vehicle occupied by you or owned by you at the time of the accident sued on were applied prior to the collision.

- (b) If so, state in your best judgment the speed in miles per hour said vehicle was traveling at the moment the brakes were applied.
 - (c) State in your best judgment the distance in number of feet said vehicle traveled from the moment the brakes were applied until said collision occurred
 - (d) State in your best judgment the distance in number of feet said vehicle traveled from the moment the brakes were applied until it came to a stop after the occurrence of the accident made the basis of this suit.
15. (a) State specifically what portion of the vehicles involved in the accident made the basis of this suit first came in contact with each other.
- (b) Describe the portions which next came in contact after the initial impact.
16. (a) State in your best judgment the distance each of the vehicles involved in the accident made the basis of this suit traveled on said occasion from the moment of the collision to the point where each of said vehicles first came to a stop immediately thereafter.
- (b) In what direction did each of said motor vehicles move from the point of said collision until they came to a complete stop?
- (c) Describe each and every skid mark which led up to the point of collision.
- (d) Describe each and every skid mark which extended from the point of collision toward the place where either of the motor vehicles involved in the accident came to rest.
- (e) Locate the point where each motor vehicle came to rest with reference to the point of impact, the center of the intersection, the four corners of same and the right edge of the street on which it had been traveling.
17. State the speed of the motor vehicle which you owned or occupied, according to your best judgment, at the following points:
- (a) When you were within a distance of 300 feet from the point of impact in the accident made the basis of this suit;
 - (b) When you were 200 feet from the point of impact;
 - (c) When you were 100 feet from the point of impact;
 - (d) When you were 50 feet from the point of impact;
 - (e) When you were 25 feet from the point of impact;
 - (f) When you were 10 feet from the point of impact;
 - (g) At the time of said impact;
 - (h) When you first observed the other vehicle involved in said accident.
18. (a) State whether any horn or other signal was given as a warning by the operator of the vehicles involved in the accident made the basis of this suit prior to the time of the collision.
- (b) If so, describe each of said signals given by each respective driver specifically and in detail.
- (c) State how far distant from the point of collision each vehicle was located at the time said signal was given.
- (d) If any signals for stopping or turning were given by each driver immediately prior to said collision, describe same, and state how far distant from the point of impact said signal was given by each driver respectively.
19. (a) State whether or not there were any other vehicles at or near the scene of the accident at the time of and immediately prior to the occurrence of same
- (b) If so, state the number of such other vehicles and where they were located with reference to the point of the accident at the moment same occurred.
- (c) State whether or not any of the other vehicles located at or near the scene of the accident played any part, or contributed in any manner, to cause the collision made the basis of this suit.

- (d) Give the name and address of each driver or owner of each of said vehicles.
20. (a) Did you make any statements in the presence of the operator of any of the vehicles involved in the collision made the basis of this suit following the occurrence of same?
- (b) If so, state when, where and what was said by you.
- (c) Did the operator of the vehicle in which plaintiff was riding make any statement in your presence following the occurrence of the accident, and if so, state when, where and what was said by said driver.
- (d) Give the name and address of each and every person who was present when the accident made the basis of this suit occurred.
- (e) Give the name and address of each and every person who was present when any statements were made either by you or the driver of the vehicle in which plaintiff was riding following the occurrence of the accident made the basis of this suit.

CUNNINGHAM, BOUNDS & BYRD
ATTORNEYS FOR PLAINTIFF

BY: 
ROBERT L. BYRD, JR.

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before me, the undersigned authority in and for said County in said State, this day personally appeared ROBERT L. BYRD, JR., who is known to me, and who, being by me first duly sworn, upon oath, deposes and says that he is one of the attorneys for the Plaintiff in the above entitled cause, and as such is authorized to make this affidavit; that the answers of the Defendant to the foregoing interrogatories, when well and truly made and filed, will be material testimony for said Plaintiff on the trial of this cause.


ROBERT L. BYRD, JR.

Sworn to and subscribed before me on

this 9th day of June, 1971.

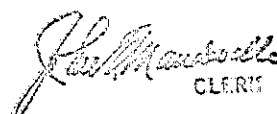

NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

ADDRESS OF DEFENDANT:

BILLY MIXON
Route 1
Millbrook, Alabama 36504

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

JUN 11 4 13 PM '71


CLERK

STATE OF ALABAMA,
MOBILE COUNTY

CIRCUIT COURT, MOBILE COUNTY

ALICE TERESA ROY, As Administratrix, etc.
Plaintiff,

VS.

GEORGE WAYNE FRAZIER; et al Defendant,

TO BILLY MIXON

GREETINGS:

Please take notice, That in the foregoing stated cause pending in our Circuit Court of Mobile County, interrogatories to be propounded to DEFENDANT

(a copy of herewith issues,) witness in behalf of the said PLAINTIFF

~~_____ have been this day filed in my office;
which said interrogatories will remain on file as aforesaid, ten days after service of this Notice upon you,
during which time you can file Cross Interrogatories if you think proper.~~

Witness, JOHN E. MANDEVILLE, Clerk of said Court, this 11th day of JUNE 1971

ATTEST

John E. Mandeville Clerk.

No. 35879

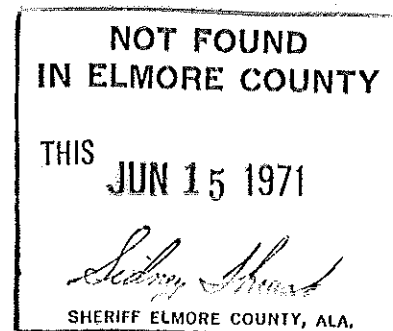
Judge _____ Docket

**CIRCUIT COURT
OF MOBILE COUNTY**

Alice Teresa Roy, as Administratrix,
etc.

VS. } **NOTICE OF
INTERROGATORIES FILED**

George Wayne Frazier; et al



Phil M. Adams

Issued 11th day of JUNE 19 71

SERVE COPY ON:

Billy Mixon ✓

Route 1

Millbrook, Alabama 36054

"COPY"

ELNO A. SMITH, JR.
ATTORNEY AT LAW
SUITE 108 WASHINGTON BUILDING
P. O. DRAWER 789
MONTGOMERY, ALABAMA 36104

TELEPHONE AREA 205: 264-6431

July 14, 1971

Clerk
Circuit Court of Mobile County
Mobile County Court House
Mobile, Alabama

Re: Alice Teresa Roy, et al
vs.
George Wayne Frazier, et al
Case #35879

Dear Sir:

Please file the enclosed Plea in Abatement with the above entitled cause and advise me when it will come up for a hearing.

Your help and cooperation in this matter will be greatly appreciated.

Sincerely yours,

Elno A. Smith, Jr.
Elno A. Smith, Jr.

EAS/mdd

Enclosure

Wrote letter 7-15-71

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

JUL 15 8 43 AM '71

John M. Montville
CLERK

ALICE TERESA ROY, as	§	IN THE CIRCUIT COURT
Administratrix of the Estate of	§	
Earnol Harris Roy, Jr., deceased,	§	OF
	§	
Plaintiff	§	MOBILE COUNTY, ALABAMA
	§	
vs.	§	AT LAW
	§	
GEORGE WAYNE FRAZIER;	§	
BILLY MIXON, et al,	§	
	§	
Defendants	§	CASE NO. 35879

STATE OF ALABAMA)
MONTGOMERY COUNTY)

Before me, the undersigned authority, personally appeared George Wayne Frazier, a defendant in the above entitled cause, and appearing solely and specially for filing this Plea in Abatement to Plaintiff's summons and complaint, and for no other purpose, and pleading in abatement, says:

That this defendant was a bona fide resident of Elmore County, Alabama, at the time when the cause of action arose and at the time of the filing of the summons and complaint; that the accident complained of in the summons and complaint occurred in Baldwin County, Alabama, and this defendant says that this suit should be abated, and should not be allowed to proceed in Mobile County, Alabama.

George Wayne Frazier
GEORGE WAYNE FRAZIER

SWORN to and subscribed before me this 12th day of July, 1971.

Marilyn D. Dewberry
Notary Public

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of the foregoing Plea in Abatement to the Hon. Robert L. Byrd, Jr., Cunningham, Bounds & Byrd, 1350 Dauphin, Mobile, Alabama, attorney for plaintiff, this 12th day of July, 1971.

STATE OF ALA. MOBILE
I CERTIFY THIS PLEA
WAS FILED ON

Elmo A. Smith, Jr.
ELMO A. SMITH, JR.

JUL 15 8 43 AM '71

Elmo A. Smith, Jr.
CLERK

ALICE TERESA ROY, as	§	IN THE CIRCUIT COURT
Administratrix, etc.,	§	OF
Plaintiff	§	MOBILE COUNTY,
vs.	§	ALABAMA
GEORGE WAYNE FRAZIER;	§	
BILLY NIXON; et al.,	§	
Defendants	§	CASE NO. 35879

Answers to Interrogatories of
Defendant George Wayne Frazier

Now comes defendant George Wayne Frazier and for answer to interrogatories heretofore filed by the plaintiff says as follows:

1. [a] George Wayne Frazier, 22 years old, Route 1, Box 733, Millbrook, Alabama, none. [b] Yes. [c] Not applicable, (1) not applicable, (2) not applicable.

2. [a] Person. [b] Not applicable. [c] Not applicable.

3. [a] GMC, 6000 series, 1961, tractor. [b] I was. [c] I was. [d] Frame, cab and left side. [e] None obtained. [f] Not repaired. [g] Good, good, good, new and OK. [h] I checked them before the trip.

4. [a] Not applicable. [b] Self employed. [c] Self. [d] 4:30 a.m. until time of accident.

5. [a] Driver only. [b] Going to Mobile to haul scrap to Pinto Island Scrap Metal Company. [c] Greenville, Alabama. [d] Pinto Island Scrap Metal Company, Mobile, Alabama. [e] Hauling scrap for Willie D. Nixon, Box 174, Millbrook, Alabama, for \$100 per load. There was no agreement with Pinto Island Scrap Metal Company to purchase the scrap metal prior to delivery. [f] Willie D. Nixon, Box 174, Millbrook, Alabama, owned the scrap metal that was being hauled to Pinto Island Scrap Metal Company.

6. See State Trooper's report attached and marked Exhibit "A." [a] Same as #6 above. [b] Same as #6 above. [c] On east side of highway passing vehicle headed north and parked in the southbound lane of the highway. [d] When it came over the hill headed north on Highway 225. [e] Same as #6 above.

7. Not applicable. [a] Not applicable. [b] Not applicable. [c] Not applicable. [d] See State Trooper's report attached and marked Exhibit "A." [e] None.

8. [a] Approximately 200 feet. [b] Yes. [c] Approximately 200 feet. [d] Approximately 100 feet. [e] On the east shoulder of the highway. [f] On the left shoulder of the highway.

9. [a] I was traveling south on Alabama Highway 225, was crossing a bridge when I met an unknown vehicle parked in the southbound lane of traffic headed north, I cut to my left to go around this parked vehicle and as I got the front of my truck even with it the plaintiff's intestate came over a hill at a very high rate of speed. I cut back to my right sharply and the vehicle I was driving turned over in the northbound land of traffic. The

plaintiff's intestate's vehicle then collided with the trailer portion of my vehicle on the east shoulder of the highway. [b] Exceeding lawful speed and failed to keep his vehicle under control. [c] Exceeding lawful speed. [d] None. [e] Exceeding lawful speed and failed to keep vehicle under control.

10. [a] None. [b] Not applicable. [c] Not applicable.

11. [a] 70 miles per hour. [b] Not applicable. [c] 70 miles per hour. [d] 70 miles per hour. [e] 70 miles per hour. [f] 70 miles per hour. [g] 70 miles per hour. [h] 70 miles per hour. [i] unknown.

12. [a] I was traveling south on Alabama Highway 225 and the plaintiff's intestate was traveling north on Alabama Highway 225. [b] 20 feet. [c] Not applicable.

13. [a] I saw plaintiff's intestate coming over the hill at high rate of speed and cut to my right. The tractor and trailer I was driving turned over on its left side and plaintiff's intestate collided with the trailer on the east shoulder of the highway. [b] He turned to his right. [c] I cut back to my right.

14. [a] Yes. [b] Approximately 35 to 40 miles per hour. [c] Approximately 100 feet. [d] Approximately 100 feet.

15. [a] Center of the trailer I was pulling and the front of the plaintiff's intestate's vehicle. [b] Unknown.

16. [a] Both stopped at the point of impact. [b] None. [c] See State Trooper's report attached and marked Exhibit "A." [d] Same as 16c above. [e] Same as 16c above.

17. [a] Approximately 40 miles per hour. [b] 35 miles per hour. [c] Approximately 30 miles per hour. [d] Approximately 30 miles per hour. [e] Approximately 30 miles per hour. [f] Approximately 30 miles per hour. [g] 0 miles per hour. [h] Approximately 35 miles per hour.

18. [a] No. [b] None. [c] Not applicable. [d] Not applicable.

19. [a] Yes. [b] One, parked in southbound lane headed north. [c] Yes, had to go around parked automobile which caused accident. [d] Unknown.

20. [a] No. [b] Not applicable. [c] No. [d] Not applicable. [e] None except State Trooper who investigated the accident.

George Wayne Frazier
GEORGE WAYNE FRAZIER

STATE OF ALABAMA §
MONTGOMERY COUNTY §

Before me, the undersigned authority in and for said State at Large, personally appeared George Wayne Frazier, who, being by me first duly sworn, deposes and says that the above and foregoing Answers to Interrogatories are true and correct to the best of his knowledge, information and belief.

George Wayne Frazier
GEORGE WAYNE FRAZIER

SWORN to and subscribed before me this 1st day of September, 1971.

Marilyn D. DeBerry
Notary Public

CERTIFICATE OF SERVICE

I, Elno A. Smith, Jr., attorney for defendant George Wayne Frazier, hereby certify that I mailed a copy of the foregoing Answer to Interrogatories to the Hon. Robert L. Byrd, Jr., Cunningham, Bounds & Byrd, 1350 Dauphin Street, Mobile, Alabama, attorney for plaintiff, this 1st day of September, 1971.

Elno A. Smith, Jr.
ELNO A. SMITH, JR.

STATE OF ALABAMA
I CERTIFY THIS PLEADING
WAS FILED ON
SEP 2 8 03 AM '71
[Signature]
CLERK

LOCATION & TIME: 0225 6:45 PM AL 225 5225 CUB 1 HIGHWAY 1625

DRIVER: GEORGE WAYNE FARRER BT 180733 HALLMARK AL 225 314 10

VEHICLE: TYPE 01 - AUTO 02 - TAXI 03 - TRUCK 04 - MOTORCYCLE 05 - LEARNER 06 - NONE 07 - OTHER

DRIVER CONDITION: 1 - NO APPARENT DEFECTS 2 - APPARENTLY ASLEEP 3 - FATIGUED 4 - ILL 5 - UNKNOWN 6 - PHYSICAL DEFECTS

VEHICLE DAMAGE: 1 - NONE 2 - LIGHTS 3 - STEERING 4 - TURNS SIGNALS 5 - NOT KNOWN 6 - OTHER

DRIVER: ERNICK HARRIS REV JR. 2100 S BAKER AVE MOBILE AL 36601 12-13 M W

VEHICLE: TYPE 01 - AUTO 02 - TAXI 03 - TRUCK 04 - MOTORCYCLE 05 - LEARNER 06 - NONE 07 - OTHER

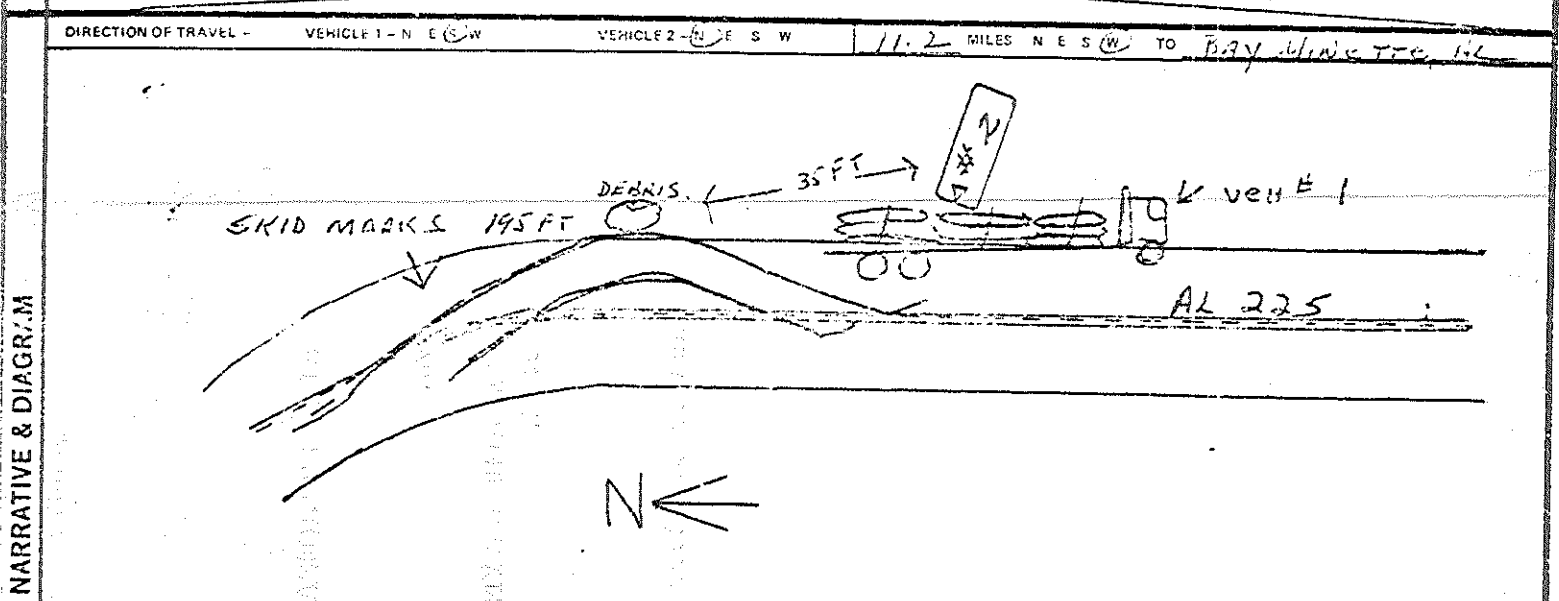
DRIVER CONDITION: 1 - NO APPARENT DEFECTS 2 - APPARENTLY ASLEEP 3 - FATIGUED 4 - ILL 5 - UNKNOWN 6 - PHYSICAL DEFECTS

VEHICLE DAMAGE: 1 - NONE 2 - LIGHTS 3 - STEERING 4 - TURNS SIGNALS 5 - NOT KNOWN 6 - OTHER

ACTIONS: 01 - Going Straight Ahead 02 - Swerving or Stopping 03 - Start in Traffic Lane 04 - Remain Stopped in Lane 05 - Passing 06 - Start From Parked 07 - Remain Parked - Legally 08 - Remain Parked - Illegally 09 - Backing 10 - Leaving Area of Vehicle 11 - Turning Right 12 - Turning Left 13 - U Turn 14 - Merging 15 - Parking 16 - Being With Traffic 17 - Being Subject Traffic 18 - Not in Roadway 19 - Other

SEATING SEAT BELTS EJECTED INJURY FIRST AID

VICTIMS 1 NAME ADDRESS TAKEN TO TAKEN BY



INDICATE ROADWAY WIDTH: 24 FEET

DESCRIBE WHAT HAPPENED (REFER TO VEHICLES BY NUMBER)

LIGHT WEATHER LOCALE DEFECTS CONSTRUCTION CONDITION VISION OBSCURED

ROADWAY & ENVIRONMENT CHARACTER TRAFFIC CONTROL ROADWAY LANES ROADWAY DIVIDED BY

INVESTIGATION SUMMONS NUMBER POLICE AGENCY NOTIFIED POLICE ARRIVED AMBULANCE ARRIVED TRAFFIC FLOW RESTORED NAME OF PHOTOGRAPHER

#35879

ALICE TERESA ROY, et al,

Plaintiff

vs.

GEORGE WAYNE FRAZIER,
et al,

Defendants

Answer to Interrogatories

FRIDAY, SEPTEMBER 24, 1971

ALICE TERESA ROY, as Administratrix
Of the Estate of EARNOL ROY, JR.,
Deceased

ROBERTSON -vs- 35879

GEORGE WAYNE FRAZIER, BILLY MIXON,
X & Y, the owner and operator,
respectively of the motor vehicle
involved in the accident made the
basis of this suit, whose true names
are otherwise unknown to plaintiff
at this time but will be added by
amendment when ascertained; and Z
the person, firm, partnership or
corporation who was the principal
master or employer of George Wayne
Frazier at the time of the accident
made the basis of this suit, whose
true name is otherwise unknown to
plaintiff at this time, but will be
added by amendment, when ascertained,
Jointly and Individually

PLEA IN ABATEMENT SUSTAINED,
CASE ORDERED TRANSFERRED TO
THE CIRCUIT COURT OF BALDWIN
COUNTY

This day in open Court came the parties by their attorneys, and
defendant, George Wayne Frazier's Plea in Abatement filed July 15, 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, George
Wayne Frazier's said Plea in Abatement filed July 15, 1971, to the
complaint in this cause be, and the same is hereby sustained, and Case
ordered transferred to the Circuit Court of Baldwin County, Alabama.

Minute Book 44

Page 65

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 _____

as rendered by the said Circuit Court on the _____ day of _____, 19____, in the cause
entitled No. _____

_____, Plaintiff,
— versus — _____

Defendant, (Together with the cancellation thereof), as the same remains of record in this office in
Minute Book No. _____, Page No. _____.

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 _____ day of _____, 19____.

ATTEST:

Clerk, Circuit Court, Mobile County, Alabama.

ELNO A. SMITH, JR.
ATTORNEY AT LAW
SUITE 103 WASHINGTON BUILDING
P. O. DRAWER 789
MONTGOMERY, ALABAMA 36104

TELEPHONE AREA: 205-264-6451

July 26, 1972

Clerk
Circuit Court of Baldwin County
Baldwin County Court House
Bay Minette, Alabama

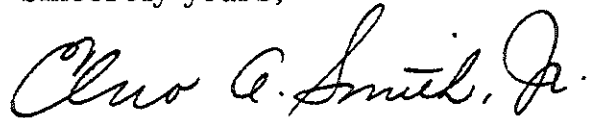
Re: Alice Teresa Roy, et al.
vs.
George Wayne Frazier, et al.

Dear Sir:

Please file the enclosed Answer of George Wayne Frazier on the
above entitled cause transferred from Mobile County, Alabama.

Your help and cooperation in this matter will be appreciated.

Sincerely yours,



Elno A. Smith, Jr.

EAS/mdd

Enclosure

ALICE TERESA ROY, as
Administratrix of the Estate of
Earnol Harris Roy, Jr., deceased,

Plaintiff

vs.

GEORGE WAYNE FRAZIER,
BILLY NIXON, et al.,

Defendants

§ IN THE CIRCUIT COURT
§
§ OF
§
§ BALDWIN COUNTY,
§
§ ALABAMA,
§
§
§
§
§ CASE NO. 10,043

TO THE HONORABLE JUDGE OF SAID COURT:

ANSWER

Comes the Defendant, George Wayne Frazier, and for answer to the complaint in this cause, and to each and every count thereof, separately and severally, pleads in short by consent, the general issue, with leave to give in evidence matters which if well pleaded would be admissible in defense of the action, to have effect as if so pleaded, and with leave to the Plaintiff to give in evidence any matter which if well pleaded would be admissible in replying to such defensive matter; and to have effect as if so pleaded.

Elno A. Smith, Jr.
ELNO A. SMITH, JR., Attorney for
Defendant, George Wayne Frazier.

Defendant, George Wayne Frazier, demands a trial by jury.

Elno A. Smith, Jr.
ELNO A. SMITH, JR., Attorney for
Defendant, George Wayne Frazier.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was mailed to the Hon. Robert L. Byrd, Jr., Cunningham, Bounds & Byrd, P. O. Box 4486, Mobile, Alabama, as attorney for Plaintiff, this 25th day of July, 1972.

FILED

JUL 23 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

Elno A. Smith, Jr.
ELNO A. SMITH, JR.
Suite 108 Washington Building
P. O. Drawer 789
Montgomery, Alabama 36102