SUMMONS

STATE OF ALABAMA

COUNTY OF BALDWIN

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon Alabama Wood Preserving Co., Inc., a corporation to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, at the place of holding the same and then and there to plead, answer or demur to the complaint of James Waldrop.

Witness my hand this 13 day of October, 1956.

Derce J. Duck

COMPLAINT

JAMES WALDROP)	IN THE CIRCUIT COURT OF
Plaintiff)	DATIMITAL COLLABORA ATA DARA
vs)	BALDWIN COUNTY, ALABAMA
ALABAMA WOOD PRESERVING CO., INC., a corporation)	AT LAW
Defendant)	Case No. 3052

COUNT ONE

Plaintiff claims of the defendant the sum of Ten Thousand and no/100 (\$10,000.00) Dollars as damages, for that, heretofore, and on, to-wit, the 17th day of October, 1955 the automobile of plaintiff in which plaintiff's wife, Mrs. Pluma Waldrop, was then and there riding as a passenger, was being operated on and along Alabama Highway 35 at a point thereon approximately twelve miles East of Scottsboro, in Jackson County, Alabama, said highway being then and there a public highway in Jackson County, Alabama, and at said time and place Edward B. Byrd, an agent, servant or employee of the defendant, while acting within the line and scope of his employment as such agent, servant or employee, so negligently operated a motor vehicle on or along said highway as to cause the plaintiff's said automobile to be run, or thrown

and consortium.

Wherefore plaintiff claims judgmen t against the defendant in the sum of Ten Thousand and no/100 (\$10,000.00) Dollars, with costs.

McCONNELL & FOREMAN

Attorneys for the Plaintiff

Plaintiff demands trial by jury.

McCONNELL & FOREMAN

Attorneys for the Plaintiff

The address of Alabama Wood Preserving Co., Inc. defendant is Robertsdale, Alabama.

JAMES WALDROP,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
vs.)	AT LAW
ALABAMA WOOD PRESERVING CO., INC., a Corporation, Defendant.)	Case No. 3058
STATE OF ALABAMA,)		
COUNTY OF MOBILE.)		

Before me, Alice F. Simms, a Notary Public in and for said State and County, personally appeared Alvin McConnell, known to me, who, being by me first duly sworn, deposes and says that he is one of the Attorneys of Record for James Waldrop, Plaintiff in the above styled cause, and that the personal attendance of Officer H. E. Collins, Fort Payne, Dekalb County, Alabama, is necessary to a proper decision of this cause and that his deposition would be insufficient for that purpose.

Alin Monell

Subscribed and sworn to before me on this Both

day of August, 1957.

Notary Public, Mobile County, Alabama

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CIVIL SUBPOENA — DESCRIPT — In case witness shall wish to charge for in term this Subpoena, or within five days after adjournment of	r attendance, he shall p of Court, else he shall be	roduce to the Clerk barred.
THE STATE OF ALABAMA	CIRCUIT COURT	
BALDWIN COUNTY Case No. 3058	- Fall	TERM, 195_7
TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETINGS:	:	1
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You Are Hereby Commanded to Summon	e a	'
if to be found in your County, at the instance of thePlaintiff		
to be and appear before the Honorable, the Judge of the Circuit Cour	rt of Baldwin County,	at the Court House
thereof, by 9:00 o'clock of the forenoon, on the 10th day of	September	, $195\frac{\pi}{i}$, and from
day to day and term to term of said Court until discharged by law,	then and there to tes	stify, and the truth
to say, in a certain cause pending, wherein James Waldrop	, Plaintiff ar	nd <u>a ja kiama</u>
od Preserving Co , Defendant.	en e	
Herein Fail Not, and have you then and there this Writ.		
Given under my hand and seal, this 31st day of August	, 195	
<u>lieu</u>	est-Dis	Clerk

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thereof, by	}200 o'clock	of the forenoon,	on the 10	day of	Septen	ber , 1	195.7, and	l from
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JAMES WALDROP	I	IN THE CIRCUIT COURT OF
Plaintiff	I	
V.S	I	BALDWIN, COUNTY, ALABAMA
ALABAMA WOOD PRESERVING CO., INC., a corporation	I	
· -	I	AT LAW CASE NO. 3058.
Defendant		

Now comes the Defendant in the above styled cause and demurs to the complaint in said cause, as amended, and to each and every count thereof separately and severally and as grounds therefore assigns separately and severally all grounds for demurrer heretofore assigned to the original complaint in said cause.

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS.

By:

Attorneys for Defendant.

JAMES WALDROP,	I	
Plaintiff,	Ŷ	IN THE CIRCUIT COURT OF
vs.	Î	
AT ADARE WOOD DOUGHDYTTIC CO	Î	BALDWIN COUNTY, ALABAMA
ALABAMA WOOD PRESERVING CO., INC., A Corporation,	Î	AT LAW NO. 3058
Defendant.	Ĵ.	

Comes now the Defendant in the above styled cause and for answer to the complaint heretofore filed against it as last amended and to each count thereof, separately and severally, pleads separately and severally as follows:

- 1. Not guilty.
- 2. For further answer to COUNT ONE of the complaint as last amended the Defendant alleges that at the time and place complained of the Plaintiff was himself guilty of negligence which proximately contributed to the alleged injuries and damages complained of in the complaint as last amended in that he so negligently operated an automobile on Alabama Highway 35 at a point approximately twelve miles East of Scottsboro, Alabama, said highway at said place being a public highway in the County of Jackson, State of Alabama, as to cause said automobile to leave said highway and to run into and collide with a ditch and culvert or other objects therein; hence the Plaintiff cannot recover in this suit.

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS and

CHASON & STONE

Attorneys for Defendant

SECOURTED

JAMES WALDROP,

Plaintiff

vs.

ALABAMA WOOD PRESERVING CO., INC., A Corporation,

Defendant.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

AT LAW

NO. 3058

ANSWER

FILED
JUL 22 1957
ALICE J. DUCK, Clerk

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

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JAMES WALDROP,)	IN THE CIRCUIT COURT OF
Plaintiff,	Ĵ	BALDWIN COUNTY, ALABAMA
VS.	j	AT LAW
ALABAMA WOOD PRESERVING CO.,)	Case No. 3058
INC., a Corporation,)	
Defendant.	,	

STATE OF ALABAMA,)
COUNTY OF MOBILE.

Before me, Alice F. Simms, a Notary Public in and for said State and County, personally appeared Alvin McConnell, known to me, who, being by me first duly sworn, deposes and says that he is one of the Attorneys of Record for James Waldrop, Plaintiff in the above styled cause, and that the personal attendance of Officer H. E. Collins, Fort Payne, Dekalb County, Alabama, is necessary to a proper decision of this cause and that his deposition would be insufficient for that purpose.

Moin Monnell

Subscribed and sworn to before me on this 26th day of February, 1957.

Jotary Public, Mobile County, Alabama

FILED FEB EV 1957 MARIA MEL GLORE

JAMES WALDROP,	IN THE CIRCUIT COURT OF
Plaintiff,	M BALDWIN COUNTY, ALABAMA.
Vs. ALABAMA WOOD PRESERVING CO., INC., a corporation,	AT LAW NO. 3058.
Defendant.	Ĭ

Now comes the Defendant in the above styled cause and demurs to the complaint heretofore filed in said cause and to each and every count thereof separately and severally and as grounds therefor assigns separately and severally the following separate and several grounds:

- 1. From aught that appears the Defendant owed no duty to the Plaintiff at the time and place complained of.
- 2. From aught that appears the Defendant has breached no duty which it owed to the Plaintiff.
- 3. From aught that appears the motor vehicle of the Defendant was being operated "along" a public highway and not "on" a public highway at the time and place complained of in the complaint.
- 4. From aught that appears the Plaintiff suffered no injuries or damages as a result of the alleged negligence of the Defendant.
 - 5. For that the complaint is vague, uncertain and indefinite.

The Defendant assigns the following ground for demurrer to Count Two of the complaint in said cause:

l. There is no allegation that the Plaintiff was wilfully or wantonly injured except insofar as his automobile is concerned.

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

Attorneys for Defendant

JAMES WALDROP)	IN THE CIRCUIT COURT OF
Plaintiff)	BALDWIN COUNTY, ALABAMA
vs)	DALIDNIN COUNTY, ALADARIA
ALABAMA WOOD PRESERVING CO., INC., a corporation)	AT LAW
Defendant	,	Case No. 3,05 8

Comes now the Plaintiff and with leave of court first had and obtained, amends his complaint in the following manner:

Plaintiff avers that the true and correct name of the agent of defendant referred to in said complaint as "EDWARD B. BYRD" is EUGENE EDWARD BYRD, sometimes also known as E. E. BYRD and also sometimes known as EDWARD BYRD. Plaintiff so amends his original complaint filed in this cause as to substitute "EUGENE EDWARD BYRD" in the place of "EDWARD B. BYRD" wherever it appears in said original complaint.

McCONNELL & FOREMAN

BY Attorneys for the Plaintiff

Plaintiff demands trial by jury.

McCONNELL & FOREMAN

BY Attorneys for the Plaintiff

Defendants' address:

Alabama Wood Preserving Co., Inc. Robertsdale, Alabama

Eugene Edward Byrd Robertsdale, Alabama FILED NOV 20 1956