2897

BOOK 016 PAGE 121

S U M M O N S

STATE OF ALABAMA:
BALDWIN COUNTY :

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon JAMES A. KEITH to appear within thirty days from the service of this writ in the Circuit Court for said County, at the place of holding the same, then and there to answer the Complaint of MARGARET N. GASTON and C. A. GASTON.

Witness my hand this 6 day of April, 1956.

Register

MARGARET N. GASTON and C. A. GASTON Plaintiffs	:	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW
vs.	:	
JAMES A. KEITH, Defendant	:	NO. _____

C O U N T O N E

Plaintiffs claim of the Defendant the sum of Six Hundred Dollars ($600.00) as damages for that heretofore on, to-wit: October 10, 1955 the Plaintiffs were driving their 1949 Studebaker auto upon Fairhope Avenue, in the city of Fairhope, Alabama, a public road in Baldwin County, Alabama, at a point where Mershon Street in the city of Fairhope, Alabama intersects with Fairhope Avenue, where they had a right to be, and then and there the Defendant so negligently operated his automobile which he was then and there driving, that by reason thereof and as a proximate result and consequence thereof, the said two vehicles collided, causing great damages and injuries to the Plaintiffs' automobile; the body was damaged and broken, the frame was bent and twisted, the bumper guards were broken, the fenders were broken and bent, the frame was badly bent; the muffler and exhaust pipe were

ruined, all to the damage of the Plaintiffs as aforesaid.

And Plaintiffs aver that all their damages aforesaid were proximately caused by the negligence of the Defendant, in that he negligently caused, allowed or permitted his said automobile to run upon, over or against the automobile of the Plaintiffs; wherefore they sue.

Ernest W. Rankin
Attorney for Plaintiffs

ceived 6 day of April 1956
d on 9 day of April 1956
served a copy of the within B & C
James A. Keith
service on

TAYLOR WILKINS, Sheriff
By Carlisle Childers D. S.

Barnwell,

Sheriff claims 100 miles at
Ten Cents per mile Total $10.00
TAYLOR WILKINS, Sheriff
BY Childers
DEPUTY SHERIFF

SUMMONS AND
BILL OF COMPLAINT

MARGARET N. GASTON and
C. A. GASTON,
Plaintiffs

vs.

JAMES A. KEITH,
Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

Case No.

Defendant lives at
Barnwell

FILED
APR 6 1956
ALICE L. DUNN, Clerk

ERNEST M. BAILEY
ATTORNEY AT LAW
FAIRHOPE, ALABAMA

MARGARET N. GASTON and C. A. GASTON Plaintiffs VS. JAMES A. KEITH, Defendant	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW NO. 3763

Comes the Defendant in the above styled cause and demurs to the Bill of Complaint heretofore filed therein, and as grounds for demurrer sets out separately and severally the following:

1. That the Complaint is vague and indefinite.

2. That the Complaint does not state the cause of action.

3. The Complaint does not show actionable negligence by the Defendant.

4. The Complaint does not set out the driver of the automobile of the Plaintiff.

5. The Complaint does not sufficiently set out the ownership of the automobile.

Attorney for Defendant

Defendant demands a trial by Jury.

C. G. C.

MARGARET N. GASTON, Plaintiff, -vs- JAMES A. KEITH, Defendant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW Case No. 3763

MOTION TO STRIKE

Comes the Defendant in the above styled cause and moves that the amended Complaint filed therein be stricken and as grounds for said motion to strike shows unto the Court, separately and severally, the following:-

1. That said amended Complaint is irrelevant.

2. That said amended Complaint is frivolous.

3. That said amended Complaint is unnecessairly prolix.

4. That the irrelevant material contained in said Complaint would tend to prejudice the cause of the Defendant in that it could be considered to indicate that the Court approved the form and contents of the amended Complaint.

5. That the amended Complaint is irrelevant in that no leave of the Court to amend was necessary and none therefor granted.

6. That the amended Complaint is irrelevant in tha t it contains the style of the cause as originally filed before amendment.

7. That the amended Complaint is prolix in that it contains the style of the cause as originally filed before amendment.

FILED
JUN 19 1956
ALICE J. DUCK, Clerk

Attorney for Defendant

C. G. C.

MARGARET N. GASTON and C. A. GASTON,	:	IN THE CIRCUIT COURT OF
Plaintiffs	:	BALDWIN COUNTY, ALABAMA
	:	AT LAW
vs.	:	3763.
JAMES A. KEITH,	:	
Defendant	:	

A M E N D E D C O M P L A I N T

Comes the Plaintiff, by and through her attorney, and with leave of the Court first had and obtained, makes this ammendment to the Bill of Complaint to read as follows:

MARGARET N. GASTON,	:	IN THE CIRCUIT COURT OF
Plaintiff	:	BALDWIN COUNTY, ALABAMA
vs.	:	AT LAW
	:	Case No. 3763
JAMES A. KEITH,	:	
Defendant		

C O U N T O N E

Plaintiff claims of the Defendant the sum of Six Hundred Dollars ($600.00) as damages for that heretofore on, to-wit, October 10, 1955 the Plaintiff was driving her automobile, a 1949 Studebaker, upon Fairhope Avenue, in the city of Fairhope, Alabama, a public road in Baldwin County, Alabama, at a point where Mershon Street in the city of Fairhope, Alabama, intersects with Fairhope Avenue, where she had a right to be, and then and there the Defendant so negligently operated his automobile which he was then and there driving, that by reason thereof and as a proximate result and consequence thereof, the said two vehicles collided, causing great damages and injuries to the Plaintiff's automobile; the body was damaged and broken, the frame was bent and twisted, the bumper guards were broken, the fenders were broken and bend, the frame was badly bent; the muffler and exhaust pipe were ruined, all to the damage of the Plaintiff as aforesaid.

And Plaintiff avers that all her damages aforesaid were proximately caused by the negligence of the Defendant, in that he negligently caused, allowed or permitted his said automobile to run upon, over or against the atomobile of the Plaintiff, wherefore she sues.

Attorney for Plaintiff

MARGARET N. GASTON, Plaintiff,	)	IN THE CIRCUIT COURT OF
-vs-	)	BALDWIN COUNTY, ALABAMA
JAMES A. KEITH, Defendant.	)	AT LAW
	)	Case No. 3763

DEMURRER

Comes the Defendant in the above styled cause and demurs to the amended Complaint heretofore filed therein, and for grounds of demurrer assigns, separately and severally, the following:-

1. Insufficient facts are alleged to show that Plaintiff sustained any damage or injury as a proximate result of any negligence or breach of duty on the part of the Defendant.

2. That the Complaint does not state a cause of action.

3. That the Complaint is prolix.

4. That the Complaint on its face contains irrelevant material.

5. That the statement on the face of the Complaint showing authorization of the Court to make amendment is errelevant and could prejudice the cause of the Defendant before a Jury.

Attorney for Defendant

FILED
JUN 19 1956
ALICE L. DUCK, Clerk

C. G. C.

MARGARET N. GASTON, Plaintiff,	)	IN THE CIRCUIT COURT OF
-vs-	)	BALDWIN COUNTY, ALABAMA
	)	AT LAW
JAMES A. KEITH, Defendant.	)	Case No. 3763

Comes the Defendant and in answer to the Amended Bill of Complaint heretofore filed in said cause, shows as follows:-

1. Not guilty.

2. For further answer to said Complaint, defendant says that Plaintiff ought not to recover in this case for that on the occasion complained of Plaintiff was herself guilty of negligence, proximately contributing to her alleged damages in this, that the Plaintiff was operating her said automobile along Mershon Street, and drove and operated said automobile into the intersection of Fairhope Avenue, and immediately in front of the automobile being driven by the Defendant, at which time and place the Defendant had the right-of-way, thereby proximately contributing to her damages, hence Plaintiff ought not to recover.

E. R. Gason

Attorney for the Defendant

C. G. C.

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

4 May, 1956

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

Dear Mrs. Duck:

Enclosed herewith is a demurrer in the case of Gaston vs Keith, Case No. 3763, a copy of which is this day being mailed to Ernest Bailey, Attorney for the Plaintiff.

Yours very truly,

C. G. Chason

CGC:dc

Encl. 1

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

September 4, 1956

Mrs. Alice J. Duck, Clerk
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith is Answer in the case of Gaston -vs- Keith, a copy of which has been mailed to Mr. Bailey.

Yours very truly,

C. G. Chason

CGC:fm

encls. 1