

SUMMONS AND COMPLAINT

MOORE PRINTING CO., BAY MINETTE, ALA.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No. 10,093

.....TERM, 19..71..

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon

Phillip M. Tuberville and

DeVore Brokerage

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint

filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against.....

Phillip ^M Tuberville and DeVore Brokerage....., Defendant.S...

by Bertha Riel

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

Witness my hand this..... 2ndday of..... November 19..71..

Ernie B. Blackmore Clerk

E411-24-71

VOL

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No.....

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

Plaintiffs

vs.

Defendants

SUMMONS AND COMPLAINT

Filed 19.....

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

19.....

Sheriff

I have executed this summons

this 19.....

by leaving a copy with

Sheriff

Deputy Sheriff

BERTHA RIEL,	Ø	IN THE CIRCUIT COURT OF
Plaintiff	Ø	BALDWIN COUNTY, ALABAMA
-VS-	Ø	
PHILLIP M. TUBERVILLE and	Ø	AT LAW
DeVORE BROKERAGE,	Ø	
Defendants		CASE NO. <u>10,093</u>

COUNT ONE

Plaintiff claims of Phillip M. Tuberville and DeVore Brokerage, defendants, the sum of, to wit: Fifty Thousand (\$50,000.00) Dollars as damages for that, on, to wit: the fourth day of November, 1970, while she was operating a motor vehicle in a westwardly direction on U.S. Highway No. 31, on the East end of the Tensaw River bridge in Baldwin County, Alabama, a public highway, at a point of about one hundred (100) feet east of the Baldwin County-Mobile County boundary line,

A. The defendant Phillip M. Tuberville while operating a motor vehicle following the vehicle of plaintiff on said road at said time and place so operated said motor vehicle as to cause it to crash into the rear end of the motor vehicle operated by plaintiff and as a proximate consequence thereof, the plaintiff was injured and damaged as hereinafter set out;

B. The defendant DeVore Brokerage, acting by and through its servant, agent or employee, while operating a motor truck then leased by said defendant on said road at said time and place ran its motor truck into the motor vehicle operated by the defendant Phillip M. Tuberville so as to cause the said motor vehicle operated by defendant Phillip M. Tuberville to crash into the rear end of the vehicle operated by plaintiff and as a proximate consequence thereof plaintiff was injured and damages as hereinafter set out;

C. Plaintiff avers that said injury and damages to plaintiff were the proximate result of the combined and concurring negligence of the defendants in and about the operations of the respective motor vehicles at said time and place, and plaintiff was caused to and did sustain injuries and damages as follows:

D. Plaintiff was bruised; her muscles, tendons and ligaments were bruised, wrenched, sprained, torn and injured; she was made sick, sore and lame, and caused to suffer great physical pain and mental anguish; she suffered a whiplash of the neck; she was permanently injured; all to her hurt and damage, as aforesaid.

COUNT TWO

Plaintiff adopts all of the words and figures of Count One as and for the words and figures of this count, except that part marked "C" and in lieu thereof plaintiff avers:

C. Plaintiff avers that the defendants wantonly injured and damage plaintiff at said time and place by the combined and concurring wantonness of the defendant Phillip M. Tuberville causing the motor vehicle operated by him to crash into the rear end of the vehicle operated by plaintiff, and the wantonness of the defendant DeVore Brokerage, acting by and through its servant, agent or employee, in driving the motor vehicle operated by it into the motor vehicle operated by Phillip M. Tuberville causing the latter described vehicle to crash into the rear end of the vehicle operated by plaintiff, and as a proximate consequence of said combined and concurring wantonness of defendants plaintiff was caused to sustain the injuries and damages set forth in Count One hereof.


ATTORNEY FOR PLAINTIFF

Plaintiff demands a trial
by jury in this cause.


ATTORNEY FOR PLAINTIFF

FILED

NOV 2 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

Sheriff claim 80
Ten Cents per mile Total \$ 8.00
TAYLOR WILKINS, Sheriff
BY Brown
DEPUTY SHERIFF

CASE NO. 10,093

BERTHA RIEL,
Plaintiff

-VS-

PHILLIP M. TUBERVILLE and
DeVORE BROKERAGE,
Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

NOV 18 1971

TAYLOR WILKINS
SHERIFF

ATTORNEY FOR PLAINTIFF

KENNETH COOPER
Post Office Box 1000
Bay Minette, Alabama 36507

NOV 2 1971

TAYLOR
SHERIFF

Serve:
Phillip M. Tuberville
Bay Minette, Alabama
Loxley = 964-2702-
phone 7

DeVore Brokerage
Loxley, Alabama

Received 2 day of Nov. 1971
and on day of Nov.
I served a copy of the within SAC Brown
on DeVore Brokerage 11-3-71
Phillip M. Tuberville 11-2-71
11-24-71
By service on Phillip M. Tuberville
TAYLOR WILKINS, Sheriff
By HJB now D.S.
40mg R 7
Loxley

Sheriff claim 80 miles
Ten Cents per mile Total \$
TAYLOR WILKINS, Sheriff
BY Brown DEPUTY SHERIFF

Received 18 day of Nov. 1971
and on 24 day of Nov. 1971
I served a copy of the within SAC
on Phillip Tuberville

By service on _____
TAYLOR WILKINS, Sheriff
By Brown D.S.

2nd issuance of paper for Tuberville

BERTHA RIEL,	§	IN THE CIRCUIT COURT
Complainant,	§	OF BALDWIN COUNTY,
VS	§	ALABAMA
PHILLIP M. TURBERVILLE	§	AT LAW
and DEVORE BROKERAGE,	§	
Defendants.	§	CASE NO. 10,093

Comes now the defendant in the above styled cause, Phillip M. Turberville, and files this his demurrer to the plaintiff's complaint and each count thereof, separately and severally, and as grounds of demurrer sets down and assigns the following, separately and severally:

1. For that said complaint fails to state a cause of action.
2. For aught that appears from the face of the complaint the defendant, Phillip M. Turberville, did not commit any negligent act or action which would serve as the basis for this suit.
3. For that said complaint is vague, indefinite and uncertain and is so much so that it fails to apprise this defendant of what he is called upon to defend against in this action.
4. For aught that appears from the face of the complaint the plaintiff failed to sustain any injuries and damages as a direct and proximate result of any alleged negligence on the part of the said defendant.
5. For aught that appears from the face of the complaint it was an action of a third party which caused the injuries and damages complained of by the plaintiff.
6. For that said complaint fails to aver a wanton injury.

ATCHISON, CLAY & STREET
Attorneys for Defendant

by: _____

JAMES E. ATCHISON

Defendant demands trial by jury.

by: _____

FILED

DEC 3 1971

BERTHA RIEL,

Plaintiff,

Vs.

PHILLIP M. TURBERVILLE
and DEVORE BROKERAGE,

Defendants.

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

* AT LAW

*

CASE NO: 10,093

*

NOTICE OF DEPOSITION

TO: Mr. James E. Atchison
Atchison, Clay & Street
Attorneys At Law
2700 First National Bank Building
Mobile, Alabama

Mr. Kenneth Cooper
Attorney At Law
109 East 1st Street
Bay Minette, Alabama 36507

Please take notice that at 4:45 P.M. on the 10th day of

October, 1972 in the office of Dr. Crampton Harris, Jr.

1761 Springhill Avenue
situated at Mobile, Alabama the defendant DeVore Brokerage Co.

will take the deposition of Dr. Crampton Harris, Jr., whose address is
1761 Springhill Avenue
Mobile, Alabama upon oral examination pursuant

to an Act of the Legislature of the State of Alabama, designed
as Act No. 375, Regular Session 1955, Approved September 8, 1955,
before WALTER W. WISE, an officer authorized to
administer oaths in the County of Mobile, State of Alabama, duly
authorized to take depositions and swear witnesses in said
County, in said State. The oral examination will continue
from day to day until completed and you are invited to attend
and examine the witness.

LYONS, PIPES AND COCK
Attorneys for Defendants.

By: Wesley Pipes

WESLEY PIPES

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 24 day of Sept
1972 served a copy of the foregoing Notice of Deposition on
counsel for all parties to this proceeding by mailing the same
by United States Mail, properly addressed, and first class
postage prepaid.

Wesley Pipes
WESLEY PIPES

NOTE TO CLERK: Please issue a Subpoena for Dr. Crampton Harris, Jr. whose
address is 1761 Springhill Avenue, Mobile, Alabama to be and
appear at the time and place aforesaid and to bring with him all Medical Records
with reference to Mrs. Bertha Riel.

BERTHA RIEL,

Plaintiff,

VS.

PHILLIP M. TURBERVILLE
and DEVORE BROKERAGE,

Defendants.

* IN THE CIRCUIT COURT OF

* BALDWIN COUNTY, ALABAMA

* AT LAW

* CASE NO. 10,093

PLEA IN ABATEMENT

Comes now DEVORE BROKERAGE COMPANY, INC., and not waiving process or notice of process, or service, or any of its rights and privileges, and appears specially and not generally for the sole purpose of filing this Plea In Abatement in this cause, and prays the Judgment of this Court that the Summons and Complaint served upon it in the above styled cause be quashed and the cause dismissed for the reasons hereinafter set forth:

That the Defendant that was actually served with process herein is named DEVORE BROKERAGE COMPANY, INC., and not DEVORE BROKERAGE as is styled in the Summons and Complaint served upon it.

WHEREFORE, the said DEVORE BROKERAGE COMPANY, INC., says that it was not properly served, nor has it waived such service in any way, that the attempted service of process upon it is null and void, and prays the Court that the same be quashed and the cause dismissed.

DEVORE BROKERAGE COMPANY, INC.

FILED

NOV 29 1971

EUNICE B. BLACKMON CIRCUIT CLERK

BY: Phillip M. Turberville

STATE OF ALABAMA

COUNTY OF BALDWIN

Personally appeared before me, the undersigned authority,
Sewell Bryant Devore, who being by me first
duly sworn deposes and says that he is President,
of DEVORE BROKERAGE COMPANY, INC., and that as such he has
authority to make this Affidavit, and says that he has read the
above and foregoing Plea and that the facts stated therein are
true.

Sewell B. Devore

Subscribed and sworn to before me this the 23rd day
of November, 1971.

Francis S. Champion

NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA

OF COUNSEL:

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

FILED

NOV 29 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

Wesley Pipes
WESLEY PIPES

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 26
day of Nov, 1971, served a
copy of the foregoing pleading on counsel for all
parties to this proceeding by mailing the same
by United States mail, properly addressed, and
first class postage prepaid.

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BERTHA RIEL,

Plaintiff,

Vs.
PHILLIP M. TURBERVILLE
and DEVORE BROKERAGE,

Defendants.

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

* AT LAW

* CASE NO: 10,093

*

NOTICE OF DEPOSITION

TO: Mr. James E. Atchison
Atchison, Clay & Street
Attorneys At Law
2700 First National Bank Bldg.
Mobile, Alabama

Mr. Kenneth Cooper
Attorney At Law
109 East 1st Street
Bay Minette, Alabama 36507

Please take notice that at 4:00 P.M. on the 4th day of

December, 1972 in the office of LYONS, PIPES AND COOK
2510 First National
situated at Bank Building the defendant DeVore Brokerage Company
Mobile, Alabama
will take the deposition of Bertha Riel, whose address is
211 Pier Street
Fairhope, Alabama upon oral examination pursuant

to an Act of the Legislature of the State of Alabama, designed
as Act No. 375, Regular Session 1955, Approved September 8, 1955,
before WALTER W. WISE, an officer authorized to
administer oaths in the County of Mobile, State of Alabama, duly
authorized to take depositions and swear witnesses in said
County, in said State. The oral examination will continue
from day to day until completed and you are invited to attend
and examine the witness.

LYONS, PIPES AND COOK
Attorneys for Defendants.

By: 

WESLEY PIPES

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 6 day of Nov
1972 served a copy of the foregoing Notice of Deposition on
counsel for all parties to this proceeding by mailing the same
by United States Mail, properly addressed, and first class
postage prepaid.



WESLEY PIPES

FILED

NOV 18 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

VOL

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BERTHA RIEL,

Plaintiff

-VS-

PHILLIP M. TUBERVILLE and
DeVORE BROKERAGE,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. _____

AMENDMENT TO COMPLAINT

Comes now the Plaintiff, and amends the name of the defendant
DeVORE BROKERAGE, as shown in the style of this cause, to read
as follows, to-wit:

DeVORE BROKERAGE, COMPANY, INCORPORATED. In all other
respects the complaint remains unchanged.


ATTORNEY FOR PLAINTIFF

I certify that I have mailed a copy of the foregoing
Amendment to Complaint to Honorable Wesley Pipes, Post Office
Drawer 2727, Mobile, Alabama 36601 and Honorable Tolbert M.
Brantley, Post Office Box 968, Bay Minette, Alabama 36507, by
depositing the same in the United States Mail, postage prepaid,
at Bay Minette, Alabama, on this the sixth day of April, 1973.


ATTORNEY FOR PLAINTIFF

FILED

APR 6 1973

EUNICE B. BLACKMON CIRCUIT
CLERK

ATCHISON, CLAY & STREET

LAWYERS

2700 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA 36601

JAMES E. ATCHISON
CALVIN CLAY
CHARLES S. STREET

December 1, 1971

TELEPHONE
(205) 438-4725
P. O. BOX 1446

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

Re: Bertha Riel vs Phillip M. Turverville, et al.
Case No. 10,093

Dear Mrs. Blackmon:

I represent Phillip M. Turverville in reference to the above styled matter. I would appreciate it if you would file the enclosed demurrer on behalf of Mr. Turberville.

Very truly yours,



JAMES E. ATCHISON

JEA:mam

Enclosure

LYONS, PIPES & COOK

ATTORNEYS AT LAW

2510 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

JOSEPH H. LYONS (1900-1957)

36601

AREA CODE 205

SAM W. PIPES

TEL. 432-4483

WALTER M. COOK

P. O. DRAWER 2727

GORDON B. KAHN

G. SAGE LYONS

AUGUSTINE MEAHER, III.

WESLEY PIPES

NORTON W. BROOKER, JR.

COOPER C. THURBER

November 26, 1971

Hon. Eunice B. Blackmon
Circuit Clerk
Baldwin County Courthouse
Bay Minette, Alabama 36507

Re: Bertha Riel vs. Phillip M. Turberville and
DeVore Brokerage
In the Circuit Court of Baldwin County,
Alabama - At Law
CASE NO. 10,093

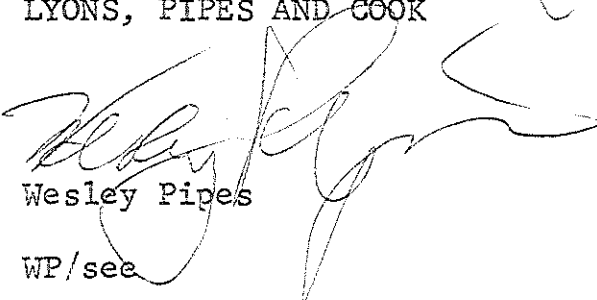
Dear Mrs. Blackmon:

Enclosed please find an original and one copy of a Plea
In Abatement in connection with the above captioned matter.
Please have the original *filed* recorded and have the copy returned
stamped "FILED".

Thanking you in advance, I am

Very truly yours,

LYONS, PIPES AND COOK


Wesley Pipes

WP/see

Enclosures