

JACK VERNON HARVEY,

Plaintiff,

Vs.

FUEL OIL SUPPLY COMPANY,
a corporation, and JAMES A.
ROGERS,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW NO. 2437.

INTERROGATORIES

Comes now the defendant Fuel Oil Supply Company, a Corporation, and desiring the testimony of the plaintiff, propounds to him the following interrogatories:

1. State your full and correct name and address.
2. Are you the plaintiff in this action?
3. On what day and at what time did the accident take place?
4. In whose automobile were you riding at the time of the collision?
5. What was your position in that automobile?
6. In what direction was the automobile in which you were riding proceeding and at what rate of speed and on what street or highway?
7. What was the condition of the weather at the time of the collision?
8. Who else was in the automobile with you and what were their positions?
9. How did you come to be riding in this automobile at that time?
10. What was the destination of your trip when this accident occurred?
11. What was the point of your origin of this trip and how long had you been continuously in the process of making the trip?
12. When was the last time your vehicle had stopped for a rest stop and for how long a period of time was the automobile stopped at that time?
13. If you were not driving the automobile, was the driver any relation to you?

14. How did this person come to be driving your automobile?
15. Did you authorize the driver to drive?
16. Was the driver of your automobile driving under your instructions?
17. Why was this person driving your automobile?
18. Were there any traffic control signs along the highway governing the rate of speed at which you were permitted to travel at the point or near the point where the collision took place?
19. What was the width of the hard surfaced part of the road on which this accident took place?
20. What was the nature of the shoulders at each side of the road at the point where the collision took place?
21. What was the condition of the traffic generally on the highway at and near the point of collision, that is to say, was there much traffic either approaching your vehicle from the opposite direction or traveling along in the same direction?
22. At the time of the collision, were there any vehicles in close proximity to your vehicle and if you state that there were, please state the type of the vehicles and the proximity to your vehicle.
23. Were the lights on your automobile functioning properly and if you say that they were, when was the last time that you looked at them and when was the last time you had then inspected?
24. Was the steering mechanism in the vehicle in which you were riding functioning properly, if you know, and if you state that it was, when was the last time it was checked, if you know?
25. What was the condition of the tires on the vehicle in which you were riding, if you know, and if you state that you do know, when was the last time they were inspected, if you know?
26. With what type of vehicle did your vehicle come into collision?
27. Was there a passenger bus in the proximity where the accident occurred, and if you state that there was, state the location of this bus with reference to your automobile at the moment the impact took place.

28. If you saw any other vehicle at the time of the collision, either by its headlights or otherwise, please describe where that vehicle was with reference to that vehicle immediately prior to the collision and at the time the collision took place.

29. Did the bus which was in the immediate proximity at the place of collision obstruct your view of traffic coming from the opposite direction at the time of the collision?

30. If you did not observe any of the facts immediately preceding the collision, please state why you did not.

31. What transpired immediately following the collision, if you know?

32. Did the Alabama Highway Department conduct an investigation of this matter?

33. Have you given the Alabama Highway Department or any of its representatives any statements concerning how this collision took place?

34. Have you been interviewed by the Alabama Highway Department or any of its representatives with reference to your collision?

35. Where were you taken following the collision? How were you taken there?

36. Were you treated by any doctor immediately following the collision or within a twelve hour period following the collision and if you state that you were, please set forth the name of such doctor and his address.

37. Following the collision in question were you admitted to any hospital? If you state that you were, please set forth the name and address of any and all such hospitals to which you were admitted.

38. If you state that you were taken to a hospital or hospitals, please state:

(a) In what manner you were taken to such hospital or hospitals.

(b) The name of such hospital or hospitals and the location.

(c) How long you remained at each hospital.

(d) What treatment, if any, you received while at such hospital.

(e) Attach to your answers to these interrogatories the report made by each such hospital or the record kept by each such hospital to which you were admitted or to which you went for treatment for the injury which you allege to have received in this accident, or an exact duplicate thereof. If you state that no such records were kept, please set forth if you received any kind of treatment or first aid at the scene of the accident or immediately thereafter and if you state that you did, please state who administered this first aid given, the name and address of such person and of what the treatment consisted.

39. After leaving the hospital, where did you go?

40. Have you been treated by any doctor or physician subsequent to the discharge from any hospital or during the interim between admissions to hospitals and if you state that you have, please:

(a) Give the full name and correct address of any such doctor or physician.

(b) Attach to your answers to these interrogatories the report rendered by any such doctor or physician or an exact duplicate thereof.

41. Were any x-rays made of your person following the collision in question and if you state that they were:

(a) Please state whether they were made at a hospital or by a doctor or both and if you state that such x-ray pictures were made state who made them and where they are presently located.

42. Had you been involved in any accident prior to the accident made the basis of this claim?

43. If you state in answer to the question above that you had been involved in a prior collision or accident, please:

(a) Give the details and circumstances surrounding such accident or accidents.

(b) Where, when and how it or they occurred.

(c) What parts of your body were involved.

(d) What the extent of any injury or injuries were.

(e) When, where and how they were treated.

(f) By whom they were treated.

(g) Attach to your answers to these interrogatories the reports made by any such physician or hospital who treated you or to which you were admitted for treatment or exact copies thereof.

44. Have you suffered or sustained any injury subsequent to the injury made the basis of your claim and if you state that you have, set out in detail:

(a) The circumstances surrounding the injury.

(b) What caused the injury or injuries.

(c) When and where the injuries were received.

(d) Whether you were admitted to a hospital following receipt of the injury.

(e) Whether you were treated by any physician as a result of the injuries received.

(f) The name of any hospital or hospitals, if any, to which you were admitted and the length of your stay in any such institution.

(g) The name of the doctor or doctors who treated you as a result of these injuries.

(h) Whether or not you were confined to your bed or home and if so, how long.

(i) What residual effects were sustained as a result of the injuries.

(j) Attach to your answers to these interrogatories the reports made by all such hospitals or doctors or exact copies thereof.

45. Set out in detail each and every item of expense allegedly incurred by you as a result of the injuries which you allege to have received and attach to your answers to these interrogatories the statements covering such items of expense and state whether or not you have paid these items personally. If you cannot attach the originals, attach exact copies thereof.

46. If you state that you received any injury subsequent to the injuries made the basis of your claim in this action, itemize in detail the expenses which you incurred in connection with treatment

and attach the bills with reference thereto or exact copies thereof.

47. Where is your permanent residence?

48. In what type of occupation are you involved?

(a) If you state that you are in the military service, state whether or not you received any kind of treatment by such branch of the service and whether or not this treatment was at any cost to you.

49. If you have not already done so, please state whether or not subsequent to the accident, you were confined to your home and if so, how long.

50. What actual monetary loss from your occupation have you suffered as a result of the alleged accident and injuries of which you complain?

51. What is your age?

52. Are you married?

53. Do you have any children? And if you say that you do:

(a) How many children do you have?

(b) How old are they?

(c) Where were they at the time of the collision?

(d) Were any of them injured in this collision?

(e) If you say that they were injured in the collision, to what extent were they injured in the collision?

54. Are you presently employed and if so, by whom and at what remuneration?

55. Have you suffered any reduction in the remuneration from your employment as a result of this collision?

56. Where are you presently residing?

57. What is your present work?

58. Are you now doing any type of work which you did not do prior to your collision made the basis of your claim and if you state that you are, set out in detail how your present employment differs from your previous employment.

59. If you have not already said so, please state whether or not you have been reimbursed, giving amount of money for any of the expenses which you might have incurred in connection with this

collision and state who reimbursed you and in what amounts and for what purposes.

60. Was the driver of your automobile a licensed driver?

61. Had the driver of your automobile had anything to drink of an alcholic nature within a period offour hours prior to the time of the collision and if so, were you present and did you observe what quantity of drink the driver consumed?

62. Had you had anything to drink of an alcholic nature within a period of four hours prior to the time of the collision and if so, in what quantity?

63. How long had the driver of your automobile been driving automobiles, if you know.

64. How many times had you permitted this person to drive your automobile?

65. How many times had you ridden in an automobile with a person who was driving your automobile prior to the time of the collision?

66. Were you asleep or awake at the time of the collision and if you state that you were awake, were you observing the progress of your vehicle as it was being driven down the highway?

67. Are the answers to these interrogatories which you have made phrased or couched in your own language or are they phrased or couched in the language of someone else and if you state that they were, in whose language are they so phrased or couched?

68. Did anyone assist you in making your answers to these interrogatories and if you state that they did, please state who assisted you.

69. Has anyone advised you as to what type of answers to make to these interrogatories and if you state that someone has, please state who, listing all such persons.

Attorneys for the Defendant, Fuel Oil Supply
Company, a Corporation.

STATE OF ALABAMA:
COUNTY OF MOBILE:

Before me, the undersigned authority in and for said County and State, this day personally appeared _____, who, being by me first duly sworn, doth depose and say:

That he is one of the attorneys of record for the defendant Fuel Oil Supply Company, a Corporation, in the above styled cause, and as such has authority to make this affidavit; that the answers of the plaintiff to the above and foregoing interrogatories will be material testimony for the defendant in said cause.

Subscribed and sworn to before me
this ____ day of _____, 1954.

Notary Public, Mobile County, Alabama.

SMITH, HAND, ARENDALL & BEDSOLE
LAWYERS

HARRY H. SMITH
COUNSELOR
CHAS. C. HAND
C. B. ARENDALL, JR.
T. MASSEY BEDSOLE
THOMAS G. GREAVES, JR.
WM. BREVARD HAND
VIVIAN G. JOHNSTON, JR.
J. JEPHTHA HILL
PAUL W. BROCK

SUITE 622 FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA

MAILING ADDRESS

P. O. BOX 123
MOBILE, ALA.

CABLE ADDRESS:
HAB

January 31, 1955

Mrs. Alice Duck
Clerk, Circuit Court
Baldwin County
Bay Minette, Alabama

Re: Jack Vernon Harvey v. Fuel
Oil Supply Co., et al.

Dear Mrs. Duck:

I am enclosing answer to be filed in the case styled therein and one copy to be served on Messrs. Chason & Stone. Please indicate on the enclosed copy of this letter the date the same was filed.

Yours very truly,

W B Hand
for SMITH, HAND, ARENDALL & BEDSOLE

WBH.pn
Encl.

JACK VERNON HARVEY,
Plaintiff,

vs.

FUEL OIL SUPPLY COMPANY,
a corporation, and JAMES A.
ROGERS,

Defendants.

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

Comes the Plaintiff in the above styled cause and demurs to Pleas 2 and 3 filed by the Defendants in said cause, separately and severally and assigns the separate and several grounds, viz:

1. That said Plea does not state a defense to the cause of action.

2. That Plea 2 does not allege that the agent, servant or employee of the Plaintiff was acting within the line and scope of her employment as such.

3. That the allegation in Plea 2 that the Plaintiff was riding in the automobile at the time that it was negligently operated by his servant, agent or employee is not a sufficient allegation that he authorized her to drive in such a manner or that he ratified her action.

4. That the allegation in Plea 2 that the Plaintiff acting by and through his servant, agent or employee, Gayle A. Harvey, so negligently operated the automobile is but a conclusion of the Pleader and does not allege sufficient facts that show that he was in fact operating such vehicle through an agent, servant or employee.

FILED

Feb. 4, 1955

ALICE I. DULK, Clerk

Charles Hoffman
Chas. A. Stone
Attorneys for Plaintiff.

JACK VERNON HARVEY,
Plaintiff,
Vs.

FUEL OIL SUPPLY COMPANY,
a corporation, and JAMES A.
ROGERS,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW NO. _____.

ANSWER

Come now the defendants in the above styled cause separately and answer the plaintiff's complaint and for separate answer assign the following pleas:

1. Not guilty.
2. At the time and place alleged in the complaint, the plaintiff, acting by and through his servant, agent or employee, Gayle A. Harvey, so negligently operated the automobile in which he was then and there riding as to cause the same to come into collision with the motor vehicle being then and there driven by the defendant, James A. Rogers, thereby proximately contributing to his own damages and injuries of which he complains, therefore, he ought not to recover.
3. At the time and place alleged in the complaint, the plaintiff's agent, servant or employee, Gayle A. Harvey, while acting in the line and scope of her employment as such, so negligently operated the automobile in which the plaintiff was then and there riding, as to cause the same to collide with the automobile being then and there driven by the defendant, James A. Rogers, thereby proximately contributing to his own injuries and damages of which he complains, hence he ought not to recover.

FILED

Feb. 2, 1955

ALICE J. DUCK, Clerk

Smith Hand and all & Bedale
Gayle A. Harvey
Attorneys for the Defendants.

JACK VERNON HARVEY,

Plaintiff,

Vs.

FUEL OIL SUPPLY COMPANY,
a Corporation, and JAMES A.
ROGERS,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW NO. _____.

MOTION TO STRIKE

Come the defendants separately and separately move the Court to strike from the plaintiff's complaint the following:

1. So much thereof wherein he alleges "she suffered comminuted fracture of her left femur, tibia, hip and elbow, and comminuted fracture of her pelvis and little finger on her left hand; she suffered multiple contusions, abrasions, and lacerations on her head, body and extremities, including deep cuts on her right forehead and under her chin; she was knocked unconscious and caused to lose a large quantity of blood; she was caused to suffer great physical pain and mental anguish and was permanently injured and disfigured; and she continues to suffer great physical pain and mental anguish" for the following reasons:

(a) Such allegation is not essential to the plaintiff's right of recovery and is redundant.

(b) Such matter as is alleged serves only the office of creating prejudice and sympathy and bears no relation to the plaintiff's right of recovery.

2. So much of the plaintiff's complaint wherein he alleges "and plaintiff was caused to lose time from his work and labor and duties" for the following reasons:

(a) Because for aught appearing the element for damages for which plaintiff has made claim is too uncertain and remote to be considered in measuring damages.

FILED

Dec. 2, 1954

ALICE J. DUCK, Clerk

Smith, Hurd, Wendall & Bedsole
Attorneys for the Defendants.

STATE OF ALABAMA)
BALDWIN COUNTY)

IN THE CIRCUIT COURT - LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Fuel Oil Supply Company, a Corporation, and James A. Rogers 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 same, then and there to answer the complaint of Jack Vernon Harvey.

Witness my hand this 10th day of November, 1954.

Reid H. H. H. H.
Clerk.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA.

AT LAW

NO. _____

DEFENDANTS

COUNT ONE

Plaintiff claims of the Defendants the sum of Twenty-five Thousand (\$25,000.00) Dollars, as damages, for that heretofore and on, to-wit, the 14th day of November, 1953, the Defendant James A. Rogers, a servant, agent or employee of the Defendant Fuel Oil Supply Company, a Corporation, while acting within the line and scope of his employment as such, so negligently drove or operated a motor truck or vehicle southwardly on, along and over Temporary U. S. Highway 31 at a point about three and one-half miles north of Bay Minette, Alabama, said Temporary U. S. Highway 31 being then and there a public road or highway in Baldwin County, Alabama, as to cause said motor truck or vehicle to run into, against, upon or collide with an automobile owned by the Plaintiff in which the Plaintiff was then and there riding, which automobile of the Plaintiff was then and there being driven northwardly on said Temporary U. S. Highway 31 by Gayle A. Harvey, the wife of the Plaintiff, and Plaintiff's wife was seriously and severely injured as follows: Her spleen was ruptured, caused to hemorrhage internally and was removed by medical operation; she suffered comminuted fracture of her left femur, tibia, hip and elbow, and comminuted fracture of her pelvis and little finger on her left hand; she suffered multiple contusions, abrasions, and lacerations on her head, body and extremities, including deep cuts on her right forehead and under her chin; she was knocked unconscious and caused to lose a large quantity of blood; she was caused to suffer great

physical pain and mental anguish and was permanently injured and disfigured; and she continues to suffer great physical pain and mental anguish. Plaintiff avers that the injuries and damages of the Plaintiff's said wife were the proximate result of the said negligence; and the Plaintiff further avers that he was injured and damaged as a proximate result of the injuries of his said wife as follows:

Plaintiff was caused much expense for hospital bills and accommodations for his said wife for employing nurses and the expenses incident thereto, in obtaining medicines and medical aid and surgical attention for his said wife and was caused expense in the employment of doctors, physicians and surgeons in and about his efforts to heal and cure his said wife's injuries; and Plaintiff was caused to lose time from his work and labor and duties, and was caused much inconvenience, trouble, and difficulty in attending and nursing his said wife and in efforts to heal and cure her said injuries and in an effort to alleviate her condition; and Plaintiff lost the services and society of his said wife and her companionship or consortium for a long time and will likely continue to lose her said services and society for a long time.

And Plaintiff further avers that as a proximate result of said negligence he suffered the further injuries and damages as follows:

He was knocked unconscious; he suffered lacerations of his head, and bruises, abrasions and contusions of his head, body and extremities; he was caused to suffer great physical pain and mental anguish and to incur medical expenses for the treatment of his said injuries; and his said automobile was badly bent, broken and damaged.

Plaintiff avers that all of his said injuries and damages were the proximate result of said negligence of the Defendant James A. Rogers, a servant, agent or employee of the Defendant Fuel Oil Supply Company, a Corporation, while acting within the line and scope of his authority as such.

CHASON AND STONE

By

Charles Hoffman
Charles Hoffman
Mobile, Alabama

Siegfried B. Christensen
New Orleans, Louisiana

Attorneys for Plaintiff

Plaintiff respectfully demands a trial by jury of this cause.

CHASON AND STONE

By

Charles Hoffman
Charles Hoffman
Mobile, Alabama

Siegfried B. Christensen
New Orleans, Louisiana

Attorneys for Plaintiff

Serve Defendant James A. Rogers, who resides on Pine Street in Fairhope, Alabama.

Serve Defendant Fuel Oil Supply Company, a Corporation, by service on L. W. Schnitzer, its statutory agent, who resides in Fairhope, Alabama.

FILED

11-6-54

ALICE J. DUCK, Clerk

and on _____ day of _____
served a copy of the within _____
on _____
Complaint
Fuel Oil Supply
Co. J. W. Schmitt
By J. A. Rogers
TAYLOR WILKINS, Sheriff
By _____
James A. Rogers

NO 2437

FILED

11-6-54

ALICE J. DUCK, Clerk
454 Pm

JACK VERNON HARVEY,
Plaintiff,
vs.
FUEL OIL SUPPLY COMPANY, a Cor-
poration, and JAMES A. ROGERS,
Defendants.

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

SUMMONS AND COMPLAINT

LAW OFFICES
CHASON & STONE
BAY MINETTE, ALABAMA