

2948

* S U M M O N S *

STATE OF ALABAMA

COUNTY OF BALDWIN

TO ANY SHERIFF OF THE STATE OF ALABAMA - - GREETING:

You are hereby commanded to summon LEONARD WILSON to appear in the Circuit Court of Baldwin County, Alabama, at the place of holding of same, and plead, answer or demur, within thirty days from service hereof, to the complaint of DONALD M. BUSBY.

WITNESS my hand this 13th day of June, 1956.

Dee J. Smith CLERK

- C O M P L A I N T -

DONALD M. BUSBY	:	IN THE CIRCUIT COURT
Plaintiff	:	OF BALDWIN COUNTY,
Vs.	:	ALABAMA.
LEONARD WILSON	:	AT LAW.
Defendant	:	CASE No. _____


COUNT ONE

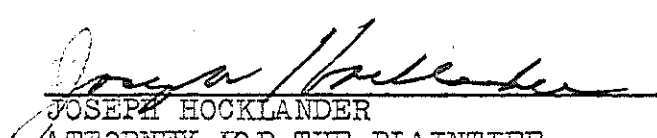
Plaintiff claims of the defendant the sum of One Thousand (\$1,000.00) Dollars, as damages, for that heretofore, on, to-wit, the 13th day of June, 1955, the truck of the plaintiff was being operated on and along U. S. Highway 89 at or near Battles Wharf, Alabama, said highway 89 being at the said time and place a public highway in Baldwin County, Alabama, and at the said time and place the defendant so negligently operated a motor vehicle on

and along the said highway as to cause or allow the same to run into, over, against, and upon a truck of the plaintiff and as a direct and proximate consequence thereof the said truck of the plaintiff was badly bent, broken, crushed and otherwise damaged, and the cargo being transported by the plaintiff was also severely damaged, and the plaintiff suffered damages in the aforesaid sum; hence this suit.

McCONNELL & FOREMAN

BY


ATTORNEYS FOR THE PLAINTIFF
214 First National Bank Annex
Mobile, Alabama


JOSEPH HOCKLANDER

ATTORNEY FOR THE PLAINTIFF
First Federal Savings Bldg.
Mobile, Alabama

Defendants address:

Leonard Wilson
Battles Wharf, Alabama

Plaintiff demands trial by jury.

McCONNELL & FOREMAN

BY


ATTORNEYS FOR THE PLAINTIFF

DONALD M. BUSBY,
 PLAINTIFF
 VS.
 LEONARD WILSON,
 DEFENDANT

IN THE CIRCUIT COURT OF
 BALDWIN COUNTY, ALABAMA
 AT LAW

P L E A S

Comes the Defendant in the above styled cause and for answer to the Plaintiff's complaint offers the following separate and several pleas.

1. Not guilty.

2. The Defendant says that the Plaintiff ought not to recover in the above mentioned cause because the Plaintiff's truck was being negligently operated by Plaintiff's servant or agent, James Willard Comalander, in that said vehicle was illegally parked on said highway at the time and place of the accident and that the negligence aforesaid contributed to the Plaintiff's damages.

3. The Defendant says that the Plaintiff ought not to recover in the above mentioned cause because the Plaintiff's truck was being negligently operated by Plaintiff's servant or agent, James Willard Comalander, in that said vehicle was operated without tail lights or clearance lights at night on said highway at the time and place of the accident and that the negligence aforesaid contributed to the Plaintiff's damages.


4. Comes the Defendant, Leonard Wilson, and claims of the Plaintiff, Donald M. Busby, by way of recoupment, the sum of ONE THOUSAND DOLLARS (\$1,000.00) damages for that heretofore, on, to-wit, the 13th day of June, 1955, at a point on United States Highway 89, a public highway, at or near Battles Wharf in Baldwin County, Alabama, and at the same time and place referred to in Plaintiff's Complaint, the Plaintiff so negligently allowed his vehicle to be on said public highway between a half hour after sunset and a half hour before sunrise, without a projecting red light visible for five hundred feet to the rear that Plaintiff's automobile ran upon or against said car from the rear, and the Defendant received severe personal injuries in this, to-wit: the Defendant was bruised about the head and suffered great pain and anguish and was inca-

Continuation of Pleas - Donald M. Busby vs Leonard Wilson.
Page 2

pacitated from his work and Defendant's son, Leonard Wilson, Jr., who was riding with Defendant, was also bruised about the head, and Defendant was forced to incur considerable expense for medical treatment.

The Defendant avers that the injuries received were the proximate result and consequence of the aforesaid negligence of the Plaintiff.

5. Comes the Defendant, Leonard Wilson, and claims of the Plaintiff, Donald M. Busby, by way of recoupment, the sum of ONE THOUSAND DOLLARS (\$1,000.00) damages for that on, to-wit, the 13th day of June, 1955, at a point on U. S. Highway 89, a public highway, at or near Battles Wharf in Baldwin County, Alabama, and at the same time and place aforesaid referred to in Plaintiff's complaint, the Plaintiff, through his servant or agent, James Willard Comalander, so negligently operated said truck along said highway as to cause the Defendant to run into, over and against said truck and, as a direct and proximate consequence thereof, the automobile of the Defendant was badly bent, broken and crushed and otherwise damaged, and the Defendant was struck and bruised about the head and suffered great pain and anguish and had to have said wounds treated by a doctor at an expense to him of , approximately, FORTY DOLLARS (\$40.00), and that he was incapacitated from work and lost one week's time and Defendant's son, Leonard Wilson, Jr., who was riding with said Defendant, was also bruised about the head and suffered great pain and anguish and incurred doctor bills which Defendant had to pay in the amount of, approximately, FIFTY DOLLARS (\$50.00); ~~all of said injuries and loss being the direct result of~~ the Plaintiff's negligence as aforesaid.


E. G. RICKARBY
Attorney for the Defendant

DONALD M. BUSBY, : IN THE CIRCUIT COURT OF
 Plaintiff : BALDWIN COUNTY, ALABAMA
 Vs. : AT LAW
 LEONARD WILSON, :
 Defendant :

Comes now the Plaintiff and demurs to the separate and several pleas heretofore filed herein and assigns the following separate and several grounds of demurrer:

1. Said plea does not contain sufficient facts to justify the allegation of negligence.

2. The facts set out in said plea to support the allegation of negligence do not constitute negligence as a matter of law.

3. For aught that appears from said plea the alleged agent, servant or employee of the Plaintiff's was not acting within the line and scope of his authority as such at the time he did or failed to do the acts complained of in said plea.

4. It affirmatively appears in said plea that the Defendant is seeking to recover damages for pain and anguish alleged to have been incurred by a person who is not a party to this accident.

Mr. Council J. Brown
By George E. McInelly
 Attorney for the Plaintiff

13 Sept 46.
 Service accepted

George E. McInelly
 Atty for Ref-

FILED
 SEP 13 1956

ALICE J. DUCK, Clerk

McCONNELL & FOREMAN

ATTORNEYS AT LAW

SUITE 214 FIRST NATIONAL BANK ANNEX

MOBILE 13, ALABAMA

ALVIN McCONNELL
ALEXANDER FOREMAN, JR.
GEORGE E. McNALLY

June 12, 1956

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

RE: Donald M. Busby vs
Leonard Wilson
Our File No. 55-2048-GM

Dear Mrs. Duck:

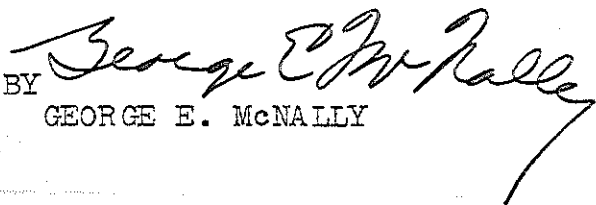
Please find enclosed a summons and complaint in the
above styled cause. We request that you file this
matter in the Circuit Court of Baldwin County, At
Law. Please inform us when service is perfected.

Thanking you for your co-operation in this matter
we remain,

Very truly yours,

McCONNELL & FOREMAN

BY


GEORGE E. McNALLY

GEM/sr

enc.

LAW OFFICES
E. G. RICKARBY
BANK BUILDING
FAIRHOPE, ALABAMA
July 24, 1956

Mrs. Alice Duck
Clerk of the Circuit Court
Bay Minette, Alabama

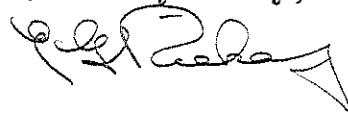
Dear Mrs. Duck:

Inre: Donald M. Busby
vs.
Leonard Wilson
Our File: 3802

With this I am handing you demurrer in the above styled
cause.

Please process and oblige.

Yours very truly,



fm
Encl. (dup)
8-21-56

LAW OFFICES
E. G. RICKARBY

BANK BUILDING

FAIRHOPE, ALABAMA

September 4, 1956

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

Dear Mrs. Duck:

Inre: Busby vs Wilson
Our File: 3802

Enclosed find Pleas in case of Donald M. Busby vs. Leonard Wilson, at Law. Copies of these Pleas are being mailed today to Mr. Alvin McConnell, Attorney for the Plaintiff, 214 First National Bank Annex, Mobile, Alabama.

Yours very truly,



EGR/ts
9-14-56