

THESIS H. SHELKOFISKY,

Plaintiff,

vs.

W. M. RICHERRSON and
JAMES FRANK STEWART,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

INTERROGATORIES PROPOUNDED BY
THE PLAINTIFF TO THE DEFENDANTS

Comes now the Plaintiff, Thesis H. Shelkofsky, by her attorneys, and affidavit having been made by John Chason, one of the Attorneys of Record for the Plaintiff, and propounds the following interrogatories to the Defendants, W. M. Richerson and James Frank Stewart; separately and severally:

1. Please state your name, age and address.

2. Were you, on August 17, 1955, the owner, or driver, of a Chevrolet tractor-trailer truck which was involved in an accident with a Chrysler sedan approximately 1000 feet West of Steelwood on Alabama Highway No. 3 in Baldwin County, Alabama?

(a) If you state that you were the owner of such vehicle at said time and place, was your truck being driven at that time and place by James Frank Stewart?

(b) If such vehicle was at said time and place owned by W. M. Richerson and was being driven by James Frank Stewart, was the said James Frank Stewart at said time and place the agent, servant or employee of W. M. Richerson, acting within the line and scope of his authority as such?

(c) Was the Chrysler sedan which was involved in the wreck being driven by a lady who was made known to you to be Thesis H. Shelkofsky?

3. Was your vehicle, or the one you were driving, moving at the time of the collision?

(a) If you state that it was moving, in what direction was it traveling and at what speed?

(b) Was such vehicle stopped or parked at the time of the collision and immediately prior thereto?

STATE OF ALABAMA

BALDWIN COUNTY

Before me, HARRY M. D'olive, a Notary Public, in and for said County in said State, personally appeared John Chason, 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 John Chason, and that he is one of the Attorneys of Record for Thesis H. Shelkofsky, who is the Plaintiff in that certain action now pending in the Circuit Court of Baldwin County, Alabama, wherein W. M. Richerson and James Frank Stewart are the Defendants. That the answers to the interrogatories propounded above will be material testimony and evidence for the Plaintiff in the said cause.

Dated this 26th day of January, 1956.

Sworn to and subscribed before
me this 26th day of January,
1956.

Harry M. D'olive
Notary Public, Baldwin County, Ala.

Ex 3 J.H.S.

THESIS H. SHELKOFISKY,	:	IN THE CIRCUIT COURT OF
Plaintiff	:	
versus	:	BALDWIN COUNTY, ALABAMA.
W.M. RICHEYSON, and JAMES FRANK	:	
STEWART,	:	AT LAW
Defendants	:	
	:	NO. 2837

ANSWERS TO INTERROGATORIES

Comes the defendant James Frank Stewart and for answer to the interrogatories propounded by the plaintiff, says as follows:

1. James Frank Stewart. I am twenty-seven (27) years old, and reside in Bay Minette, Alabama.

2. I was the driver.

(a) See answer to 2.

(b) See answer to 2.

(c) I have been advised that Thesis H. Shelkofsky was the driver of the Chrysler.

3. The vehicle was moving at the time of the collision.

(a) It was moving but I cannot say at exactly what speed as I was attempting to bring the truck to a halt.

(b) No.

(c) Yes.

(d) Yes.

(e) At the time of this accident the vehicle which I was driving was equipped with the lights which were required by law.

4. The vehicle was not parked on the highway at the time of the collision.

(a) See answer to 4.

(b) See answer to 4.

THELIS H. SHELKOFKY,	:	IN THE CIRCUIT COURT OF
Plaintiff	:	BALDWIN COUNTY, ALABAMA.
versus	:	
W.M. RICHESON and JAMES FRANK	:	AT LAW
STEWART,	:	
Defendants	:	NO. 2837

Come now the defendants separately and for separate answer to the plaintiff's complaint as amended, and to each count thereof separately and severally, separately and severally assign the following separate and several pleas:

ONE

Not guilty.

TWO

At the time and place complained of in the complaint plaintiff was herself guilty of negligence which proximately contributed to her injuries and damages of which she complains, hence she cannot recover.

Hand Overdall & Bedale
Attorneys for defendants

THESIS H. SHELKOPSKY,	:	
	:	
Plaintiff	:	IN THE CIRCUIT COURT OF
	:	
versus	:	
	:	
W.M. RICHEYSON, and JAMES	:	BALDWIN COUNTY, ALABAMA.
FRANK STEWART,	:	
	:	
Defendants	:	AT LAW
	:	NO. 2837

D E M U R R E R

Come now the defendants, separately and severally, and separately and severally demur to the plaintiff's complaint and each count thereof, separately and severally, and for separate and several grounds of the demurrer separately and severally assign the following:

1. Said count fails to state a cause of action.
2. Said count attempts to join an action of trespass with an action on the case in the same count.
3. Said count improperly joins causes of action.
4. Said count improperly alleges separate causes of action not properly joinable in the same count.
5. Said count attempts to set up the quo modo of the negligence and the facts do not in and of themselves constitute negligence.
6. The allegations of said count attempt to set forth the acts of the defendants constituting negligence and the facts alleged do not in and of themselves establish such negligence.
7. The allegations of said count "in the night time without proper lights on such motor vehicle as required by the laws of the State of Alabama" is but a conclusion of the pleader not supported by the facts alleged.
8. The allegations of said count that the plaintiff was caused to run into, over, and against the motor vehicle of the defendant by reason that the same was without proper lights is but a conclusion of the pleader not supported by the facts alleged.

9. For aught appearing from said count, plaintiff was guilty of subsequent negligence, therefore not entitling her to recover as alleged.

10. For aught appearing from said count the defendant owed the plaintiff no duty as alleged.

Harold Randall & Belcher
Attorneys for Defendants

STATE OF ALABAMA)
BALDWIN COUNTY)

BOOK 018 PAGE 83
IN THE CIRCUIT COURT - LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon W. M. Richerson and James Frank Stewart 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 Thesis H. Shelkofsky.

Witness my hand this 23 day of January, 1956.

Arice L. Duche
Clerk.

THESIS H. SHELKOFSKY,

Plaintiff,

vs.

W. M. RICHERRSON and
JAMES FRANK STEWART,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

COUNT ONE:

The Plaintiff claims of the Defendants the sum of Five Thousand Dollars (\$5,000.00) as damages for that, on, to-wit; August 17, 1955, the Defendant, W. M. Richerson, acting by and through the Defendant, James Frank Stewart, who was his agent, servant or employee and who was then and there acting within the line and scope of his authority as such, so negligently operated a motor vehicle on Alabama Highway No. 3, a public highway, at a point approximately 1000 feet West of Steelwood, in Baldwin County, Alabama, as to cause or allow said motor vehicle to run into, over or against an automobile which was then and there being driven ^{on or} along said Highway by the Plaintiff, where she had a right to be and as a proximate consequence of such negligence the Plaintiff was injured in this: she received a severe

cut across her back which caused the skin to be raised and her back is permanently scarred and disfigured, she received severe bruises all over her body, she suffered severe pain and mental anguish, she was caused to become very nervous and was caused to incur hospital and medical bills, all to the damage of the Plaintiff, aforesaid, wherefore Plaintiff brings this suit and asks judgment in the above amount.

COUNT TWO:

The Plaintiff claims of the Defendants the sum of Five Thousand Dollars (\$5,000.00) as damages for that on, to-wit; August 17, 1955, the Defendant, W. M. Richerson, acting by and through the Defendant, James Frank Stewart, who was then and there his agent, servant and employee and who was acting within the line and scope of his authority as such, willfully or wantonly injured the Plaintiff on Alabama Highway No. 3, a public highway, at a point approximately 1000 feet West of Steelwood, in Baldwin County, Alabama, by then and there willfully or wantonly driving a motor vehicle into, over or against an automobile which was then and there being driven ^{on or} along such Highway by the Plaintiff, where she had a right to be, and as a proximate consequence thereof the Plaintiff was injured in this: she received a severe cut across her back which caused the skin to be raised and her back is permanently scarred and disfigured, she received severe bruises all over her body, she suffered severe pain and mental anguish, she was caused to become very nervous and was caused to incur hospital and medical bills, all to the damage of the Plaintiff, aforesaid, wherefore Plaintiff brings this suit and asks judgment in the above amount.

COUNT THREE:

The Plaintiff claims of the Defendants the sum of Five Thousand Dollars (\$5,000.00) as damages for that on, to-wit; August 17, 1955, the Defendant, W. M. Richerson, acting by and through the Defendant, James Frank Stewart, who was his agent, servant or employee and who was then and there acting within the line and scope of his authority as such, negligently operated a motor vehicle on Alabama Highway No. 3, a public highway in Baldwin County, Alabama, at a point approximately 1000 feet West of Steelwood in Baldwin County,

Alabama, in the night time without proper lights on such motor vehicle as required by the laws of the State of Alabama and Plaintiff who was then and there driving a motor vehicle ^{on or} along such Highway at said time and place was thereby caused to run into, over or against the motor vehicle owned by the Defendant, W. M. Richerson, and as a proximate consequence of the negligence of such Defendants the Plaintiff was injured in this: she received a severe cut across her back which caused the skin to be raised and her back is permanently scarred and disfigured, she received severe bruises all over her body, she suffered severe pain and mental anguish, she was caused to become very nervous and was caused to incur hospital and medical bills, all to the damage of the Plaintiff, aforesaid, wherefore Plaintiff brings this suit and asks judgment in the above amount.

COUNT FOUR:

The Plaintiff claims of the Defendants the sum of Five Thousand Dollars (\$5,000.00) as damages for that on, to-wit; August 17, 1955, the Defendant, W. M. Richerson, acting by and through the Defendant, James Frank Stewart, who was then and there his agent, servant or employee and who was acting within the line and scope of his authority as such, willfully or wantonly injured the Plaintiff by willfully or wantonly driving a motor vehicle ^{on or} along Alabama Highway No. 3, a public highway in Baldwin County, Alabama, at a point approximately 1000 feet West of Steelwood, in Baldwin County, Alabama, in the night time without proper lights as required by the laws of the State of Alabama and as a proximate consequence of the willfull or wanton negligence of such Defendants the Plaintiff was injured in this: she received a severe cut across her back which caused the skin to be raised and her back is permanently scarred and disfigured, she received severe bruises all over her body, she suffered severe pain and mental anguish, she was caused to become very nervous and was caused to incur hospital and medical bills, all to the damage of the Plaintiff, aforesaid, wherefore Plaintiff brings this suit and asks judgment in the above amount.

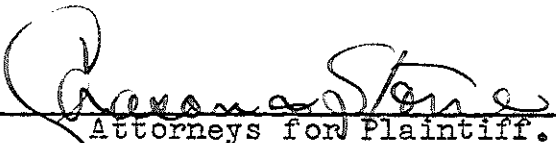
COUNT FIVE:

The Plaintiff claims of the Defendants the sum of Five Thousand Dollars (\$5,000.00) as damages for that on, to-wit; August 17, 1955, the Defendant, W. M. Richerson, acting by and through the Defendant, James Frank Stewart, who was then and there his agent, servant or employee and who was acting within the line and scope of his authority as such, negligently parked or left standing a motor vehicle ^{in the nighttime} upon the main traveled portion of Alabama Highway No. 3 which is a public highway in Baldwin County, Alabama, at a point approximately 1000 feet West of Steelwood in Baldwin County, Alabama, without leaving a clear and unobstructed width of at least fifteen feet upon the main traveled portion of said highway opposite such standing vehicle and the automobile driven by the Plaintiff ^{on or} along such highway at said time and place ran into, over or against such vehicle and as a proximate consequence of the negligence of such Defendants the Plaintiff was injured in this: she received a severe cut across her back which caused the skin to be raised and her back is permanently scarred and disfigured, she received severe bruises all over her body, she suffered severe pain and mental anguish, she was caused to become very nervous and was caused to incur hospital and medical bills, all to the damage of the Plaintiff, aforesaid, wherefore Plaintiff brings this suit and asks judgment in the above amount.

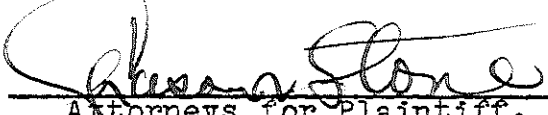
COUNT SIX:

The Plaintiff claims of the Defendants the sum of Five Thousand Dollars (\$5,000.00) as damages for that on, to-wit; August 17, 1955, the Defendant, W. M. Richerson, acting by and through the Defendant, James Frank Stewart, who was then and there his agent, servant or employee and who was acting within the line and scope of his authority as such, willfully or wantonly injured the Plaintiff by willfully or wantonly leaving a motor vehicle parked upon the main traveled portion of Alabama Highway No. 3, a public highway in Baldwin County, Alabama, at a point approximately 1000 feet West of Steelwood in Baldwin County, Alabama, without leaving a width of not less than fifteen feet upon the main traveled portion of said highway opposite such standing vehicle and as a proximate consequence thereof the Plaintiff's automobile ran into, over or against said parked vehicle and the Plaintiff was injured in this: she received

a severe cut across her back which caused the skin to be raised and her back is permanently scarred and disfigured, she received severe bruises all over her body, she suffered severe pain and mental anguish, she was caused to become very nervous and was caused to incur hospital and medical bills, all to the damage of the Plaintiff, aforesaid, wherefore Plaintiff brings this suit and asks judgment in the above amount.


Attorneys for Plaintiff.

Plaintiff demands a trial of this cause by a jury.


Attorneys for Plaintiff.