

2267

SUMMONS AND COMPLAINT

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon J.D. NIX AND JESSIE MOORER 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 CHARLES BANKESTER, a minor, suing by next friend, Morrie Bankester.

WITNESS my hand this 19th day of May, 1954.

Arthur J. Hensch
Clerk

CHARLES BANKESTER, a minor,
suing by next friend, Morrie
Bankester,

PLAINTIFF

VS

J. D. NIX AND
JESSIE MOORER,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW

CASE NO. _____

1.

The Plaintiff claims of the Defendants the sum of TWO HUNDRED FIFTY (\$250.00) DOLLARS as damages for that heretofore, on, to-wit, April 18, 1954, the Plaintiff was operating his motorcycle along U. S. Highway No. 31, a public highway in Baldwin County, Alabama, a place where he had a right to be to-wit, at approximately one mile South of Bay Minette, Alabama, in Baldwin County, Alabama; that at said time and place the Defendant, Jessie Moorer, acting by and through J. D. Nix, his agent, servant, or employee who was then and there acting within the line and scope of his employment as such so negligently operated his automobile as to cause it to run into or against the motorcycle the Plaintiff was driving and as a proximate result of said negligence the Plaintiff's motorcycle was damaged as follows: the front fork was bend and twisted; the handle bars were mashed; the foot pedal was bent and broken; the gas tank was mashed and twisted; the oil tank was mashed and twiested; the muffler was bent; the seat support was broken; the

crank controls and brake throttle were twisted and bent, rendering the Plaintiff's motorcycle less valuable all to the loss of the Plaintiff in the aforesaid amount.

2.

The Plaintiff claims of the Defendants the sum of TWO HUNDRED FIFTY (\$250.00) DOLLARS as damages for that heretofore on, to-wit, April 18, 1954, the Plaintiff was operating his motorcycle along U. S. Highway No. 31, a public highway in Baldwin County, Alabama, a place where he had a right to be, to-wit, at approximately one mile South of Bay Minette, Alabama, in Baldwin County, Alabama; that at said time and place the Defendant, Jessie Moorner, acting by and through J. D. Nix, his agent, servant, or employee who was then and there acting within the line and scope of his employment did wantonly run the automobile he was driving into the Plaintiff's motorcycle and as a direct proximate consequence and result of said wanton act the Plaintiff's motorcycle was wantonly damaged as follows: the front fork was bent and twisted; the handle bars were mashed; the foot pedal was bent and broken; the gas tank was mashed and twisted; the oil tank was mashed and twisted; the muffler was bent; the seat support was broken; the crank controls and brake throttle were twisted and bent, rendering the Plaintiff's motorcycle less valuable all to the loss of the Plaintiff in the aforesaid amount.

3.

The Plaintiff claims of the Defendants the sum of TWENTY TWO HUNDRED FIFTY (\$2250.00) DOLLARS as damages for that heretofore on, to-wit, April 18, 1954, the Plaintiff was operating his motorcycle along U. S. Highway No. 31, a public highway in Baldwin County, Alabama, a place where he had a right to be to-wit, at approximately one mile south of Bay Minette, Alabama, in Baldwin County, Alabama; that at said time and place the Defendant, Jessie Moorner, acting by and through J. D. Nix, his agent, servant, or employee who was then and there acting within the line and scope of his employment as such so negligently operated his automobile as to cause it to run into or against the motorcycle the Plaintiff was driving and as a proximate result of said negligence, the Plaintiff was negligently injured as follows: his right leg was broken; he received

a gash on the top of his right foot; he was permanently injured, caused to suffer much mental and physical pain and anguish; he was caused to expend monies for drugs, doctors and hospitalization; all to the loss and damages of the Plaintiff in the aforesaid amount.

4.

The plaintiff claims of the Defendants the sum of TWENTY TWO HUNDRED FIFTY (\$2250.00) DOLLARS as damages for that heretofore on, to-wit, April 18, 1954, the Plaintiff was operating his motorcycle along U. S. Highway No. 31, a public highway in Baldwin County, Alabama, a place where he had a right to be to-wit, at approximately one mile South of Bay Minette, Alabama, in Baldwin County, Alabama; that at said time and place the defendant, Jessie Moorer, acting by and through J. D. Mix, his agent, servant or employee who was then and there acting within the line and scope of his employment as such did wantonly run the automobile he was driving into the Plaintiff's motorcycle, and as a direct proximate consequence and result of said wanton act the Plaintiff was wantonly injured as follows: his right leg was broken; he received a gash on the top of his right foot; he was permanently injured, caused to suffer much mental and physical pain and anguish; he was caused to expend monies for drugs, doctors and hospitalization; all to the loss and damages of the Plaintiff in the aforesaid amount.

FILED

5-19-54

ALICE J. DUCK, Clerk

Walters & Brantley

BY:

Robert M. Brantley
Attorney for Plaintiff

The Plaintiff demands a trial by jury.

Walters & Brantley

BY:

Robert M. Brantley
Attorney for Plaintiff

BOOK 003 PAGE 139

Received in Sheriff's Office
this 22 day of May 1954
TAYLOR WILKINS, Sheriff

M 2267

Charles Bankster
a minor, suing by
his next friend
Morie Bankster

J. D. Nix
Jesse Moore

FILED

MAY 19 1954

The Sheriff's Office is hereby notified.

FILED

RECEIVED FOR THE
SHERIFF'S OFFICE
J. D. Nix
Jesse Moore

RECEIVED FOR THE
SHERIFF'S OFFICE
J. D. Nix
Jesse Moore

Received _____ day of _____ 19____

and on 22 day of May 1954

I served a copy of the within

on J. D. Nix &

By service on Jesse Moore

TAYLOR WILKINS, Sheriff
By J. D. Nix D.S.

Received in Sheriff's Office
this 22 day of May 1954
TAYLOR WILLIAMS, Sheriff

M 2267

Charles Bankster
a minor, suing by
his next friend
Morie Bankster
vs.
J. D. Nix
Jesse Moore

FILED

MAY 19 1954
JUDGE J. DOCK, Clerk

and Sheriff's Office a copy of this.

WILLIAMS, Sheriff

Received in Sheriff's Office

Received in Sheriff's Office
May 19 1954
JUDGE J. DOCK, Clerk

Received _____ day of _____ 19____

and Sheriff's Office a copy of this.

I served a copy of the within

on _____

at _____

By service on _____

TAYLOR WILLIAMS, Sheriff
By J. D. Nix D.S.

CHARLES BANKESTER, a minor,
suing by next friend, Moorie
Bankester,

Plaintiff,

vs.

J. D. MIX and JESSIE MOORER,
Defendants.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. _____

PLEAS

Comes now the Defendant, J. D. Mix, and for answer to the Complaint heretofore filed against him and to each and every count thereof separately and severally, pleads as follows:

1. Not guilty.

And as further answer to counts 1, 2 and 3 of said Complaint the Defendant, J. D. Mix, pleads, separately and severally, as follows:

2. That at the time and place complained of the Plaintiff himself was guilty of negligence which proximately contributed to his injuries and damages in that he so negligently operated his said motor scooter so as to cause or allow the same to run into, upon or against the automobile which the said Defendant, J. D. Mix, was then and there operating, hence the Plaintiff should not recover.

FILED

9-17-54

ALICE A. CHICK, Clerk

CHASON & STONE

By: Walter D. Stone
Attorneys for Defendant, J. D. Mix.

JESSIE MOORER

PLAINTIFF

VS

J. D. MIX

DEFENDANT.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

At Law.

COUNT ONE:

Plaintiff claims of the Defendant the sum of \$450.00, for that, heretofore on to-wit, the 18th day of April, 1954, at about 3:00 P.M., at a point about one mile South of Bay Minette, in Baldwin County, Alabama, along U. S. Highway No. 31, the Defendant was operating one 1952 Pontiac automobile, which said automobile was the property of the Plaintiff, the same having been loaned to the Defendant, at the request of the Defendant, for the sole use and the benefit of the Defendant, and while so operating the said vehicle the Defendant so negligently operated the same that it was caused to run into, upon and against a motorcycle operated by one Charles Bankester, and as a proximate consequence of such negligence the 1952 Pontiac automobile belonging to the Plaintiff aforesaid was greatly damaged, in this, that the right front door was bent, the right front door glass was broken, the right back door was bent, the panel separating the two right doors was bent, the body below the two right doors was bent, the top of the automobile over both doors was bent, the gravel guard was bent and broken and the hub cap was bent and broken, all to the Plaintiff's damage aforesaid.

COUNT TWO:

Plaintiff claims of the Defendant the further and additional sum of \$500.00, for that, heretofore on, to-wit, the 18th day of April, 1954, at about 3:00 P.M., at a point about one mile South of Bay Minette in Baldwin County, Alabama, the Defendant so negligently operated one 1952 Pontiac automobile, which

said automobile was the property of the Plaintiff, the same having been loaned to the Defendant, at the request of the Defendant and for the sole use and benefit of the Defendant, that the same was caused to run into, upon and against a motorcycle operated by one Charles Bankester and as a proximate consequence of such negligence the said motorcycle was damaged extensively and the Charles Bankester suffered bodily injury therefrom, all for which the said Charles Bankester, a minor suing by his next friend, Morie Bankester, obtained judgment in the Circuit Court of Baldwin County, Alabama, against this Plaintiff and recovered of him the sum of \$500.00, all to the Plaintiff's damage aforesaid.

BEEBE & SWEARINGEN

BY J. B. Swearingen
Attorneys for Plaintiff.

Received 2 day of Feb 1955
and on 4 day of Feb 1955

I served a copy of the within Complaint
on _____

By service on J. D. Wilkins

TAYLOR WILKINS, Sheriff

By J. D. Wilkins D. S.

Case No. 2530

Jessie Maaser

Plaintiff

vs.

J. D. Wilkins

Defendant

Complaint

FILED

FEB 2 1955

ALICE L. BUCK, Clerk

CHARLES BANKESTER, a minor,
suing by next friend, Moccie
Bankester,

Plaintiff,

vs.

J. D. MIX and JESSIE
MOORE,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 2267

Comes now J. D. Mix, and appearing specially for the purpose of filing this plea and for no other different object or purpose and says that the above styled cause should be abated and assigns the following separate and several grounds in support of said plea:

1. That there is a misnomer of the party defendant in that the Complaint herein was served on J. D. Mix.
2. That his name is J. D. Mix and is not J. D. Mix and that the Complaint in this cause was served on J. D. Mix.

WHEREFORE, the said J. D. Mix says that this suit should be abated.

John J. D. Mix
J. D. Mix

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Worborne C. Stone, Jr., a Notary Public, in and for said County in said State, personally appeared J. D. Mix who is known to me and who, after being by me first duly and legally sworn did depose and say under oath as follows:

That his name is J. D. Mix and that he executed the foregoing plea and that the facts alleged therein are true.

Dated this 22nd day of June, 1954.

J D Mix
J. D. Mix

Sworn to and subscribed before
me this 22nd day of June, 1954.

Malone P. Stone Jr.
Notary Public, Baldwin County, Ala.

FILED

6-22-54

ALICE J. DUCK, Clerk

BOOK 003 and 134

2267

CHARLES BANKSTON, a minor, suing
by next friend, Moorie Bankston,

Plaintiff,

vs.

J. D. HIX and JESSIE MOORE,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 2267

PLEA OF MISHOMER

FILED
JUN 22 1954
ALICE J. BUCK, Clerk

We the jury fix the
amount of damages
at \$1800⁰⁰

W. Murrah

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama,
Baldwin County.

Circuit Court, Baldwin County

No. _____

_____ TERM, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon ~~JESSIE MOORER~~ J. D. Nix

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 _____

J. D. Nix _____, Defendant _____

by Jessie Moorner _____

_____, Plaintiff _____

Witness my hand this 2nd day of Feb 1955

W. J. Duck _____, Clerk

No. _____ Page _____

The 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