

Most Reverend T. J. TOOLEN,
Archbishop of Diocese of
Mobile,

Plaintiff

vs.

JOHN HARVEY ZIGLER,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN LAW.

No. 3121

DEMURRER

Now comes the Plaintiff, by his attorneys, and demurs to Plea 2 of the defendant's answer, and as grounds for said demurrer, assigns the following:

1. That said Plea does not constitute a defense to the complaint and raises an immaterial issue.

2. That said Plea does not admit, deny, traverse or avoid the allegations of the complaint.

3. That said Plea does not state a counterclaim or set-off which may be recognized in this suit.

4. That said demand by the defendant for damages in said Plea cannot be set off against the plaintiff's claim for damages arising from the defendant's alleged wantonness.

5. That the allegations of wantonness in the complaint in this suit precludes set off in this suit by the defendant.

6. That the law of set off or counterclaim has no application in this case.

7. That said Plea alleges no legal demand upon the plaintiff.

8. That said Plea shows affirmatively that the alleged set off or counterclaim grows out of the same collision alleged in the complaint, and as such, is not a legal demand recoverable in this suit.

9. That said Plea does not allege a mutual debt not sounding in damages merely.

10. That said Plea is vague and indefinite.

11. That said Plea does not allege whether said cultivator was totally destroyed, or merely damaged and repaired.

12. That said Plea does not allege that the defendant was damaged by loss of time from work.

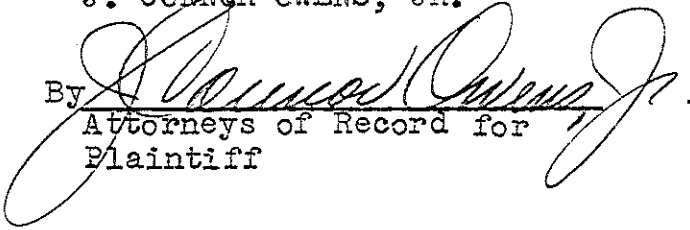
13. That said Plea does not allege specifically how much time the defendant loss from his work.

14. That said Plea is a misjoinder of causes of action in that the defendant incorporates in one and the same plea, personal injuries and property damages.

TONSMEIRE & HODNETTE

J. CONNOR OWENS, JR.

By


Attorneys of Record for
Plaintiff

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN LAW. NO. 3121

Most Reverend T. J. TOOLLEN,
Archbishop of Diocese of
Mobile,

Plaintiff

vs.

JOHN HARVEY ZIGLER,

Defendant

DEMURRER

FILED

JUL 24 1957

Alice A. Buck, Clerk

J. CONNOR OWENS, JR.

ATTORNEY AT LAW

101 Court House Square

BAY MINETTE, ALABAMA

ANSWER AND CROSSBILL TO AMENDED COMPLAINT

Most Reverend T. J.
TOOLEN, Archbishop of
Diocese of Mobile,

Plaintiff

vs

JOHN HARVEY ZIGLER,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN LAW. NO. 3121.

Comes now the Defendant in the above styled cause, and for answer to the Amended Complaint heretofore filed against him says:

1. Not guilty.

2. For further answer to the Amended Complaint the Defendant says that at the time of the commencement of this suit the Plaintiff was indebted to the Defendant in the sum of \$3750.00 as damages, for that on, to-wit: The 3rd day of April, 1956, the Defendant's tractor was being operated along or near U.S. Highway No. 90, at a point 8.5 miles East of the Town of Robertsedale, Alabama, said highway, at said point, is a public highway in the County of Baldwin, State of Alabama; and that then and there the agent, servant, or employee of the Plaintiff, while acting within the line and scope of his employment, negligently ran the automobile he was driving into the Defendant's tractor-drawn cultivator and as a direct, proximate consequence and result thereof, the Defendant's cultivator was badly bent, damaged and broken; the Defendant was bruised and mashed; his body was made sore and lame, he suffered mental anguish and pain and was forced to spend great sums of money to replace his cultivator and to hire work done while his cultivator was being replaced; he was caused to lose time from his work while he was injured; all as a proximate consequence and result of the negligence as aforesaid. The Defendant further avers that he used the said tractor-cultivator in connection with his business.

Wilters & Brantley

BY:

John M. Brantley
Attorneys for Defendant

Most Reverend T. J. TOOLEN,
Archbishop of Diocese of
Mobile,

Plaintiff

VS.

JOHN HARVEY ZIGLER,

Respondent

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN LAW NO. _____.

Now comes the Plaintiff, by his attorneys, and moves specially to abate the defendant's pleas³ in this cause and assigns the following ground:

1. That said plea is in the nature of a counterclaim and no service as required by Alabama Code, 1940, has been made upon the plaintiff, or his attorney of record.

TONSMEIRE & HODNETTE

J. CONNOR OWENS, JR.

By

J. Connor Owens, Jr.
Attorneys for Plaintiff

ANSWER AND CROSSBILL

Most Reverend T. J. TOOLEN,
Archbishop of Deocese of Mobile,

Plaintiff

vs

JOHN HARVEY ZIGLER,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW
No. 3121

Comes now the Defendant in the above styled cause, by his attorneys, and for answer to the Complaint heretofore filed against him says:

1. Not guilty.

2. The Defendant alleges that at the time and place alleged therein, the Plaintiff was himself guilty of negligence which proximately contributed to his alleged injuries in that the Plaintiff's agent, servant, or employee, while acting within the line and scope of his employment so negligently operated the automobile in which the Plaintiff was riding as to cause or allow the same to run into, upon, or against the tractor of the Defendant, hence the Plaintiff should not recover.

3. For further answer to the Complaint the Defendant says that at the time of the commencement of this suit the Plaintiff was indebted to the Defendant in the sum of Three thousand and Seven Hundred and Fifty Dollars as damages for that on, to-wit the 3rd day of April, 1956, the Defendant's tractor was being operated along or near U. S. Highway No. 90 at a point 8 5/10 miles East of the Town of Robertsedale, Alabama, said highway at said point is a public highway in the County of Baldwin, State of Alabama; and that then and there agent, servant, or employee of the Plaintiff while acting within the line and scope of his employment, negligently ran the automobile he was driving into the Defendant's tractor-drawn cultivator and as a direct proximate consequence and result thereof the Defendant's cultivator was badly bent, damaged and broken, and the Defendant was bruised and mashed and his body was made sore and lame, he suffered mental anguish and pain and was forced to spend great sums of money to replace his cultivator and to

hire work done while his cultivator was being replaced, he was caused to lose time from his work while he was injured; all as a proximate consequence and result of the negligence as aforesaid. The Defendant further avers that he used the said tractor-cultivator in connection with his business.

James A. Hendrix

Wiltors & Brantley

BY: Robert M. Brantley
Attorneys for Defendant

Most Reverend T. J. Toolen,
Archbishop of Diocese of Mobile,

Plaintiff

vs.

JOHN HARVEY ZIGLER,

Defendant

) IN THE CIRCUIT COURT OF

(BALDWIN COUNTY, ALABAMA

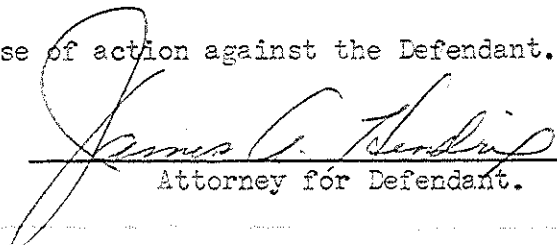
) AT LAW.

(NO.

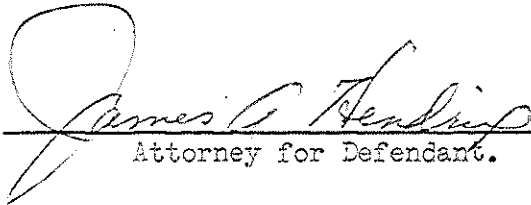
DEMURERS

Comes now the defendant in the above styled cause and demurs to the complaint, and separately and severally to each count thereof, and for grounds of demurer, assigns, separately and severally the following:

1. Said Count states no cause of action against the Defendant.


Attorney for Defendant.


Defendant demands a trial by Jury.


Attorney for Defendant.

Most Reverend T. J. TOOLEN,)	IN THE CIRCUIT COURT OF
Archbishop of Diocese of Mobile,	(
)	BALDWIN COUNTY, ALABAMA
Plaintiff	(
)	
vs	(AT LAW
)	
JOHN HARVEY ZIGLER,	(
)	
Defendant	(No.

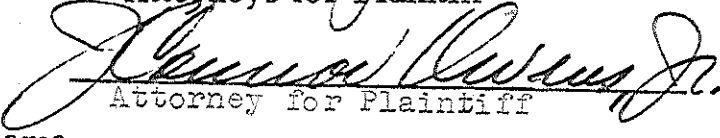
The plaintiff claims of the defendant the sum of One Thousand and No/100 Dollars, (\$1,000.00), as damages for that heretofore and on to-wit the 3rd day of April, 1956, the defendant so negligently operated the tractor which he was driving Westwardly on U. S. Highway 90 at a point to-wit 8.5 miles East of the Town of Robertsdale, Alabama, which said Highway at said point is a public highway in the County of Baldwin, State of Alabama, as to cause or allow the same to run into, upon or against the motor vehicle of the plaintiff which was then and there proceeding in a Westwardly direction on the said U. S. Highway 90 at said time and place, and as a direct and proximate result of said negligence the motor vehicle of the plaintiff which is a 1956 Cadillac Sedan, was badly broken, torn and damaged in this, that among other things the right front fender was totally destroyed, the right front door was badly damaged and had to be replaced, all of the windows were broken on the right front door, the right rear door was badly damaged and had to be replaced, the windows in the right rear door were broken, the windshield was broken, the molding had to be replaced on the entire right side of said automobile and the entire right hand side, except for the portions replaced, had to be beat out, straightened and repainted; hence this suit.

TONSMEIRE & HODNETTE,

By 
Attorneys for Plaintiff

Defendant's Address:

Route 1, Robertsdale, Alabama
on U.S. Highway 90, approximately
8.5 miles East of Robertsdale.


Attorney for Plaintiff

Received 4 day of Jan 1952
and on 10 day of Jan 1957
I served a copy of the within 2 & C
on John Harvey Zigler

By service on _____

TAYLOR WILKINS, Sheriff
By Elleigh Steadham D. S.
Robert Tate
Ala.

Sheriff claims 50 miles at
Ten Cents per mile Total \$ 5.00
TAYLOR WILKINS, Sheriff
BY Steadham
DEPUTY SHERIFF

BALDWIN COUNTY, ALABAMA
IN IAW. NO. **RECORDED**

Most Reverend T. J. TOOLEN,
Archbishop of Diocese of
Mobile,

Plaintiff

vs.

JOHN HARVEY ZIGLER

Defendant

Summons and Complaint

FILED
JAN 4 1957
ALICE L. DUCK, Clerk

ALICE L. DUCK, Clerk

J. CONNOR OWENS, JR.
ATTORNEY AT LAW
101 Court House Square
BAY MINETTE, ALABAMA

Most Reverend T. J. TOOLEN,
Archbishop of Diocese of
Mobile,

Plaintiff

vs.

JOHN HARVEY ZIGLER,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN LAW. NO. _____.

AMENDED COMPLAINT

Now comes the Plaintiff, by his attorneys, and amends the complaint heretofore filed in this cause so that the same shall read as follows:

The plaintiff claims of the defendant the sum of \$1000.00 as damages for that heretofore and on to-wit: the 3rd day of April, 1956, the defendant so wantonly operated the tractor which he was driving Westwardly on U. S. Highway 90 at a point to-wit: 8.5 miles East of the Town of Robertsedale, Alabama, which said highway is a public road in Baldwin County, Alabama, as to wantonly cause or allow the same to run into, upon or against the motor vehicle of the plaintiff which was then and there proceeding in a westwardly direction on the said U. S. Highway 90 at said time and place, and as a direct and proximate cause of the said wantonness the motor vehicle of the plaintiff, which is a 1956 Cadillac, was badly broken, torn and damaged in this, that among other things, the right front fender was totally destroyed, the right front door was badly damaged, and had to be replaced, all of the windows on the right front door were broken, the right rear door was badly damaged and had to be replaced, the windows in the right rear door were broken, the molding had to be replaced on the entire right side of said automobile, and the entire right side, except for portion replaced, had to be beat out, straightened and repainted, hence this suit.

TONSMEIRE & HODNETTE

J. CONNOR OWENS, JR.

By

J. Connor Owens, Jr.
Attorneys for Plaintiff

BALDWIN COUNTY, ALABAMA

IN LAW NO. 3121.

MOST REVEREND T. J. TOOLEN,
ARCHBISHOP OF DIOCESE OF
MOBILE,

PLAINTIFF

VS.

JOHN HARVEY ZIGLER,

DEFENDANT

AMENDED COMPLAINT

FILED
JUL 16 1957

WANCE L. DUCK, Clerk

J. CONNOR OWENS, JR.

ATTORNEY AT LAW

101 Court House Square

BAY MINETTE, ALABAMA