

LAW OFFICES
DUNN, PORTERFIELD, McDOWELL & SCHOLL
733 FRANK NELSON BUILDING
BIRMINGHAM, ALABAMA
35203

Evans Dunn
Jack B. Porterfield Jr.
Thomas F. McDowell
Roy W. Scholl Jr.
John W. Clark Jr.

Telephone
251-0234

August 4, 1972

Mrs. Eunice B. Blackmon
Circuit Clerk of Baldwin County
County Court House
Bay Minette, Alabama 36507

Re: Case No. 10,143
Wadih F. Hawie vs.
Refrigerated Transport
Company, Inc., a corporation.
Our File 8562

Dear Mrs. Blackmon:

I am enclosing herewith a motion to quash service in the captioned case which I would appreciate your filing for record.

I would appreciate it if you would return the filing receipt which is enclosed to me along with your advice as to when the motion will be set down for hearing before the Judge.

Thank you for your help.

Yours very truly,

DUNN, PORTERFIELD, McDOWELL & SCHOLL



Roy W. Scholl, Jr.

RWS/pw
Enc.

cc: Hon. Wilson Hayes
Attorney at Law
P. O. Box 300
Bay Minette, Alabama 36507

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DUNN, PORTERFIELD, McDOWELL & SCHOLL
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BIRMINGHAM, ALABAMA
35203

Evans Dunn
Jack B. Porterfield Jr.
Thomas F. McDowell
Roy W. Scholl Jr.
John W. Clark Jr.

August 16, 1972

Telephone
251-0234

Mrs. Eunice B. Blackmon
Circuit Clerk of Baldwin County
County Court House
Bay Minette, Alabama 36507

Re: Case No. 10,143
Hawie v. Refrigerated Transport
Company, Inc., a corporation
Our File 8562

Dear Mrs. Blackmon:

I am enclosing herewith an amendment to our motion to quash service which I would appreciate your filing for record.

I would appreciate it if you would return the filing receipt which is enclosed to me along with your advice as to when the motion will be set down for hearing before the Judge.

Thank you for your help.

Yours very truly,
DUNN, PORTERFIELD, McDOWELL & SCHOLL



Roy W. Scholl, Jr.

RWS/pw
Enc.

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Refrigerated Transport Company, Inc., a Corporation to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the complaint of Wadih F. Hawie.

Witness my hand this _____ day of _____, 1971.

Clerk

WADIH F. HAWIE,	§	IN THE CIRCUIT COURT OF
Plaintiff,	§	BALDWIN COUNTY, ALABAMA
Vs.	§	AT LAW
REFRIGERATED TRANSPORT COMPANY, INC., a Corporation,	§	
Defendant.	§	NUMBER: _____

Plaintiff claims of the Defendant Fifteen Thousand (\$15,000.00) Dollars for that heretofore on to-wit the 22nd day of December, 1970 the Defendant so negligently operated a motor vehicle at the Site Service Station on Battleship Parkway, Highway 90, Baldwin County, Alabama where Plaintiff was then employed in the duty as a service station employee servicing vehicles and the vehicle of Defendant, as to cause it, the said motor vehicle, to strike the Plaintiff on the face and body and that as a proximate consequence of the said negligence of the Defendant, Plaintiff suffered injuries to his body and person including a herniated disk, injuries to his spinal column and was caused to suffer great pain and anquish and to be made sick, sore and lame, causing him to expend sums of money for medical, doctor, hospital and other expenses in and about the treatment of his said injury, hence this suit.

Wilson Hayes

 Attorney for Plaintiff
 Wilson Hayes

Plaintiff demands trial by Jury.

FILED

DEC 27 1971

WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

December 6, 1971

Mrs. Eunice Blackmon, Clerk
Circuit Court, Baldwin County
Bay Minette, Alabama 36507


Re: Hawie v Refrigerated Transport
Co, Inc

Dear Eunice:

Please file the enclosed suit. I will let
you know about the service.

With kind regards, I am

Yours very truly,


Wilson Hayes

mm
Enc.

10,143

July 24, 1972

WADIH F. HAWIE, Plaintiff

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

VS

REFRIGERATED TRANSPORT COMPANY, INC.,
A CORPORATION, Defendants

CASE NO. 10,143

TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW

I, Mabel Amos, Secretary of State, hereby certify that on July 19, 1972
I sent by certified mail in an envelope addressed as follows:

" Refrigerated Transport Company, Inc.
a Corporation
3901 Jonesboro Road
Forest Park, Georgia 30050"

"Certified Mail—
Return Receipt Requested
~~Deliver to Addressee Only~~"

bearing sufficient and proper prepaid postage, a notice bearing my signature and the Great Seal of the State of Alabama in words and figures as follows:

" Refrigerated Transport Company, Inc.
a Corporation
3901 Jonesboro Road
Forest Park, Georgia 30050"

You will take notice that on July 19, 1972 the Sheriff of Montgomery County, Alabama, served upon me, in my official capacity, summons and complaint in a case entitled: WADIH F. HAWIE, Plaintiff vs REFRIGERATED TRANSPORT COMPANY, INC., A CORPORATION, Defendants

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW
Case No. 10,143 a true copy of which summons and complaint is attached hereto and the said service upon me as Secretary of State of the State of Alabama has the force and effect of personal service upon you.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 19th day of July, 1972

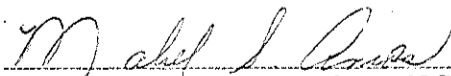
Enclosure (1)

(Signed) Mabel S. Amos
Secretary of State"

I further certify that the notice above set out which was so mailed in the envelope addressed as above set forth had attached to it a true copy of the summons and complaint in the above-styled cause.

I further certify that on July 24, 1972 I received the return card, showing receipt by the designated addressee of the aforementioned matter at Forest Park, GA on July 20, 1972

WITNESS MY HAND and the Great Seal of the State of Alabama this the 24th day of July, 1972



MABEL S. AMOS
Secretary of State

Enclosures: Return Receipt Card and copy of Summons and Complaint.

CC: Honorable A. W. Hayes
P. O. Box 300
Bay Minette, Alabama 36507

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Refrigerated Transport Company, Inc., a Corporation to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the complaint of Wadih F. Hawie.

Witness my hand this 7 day of Dec, 1971.

Eunice B. Blackmon
Clerk

WADIH F. HAWIE, Ø IN THE CIRCUIT COURT OF
 Ø BALDWIN COUNTY, ALABAMA
Plaintiff, Ø
 Ø AT LAW
Vs. Ø

REFRIGERATED TRANSPORT Ø
COMPANY, INC., a Corporation, Ø
Defendant. Ø NUMBER: 10,143

Plaintiff claims of the Defendant Fifteen Thousand (\$15,000.00) Dollars for that heretofore on to-wit the 22nd day of December, 1970 the Defendant so negligently operated a motor vehicle at the Site Service Station on Battleship Parkway, Highway 90, Baldwin County, Alabama where Plaintiff was then employed in the duty as a service station employee servicing vehicles and the vehicle of Defendant, as to cause it, the said motor vehicle, to strike the Plaintiff on the face and body and that as a proximate consequence of the said negligence of the Defendant, Plaintiff suffered injuries to his body and person including a herniated disk, injuries to his spinal column and was caused to suffer great pain and anguish and to be made sick, sore and lame, causing him to expend sums of money for medical, doctor, hospital and other expenses in and about the treatment of his said injury, hence this suit.

Wilson Hayes
Attorney for Plaintiff
Wilson Hayes

FILED

Plaintiff demands trial by Jury.

DEC 7 1971

Wilson Hayes

EUNICE B. BLACKMON CLERK

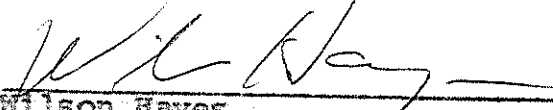
WADIE F. HAWIE, X IN THE CIRCUIT COURT OF
 Plaintiff, X BALDWIN COUNTY, ALABAMA
 Vs. X AT LAW
 REFRIGERATED TRANSPORT X
 COMPANY, INC., a Corporation, X
 Defendant. X NUMBER: 10143

Comes now the Plaintiff in the above styled cause and amends his Bill of Complaint heretofore filed by avering and adding the following:

1. Plaintiff avers that the Defendant, Refrigerated Transport Company, Inc., is a corporation, not qualified to do business within the State of Alabama on to-wit the 22nd day of December, 1970 and that it, the said Defendant, operated a motor vehicle on a public highway in the State of Alabama on to-wit the 22nd day of December, 1970 and that such case and facts are covered and come under the laws made and provided in such instances, viz Title 7, Section 199, Code of Alabama, 1940, recompiled 1958 and that the said Defendant has no agent within the State of Alabama on whom service may be had.

2. Plaintiff further avers that Refrigerated Transport Company, Inc., a Corporation has as its address the following: Refrigerated Transport Company, Inc., 3901 Jonesboro Road, Forest Park, Georgia 30050.

WHEREFORE, Plaintiff prays that the service of process be had on the Defendant by substituting service upon the Secretary of State of the State of Alabama under the provisions of Title 7, Section 199, Code of Alabama, 1940, recompiled 1958.


 Wilson Hayes
 Attorney for Plaintiff



 STATE OF ALABAMA
 BALDWIN COUNTY

Before me, the undersigned authority, this day personally appeared Wilson Hayes, who is known to me and who being by me first duly sworn to speak the truth, deposes and says he has read the foregoing instrument and knows the facts therein stated are true.


 Wilson Hayes

EUNICE B. BLACKMON
 CIRCUIT CLERK

Sworn to and subscribed before me this the 12th day of July, 1972.


 Mary C. Stiers McGuff, Notary Public
 Baldwin County, Alabama

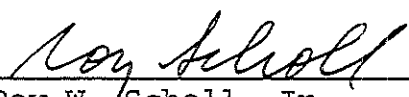
WADIH F. HAWIE,)	IN THE CIRCUIT COURT OF
)	
Plaintiff,)	BALDWIN COUNTY, ALABAMA
)	
vs.)	AT LAW
)	
REFRIGERATED TRANSPORT)	
COMPANY, INC., a)	
corporation,)	CASE NO. 10,143
)	
Defendant.)	

AMENDMENT TO MOTION TO QUASH SERVICE

Now comes the defendant, REFRIGERATED TRANSPORT COMPANY, INC., a corporation, appearing solely for the purpose of filing this amendment to the motion to quash service heretofore filed in this cause and not appearing generally, and adds the following words and figures to immediately follow the words "For that the complaint on its face shows that the accident made the basis of this suit did not occur on a public highway but to the contrary occurred at the 'Site Service Station'" and to immediately precede the words "WHEREFORE, PREMISES CONSIDERED...":

3. For that the Secretary of State was not served with a summons.
4. For that the Secretary of State was not served with a valid summons.
5. For that a summons was not sent by registered mail to defendant, REFRIGERATED TRANSPORT COMPANY, INC., a corporation.
6. For that no valid summons was sent by registered mail to defendant, REFRIGERATED TRANSPORT COMPANY, INC., a corporation.

DUNN, PORTERFIELD, McDOWELL & SCHOLL



 Roy W. Scholl, Jr.
 Attorney for Defendant

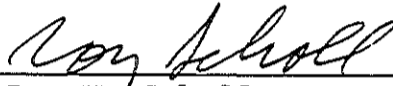


STATE OF ALABAMA)

JEFFERSON COUNTY)

Before me, the undersigned Notary Public in and for County and State aforesaid, appeared Roy W. Scholl, Jr., who, being duly sworn on oath, deposes and says that the allegations of the foregoing amendment are true and correct to his best information, knowledge and belief.

This the 15th day of August, 1972.




Roy W. Scholl, Jr.

Sworn to and subscribed
before me this 15th day
of August, 1972.

Notary Public

CERTIFICATE OF SERVICE

I hereby certify that I have this 15th day of August, 1972, mailed a copy of the foregoing motion, via U.S. Mail, postage prepaid, to the Honorable Wilson Hayes, P.O. Box 300, Bay Minette, Alabama 36507, attorney of record for plaintiff.



Of Counsel for Defendant

FILED

AUG 18 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

WADIH F. HAWIE,)	IN THE CIRCUIT COURT OF
)	
Plaintiff,)	BALDWIN COUNTY, ALABAMA
)	
vs.)	AT LAW
)	
REFRIGERATED TRANSPORT)	
COMPANY, INC., a)	
corporation,)	CASE NO. 10,143
)	
Defendant.)	

MOTION TO QUASH SERVICE

Now comes the defendant, REFRIGERATED TRANSPORT COMPANY, INC., a corporation, appearing solely for the purpose of filing this motion to quash service and not appearing generally, and moves this Honorable Court to quash the service of the complaint, and assigns as grounds therefor as follows:

1. For that service of process was attempted by the plaintiff through the Alabama Long Arm Statute, Title 7 §199, in which the controlling words are as follows:

"The operation by a non-resident of a motor vehicle on a public highway in this state... shall be deemed equivalent to an appointment by such non-resident of the secretary of state of the State of Alabama...to be such non-resident's...true and lawful agent...upon whom may be served the summons and complaint in any action against such non-resident...growing out of an accident or collision in which such non-resident may be involved while operating a motor vehicle on such public highway". (Emphasis Added)

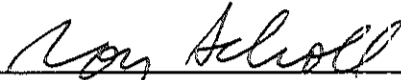
2. For that the complaint on its face shows that the accident made the basis of this suit did not occur on a public highway but to the contrary occurred at the "Site Service Station".

WHEREFORE PREMISES CONSIDERED, this defendant prays that this Honorable Court will quash the service of the complaint in

this case through the Secretary of State on Refrigerated
Transport Company, Inc., a corporation.

This the 4th day of August, 1972.

DUNN, PORTERFIELD, McDOWELL & SCHOLL



Roy W. Scholl, Jr.
Attorney for Defendant
733 Frank Nelson Building
Birmingham, Alabama 35203

STATE OF ALABAMA)
JEFFERSON COUNTY)

Before me, the undersigned, a Notary Public in and for
said County and State, personally appeared Roy W. Scholl, Jr.,
who, being duly sworn on oath, deposes and says that the alle-
gations of the motion to quash service hereinabove set out are
true and correct to his best information, knowledge and belief.

This the 4th day of August, 1972.



Roy W. Scholl, Jr.

Sworn to and subscribed
before me this 4th day
of August, 1972.



Notary Public

CERTIFICATE OF SERVICE

I hereby certify that I have this 4th day of August, 1972,
mailed a copy of the foregoing motion, via U.S. Mail, postage
prepaid, to the Honorable Wilson Hayes, P. O. Box 300, Bay
Minette, Alabama 36507, attorney of record for the plaintiff.



Of Counsel for Defendant

FILED

AUG 11 1972

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Refrigerated Transport Company, Inc., a Corporation to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the complaint of Wadih F. Hawie.

Witness my hand this 7 day of Dec., 1971.

Eunice B. Blackmon
Clerk

WADIH F. HAWIE,	Ø	IN THE CIRCUIT COURT OF
Plaintiff,	Ø	BALDWIN COUNTY, ALABAMA
Vs.	Ø	AT LAW
REFRIGERATED TRANSPORT COMPANY, INC., a Corporation,	Ø	
Defendant.	Ø	NUMBER: <u>10,143</u>

Plaintiff claims of the Defendant Fifteen Thousand (\$15,000.00) Dollars for that heretofore on to-wit the 22nd day of December, 1970 the Defendant so negligently operated a motor vehicle at the Site Service Station on Battleship Parkway, Highway 90, Baldwin County, Alabama where Plaintiff was then employed in the duty as a service station employee servicing vehicles and the vehicle of Defendant, as to cause it, the said motor vehicle, to strike the Plaintiff on the face and body and that as a proximate consequence of the said negligence of the Defendant, Plaintiff suffered injuries to his body and person including a herniated disk, injuries to his spinal column and was caused to suffer great pain and anquish and to be made sick, sore and lame, causing him to expend sums of money for medical, doctor, hospital and other expenses in and about the treatment of his said injury, hence this suit.

Wilson Hayes
Attorney for Plaintiff
Wilson Hayes

FILED

Plaintiff demands trial by Jury.

DEC 7 1971

Wilson Hayes

526

EUNICE B. BLACKMON CIRCUIT CLERK

71-520

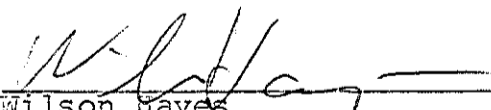
WADIH F. HAWIE, X IN THE CIRCUIT COURT OF
 Plaintiff, X BALDWIN COUNTY, ALABAMA
 Vs. X AT LAW
 REFRIGERATED TRANSPORT X
 COMPANY, INC., a Corporation, X
 Defendant. X NUMBER: 10 143

Comes now the Plaintiff in the above styled cause and amends his Bill of Complaint heretofore filed by avering and adding the following:

1. Plaintiff avers that the Defendant, Refrigerated Transport Company, Inc., is a corporation, not qualified to do business within the State of Alabama on to-wit the 22nd day of December, 1970 and that it, the said Defendant, operated a motor vehicle on a public highway in the State of Alabama on to-wit the 22nd day of December, 1970 and that such case and facts are covered and come under the laws made and provided in such instances, viz Title 7, Section 199, Code of Alabama, 1940, recompiled 1958 and that the said Defendant has no agent within the State of Alabama on whom service may be had.

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WHEREFORE, Plaintiff prays that the service of process be had on the Defendant by substituting service upon the Secretary of State of the State of Alabama under the provisions of Title 7, Section 199, Code of Alabama, 1940, recompiled 1958.



 Wilson Hayes
 Attorney for Plaintiff

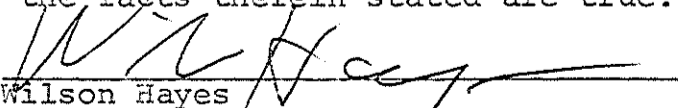
STATE OF ALABAMA
 BALDWIN COUNTY

FILED

JUL 15 1972

Before me, the undersigned authority, this day personally appeared Wilson Hayes, who is known to me and who being by me first duly sworn to speak the truth, deposes and says he has read the foregoing instrument and knows the facts therein stated are true.

EUNICE B. BLACKMON CLERK



 Wilson Hayes

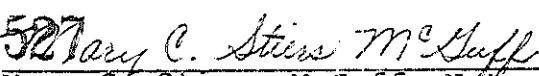
Sworn to and subscribed before me this the 12th day of July, 1972.

VOL

71

PAGE

527



 Mary C. Stiers McGuff, Notary Public
 Baldwin County, Alabama

E47-19-72

No. 10,143

Wadiv F. Sawie
vs

Refrigerated Transport
Co. Inc. A Corp.

7
RECEIVED IN OFFICE
JUL 17 1972
M. S. BUTLER, Sheriff

3

RECEIVED

JUL 14 1972

TAYLOR WILKINS
CLERK

FILED

JUL 13 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

Wilson Hayes

Executed by serving 3 copies of
the within M. Sawie
Secretary of State of The State of
Alabama.

This the 19 day of July, 1972

Sheriff of Montgomery County,
M. S. Butler,

By McMath D. S.

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

McMath Deputy Sheriff

CASE NO. 10,143

FILE NO. 8562

Wadih F. Hawie

vs.

Refrigerated Transport Co.,
Inc., a corporation

BIRMINGHAM, ALA.

19

RECEIVED OF

LAW OFFICES

DUNN, PORTERFIELD, McDOWELL & SCHOLL
733 FRANK NELSON BUILDING

Amendment to Motion to Quash Service

IN ABOVE CASE

RWS/pw

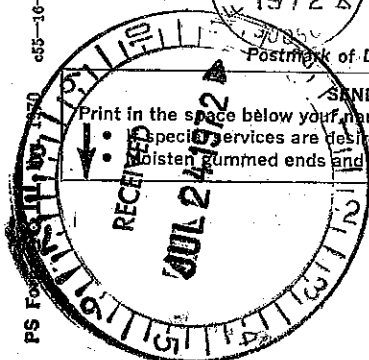
U.S. POSTAL SERVICE
OFFICIAL BUSINESS

655-10-81277-1



PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300

Postmark of Delivering Office



SENDER INSTRUCTIONS

Print in the space below your name, address, including ZIP Code.
• Special services are desired, check block(s) on other side.
• Moistened gummed ends and attach to back of article.

RETURN TO

SECRETARY OF STATE
MONTGOMERY, ALABAMA 36104

JACOBSON & ALBANY COMPANY, INC. 1000 BROADWAY NEW YORK 10003

WADIN F. HAWIE VS REFRIGERATED TRANSPORT COMPANY, INC. (10,143)

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

Show to whom, date and address where delivered Deliver ONLY to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO. SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

CERTIFIED NO. 59574

1 *Refrigerated Transport*
2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

INSURED NO.

DATE DELIVERED

Ken Hawie
3 SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

7/28/72