

R. H. BROWN,	X	IN THE CIRCUIT COURT OF
PLAINTIFF,	X	
vs.	X	BALDWIN COUNTY, ALABAMA
COCA-COLA BOTTLING COMPANY,	X	
INC., a corporation, Mobile,	X	AT LAW CASE NO. _____
Alabama,	X	
Defendant,	X	

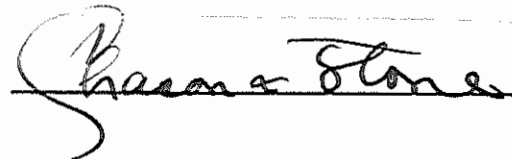
Comes the defendant in the above styled cause and demurs to the complaint as last amended, on the following separate and several grounds:

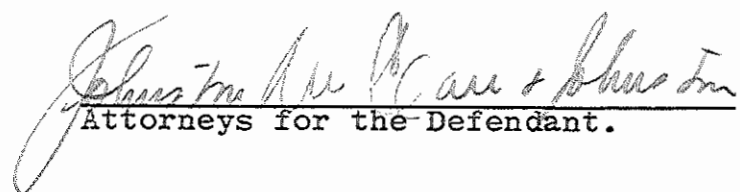
1. Because said count fails to allege that the amount of liquid potassium soap, containing phenol and potassium ion, was sufficient quantity in the Coca-Cola to render the same deleterious and unfit for human consumption.

2. Because said complaint fails to allege that the content of the bottle of Coca-Cola complained of, was deleterious and unfit for human consumption.

3. Because the complaint does not show any cause or connection between the liquid potassium soap containing the phenol and potassium ion, alleged to be in the contents of said bottle, and the alleged injuries to the plaintiff.

4. Because said count fails to allege that the liquid potassium soap containing a phenol and potassium ion, rendered the contents of the bottle complained about deleterious and unfit for human consumption.




Attorneys for the Defendant.

Brown
13
Jury list
Coco Calan Battle

1. John L. Gwaltney	Farmer	Robertsdale
2. Davis, Anna	merchant	Daphne
3. Sims, B. J.	Hardware	Belforest
4. Girmon, Arthur	Farmer	Belforest
5. Maughter, Jesse H.	Farmer	Tensaw
6. Burisco, Anthony	Farmer	Daphne
7. Stanton, B. F.	Merchant	Stockton
8. Jackson, Thomas K.	Brookley Field	Fairhope
9. Gumbie, Ollie	Farmer	Daphne Little River
10. Craft, A. L.	Farmer	William Daphne
11. Hunt, Clifford	Farmer	Lillian
12. Bornholt, Roy H.	Farmer	Elberta
13. Evans, E. A.	Retired	Seminole
14. Stewart, George E.	Farmer	Raben
15. Lamberth, Nathan, C.	Millman	Bay Minette
16. Jones, Harold E.	Merchant	Bay Minette
17. Hardy, Wendell, B.	Salesman	Bay Minette
18. Coleman, John	Farmer	Bay Minette
19. Paulk, W. W.	Barber	Robertsdale
20. Packler, Paul W. Mechanic		Lexley
21. Welch, Ray	Payroll Supervisor	Silverhill
22. Gwaltney, William H.	Clerk	Robertsdale
23. Davidson, W. W. Turpentine	Farmer	Bay Minette
24. Darby, William H.	State Emp.	Gulf Shores
25. Riemer, William H.	Seed Dealer	Elberta
26. Beck, Charles E.	Businessman	Lillian
27. Bayana, Charles H.	Farmer	Stockton
28. Nelson, Ray	Fisherman	Gulf Shores
29. Buday, Alexander	Farmer	Lillian
30. Ruegg, Jacob	Merchant	Foley

P XXX
D XXX

AMENDED COMPLAINT

R. H. BROWN

PLAINTIFF

VS

COCA-COLA BOTTLING
COMPANY, INC., a corporation,
Mobile, Alabama

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

CASE NO. _____

Comes the Plaintiff in the above styled cause and amends the complaint heretofore filed in said cause to read as follows:

R. H. BROWN

PLAINTIFF

VS

COCA-COLA BOTTLING
COMPANY, INC., a corporation
Mobile, Alabama

DEFENDANT

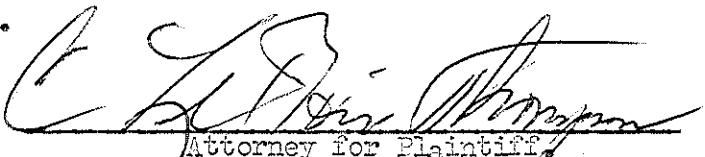
IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

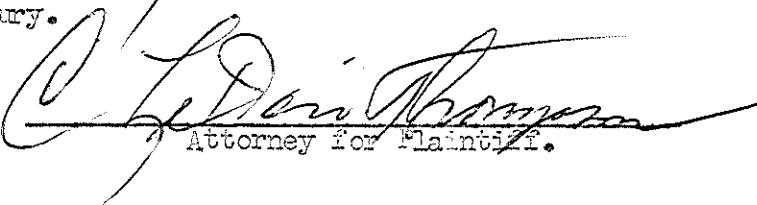
AT LAW.

CASE NO. 2846

Plaintiff claims of the Defendant Five Thousand (\$5,000.00) Dollars as damages, for this, that Defendant, while operating a business a part of which was the bottling and selling a beverage known as Coca-Cola in Baldwin County, Alabama, during the month of June, 1955, did so negligently conduct its said business as to bottle a liquid potassium soap containing a phenol and potassium ion, which liquid potassium soap being deleterious and unfit for human consumption, together with some of the beverage known as Coca-Cola in one of its bottles, and did sell said bottle, or its contents, to a retailer, who in turn sold the same to Plaintiff on, to-wit: the 17th day of June, 1955, at and for the sum of five cents, and as a proximate cause from drinking a part of the contents of said bottle Plaintiff was made sick with violent nausea, and suffered great bodily pain and mental anguish, to his damage in the amount above claimed and was caused to lose time from his job, to-wit: three weeks more or less, wherefore this suit.


Attorney for Plaintiff.

Plaintiff requests trial by Jury.


Attorney for Plaintiff.

AMENDED COMPLAINT

R. H. BROWN

PLAINTIFF

VS

COCA-COLA BOTTLING
COMPANY, INC., a corporation,
Mobile, Alabama

DEFENDANT

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

CASE NO. _____

Comes the Plaintiff in the above styled cause and amends the complaint heretofore filed in said cause to read as follows:

R. H. BROWN

PLAINTIFF

VS

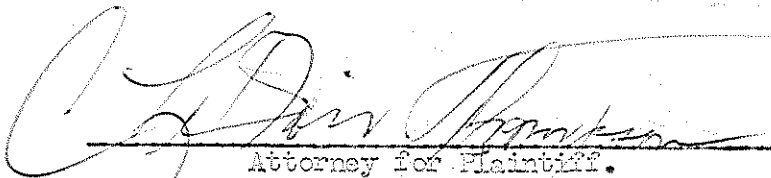
COCA-COLA BOTTLING
COMPANY, INC., a corporation,
Mobile, Alabama

DEFENDANT

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

CASE NO. 2846

Plaintiff claims of the Defendant Five Thousand (\$5,000.00) Dollars as damages, for this, that Defendant, while operating a business a part of which was the bottling and selling a beverage known as Coca-Cola in Baldwin County, Alabama, during the month of June, 1955, did so negligently conduct its said business as to bottle a liquid potassium soap containing a phenol and potassium ion, which liquid potassium soap being deleterious and unfit for human consumption, together with some of the beverage known as Coca-Cola in one of its bottles wherein the contents of said bottle was thereby rendered deleterious and unfit for human consumption and did sell said bottle, or its contents, to a retailer, who in turn sold the same to Plaintiff on, to-wit: the 17th day of June, 1955, at and for the sum of five cents, and as a proximate cause from drinking a part of the contents of said bottle Plaintiff was made sick with violent nausea, and suffered great bodily pain and mental anguish, to his damage in the amount above claimed and was caused to lose time from his job, to-wit: five weeks more or less wherefore this suit.


Attorney for Plaintiff.

Plaintiff request trial by Jury.


Attorney for Plaintiff.

2846

RECORDED

R. H. FROM

PLAINTIFF

VS

COCA-COLA BOTTLING
COMPANY, INC., a corporation,
Mobile, Alabama

DEFENDANT

AMENDED COMPLAINT

FILED

DEC 11 1956

ALICE J. D'ONOFRIO *clerk*
From the law offices of
C. Leflore Thompson
Attorney at Law
Bay Minette, Alabama

We the Jury find for the
Defendant.

Foreman
Ray Webb

R. H. BROWN,

Plaintiff,

vs.

COCA-COLA BOTTLING COMPANY,
INC., a corporation, Mobile,
Alabama,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW CASE NO. _____

Comes the defendant in the above styled cause and demurs to the complaint exhibited against it on the following separate and several grounds:

1. Because the complaint states no cause of action.
2. Because the complaint states no cause of action against this defendant.
3. Because the complaint is too vague and indefinite in its averments to sufficiently apprise the defendant what cause of action is relied on.
4. Because the complaint does not allege a breach of any duty owing by the defendant to the plaintiff.
5. Because the complaint contains the mere conclusion of the pleader.
6. Because it does not appear from the complaint with sufficient certainty wherein the defendant violated any duty owed to the plaintiff.
7. Because from aught appearing, the negligence alleged was not the negligence of the defendant.
8. Because the complaint fails to aver that liquid potassium soap containing a phenol and potassium ion is deleterious to human health.
9. Because the complaint does not show any causal connection between the liquid potassium soap containing a phenol and potassium ion alleged to have been in said bottle and the alleged injuries to the plaintiff.

R. H. BROWN,	§	IN THE CIRCUIT COURT OF
	§	
Plaintiff,	§	BALDWIN COUNTY, ALABAMA
	§	
vs.	§	
	§	
COCA-COLA BOTTLING COMPANY,	§	AT LAW CASE NO. _____
INC., a corporation, Mobile,	§	
Alabama,	§	
	§	
Defendant.	§	

Comes the defendant in the above entitled cause and propounds the following interrogatories to the plaintiff, pursuant to Title 7, Section 477, of the Code of Alabama, 1940:

1. (a) Please state your full name, age and residence address.
- (b) In what business or occupation are you engaged?
- (c) Where were you working and by whom were you employed on June 17, 1955?
- (d) What was your occupation at that time?
- (e) How long had you been so engaged?
- (f) By whom were you employed?
- (g) Please state the name of each of your employers during the year immediately prior to June 17, 1955.
- (h) What was the nature of your employment by each such employer?
- (i) How long did you remain in the employ of each of these employers?
- (j) Please state where and by whom you have been employed since June 17, 1955.
- (k) Give the length of time of employment at each place.
2. (a) Did you drink a Coca-Cola on June 17, 1955?
- (b) From whom did you purchase the Coca-Cola?
- (c) If you did drink a Coca-Cola, please state how much of said Coca-Cola you drank.
- (d) Did you discover a foreign substance in the Coca-Cola?
- (e) If so, when did you discover that the Coca-Cola had a foreign substance in it?

(f) State how you discovered, or what caused you to discover the foreign substance in the Coca-Cola.

3. (a) Who purchased the Coca-Cola?

(b) Was it obtained from a dispensing machine or from a cooler?

(c) Who withdrew the Coca-Cola from the dispensing machine or cooler?

(d) Who opened it?

(e) Who was with you when you commenced drinking the Coca-Cola?

(f) How much of the contents of the bottle of Coca-Cola did you drink before discovering the foreign substance complained of?

(g) If you state that some of the foreign substance got into your mouth, then, please state what you did after you became aware of this.

(h) How much of the contents of the bottle of Coca-Cola did you drink before you became aware that there was a foreign substance in said bottle?

(i) What did you do when you became aware of a foreign substance being in the bottle?

(j) What time of day or night was the Coca-Cola which you alleged contained a foreign substance purchased?

(k) How soon after the purchase of said Coca-Cola did you begin to drink the same?

(l) What distance were you from the place where the Coca-Cola was purchased when you commenced to drink it?

(m) Please give the names of all persons present at the time.

4. (a) Did you become nauseated and vomit when you discovered said foreign substance in the Coca-Cola?

(b) If you state that you did become nauseated and vomit, please state where this took place.

(c) Who was with you?

5. (a) How long was it after you drank the Coca-Cola before you became sick?

(b) Did you become sick immediately after discovering the foreign substance in the Coca-Cola?

(c) Was it immediately after discovering said foreign substance in the Coca-Cola?

(d) Please state on how many occasions you became nauseated and vomited after drinking the Coca-Cola.

6. (a) Where did you first go after drinking the Coca-Cola?

(b) Did you continue at your occupation?

(c) How long did you continue at your occupation on that day?

(d) What time did you leave your job?

(e) Were you attended by any physician as a result of your alleged illness?

(f) If so, please state the name and address of each physician who attended you on account of this alleged illness.

(g) Where were you when attended by a physician?

(h) On what dates were you attended by a physician?

(i) Give the amount of each bill that you have incurred on account of your alleged illness.

(j) What treatment did the physician prescribe for you?

7. (a) What did you do with the Coca-Cola after discovering the foreign substance in it?

(b) To whom did you give it?

(c) When did you next see the said bottle of Coca-Cola?

(d) In whose possession had it been during the interim since you had last seen it?

8. (a) Did you lose any time from your employment as a result of drinking the Coca-Cola?

(b) If so, state the dates which you lost from your employment.

(c) What were your earnings at the time?

(d) What amount of wages did you lose on account of alleged illness caused by drinking a Coca-Cola with some foreign substance in it?

Johnston McCall & Johnston
Attorneys for the Defendant.

STATE OF ALABAMA !

COUNTY OF MOBILE !

Before me, a notary public in and for said county in said state, personally appeared DAN T. McCALL, JR., who, upon being first duly sworn by me, on oath, did depose and say that he is one of the attorneys for the defendant in the above entitled cause, and that answers to the above interrogatories, if well and truly made by the plaintiff, will be material evidence for the defendant in the trial of this cause.

Dan T. McCall, Jr.

Subscribed and sworn to before me
this 1st day of March, 1956.

William E. Johnston
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA.

R. H. BROWN

PLAINTIFF

VS

COCA-COLA BOTTLING
COMPANY, INC., a corporation,
Mobile, Alabama

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

CASE NO. _____

Comes the Plaintiff in the above styled cause and amends the complaint
heretofore filed in said cause to read as follows:

R. H. BROWN

PLAINTIFF

VS

COCA-COLA BOTTLING
COMPANY, INC., a corporation
Mobile, Alabama

DEFENDANT

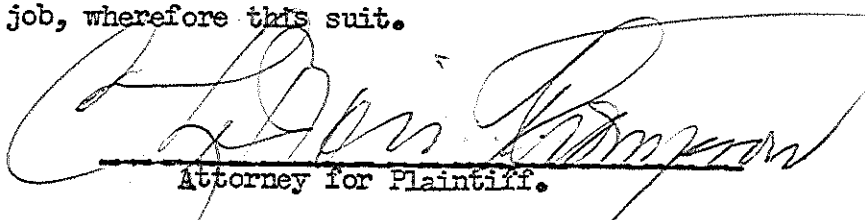
IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

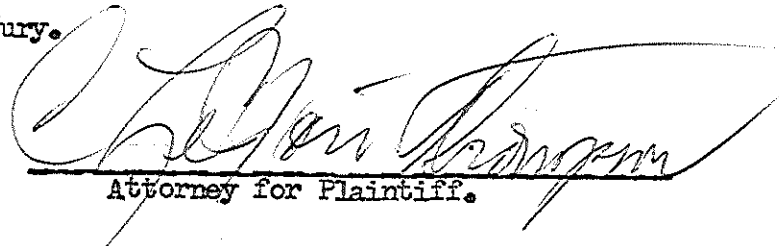
AT LAW.

CASE NO. _____

Plaintiff claims of the Defendant Five Thousand (\$5,000.00) Dollars
as damages, for this, that Defendant, while operating a business a part of
which was the bottling and selling a beverage known as Coca-Cola in Baldwin
County, Alabama, during the month of June, 1955, did so negligently conduct
its said business as to bottle a liquid potassium soap containing a phenol
and potassium ion, which liquid potassium soap being unfit for human consumption,
together with some of the beverage known as Coca-Cola in one of its bottles,
and did sell said bottle, or its contents, to a retailer, who in turn sold the
same to Plaintiff on, to-wit: the 17th day of June, 1955, at and for the sum
of five cents, and as a proximate cause from drinking a part of the contents of
said bottle Plaintiff was made sick with violent nausea, and suffered great
bodily pain and mental anguish, to his damage in the amount above claimed and was
caused to lose time from his job, wherefore this suit.


Attorney for Plaintiff.

Plaintiff request trial by Jury.


Attorney for Plaintiff.

R. H. BROWN,

Plaintiff,

vs.

COCA-COLA BOTTLING COMPANY,
INC., a corporation, Mobile,
Alabama,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW CASE NO. _____

Comes the Defendant in the above styled cause and refiles to the Complaint as last amended its demurrer to the original Complaint and in addition thereto assigns the following grounds of demurrer, separately and severally:

a. That said Complaint does not allege that the liquid potassium soap which the Plaintiff alleges was bottled by the Defendant, was of sufficient quantity to be deleterious to human health.

b. That said Complaint does not allege how much time the Plaintiff lost from his employment.

c. That said Complaint does not allege that the Plaintiff lost time from his job as a proximate result of the negligence of the Defendant.

Thurston, McCall & Thurston

Barbara Stone
Attorneys for the Defendant.

R. H. BROWN	1	IN THE CIRCUIT COURT
Plaintiff,	1	
vs.	1	OF BALDWIN COUNTY
COCA-COLA BOTTLING	1	ALABAMA
COMPANY, INC., a Corp-	1	
oration, Mobile, Alabama.	1	
Defendant.	1	CASE NO.

Comes the Defendant in the above entitled cause and
for answer to the Complaint, as last amended, says:

1. Not Guilty.

Justin M. Pace & Johnston

Chas. Stone
Attorneys for the Defendant.

JOHNSTON, McCALL & JOHNSTON
LAWYERS
EIGHTH FLOOR FIRST NATIONAL BANK ANNEX
MOBILE, ALABAMA

SAMUEL M. JOHNSTON
DAN T. McCALL, JR.
WILLIAM E. JOHNSTON
SAMUEL M. JOHNSTON, JR.
PERCY W. JOHNSTON, JR.

MAILING ADDRESS:
P. O. BOX 550
MOBILE 4, ALABAMA

March 1, 1956

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

Re: R. H. Brown, Plaintiff vs.
Coca-Cola Bottling Company,
Inc., a corporation, Defendant.
At Law No.

Dear Mrs. Duck:

Please find enclosed herewith the defendant's demurrer and interrogatories propounded to the plaintiff with copies of each, which I will thank you to file in the above cause. Kindly keep me informed of all developments.

Very truly yours,


Dan T. McCall, Jr.

DTM, jr./mfe

Enclosure

R. H. BROWN

PLAINTIFF

VS

COCA-COLA BOTTLING
COMPANY, INC., a corporation,
Mobile, Alabama

DEFENDANT

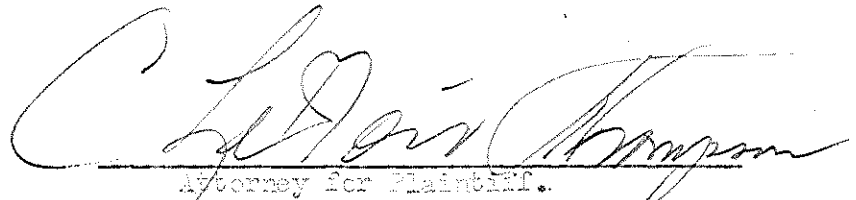
IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

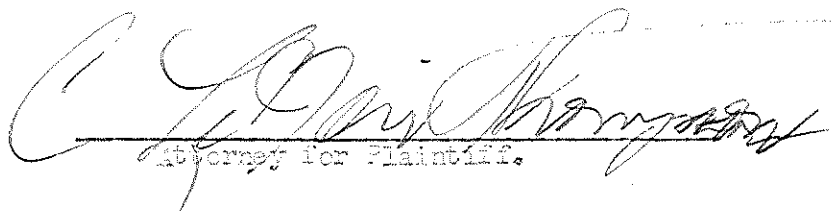
AT LAW.

CASE NO. _____

Plaintiff claims of the Defendant Five Thousand (\$5,000.00) Dollars as damages, for this, that Defendant, while operating a business a part of which was the bottling and selling a beverage known as Coca-Cola in Baldwin County, Alabama, during the month of June, 1955, did so negligently conduct its said business as to bottle a liquid potassium soap containing a phenol and potassium ion, together with some of the beverage known as Coca-Cola in one of its bottles, and did sell said bottle, or its contents, to a retailer, who in turn sold the same to Plaintiff on, to-wit: the 17th day of June, 1955, at and for the sum of five cents, and that by reason of drinking a part of the contents of said bottle Plaintiff was made sick with violent nausea, and suffered great bodily pain and mental anguish, to his damage in the amount above claimed and was caused to lose time from his job, wherefore this suit.


Attorney for Plaintiff.

Plaintiff request trial by Jury.


Attorney for Plaintiff.

Received 5 day of Feb 1956
on _____ day of _____ 19____
ved a copy of the within ALL

Service on _____
TAYLOR WILKINS, Sheriff
By _____ D. S.

Received 6 Day of February 1956
and on 1 Day of February 1956
I served a Copy of the within at 2:00
on Ray D. Bridges, Jr.
by service on Ray D. Bridges, Jr.
RAY D. BRIDGES, Sheriff
By Ray D. Bridges, Jr. D. S.

2846

R. H. BROWN

PLAINTIFF **RECORDED**

VS
2x
m
COCA-COLA BOTTLING
COMPANY, INC., a corporation,
Mobile, Alabama

DEFENDANT

Mr. Clark
Chayton m. Clark
07/11/56

FILED
FEB 3 1956
ALICE J. DUCK, Clerk

From the law offices of
C. LeNoir Thompson
Attorney-At-Law
Bay Minette, Alabama

2636

R. H. BROWN

PLAINTIFF

VS

COCA-COLA BOTTLING COMPANY,
INC., a corporation, Mobile, Alabama

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 2846

Comes the Plaintiff in the above styled cause and in answer to the interrogatories propounded by the Plaintiff of the Defendant says:

1. (a) R. H. Brown, (present) 704 South Trammel Street, Atmore, Alabama.
 - (b) I am a painter by trade.
 - (c) I was working at Seminole, Alabama, and was employed by Dewey C. Godwin.
 - (d) I was painting a building.
 - (e) About five weeks.
 - (f) Dewey C. Godwin.
 - (g) Dewey C. Godwin and Shell Oil Company.
 - (h) Painter, Painting.
 - (i) About eight weeks.
 - (j) Dewey C. Godwin, Bay Minette, Alabama.
 - (k) About four weeks at each place.
2. (a) Yes, I did.
 - (b) Mitchell.
 - (c) About half of a bottle.
 - (d) Yes, I did.
 - (e) When I swallowed it, it did not taste right and it burnt me in my throat and stomach.
 - (f) When I swallowed it, it did not taste right and it burnt me in my throat and stomach.
3. (a) A. G. Carter.
 - (b) Dispensing machine.
 - (c) A. G. Carter.
 - (d) A. G. Carter opened it and handed it to me.
 - (e) James Roley and A. G. Carter.
 - (f) About half of the bottle.
 - (g) I did not drink any more of it.
 - (h) About half of the bottle.

- (i) I did not drink any more of it.
 - (j) About 11:30 o'clock on June 17, 1955.
 - (k) About two minutes.
 - (l) About 150 foot distance.
 - (m) James Roley and A. G. Carter.
4. (a) Yes I did, right at once.
- (b) Right at the job where I was working.
 - (c) James Roley and A. G. Carter.
5. (a) About 5 minutes.
- (b) Yes I did.
 - (c) Yes it was.
 - (d) I vomited four different times right after I drank the coca-cola and I had another vomiting spell that night.
6. (a) I left the job and come to Bay Minette, Alabama and went to the hospital to see the doctor.
- (b) No, I did not.
 - (c) None at all, I went to the hospital.
 - (d) About 12 noon June 17, 1955.
 - (e) Yes at the hospital.
 - (f) George B. Halliday, Bay Minette, Alabama.
 - (g) At the hospital.
 - (h) June 17, June 18, June 27.
 - (i) \$20.00.
 - (j) Being unable to read prescriptions I just did what the doctor told me.
7. (a) I carried the coca-cola to Mobile.
- (b) Dr. Nelson Grubbs, State Toxicologist.
 - (c) I have not seen it since.
 - (d) Dr. Nelson Grubbs.
8. (a) Yes.
- (b) From June 17, 1955 until August 1, 1955.
 - (c) \$60.00 per week.
 - (d) I lost additional time from work during hot weather aggregating \$720.00.

R. A. Brown

STATE OF ALABAMA
BALDWIN COUNTY

Before me the undersigned authority personally appeared R. H. Brown who being duly sworn deposes and says: That the foregoing answers to interrogatories propounded by the defendant are true and correct to the best of his information, knowledge and belief.

A H Brown

Sworn to and subscribed before me this the 19 day of March, 1956.

C. B. Thompson
Notary Public, Baldwin County, Alabama.