Handwritten signature and initials in dark ink, located at the top center of the page. The signature appears to be 'J. W. [unclear]' and the initials below it are 'JW'.

D-5

Gentlemen of the jury, you are instructed that, if you believe from the evidence that plaintiff, on the occasion complained of, was following too closely behind a truck which was being driven in the same direction and at the approximately same rate of speed, and if you are further reasonably satisfied from the evidence that the truck which was ahead of the plaintiff's automobile came to a sudden stop, and the plaintiff's automobile struck the truck that has come to a sudden stop, and the defendant was unable to avoid striking the plaintiff's automobile, then I charge you that plaintiff would not be entitled to recover in this case.

JOHN BREWTON

Plaintiff

VS.

CARL ROBERT FORTNER, JR.  
a minor

Defendant

No. 2879

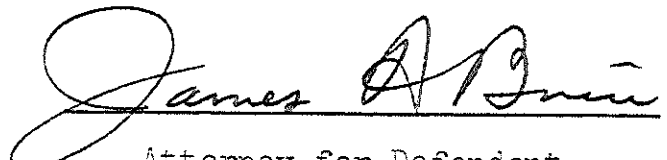
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

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

DEMURRER

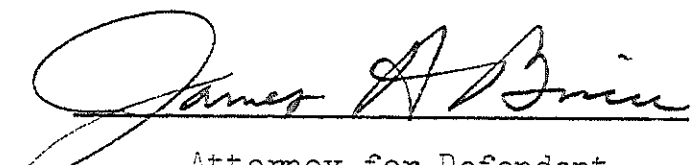
Comes now the Defendant in the above styled case, by his attorney, and demurs to the Plaintiff's complaint, and to each count thereof separately, and assigns the following grounds of demurrer:

1. It does not appear therefrom that the plaintiff had a lawful right to be upon the public road at the time and place alleged.
2. It does not appear therefrom that the defendant owed a duty to the plaintiff at the time and place of the accident, which duty was breached by the defendant, causing the injuries to the motor vehicle of the plaintiff claimed.
3. It is not alleged with any degree of sufficiency the location of the said accident.
4. The averment of negligence is naught but the conclusion of the pleader.
5. No facts are averred in the said complaint from which it affirmatively appears that the plaintiff was owed any duty by the defendant.
6. It does not appear therefrom that the injury to the motor vehicle of the plaintiff was proximately caused by the negligence of the defendant.

  
Attorney for Defendant

DEMAND FOR JURY TRIAL

Comes now the Defendant in the above styled case and demands trial by jury.

  
Attorney for Defendant

JOHN BREWTON

Plaintiff

VS.

CARL ROBERT FORTNER, JR.

a minor

Defendant

IN THE CIRCUIT COURT OF

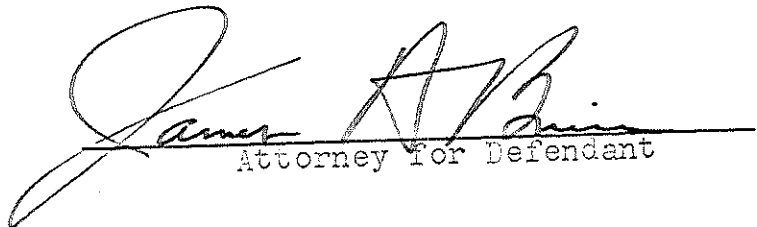
BALDWIN COUNTY, ALABAMA

AT LAW # 2879

AMENDED PLEA:

Now comes the Defendant in the above styled cause and amends the plea heretofore filed in this cause by adding thereto the following:

3. The plaintiff, at the time and place alleged in the Complaint, was himself guilty of negligence which was the proximate cause of the damages suffered by the Plaintiff and alleged in the Complaint in this: the said Plaintiff so negligently operated his automobile as to cause the said automobile to run upon, into or against a third automobile, which said negligence was the proximate cause of the alleged damages to the Plaintiff.

  
Attorney for Defendant

FILED

MAR 11 1957

ALICE A. BUCK, Clerk

FILED

MAR 11 1957

ALICE A. BUCK, Clerk



The State of Alabama

BALDWIN

County

## CIRCUIT COURT

To any Sheriff of the State of Alabama—Greeting:

You are hereby commanded to summon Carl Robert Fortner, Jr., a minor

to appear before the Circuit Court of Baldwin County, Alabama, at the place  
 of holding the same and plead, answer or demur within thirty days from service hereof to the complaint  
 of John Brewton

Witness, my hand this 20 day of March 19 56.

Clerk.

IF THE DEFENDANT FAILS TO APPEAR AND PLEAD, ANSWER OR DEMUR WITHIN  
 THIRTY DAYS AFTER SERVICE THE PLAINTIFF MAY TAKE JUDGMENT BY DEFAULT.

## COMPLAINT

JOHN BREWTON

VS.

CARL ROBERT FORTNER, JR.,  
a minor

Plaintiff

Defendant

The Plaintiff claims of the Defendant ~~the sum of TWO HUNDRED AND~~  
~~THIRTY-TWO and 50/100 (\$232.50)~~ Dollars, due

~~for that on heretofore, to-wit; the 20th day of December, 1955,~~  
~~the plaintiff was lawfully operating his automobile on U. S.~~  
~~Highway 90, a public road in Baldwin County, Alabama, at a point~~  
~~approximately two miles north of the City Limits of Robertsedale,~~  
~~Alabama, and at the same time and at the same place, the defendant~~  
~~so negligently operated his motor vehicle as to cause or allow~~  
~~the same to run into, upon or against the motor vehicle of the~~  
~~plaintiff, and damaged said motor vehicle by breaking or smashing~~  
~~the grill, hood, fenders, radiator, rear bumper and left rear~~  
~~fender, and the said injuries to the motor vehicle of the~~  
~~plaintiff were the proximate result of the negligence of the~~  
~~defendant as aforesaid, hence this suit.~~

J. C. Owens, Jr.  
 Attorney for the Plaintiff

Received 20 day of March 1956  
on 20 day of March 1956  
served a copy of the within Summons  
Carl Robert Fortner Jr.

service on

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

Wm E. of Summerdale

Sheriff claims 68 miles at

Ten Cents per mile Total \$ 6.80

TAYLOR WILKINS, Sheriff

BY [Signature]  
DEPUTY SHERIFF

We the members of the  
Jury find for the  
plaintiff and award  
\$232.50

J.R. Comarrie  
Foreman

No. 2879

**The State of Alabama**

BALDWIN County

**CIRCUIT COURT**

JOHN BREWTON **RECORDED**  
Plaintiff

vs.

CARL ROBERT FORTNER, JR.  
a minor

Defendant

**SUMMONS AND GENERAL COMPLAINT**

Filed this \_\_\_\_\_ day of

**FILED**

19\_\_\_\_

MAR 20 1956

Clerk

ALICE L. DUCK, Clerk

J. Connor Owens, Jr.  
Plaintiff's Attorney.

Defendant lives with his  
father at Summerdale, Ala.

Received this \_\_\_\_\_ day of

19\_\_\_\_

Sheriff.

Executed this \_\_\_\_\_ day of

19\_\_\_\_

by leaving a copy of the within Summons and  
Complaint with

Defendant

Sheriff.

**The State of Alabama**

County

To the Sheriff of \_\_\_\_\_ County:

Whereas, the Plaintiff \_\_\_\_\_ in the within stated  
cause has \_\_\_\_\_ made affidavit and given bond as  
required by law, you are hereby required to  
take the property mentioned in the Complaint  
into your possession, unless the Defendant \_\_\_\_\_  
give \_\_\_\_\_ bond payable to the Plaintiff \_\_\_\_\_ with  
sufficient surety in double the amount of the  
value of the property, with condition that if the  
defendant \_\_\_\_\_

cost in the suit \_\_\_\_\_  
within thirty days thereafter, deliver the prop-  
erty to the plaintiff \_\_\_\_\_ and pay all costs and  
damages which may accrue from the detention  
thereof.

Clerk.