

CIVIL SUBPOENA — ORIGINAL — In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he shall be barred.

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Case No. 2592 March TERM, 1956

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETINGS:

You Are Hereby Commanded to Summon

- 1- P. C. Sims, Highway Patrol, Bay Minette
- 2- Kenneth Cooper
- 3- Annie Louise Davis
- 4- Dr. Charles Gaston
- 5- Dr. Jesse M. Reed

if to be found in your County, at the instance of the Pltff.

to be and appear before the Honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof, by 9:00 o'clock of the forenoon, on the 14th day of March, 1956, and from day to day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain cause pending, wherein Sgt. M. E. Echam, Plaintiff and Hester D. Baggett, Defendant.

Herein Fail Not, and have you then and there this Writ.

Given under my hand and seal, this 7 day of March, 1956

Alice J. Buck

Clerk.

Received in office this 7 day of

mar, 1956

SHERIFF

I have executed this writ:

Archie Louise Davis 3/9/56
Dr. Charles Barton 3/9/56
Dr. Jesse M. Leed 3/9/56
F. C. Davis 3/9/56
Kenneth Cooper 3/9/56

ORIGINAL

No. 2592

Page

THE STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

Day Nell M. Echamby

Plaintiff

Vs.

Hurtis D. Baggett

Defendant

CIVIL SUBPOENA

Issued this 7 day of

March, 1956

Alvin J. Duck
Clerk

Taylor & Wilkins
By: Robert SHERIFF
& miles

Plt Ed 2

GAY NELL McELHANEY,

Plaintiff,

VS.

HERTIS DOYLE BAGGETT,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

ANSWERS TO INTERROGATORIES PROPOUNDED TO

HERTIS DOYLE BAGGETT

Comes now Hertis Doyle Baggett, Defendant in the above styled cause and for answers to the interrogatories heretofore propounded to Hertis Doyle Baggett, says as follows:

1. Hertis Doyle Baggett. Bay Minette, Alabama
2. Yes. (a) Alabama Dry Docks. (b) Six months. (c) Mobile, Alabama.
3. Yes, I was hit by a car driven by Miss Gay Nell McElhaney.
4. 6:20 A.M.
5. Fair - some fog. Visibility was fairly good at scene of the accident.
6. Yes.
7. Home.
8. Work.
9. I was going home.
10. 5:30 A.M.
11. Myself.
12. None.
13. (a) Ford. (b) 1955 (c) two-door customline sedan.
14. 10,300 miles.
15. Yes.
16. Yes.
17. Yes.
18. No.
19. No.
20. I don't know.
21. I don't know.
22. I don't know.
23. I don't know.
24. Good to fair.

25. I don't know. Probably twenty-two feet.
26. No.
27. 12:00 noon Friday, April 15, 1955.
28. No.
29. I don't know.
30. I don't know.
31. No.
32. No.
33. On highway 31 South of Bay Minette, Alabama.
34. North.
35. I don't know.
36. None.
37. I don't know.
38. Yes. (a) one, that of Plaintiff was approaching.
39. Yes. (a) South.
40. I don't know.
41. I don't know.
42. I don't know.
43. I don't know.
44. I don't know.
45. I don't know.
46. I don't know.
47. I don't know.
48. Question requires no answer.
49. (a) I don't know.
(b) I don't know.
(c) I don't know.
(d) I don't know.
(e) I don't know.
(f) I don't know.
(g) I don't know
50. I don't know. She was traveling pretty fast.
51. Left front fender.
52. Left front fender.
53. I don't know.
54. I don't know.
55. I don't know.
56. I don't know.

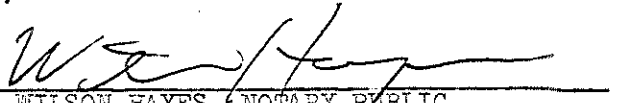
Hertis Doyle Baggett
HERTIS DOYLE BAGGETT

STATE OF ALABAMA

COUNTY OF BALDWIN

Before Me, Wilson Hayes, Notary Public in and for said County and State, personally appeared Hertis Doyle Baggett, who is known to me, and who, being duly sworn by me, deposed and said that he executed the foregoing answers to interrogatories and that the answers are true and correct.

Done this 13TH day of September, 1955


WILSON HAYES, NOTARY PUBLIC,
BALDWIN COUNTY, ALABAMA

plgts Exp 1
GAY NELL McELHANEY,

Plaintiff,

VS.

HERTIS D. BAGGETT,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

INTERROGATORIES

Now comes the Plaintiff in the above styled cause and propounds interrogatories to the Defendant, Hertis D. Baggett.

1. State your correct name, age and address.
2. Were you employed on the 16th day of April, 1955?
(A) If so, by whom were you employed? (B) How long had you been employed by this firm? (C) Where is the firm located for whom you work?
3. Were you involved in an automobile accident on the 16th day of April, 1955?
4. State the hour of the day or night that said accident occurred.
5. State the weather conditions on the occasion of the accident.
6. Did the accident occur during the hours of day light?
7. Where were you going on said occasion?
8. Where were you coming from on said occasion?
9. For what purpose were you making the journey during which the accident occurred?
10. What time did you leave your point of departure to begin your journey on said occasion?
11. Who owned the automobile which you were driving on said occasion?
12. How many persons were riding in the automobile with you on said occasion?
13. Describe the vehicle in which you were riding on said occasion by stating: (A) the manufacturer's name of said vehicle (B) the yearly model of said vehicle (C) the body type of said vehicle.

14. Please state the number of miles or approximately mileage your said vehicle had been driven.

15. Was the vehicle in which you were riding in good repair prior to the collision?

16. Were the brakes on your vehicle in good repair prior to the accident?

17. Was the steering wheel and steering linkage in good repair prior to the accident?

18. Did the brakes fail or give way prior to the accident?
(A) If so, state the true facts as to what occurred.

19. Did the steering wheel and steering linkage fail to work properly prior to the accident? (A) If so, state the true facts in detail.

20. Was your vehicle out of control prior to the accident, either by way of failing to respond to the brakes or steering wheel? (A) If so, state the true facts in detail.

21. Did you have control and did you exercise such control over the vehicle up until the moment of the collision?

22. If your vehicle was out of control while it moved any distance prior to the accident, please state the approximate distance in feet that your vehicle moved while out of control prior to the accident?

23. Did you intentionally and purposely steer your vehicle to cause it to drive the path it traversed while moving a distance of 100 feet leading up to the point of collision?

24. Describe the visibility that existed at and near the point of collision on said occasion.

25. State the approximate width of the paved portion of the highway at and near the point of accident.

26. Please state whether or not you fell asleep prior to the accident.

27. State the time of day or night as accurately as you can, when you had last been asleep prior to the time of the accident.

28. Did you observe any drowsiness or drowsy condition prior to the moment of the accident? (A) If So, where were you when you became drowsy?

29. Were you physically normal prior to the accident?

30. Did you lose consciousness prior to the accident?

31. Had you consumed any alcoholic beverages within the period of twenty-four hours next preceding the moment of the accident? (A) If so, what beverage did you consume? (B) Where were you when you consumed such portion of alcoholic beverage? (C) What quantity of alcoholic beverage did you consume?

32. Was there anything wrong with your vision or your sense of sight as you approached the point of accident?

33. Where did the accident occur?

34. In which general direction were you traveling as you approached the point of accident.

35. Were there any vehicles approaching in the same direction that you were moving on said occasion? (A) If so, locate and describe the position of each vehicle which you saw which was moving in the same direction which your vehicle was moving as you approached the point of accident.

36. How many vehicles were ahead of your vehicle moving in the same direction you were moving prior to the accident?

37. How many vehicles were behind your motor vehicle moving in the same direction that you were moving prior to the accident?

38. Did you see any vehicles approaching the point of accident traveling in the opposite direction from that which you were traveling? (A) If so, how many vehicles did you observe traveling in the opposite direction from you?

39. Did you see the Plaintiff's car on said occasion? (A) If so, in which direction was the Plaintiff's car traveling when you saw it?

40. State the approximate distance in feet that separated your vehicle and the Plaintiff's car when you first saw said car.

41. State the approximate distance in feet that separated your vehicle and the point of collision when you first saw the Plaintiff's car.

42. State the approximate distance in feet that separated the Plaintiff's car and the point of collision when you first saw the car.

43. State the approximate distance in feet that your vehicle traveled from the moment you first saw the car until the moment of the collision.

44. State the approximate distance in feet that the Plaintiff's car traveled from the moment you first saw it until the collision occurred.

45. Describe the course or path traveled by the Plaintiff's car from the moment you first saw it until it reached the point of collision.

46. Describe accurately and in detail the course or path traveled by your vehicle from the moment you first saw the Plaintiff's car until your vehicle reached the point of collision.

47. Did your vehicle travel to your left of the center of the highway at any time just prior to the accident? (A) If so, to what extent did your vehicle travel on your left side of the center of the highway? (B) Why did you drive your vehicle on the left side of the highway?

48. Was your vehicle broken, out of order or out of control when you drove your vehicle to the left of the center of the paved portion of the highway?

49. State the speed of your vehicle in miles per hour as accurately as you can at the following points: (A) At the point of collision; (B) At a point 25 feet before reaching the point of accident; (C) At a point of 50 feet before reaching the point of accident; (D) At a point of 100 feet before reaching the point of accident; (E) At a point of 150 feet before reaching the point of accident; (F) At a point of 200 feet before reaching the point of accident; (G) At a point of 250 feet before reaching the point of accident.

50. State the speed of the Plaintiff's vehicle in miles per hour as accurately as you can, at the following point:

(A) At the point of collision; (B) At a point 25 feet before reaching the point of accident; (C) At a point 50 feet before reaching the point of accident; (D) At a point 100 feet before reaching the point of accident; (E) At a point 150 feet before reaching the point of accident; (F) At a point 200 feet before reaching the point of accident; (G) At a point 250 feet before reaching the point of accident.

51. State what part of your vehicle came in contact with the Plaintiff's vehicle.

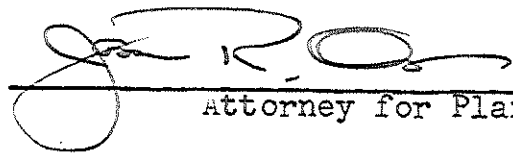
52. What part of the Plaintiff's vehicle came in contact with your vehicle?

53. Where did your vehicle come to rest after the collision?

54. Where did the Plaintiff's vehicle come to rest after the collision?

55. Whom did you talk to about this accident at the scene of the accident?

56. Did you have any conversation with Kenneth Cooper at the scene of this accident? (A) If so, state the substance of your conversation.



Attorney for Plaintiff

STATE OF ALABAMA)
*
BALDWIN COUNTY)

Before me, the undersigned authority in and for said State and County, personally appeared James R. Owen, who first being duly and legally sworn deposes and says: That he is the Attorney for the Plaintiff in the above styled cause and that the answers to the foregoing interrogatories as well and truly made will be

material testimony for the Plaintiff on the trial of this cause.

John R. O.

Sworn to and subscribed before me on
this the 29th day of April, 1955.

Mary Lou Blackburn
Notary Public, Baldwin County, Alabama.

2592
INTERROGATORIES

GAY NELL McELHANEY,

Plaintiff,

VS.

HERTIS D. BAGGETT,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

FILED

MAY 4- 1955

ALICE I. DUCK, Clerk
JAMES R. OWEN

ATTORNEY-AT-LAW
BAY MINETTE, ALABAMA

GAY NELL McELHANEY,)	
)	
Plaintiff,)	IN THE CIRCUIT COURT OF
)	
VS.)	BALDWIN COUNTY, ALABAMA
)	
HERTIS D. BAGGETT,)	AT LAW
)	
Defendant.)	

AMENDED COMPLAINT

Now comes the Plaintiff in the above styled cause, by her attorney, and amends the Complaint heretofore filed in said cause, so that, as amended, the said Complaint will read as follows:

"COUNT ONE

The Plaintiff claims of the Defendant the sum of Ten Thousand Dollars (^{1,000.00}~~\$10,000.00~~) for that heretofore on to-wit, April 16, 1955, the Plaintiff was operating her automobile upon a public highway in Baldwin County, Alabama, to-wit: U. S. Highway No. 31, between Bay Minette and Stapleton, where she had a right to be, and while said automobile was being operated and driven by Plaintiff along said highway in a Southerly direction and at a point approximately two-tenths of a mile North of Ellis Nursery, an automobile which was being driven by the Defendant ran upon, over or against the automobile of the Plaintiff, causing great damages and injuries to the Plaintiff's automobile, to-wit: the top, front axle, grill, frame, and other parts of Plaintiff's automobile were broken, bent, smashed or otherwise damaged or injured, all to the damages of the Plaintiff as aforesaid. The Plaintiff alleges that her said damages to her said automobile were proximately caused by the negligence of the Defendant, in that he negligently caused, allowed, or permitted said automobile to run upon, over or against the automobile of the Plaintiff and as a proximate consequence thereof, the Plaintiff's automobile was damaged and injured as aforesaid.

COUNT TWO

The Plaintiff claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) for that heretofore on to-wit, April 16, 1955, the Plaintiff was operating her automobile upon a public highway in Baldwin County, Alabama, to-wit: U. S. Highway No. 31,

between Bay Minette and Stapleton, where she had a right to be, and while said automobile was being operated and driven by Plaintiff along said highway in a Southerly direction and at a point approximately two-tenths of a mile North of Ellis Nursery, an automobile which was being driven by the Defendant ran upon, over or against the automobile of the Plaintiff, causing great damages and injuries to the Plaintiff, to-wit: her body was bruised and injured; she was bruised and injured in her face, head, and other parts of her body, her mouth and lips were greatly bruised and injured; her teeth were injured and broken; her leg was cut, bruised and mutilated; she was bruised internally, was made sick and sore; has suffered and is suffering mental pain and anguish all to the Plaintiff's damages as aforesaid. The Plaintiff alleges that her said injuries were proximately caused by the negligence of the Defendant, in that he negligently caused, allowed or permitted said automobile to run upon, over or against the automobile of the Plaintiff and as a proximate consequence thereof the Plaintiff was injured as aforesaid."


Attorney for Plaintiff.

We the Jury find
for the Plaintiff
and assess damages
to the automobile
for \$1000.00 and
Bodily Injury for
\$2000.00 making
a total of
\$3000.00

Paul Schultz
Foreman

AMENDED COMPLAINT

2572

GAY NELL McELHANEY,

Plaintiff,

VS.

HERTIS D. BAGGETT,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

FILED

OCT 31 1955

JAMES R. OWEN, Clerk
ATTORNEY-AT-LAW
BAY MINETTE, ALABAMA

GAY NELL McELHANEY
Plaintiff,

VS

HERTIS D. BAGGETT,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

NUMBER _____

.....

Comes now the Defendant in the above styled cause and
amends his plea to read as follows:

1. Not Guilty.

2. The Defendant alleges that at the time and place complained
of the Plaintiff herself was guilty of contributory negligence
which was the proximate cause of the damages and injure's com-
plained of, in that the Plaintiff so negligently operated her
motor vehicle as to cause or allow the said motor vehicle to
collide with or run into, over or against the car belonging to
Defendant.

W. H. Hays

W. H. Hays
Attorney's for Defendant

GAY NELL McELHANEY,

PLAINTIFF

VS

HERTIS DOYLE BAGGETT,

DEFENDANT.

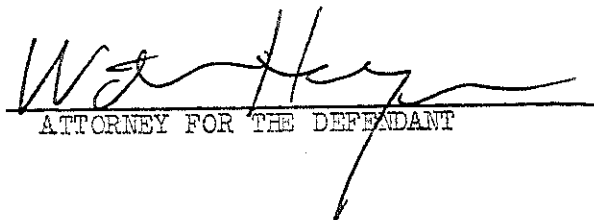
IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

PLEA

1. The Defendant pleads not guilty.


ATTORNEY FOR THE DEFENDANT

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Hertis D. Baggett 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 Gay Nell McElhaney.

WITNESS my hand this 25 day of April, 1955.

Reice J. Lucke
Clerk.

* * * * *

GAY NELL McELHANEY,

Plaintiff,

VS.

HERTIS D. BAGGETT,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

C O M P L A I N T

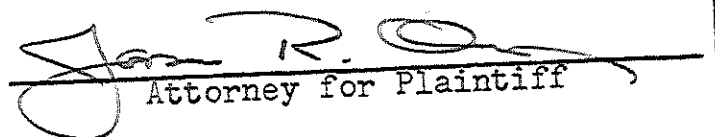
COUNT ONE

The Plaintiff claims of the Defendant the sum of Thirty Five Hundred Dollars (\$3500.00) for that heretofore on to-wit, April 16, 1955, the Plaintiff was operating her automobile upon a public highway in Baldwin County, Alabama, to-wit: U. S. Highway No. 31, between Bay Minette and Stapleton, where she had a right to be, and while said automobile was being operated and driven by Plaintiff along said highway in a Southerly direction and at a point approximately two-tenths of a mile North of Ellis Nursery, an automobile which was being driven by the Defendant ran upon, over or against the automobile of the Plaintiff, causing great damages and injuries to the Plaintiff's automobile, to-wit: the top, front axle, grill, frame, and other parts of Plaintiff's automobile were broken, bent, smashed or otherwise damaged or injured, all totthe damages of the Plaintiff as aforesaid. The

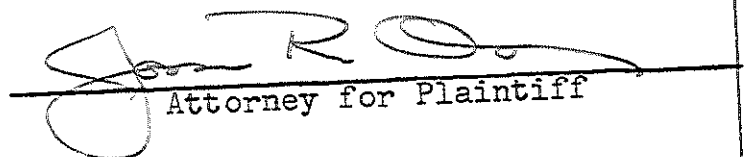
Plaintiff alleges that her said damages to her said automobile were proximately caused by the negligence of the Defendant, in that he negligently caused, allowed, or permitted said automobile to run upon, over or against the automobile of the Plaintiff and as a proximate consequence thereof, the Plaintiff's automobile was damaged and injured as aforesaid.

COUNT TWO

The Plaintiff claims of the Defendant the sum of Twenty Five Hundred Dollars (\$2500.00) for that heretofore on to-wit, April 16, 1955, the Plaintiff was operating her automobile upon a public highway in Baldwin County, Alabama, to-wit: U. S. Highway No. 31, between Bay Minette and Stapleton, where she had a right to be, and while said automobile was being operated and driven by Plaintiff along said highway in a Southerly direction and at a point approximately two-tenths of a mile North of Ellis Nursery, an automobile which was being driven by the Defendant ran upon, over or against the automobile of the Plaintiff, causing great damages and injuries to the Plaintiff, to-wit: her body was bruised and injured; she was bruised and injured in her face, head, and other parts of her body, her mouth and lips were greatly bruised and injured; her teeth were injured and broken; her leg was cut, bruised and mutilated; she was bruised internally, was made sick and sore; has suffered and is suffering mental pain and anguish all to the Plaintiff's damages as aforesaid. The Plaintiff alleges that her said injuries were proximately caused by the negligence of the Defendant, in that he negligently caused, allowed or permitted said automobile to run upon, over or against the automobile of the Plaintiff and as a proximate consequent thereof the Plaintiff was injured as aforesaid.


Attorney for Plaintiff

Plaintiff demands a trial of said cause by jury.


Attorney for Plaintiff

700 25922

SUMMONS AND COMPLAINT

GAY NELL McELHANEY,
Plaintiff,
VS.
HERTIS D. BAGGETT,
Defendant.

received 25 day of April 1955
and on 28 day of April, 1955
served a copy of the within of to C.

service on Hertis D. Baggett

TAYLOR WILKINS, Sheriff
By [Signature] D.S.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW
FILED

APR 25 1955

ALICE J. BUCK, Clerk

JAMES R. OWEN
ATTORNEY-AT-LAW
BAY MINETTE, ALABAMA

GAY NELL McELHANEY,

Plaintiff,

vs

HERTIS DOYLE BAGGETT,

Defendant.

IN THE CIRCUIT COURT OF

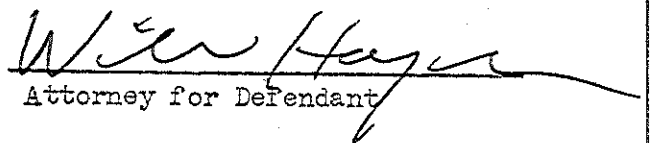
BALDWIN COUNTY, ALABAMA

AT LAW

2592

Comes now the Defendant in the above styled cause and demurs to the complaint of the Plaintiff heretofore filed in this cause and to each count, allegation, averment, sentence and paragraph, seperately and severally, and assigns, seperately and severally, the following grounds, to-wit:

1. For that the complaint does not state a cause of action.
2. The complaint is vague, indefinite and uncertain.
3. It does not appear from the complaint wherein the Plaintiff was negligent.
4. The complaint does not allege facts showing negligence on the part of the Plaintiff.


Attorney for Defendant

LAW OFFICE OF
FOREST A. CHRISTIAN
FOLEY, ALABAMA

July 15, 1955

Hon. H. M. Hall
Circuit Judge
Bay Minette, Alabama

Dear Judge:

Enclosed are six letters concerning the render of judgment in the cases mentioned in these letters. It appears that I will be unable to be in court Tuesday, for the reason that Mr. Foley is coming here from Chicago to take care of urgent matters and we will be very busy on Tuesday. Kindly accept my apologies for being unable to attend your court.

Yours very truly,



FOREST A. CHRISTIAN

Enclosures

LAW OFFICE OF
FOREST A. CHRISTIAN
FOLEY, ALABAMA
July 15, 1955

Hon. H. M. Hall
Circuit Judge
Bay Minette, Alabama

Re: Merchants National Bank of
Mobile, Alabama

Vs: Kenneth Harms and Otto Harms

2593

Dear Judge:

The defendants in this case have practically paid the full amount of the claim with the exception of a small amount of interest due plus the court costs. The Plaintiff Bank is willing to waive the small amount of interest if the defendants are assessed with the court costs.

Yours very truly,



FOREST A. CHRISTIAN

SUMMONS

THE STATE OF ALABAMA,)
BALDWIN COUNTY.)

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETING:

You are hereby commanded to summon KENNETH HARMS and OTTO HARMS, 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, Alabama, at Bay Minette, against KENNETH HARMS and OTTO HARMS, by THE MERCHANTS NATIONAL BANK OF MOBILE, MOBILE, ALABAMA.

Witness my hand this the 26th day of April, 1955.

Rising L. Wicks
Clerk

.....

COMPLAINT

THE MERCHANTS NATIONAL BANK
OF MOBILE, MOBILE, ALABAMA,

PLAINTIFF

VS:

KENNETH HARMS AND OTTO HARMS,
DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

The plaintiff claims of the defendants EIGHTY NINE & 00/100 DOLLARS (\$89.00) due by promissory note made by them on the 23rd day of February, 1954, and payable on September 9, 1954, with interest thereon. Said note provides for a reasonable attorney's fee, which plaintiff alleges to be \$25.00.

Walter R. Blum
Attorney for Plaintiff

The defendants live near Summerdale, Ala.

Guttery v Kelgore
233 ala 514
17250 687
applies.

✓
no 2593
RECORDED

SUMMONS AND COMPLAINT

Received 26 day of April 1955
and on 13 day of May 1955
I served a copy of the within L & C
On _____

By service on Kenneth H. Harms
Otto Harms
TAYLOR WILKINS, Sheriff
By Forlida L. L. L. S.

THE MERCHANTS NATIONAL BANK OF
MOBILE, MOBILE, ALABAMA

PLAINTIFF

VS:

KENNETH HARMS AND OTTO HARMS

DEFENDANTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

FILED
APR 26 1955
ALICE J. DUCK, Clerk

LAW OFFICE OF
FOREST A. CHRISTIAN
FOLEY, ALABAMA