CASE NO. 35879 -

CUNNINGHAM, BOUNDS & BYRD BY: Kobert L. Byrd, Jr.

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

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

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\* FILING DATE 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 ascertained; and Z, the person, firm, partnership or corporation who was the principal otherwise unknown to the Plaintiff at this time but will be added by amendment when \*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

Complaint & Summons \* Interrogatories to Deft.\* George Wayne Frazier \* 6-11-71 \* 6-11-71

PLEADINGS, ECCESS, ETC,

Interrogatoreis to Deft.\* Plea in Abatement Billy Mixon ----\* 6-11-71

Deft. George Wayne Frazier's answers to Interrogatories - - --(George Frazier) - - --

7-15-71

\*C & S served on George Wayne Frazier on June 29, 1971. \*C & S returned "Not Found" on July 1, 1971, as to Billy Mixon.

September 24, 1971 -Plea in Abatement sustained; Case ordered transferred to the Circuit Court of Baldwin County. 44-65 /s/ Hubert P. Robertson, Judge

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 . I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above

LACCHERY Clork

: VOL

: IN THE CIRCUIT COURT OF ALICE TERESA ROY, as Administratrix of the

ALABAMA

AT LAW

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 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,

Defendants.

CASE NO. <u>3.5879</u>

#### 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 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

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

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. MOSSILE CO. I CERTIFY THIS PLEASING WAS FILED ON SPLEASING WAS FILED ON SPLEASING

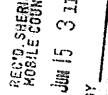
# THE STATE OF ALABAMA

MOBILE COUNTY

# CIRCUIT COURT

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

and Z, the person, firm, pa	ertnership or corpora	or at the	ne time of
principal master or employe	er of George Wayne Fi	azier at th	le time of
the accident made the basis	of this suit, whose	true name	is otherwise
unknown to the Plaintiff at	t this time, but will	be added	oy amendment
when ascertained, jointly a to appear within thirty days from service			
at the place of holding the same, then and	d there to answer the complain	nt of	
		<u> </u>	PARMOT.
ALICE TERESA ROY, as A	dministratrix of the	Estate oi	BARNOL
HARRIS ROY, JR., Decea	sed		
		v.)	100
		200 (19) 20 (19) 30 (19)	
	4.1.1.		JUNE 71
WITNESS: John E. Mandeville, Clerk		y of	JUNE 1971
WITNESS: John E. Mandeville, Clerk		y of S. Man	JUNE 1971
WITNESS: John E. Mandeville, Clerk		y of E. Man	Laure 118
	of said Court, this 11th da	y of Man	Laure 118
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	of said Court, this 11th da	E. Man	Clerk
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Received day of	of said Court, this 11th da		Clerk and on day
Received day of of	Attest: Attest: SHERIFF'S RETURN		Clerk and on day



Handing a Copy of the Within To! GEORGE WAYNET RAZIER

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JUN 25 1971

Sidney Squash

SHERIFF ELMORE COUNTY, ALA.

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Sheriff ELMORE COUNTY, ALA:
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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 Mixon, Rt. 1, Millbrook, Alabama 36054

Elmon C.

ROBERT L. BYRD, JR.

Plaintiff's Attorney

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

IN THE CIRCUIT COURT OF

Plaintiff

W.

MOBILE COUNTY,

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,

ALABAMA

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AT LAW

Defendants.

CASE NO. 35979

#### COUNT ONE

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George Wayne Frazier, an agent, servent, 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

ROBERT I RYRD IR

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

# ATE OF ALABAMA MOBILE COUNTY

# CIRCUIT COURT

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

	)
EORGE WAYNE FRAZIER; BI	LLY MIXON; X and Y, the owner and operator,
espectively, of the mot	or vehicle involved in the accident made one
neis of this suit, who:	e true names are otherwise unknown to the
Teintiff at this time	out will be added by amendment when ascertained;
and 7 the person. firm	, partnership or corporation, who was the
ma z, one porotty	loyer of George Wayne Frazier at the time of
principal master of emp	asis of this suit, whose true name is otherwise
the accident made the b	f at this time, but will be added by amendment
when ascervained, joint appear within thirty days from a	ly and individually ervice of this process, in the Circuit Court of Mobile County, Alabama, and there to answer the complaint of
THE STREET BOY	as Administratrix of the Estate of EARNOL
HARRIS ROY, JR., De	ceaseu
7 7 7 1 11 0	lerk of said Court, this 11th day of JUNE 1971
WITNESS: John E. Mandeville, C	(1) A Marilla (1)
	Attest: Clerk
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JUDGE.

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CIVIL DIVISION

## CIRCUIT COURT

MOBILE COUNTY

Alice Teresa Roy, as Administratrix, etc.

VS.

Complaint and Summons

George Wayne Frazier; et al

Issued 11thday of

June 1971

Defendant's Address

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

ROBERT L. BYRD, JR.

"COPY"

Plaintiff's Attorsey

NOT FOUND IN ELMORE COUNTY

THIS

JUN 15 1971

Sedny Sheart

SHERIFF ELMORE COUNTY, ALA,

Phil M. Glom D.S.

IN THE CIRCUIT COURT OF

MOBILE COUNTY, ALABAMA

6689E ON

Administratrix, etc., ALICE TERESA ROY, as

PLAINTIFF,

.SV

BILLY MIXON; et al., GEORGE WAXNE FRAZIER;

DEFENDANTS

## CEOKCE MAXNE EKAZIEK INTERROGATORIES TO DEFENDANT

State your correct name, age, residence address and business address. following interrogatories to be answered separately and severally in the manner and form provided by law, viz: Comes the plaintiff in the above styled cause, and desiring the testimony of the defendants, propounds the

- Is your name correctly stated in the complaint on file in this cause? (q)
- If you state that your name is not correctly stated, then state the correct way that you could be desig-(5)
- (I) At the time that the accident which is made the basis of this suit occurred; mated as a party plantiff or a party defendant in an action at law:
- State whether you are a person, firm, or corporation. (a) .S (2) At the time that you answer these interrogatories.
- partnership, and the name under which the partnership does business. If you state that you are a partnership, then state the name of each and every partner composing said (q)
- If you state that you are a corporation, state on what date you were incorporated and at what place. 3. (a) (5)
- made the basis of this suit, stating in your answer the make, model, year, and body style of same. (q) Describe completely and in detail the vehicle occupied or owned by you on the occasion of the accident
- State the name and address of the owner of said motor vehicle on the date of said accident.
- State the name and address of the driver of said vehicle on said occasion. (5)
- Describe completely and in detail every item of damage sustained by said vehicle. (p)
- the person making said repair estimate. Give the amount of each repair estimate obtained on said damage and give the name and address of (6)
- and the name and address of the person, firm, or corporation who made said repairs.  $(\mathcal{Z})$ State whether or not any of said damage was repaired, and, if so, give the amount of the repair bill
- When had the brakes, signal device, steering apparatus, lights and tires on said motor vehicle last been (प्) said motor vehicle at the time of the accident made the basis of this suit. Describe the condition of the brakes, signal device, steering apparatus, tires, and lighting equipment on
- If you have stated that the owner of the vehicle which collided with the vehicle in which plaintiff was (B) .A smonw yd bns troideat acident and by whom?
- State who was the employer of the driver of the vehicle which collided with the vehicle in which plain-(q) riding was not the driver on the occasion of said accident, explain fully and in detail the presence of the
- 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 whatsover 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 vehicels 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 interesction, 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

: Should

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. JŘ.

Sworn to and subscribed before me on

this <u>9th</u> day of <u>June</u>, 19<u>71</u>.

TOTARY PUBLIC, MOBILE COUNTY, ALABAMA

ADDRESS OF DEFENDANT:

GEORGE WAYNE FRAZIER Route 1, Box 773 Millbrook, Alabama 36054 STATE OF ALA MODILE CO. I CERTIFY THIS PLEADING WAS FILED ON

Jun 11 4 20 PH '71

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TO\_

#### STATE OF ALABAMA, MOBILE COUNTY

## CIRCUIT COURT, MOBILE COUNTY

ALICE TERESA ROY, AS ADMINISTRATRIX, etc.	
vs.	ilo.
GEORGE WAYNE FRAZIER, et al Defendant,	
TO GEORGE WAYNE FRAZIER	2006 60 60 60

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

(a copy of herewith issues,) witness in behalf of the said	PLAINTIFF		······································
	have been this da	y filed in my	office;
which said interrogatories will remain on file as aforesaid, t	en days after service of t	t <del>his Notice up</del>	<del>m you</del> ,
during which time you can file Cross Interrogatories if you thin	rk proper		
Witness, JOHN E. MANDEVILLE, Clerk of said Court, th	is 11th day of	JUNE	_ <sub>19</sub> 71

John G. Mandaville Clerk.

GREETINGS:

MOSILE COUNTY, ALA.
JUN 15 3 12 PM 71

Hand Ing a Copy of the Within to George Wayne FRANKE THIS

JUN 28 1971

Sidney Thomas

SHERIFF ELMORE COUNTY, ALA.

Offil M. & Releases D.S.

The Sheriff Claims 36
Miles at 10% per Miss for a Total
of \$ 3.60

Sidnes Mrash
Sheriff, Elmore Comments

No. 35879 - R
No. Docket

CIRCUIT COURT

OF MOBILE COUNTY

Alice Teresa Roy, as Administratrix, etc.

VS. NOTICE OF INTERROGATORIES FILED

George Wayne Frazier, et al

Issued 11th June 19 71

SERVE COPY ON:

George Wayne Frazier

Rt. 1, Box 773

Millbrook, Alabama 36054

ALICE TERESA ROY, as Administratrix, etc., IN THE CIRCUIT COURT OF

MOBILE COUNTY, ALABAMA

PLAINTIFF,

VS.

No 35819

GEORGE WAYNE FRAZIER; BILLY MIXON; et al.,

DEFENDANTS

# INTERROGATORIES TO DEFENDANT

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:

- (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?
  - If you state that your name is not correctly stated, then state the correct way that you could be designated as a party plantiff 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.
  - Give the amount of each repair estimate obtained on said damage and give the name and address of (e) 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 whatsover 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 vehicels 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 interesction, 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

3Y:

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.

Sworn to and subscribed before me on

NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

this <u>9th</u> day of <u>June</u> , 19 71.

ADDRESS OF DEFENDANT:

BILLY MIXON Route 1 Millbrook, Alabama 36504

STATE OF ALA. MOFILE CO. I CERTIFY THIS PLEADING WAS FILED OH

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A-3-1-2M-5-70

## STATE OF ALABAMA, MOBILE COUNTY

## CIRCUIT COURT, MOBILE COUNTY

20				GREETINGS:
TO	BILLY MIXON			
GEOR	GE WAYNE FRAZIE	R; et al	Defendant ,	·
		vs.	<b>\</b>	
ALI	CE TERESA ROY,	As Administr	atrix, Plaintiff ,	

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 sa	aidPLAINTIFF
	have been this day filed in my office;
which said interrogatories will remain on file as a	foresaid, 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 19 71
	ATTEST
	John G. Mandenille Clerk.

HOBILE COUNTY, ALA.

JUN 15 3 22 PM 71

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NOT FOUND
IN ELMORE COUNTY

THIS
JUN 15/1971

Sedra, Shedha
Sheriff Elmore County, ALA:

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:

Billy Mixon

Route 1

Millbrook, Alabama 36054

ALICE TERESA ROY, as Administratrix, etc.,

IN THE CIRCUIT COURT OF

PLAINTIFF.

MOBILE COUNTY, ALABAMA.

No. 35819

GEORGE WAYNE FRAZIER; BILLY MIXON; et al.,

VS.

DEFENDANTS

#### 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:

- (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 plantiff 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.
  - 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 whatsover 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 vehicels 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 interesction, 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

:

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 <u>9th</u> day of <u>June</u>, 19<u>71</u>.

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

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STATE OF	ALABAMA,
MOBILE	COUNTY

CIRCUIT COURT, MOBILE COUNTY

ALICE TERESA ROY, As Administrat	trix, etc.	
VS.	, , , , , , , , , , , , , , , , ,	
GEORGE WAYNE FRAZIER; et al	Defendant ,	
mo 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 aforese	
during which time you can file Cross Interrogatories if you	think proper.
Witness, JOHN E. MANDEVILLE, Clerk of said Cour	t, this 11th day of JUNE 1971
ATT	EST

John G. Mansaille Clerk.

<b>N</b> T	35879	
INO.		

Judge\_\_\_\_\_Docket

# CIRCUIT COURT OF MOBILE COUNTY

Alice Teresa Roy, as Administratrix, etc.

# VS. NOTICE OF INTERROGATORIES FILED

George Wayne Frazier; et al

NOT FOUND IN ELMORE COUNTY

THIS **JUN 1** 5 1971

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Philm: Godomo Dios

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: 264-6451

July 14, 1971

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

Alice Teresa Roy, et al

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 G. Smith Fruit. Jr.

EAS/mdd

Enclosure

Wrote Little 7-15-71

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

JUL 15 8 43 M1 '71

ALICE TERESA ROY, as IN THE CIRCUIT COURT Administratrix of the Estate of Earnol Harris Roy, Jr., deceased, Plaintiff S MOBILE COUNTY, ALABAMA § vs. S AT LAW S 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

SWORN to and subscribed before me this /24 day of July, 1971.

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.

TATE OF ALA MOSILE CERTIFY THIS PLEASELNO A. SMITH, JR

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ALICE TERESA ROY, as Administratrix, etc.,

§ IN THE CIRCUIT COURT

§ 0:

Plaintiff

§ MOBILE COUNTY,

vs.

§ ALABAMA

GEORGE WAYNE FRAZIER; BILLY NIXON; et al.,

8

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 land 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.

Deorge 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.

Joine Dagne Frague GEORGE WAYNE FRAZIER

SWORN to and subscribed before me this  $\frac{\sqrt{5}}{2}$  day of September, 1971.

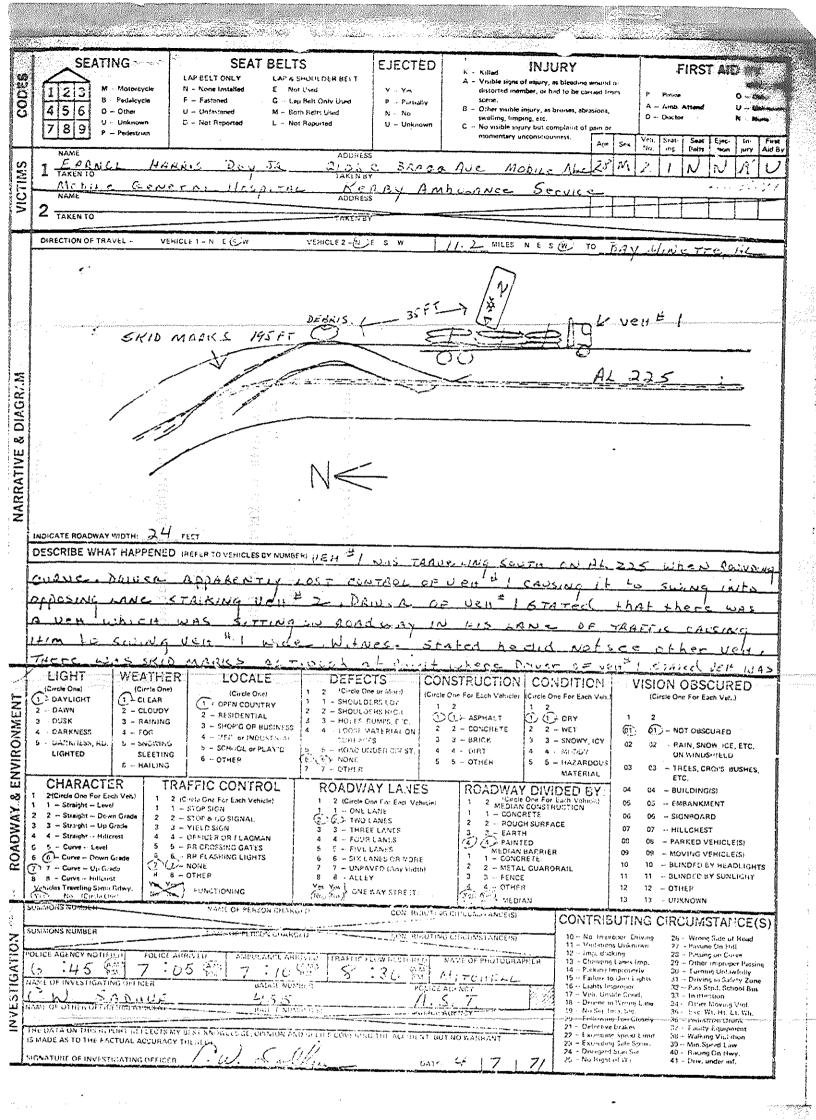
Marilyn D. Deuberry Notary Public

#### 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 day of September, 1971.

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ALICE TERESA ROY, et al,

Plaintiff

vs.

GEORGE WAYNE FRAZIER, et al,

Defendants

Answer to Interrogatories

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	'AI	ABAM	(A,
COUNT	ľΥ	OF	MOBIL	E

# 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 24thday of September , 19 71, in the cause
entitled No. 35879 - ALICE TERESA ROY, as Administratrix of the Estate
of EARNOL HARRIS ROY, JR., deceased
— versus — GEORGE WAYNE FRAZIER, BILLY MIXON, etc.
Defendant, (XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Minute Book No. 44 Page No. 65
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 24th day of September 1971

ATTEST:

Clerk, Circuit Court, Mobile County, Alabama.

# STATE OF ALABAMA, \ COUNTY OF MOBILE \

# IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

The second secon

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile Cour	nty, 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	
Minute Book No, Page No	
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the S	Seal of said Court at office
in the City of Mobile, Alabama, on this theday of	, 19
ATTEST:	

Clerk, Circuit Court, Mobile County, Alabama.

# CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY

Act No. 740, Reg. Session Ala, Legi ppvd. Sept. 20, 1957) Amend Sec. 21, Title 11, Code Ala. 1940		957	B	L	Samula Sa	FCOST (Act No. 571, Reg. Ses. (Amend Sec. 34 and 100	Leg. 19 Title 1	55) 1, Code	- Als. 194
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JOHN E. MANDEVILLE, Clerk

execution for same.

#### ELNO A. SMITH, JR.

ATTORNEY AT LAW
SUITE 10S 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,	\$ \$	IN THE CIRCUIT COURT
100, or., deceased,	\$	OF
Plaintiff		D A 7
	8	BALDWIN COUNTY,
vs.	8	A T A T A T I T A
CTOP	8	ALABAMA,
GEORGE WAYNE FRAZIER,		
BILLY NIXON, et al.,	8	
	Š	
Defendants	Š	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., Attorney for Defendant, George Wayne Frazier.

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

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 20 1972

ELNO A. SMITH, JR.

Suite 108 Washington Building

P. O. Drawer 789

Montgomery, Alabama 36102

EUNICE B. BLACKMON CIRCUIT