

STATE OF ALABAMA)
BALDWIN COUNTY)

IN THE CIRCUIT COURT - LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Liquid Carriers Inc., a corporation, and Harvey C. Smith to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the complaint of Liberty Motors, Inc., a corporation, and Dependable Parts, Inc., a corporation.

Witness my hand this 6th day of Dec., 1956.

Alice J. Duck
Clerk.

LIBERTY MOTORS, INC., a
corporation, and DEPENDABLE
PARTS, INC., a corporation,

Plaintiffs,

vs.

LIQUID CARRIERS INC., a
corporation, and HARVEY C.
SMITH,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW NO. 5104.

COUNT ONE.

Plaintiffs claim of the defendants the sum of TWENTY-TWO HUNDRED and no/100 (\$2,200.00) DOLLARS damages for that on, to-wit, the 28th day of February 1956, the defendant, Harvey C. Smith, while acting within the line and scope of his employment as an agent, servant or employee of the defendant, Liquid Carriers Inc., a corporation, so negligently operated a motor vehicle on Alabama State Highway No. 3 at or near its intersection with the Cut-off road to U.S. Highway No. 31, all public highways in the County of Baldwin, State of Alabama, at a point approximately two miles south of Stapleton, Alabama, as to run said motor vehicle into, upon or against the plaintiff's motor station wagon, which was being then and there operated in a southerly direction on said Alabama State Highway No. 3, as a proximate result of which negligence plaintiff's said motor station wagon was injured and damaged beyond repair and was rendered a total loss.

WHEREFORE, the plaintiff sues and claims damages in the afore-
said sum.

JOHNSTON, McCALL & JOHNSTON

and

CHASON & STONE

FILED
DEC 6 1956
JUDGE, DUCK, Clerk

By: Marlene Stone
Attorneys for Plaintiffs

310

LIBERTY MOTORS, INC., a corporation,
and DEPENDABLE PARTS, INC., a corporation -
Plaintiffs

IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA AT LAW

vs

LIQUID CARRIERS INC., a corporation, et al -
Defendants

TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW:

I, Mary Texas Hurt, Secretary of State, hereby certify that on January 7, 1957, I sent
by registered mail in an envelope addressed as follows:

" Liquid Carriers, Inc., a corporation
621 SW 6th Street
Miami, Florida"

"Registered mail :
Return Receipt requested
~~Deliver to addressee only~~"

bearing sufficient and proper prepaid postage, a notice bearing my signature and the Great Seal of
the State of Alabama in words and figures as follows:

"
Liquid Carriers, Inc., a corporation
621 SW 6th Street
Miami, Florida

You will take notice that on December 11, 1956, The Sheriff of Montgomery County,
Alabama, served upon me, in my official capacity, summons and complaint and affidavit in a
case entitled

LIBERTY MOTORS, INC., a corporation, and DEPENDABLE PARTS, INC., a corporation,
Plaintiff vs. LIQUID CARRIERS INC., a corporation, et al, Defendants

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW

Case No. 3104, a true copy of which summons and complaint and affidavit are
attached hereto and the said service upon me as Secretary of State of the State of Alabama has
the force and effect of personal service upon you, being under provisions of Title 7, Sec-
tion 192 of the 1940 Code of Alabama and Supplement thereto.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 7 day of

January 1957.

Signed) Mary Texas Hurt

Mary Texas Hurt
Secretary of State

Encs. 2

I further certify that the notice above set out which was so mailed in the envelope addressed
as above set forth had attached to it a true copy of the summons and complaint and affidavit in the
above-styled cause.

I further certify that on January 14, 1957, I received the return card, showing receipt
by the designated addressee of the aforementioned matter, at Baton Rouge, La.,

on 1-12-57.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 14 day of

January 1957.

Mary Texas Hurt Garner

Mary Texas Hurt
Secretary of State

Encs. Copy of summons and
complaint and affidavit.

Return Receipt retained by this office in
accordance with said statute.
cc: Hon. Norborne C. Stone, Jr.
Attorney at Law
Bay Minette, Alabama

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

ATTORNEYS AT LAW

NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING

HEMLOCK 3-6556 P. O. BOX 1070

MOBILE 6, ALABAMA

GESSNER T. MCCORVEY
BEN D. TURNER
C. M. A. ROGERS
C. A. L. JOHNSTONE, JR.
R. F. ADAMS
JAMES L. MAY, JR.
CHAUNCEY MOORE
ALEX T. HOWARD, JR.

January 17, 1957

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

Re: No. 3104
Liberty Motors, et al vs.
Liquid Carriers, et al

Dear Mrs. Duck:

Enclosed herewith is our appearance on behalf of the defendants which we shall appreciate your filing in this cause.

I have talked to both Mr. Stone and Johnston, McCall and Johnston about the matter, expressing my appreciation to them for not taking a judgment by default, and am sending to each of them a copy of the enclosed appearance.

With personal regards, I am

Very truly yours,



RFA/an
Encl.

cc: Mr. Norborne C. Stone, Jr.
Bay Minette, Alabama

Mr. Daniel T. McCall
Mobile, Alabama

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
ATTORNEYS AT LAW

NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
HEMLOCK 3-5561 P. O. BOX 1070
MOBILE 6, ALABAMA

GESSNER T. MCCORVEY
BEN D. TURNER
C. M. A. ROGERS (1891-1957)
C. A. L. JOHNSTONE, JR.
R. F. ADAMS
JAMES L. MAY, JR.
ALEX T. HOWARD, JR.
CHAUNCEY MOORE
J. JERETHA HILL
CHARLES B. BAILEY, JR.

April 30, 1959

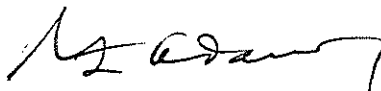
Mrs. Alice J. Duck, Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: Liberty Motors vs.
Liquid Carriers
No. 3104

Dear Mrs. Duck:

Thank you for your letter of April 29 advising me that our demurrer to the amended complaint has been re-filed and overruled. We shall appreciate it if you will now file the enclosed answer, a copy of which has already been furnished to both Mr. Stone and Mr. McCall, attorneys for the plaintiffs.

Very truly yours,



RFA/an
Encl.

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS
ATTORNEYS AT LAW

NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
HEMLOCK 3-6556 P. O. BOX 1070
MOBILE 6, ALABAMA

GESSNER T. MCCORVEY
DEN D. TURNER
C. M. A. ROGERS
C. A. L. JOHNSTONE, JR.
R. F. ADAMS
JAMES L. MAY, JR.
CHAUNCEY MOORE
ALEX T. HOWARD, JR.
J. JEPHTA HILL

February 6, 1957

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

Re: Liberty Motors, et al vs.
Liquid Carriers, et al
Case No 3104

Dear Mrs. Duck:

Please file the enclosed demurrer in this cause. I am sending a copy of it separately to Johnston, McCall & Johnston (Mr. McCall) and Chason and Stone (Mr. Stone).

I shall appreciate it if you will advise me if I am correct in my understanding that this is a non-jury case.

Cordially yours,

N. F. Adams

RFA/an
Encl.

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

ATTORNEYS AT LAW

NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING

HEMLOCK 3-6556 P. O. BOX 1070

MOBILE 6, ALABAMA

GESSNER T. MCCORVEY
BEN D. TURNER
C. M. A. ROGERS
C. A. L. JOHNSTONE, JR.
R. F. ADAMS
JAMES L. MAY, JR.
CHAUNCEY MOORE
ALEX T. HOWARD, JR.
J. JEPHTA HILL

June 4, 1957

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

Dear Mrs. Duck:

Re: No. 3104- Law Docket
Liberty Motors, Inc., et al
vs.
Liquid Carriers, Inc., et al

Please refile the demurrer heretofore filed in this cause by defendants to plaintiffs' complaint as amended. We shall greatly appreciate it if you will advise us when this has been done.

Very truly yours,



RFA:ac
CC : Chason & Stone
Johnson, McCall & Johnson

LIBERTY MOTORS, INC., A
Corporation, and DEPENDABLE
PARTS, INC., A Corporation,

Plaintiffs,

vs.

LIQUID CARRIERS, INC., A
Corporation, and HARVEY C.
SMITH,

Defendants.

X

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. _____

Come now the Plaintiffs, by their attorneys, and amend
the complaint heretofore filed in this cause so that the same shall
read as follows:

COUNT ONE

The Plaintiffs claim of the Defendants the sum of Twenty-
Two Hundred and no/100 Dollars (\$2,200.00) damages for that on, to-
wit the 28th day of February, 1956, the Defendant, Harvey C. Smith,
while acting within the line and scope of his employment as an agent,
servant or employee of the Defendant, Liquid Carriers, Inc., a cor-
poration, so negligently operated a motor vehicle on Alabama State
Highway No. 3 at or near its intersection with the Cut-off road to
U. S. Highway No. 31, all public highways in the County of Baldwin,
State of Alabama, at a point approximately two miles South of Staple-
ton, Alabama, as to run said motor vehicle into, upon or against the
Plaintiffs' motor station wagon, which was being then and there ope-
rated in a Southerly direction on said Alabama State Highway No. 3,
as a proximate result of which negligence Plaintiffs' said motor ve-
hicle was injured and damaged beyond repair and was rendered a total
loss.

WHEREFORE, the Plaintiffs sue and claim damages in the
aforesaid sum.

JOHNSTON, McCALL & JOHNSTON

and

CHASON & STONE

Filed
5-23-57

184

By:

[Signature]
Attorneys for Plaintiffs

LIBERTY MOTORS, INC., A Corpora-
tion, and DEPENDABLE PARTS, INC.,
A Corporation,

Plaintiffs,

VS.

LIQUID CARRIERS, INC., A Corpora-
tion, and HARVEY C. SMITH,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO.

Amended Complaint

FILED
MAY 23 1957
ALICE L. BUCK, Clerk

LAW OFFICES
CHASON & STONE
BAY MINETTE, ALABAMA

LIBERTY MOTORS, INC., a
corporation, and DEPENDABLE
PARTS, INC., a corporation,

Plaintiffs,

vs.

LIQUID CARRIERS INC., a
corporation, and HARVEY C.
SMITH,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 3104

D E M U R R E R

Come the defendants, separately and severally, and demur to plaintiffs' complaint on the following separate and several grounds:

1. Because the complaint does not allege or show that the defendants or either of them violated a duty owed by them or by either of them to the plaintiffs.

2. Because the complaint does not show that the defendants owed to the plaintiffs a duty and that there was a breach of this duty proximately causing plaintiffs' damage.

3. Because for aught that appears the act of running a motor vehicle driven by the defendant, Harvey C. Smith, into, upon or against the plaintiffs' motor station wagon was a lawful act.

4. Because the statement in the complaint that the plaintiffs' motor station wagon was injured and damaged beyond repair and was rendered a total loss "as a proximate result of which negligence" is a statement of a mere conclusion of the pleader.

5. Because said complaint does not sufficiently show the nature of the negligence charged against the defendants.

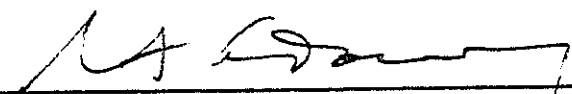
6. Because said complaint is vague, indefinite and uncertain.

7. Because it affirmatively appears from the allegations of the complaint that only one of the plaintiffs owned the motor station wagon alleged to have been damaged.

8. Because, construing the pleadings most strongly against the pleader, it affirmatively appears that neither plaintiff in this cause suffered any damage as a result of the collision made the basis of this suit.

McCORMEY, TURNER, ROGERS, JOHNSTONE & ADAMS

By:


Attorneys for Defendants

Filed
2-7-57

FILED

FEB 7 1957

ALICE J. DUCK, CLERK

Refiled 6-5-57
Alice J. Duck
clerk

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

STATE OF ALABAMA)
)
BALDWIN COUNTY) IN THE CIRCUIT COURT - LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Liquid Carriers Inc., a corporation, and Harvey C. Smith to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the complaint of Liberty Motors, Inc., a corporation, and Dependable Parts, Inc., a corporation.

Witness my hand this 6th day of Dec. ~~November~~, 1956.

Alice J. Duck
Clerk.

LIBERTY MOTORS, INC., a
corporation, and DEPENDABLE
PARTS, INC., a corporation,

Plaintiffs,

vs.

LIQUID CARRIERS INC., a
corporation, and HARVEY C.
SMITH,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW NO. 3104.

COUNT ONE.

Plaintiffs claim of the defendants the sum of TWENTY-TWO HUNDRED and no/100 (\$2,200.00) DOLLARS damages for that on, to-wit, the 28th day of February 1956, the defendant, Harvey C. Smith, while acting within the line and scope of his employment as an agent, servant or employee of the defendant, Liquid Carriers Inc., a corporation, so negligently operated a motor vehicle on Alabama State Highway No. 3 at or near its intersection with the Cut-off road to U.S. Highway No. 31, all public highways in the County of Baldwin, State of Alabama, at a point approximately two miles south of Stapleton, Alabama, as to run said motor vehicle into, upon or against the plaintiff's motor station wagon, which was being then and there operated in a southerly direction on said Alabama State Highway No. 3, as a proximate result of which negligence plaintiff's said motor station wagon was injured and damaged beyond repair and was rendered a total loss.

WHEREFORE, the plaintiff sues and claims damages in the afore-
said sum.

JOHNSTON, McCALL & JOHNSTON

and

CHASON & STONE

FILED

DEC 6 1956

ALICE J. DUCK, Clerk

By:


Attorneys for Plaintiffs

APPEARANCE

State of Alabama --- ~~Mobile~~ County

BALDWIN

CIRCUIT COURT — CIVIL DIVISION

LIBERTY MOTORS, INC., a corpora-
tion, and DEPENDABLE PARTS, INC.,
a corpora tion,

Plaintiffs,

vs.

LIQUID CARRIERS INC., a corpora-
tion, and HARVEY C. SMITH,

Defendants.

CASE NO. 3104

Mobile, Ala., January 17 19 57

We appear for

the Defendants

in the above entitled cause and reserve the right to demur or plead specially.

Filed January 17, 1957,

McCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

By: McAdams

Attorney for Defendants

Alfred J. Duck
Clerk

DEC 10 1956

M. S. JENNINGS, Sheriff

Received 7 day of Dec. 1956

and on 7 day of Dec. 1956

I served a copy of the within B & C

on Harvey C. Smith

By service on Harvey C. Smith

TAYLOR WILKINS, Sheriff

By Goodman D. S.

a me

Executed by serving 3 copies of
the within on Mary Texas Hurt,
Secretary of State of The State of
Alabama.

This the 11 day of Dec. 1956

Sheriff of Montgomery County

M. S. Butler,

By Goodman D. S.

The Sheriff claims 2

miles at 10c per mile for a total

of \$ 20

M. S. Butler, Sheriff
Montgomery County, Ala

LIBERTY MOTORS, INC., a
corporation, and DEPENDABLE
PARTS, INC., a corporation,

Plaintiffs,

Vs.

LIQUID CARRIERS INC., a
corporation, and HARVEY C.
SMITH,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW NO. _____.

SUMMONS AND COMPLAINT

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

LIBERTY MOTORS, INC., a
corporation, and DEPENDABLE
PARTS, INC., a corporation,

Plaintiffs,

vs.

LIQUID CARRIERS INC., a
corporation, and HARVEY C.
SMITH,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

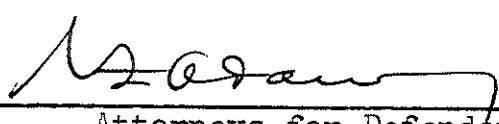
AT LAW NO. 3104

Come the defendants, separately and severally, and
for answer to plaintiffs' complaint file the following separate
and several pleas:

1. Not guilty.
2. The allegations of the complaint are untrue.
3. The plaintiffs were themselves guilty of negli-
gence at the time and place alleged in the complaint, which
proximately contributed to their injuries and damages, where-
fore they cannot recover in this cause.

MCCORVEY, TURNER, ROGERS, JOHNSTONE & ADAMS

By:


Attorneys for Defendants

Filed 5-1-59

FILED

MAY 1 1959

ALICE J. DUCK, CLERK
REGISTER

McCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
ATTORNEYS AT LAW
NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA