

3351

November 5, 1957

WILLIE L. FERRILL, as surviving dependent of
Allen W. Ferrill, deceased, Plaintiff

IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA AT LAW

VS
ELY G. McMILLAN, Defendant

CASE NO. 3357

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

I, Mary Texas Hurt, Secretary of State, hereby certify that on October 30, 1957
I sent by registered mail in an envelope addressed as follows:

" Ely G. McMillan
c/o Morrison Cafeteria Company, Inc.
Post Office Box 9214
New Orleans, Louisiana"

"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:

" Ely G. McMillan
c/o Morrison Cafeteria Company, Inc.
Post Office Box 9214
New Orleans, Louisiana

You will take notice that on October 18, 1957 the Sheriff of Montgomery
County, Alabama, served upon me, in my official capacity, summons and complaint in a
case entitled: WILLIE L. FERRILL, as surviving dependent of Allen W. Ferrill,
deceased, Plaintiff VS ELY G. McMILLAN, Defendant

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW
Case No. 3357 a true copy of which summons and complaint is 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.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 30
day of October 1957

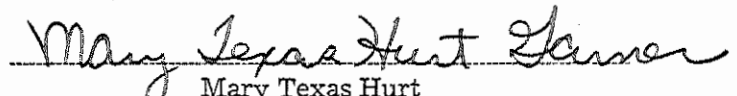
Enclosure (1)

(Signed) Mary Texas Hurt
Secretary of State

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 in the above-styled
cause.

I further certify that on November 5, 1957 I received the return card, showing
receipt by the designated addressee of the aforementioned matter at Metairie, La.
on 11/4/57

WITNESS MY HAND and the Great Seal of the State of Alabama this the 5 day
of November 1957


Mary Texas Hurt
Secretary of State

Enclosures: Return Receipt Card and copy
of Summons and Complaint.

cc: Messrs. Gordon & Jansen, Attorneys at Law
Room 1607-1610
Merchants National Bank Building
Mobile, Alabama



SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

CIRCUIT COURT, BALDWIN COUNTY

BALDWIN COUNTY

No. 3357

TERM, 1957

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Ely G. McMillan

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

Ely G. McMillan, Defendant

by Willie L. Ferrill, as surviving dependant of Allen W. Ferrill, deceased

, Plaintiff

Witness my hand this 17th day of October 19 57

Alvin J. Duck, Clerk

WILLIE L. FERRILL, as surviving
dependent of Allen W. Ferrill,
deceased,

Plaintiff,

vs.

ELY G. McMILLAN,

Defendant.

IN THE CIRCUIT COURT

OF BALDWIN COUNTY,

ALABAMA

AT LAW

COUNT ONE

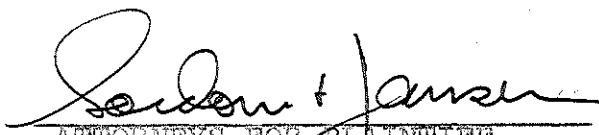
Plaintiff claims of the Defendant the sum of One Hundred Thousand (\$100,000.00) Dollars as damages for that on, to wit: the 19th day of October, 1955, the Defendant so negligently operated an automobile, truck or motor vehicle in a westwardly direction on and along U. S. Highway 90 in Baldwin County, Alabama, near Robertsdale, said highway being a public road in said State and County, as to cause or allow an automobile then and there being operated by Artie L. Smith in a westwardly direction on and along said Highway, to run into, upon or against the automobile of Plaintiff's husband, Allen W. Ferrill, in which Plaintiff's said husband was then and there riding, and as a proximate result of said negligence on the part of the Defendant, Plaintiff's said husband received personal injuries from which he died on, to wit: the 28th day of October, 1955; and Plaintiff avers that she is the sole dependent left surviving by the decedent, Allen W. Ferrill, who died of the injuries received by him on October 19, 1955, as aforesaid, arising out of and while he was acting in the course of his employment by Allied Mills, Inc., a corporation, and that at the time of receiving said injuries and at the time of his death, the said Allen W. Ferrill and his employer, Allied Mills, Inc. were subject to the Workmen's Compensation Laws of the State of Alabama.

COUNT TWO

Plaintiff claims of the Defendant the sum of One Hundred


Thousand (\$100,000.00) Dollars as damages for that the Defendant did on, to wit: October 19, 1955, at a point on and along U. S. Highway 90 in Baldwin County, Alabama, near Robertsdale, then and there willfully or wantonly injure the Plaintiff's said husband by willfully or wantonly causing or allowing an automobile to run into, upon or against the automobile in which Plaintiff's said husband was then and there riding, and as a proximate result of said willful or wanton acts of Defendant, the Plaintiff's said husband received injuries of which he died; and Plaintiff avers that she is the sole dependent left surviving by the decedent, Allen W. Ferrill, who died of the injuries received by him on October 19, 1957, as aforesaid, arising out of and while he was acting in the course of his employment by Allied Mills, Inc., a corporation, and that at the time of receiving said injuries and at the time of his death, the said Allen W. Ferrill and his employer, Allied Mills, Inc. were subject to the Workmen's Compensation Laws of the State of Alabama, wherefore this suit.

FILED
OCT 19 1957
CLERK


ATTORNEYS FOR PLAINTIFF



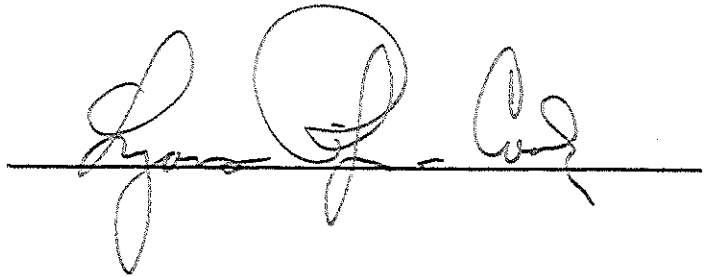
Plaintiff demands a trial by jury in said cause.


ATTORNEYS FOR PLAINTIFF

Address of Defendant
1308 Camp Street
New Orleans, Louisiana

MERCHANTS NATIONAL BANK OF MOBILE,) IN THE CIRCUIT COURT OF
As Executor under the Last Will)
and Testament of Allen W. Ferrill,) BALDWIN COUNTY, ALABAMA.
Deceased, PLAINTIFF)
-VS-)
ELY G. McMILLAN, DEFENDANT:) AT LAW NO. 3351.
)

Come now LYONS, PIPES & COOK, Attorneys, and appear as
additional attorneys for the plaintiff in the above entitled cause.

A handwritten signature, likely "Lyons, Pipes & Cook", is written over a horizontal line. The signature is in cursive and includes a large circular flourish in the middle.



MARY TEXAS HURT
SECRETARY OF STATE

STATE OF ALABAMA
OFFICE OF SECRETARY OF STATE
MONTGOMERY 4, ALABAMA

October 28, 1957

Messrs. Gordon & Jansen
Attorneys at Law
Room 1607-1610
Merchants National Bank Bldg.
Mobile, Alabama

Re: Merchants National Bank of Mobile
VS Ely G. McMillan

Dear Sirs:

Please refer to your file in the above-styled cause and be advised that on October 16, 1957, I sent by registered mail, return receipt requested, deliver to addressee only, my notice, with copy of Summons and Complaint attached, to:

Ely G. McMillan
1308 Camp Street
New Orleans, Louisiana

On October 28, 1957, this letter (Registered No. 55373) was returned to me with reason for non-delivery given as "MOVED, LEFT NO ADDRESS."

Will you please advise me as to any further efforts you wish me to make in perfecting this service.

Sincerely yours,

Mary Texas Hurt Garner
Mary Texas Hurt Garner
Secretary of State

Jamie L. Pettigrew
By: Jamie L. Pettigrew
Administrative Assistant

cc: Honorable Alice J. Duck, Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama

MERCHANTS NATIONAL BANK OF MOBILE,:	IN THE CIRCUIT COURT
As Executor under the Last Will :	
and Testament of Allen W. Ferrill,:	OF BALDWIN COUNTY,
Deceased, :	
Plaintiff, :	ALABAMA
	:
vs. :	AT LAW
	:
ELY G. McMILLAN, :	
	:
Defendant :	

COUNT ONE

Plaintiff claims of the Defendant the sum of One Hundred Thousand (\$100,000.00) Dollars as damages for that on, to wit: the 19th day of October, 1955, the Defendant so negligently operated an automobile, truck or motor vehicle in a Westwardly direction on and along U. S. Highway 90 in Baldwin County, Alabama near Robertsdale, said highway being a public road in said State and County, as to cause or allow an automobile then and there being operated by Artie L. Smith in a Westwardly direction on and along said Highway, to run into, upon or against the automobile of Plaintiff's testator, Allen W. Ferrill, in which Plaintiff's testator was then and there riding, and as a proximate result of said negligence on the part of the Defendant, Plaintiff's testator received personal injuries from which he died on, to wit: the 28th day of October, 1955, and the automobile of Plaintiff's testator was badly bent, broken, crushed and otherwise damaged in and about its front, sides and rear, hence this suit.

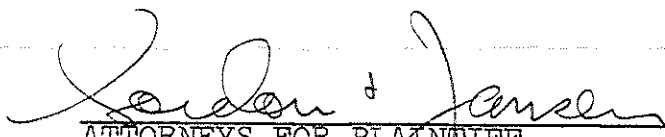
COUNT TWO

Plaintiff claims of the Defendant the sum of One Hundred Thousand (\$100,000.00) Dollars as damages for that the Defendant did on, to wit: October 19, 1955 at a point on and along U. S. Highway 90 in Baldwin County, Alabama, near Robertsdale, then and there willfully or wantonly injure the Plaintiff's testator and damage Plaintiff's testator's automobile by willfully or wantonly causing or allowing an automobile to run into, upon or

against the Plaintiff's testator's automobile, in which Plaintiff's testator was then and there riding, and as a proximate result of said willful or wanton acts of Defendant, the Plaintiff's testator received injuries of which he died, and the automobile of the Plaintiff's testator was badly bent, broken, crushed and otherwise damaged about its front, sides and rear, all of which said damages were the proximate result of said willful or wanton acts of the Defendant, wherefore this suit.


ATTORNEYS FOR PLAINTIFF

Plaintiff demands a trial by jury in said cause.


ATTORNEYS FOR PLAINTIFF

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 3351

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Ely G. McMillan

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in

the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

Ely G. McMillan

Defendant

by Merchants National Bank of Mobile, as Executor under the last will and Testament

of Allen W. Ferrill, Deceased,

Plaintiff

Witness my hand this 12th day of October 1957

Alice J. [Signature] Clerk

MERCHANTS NATIONAL BANK OF MOBILE,)
As Executor under the Last Will)
and Testament of Allen W. Ferrill,)
Deceased,)

Plaintiff,)

vs.)

ELY G. McMILLAN,)

Defendant.)

IN THE CIRCUIT COURT

OF BALDWIN COUNTY,

ALABAMA,

AT LAW

CASE NO. 3351

PLEA IN ABATEMENT

Comes now the defendant in the above cause and appears solely and specially for the purpose of filing the following plea in abatement and for no other purpose, and, pleading in abatement, said defendant does say the following:

1. That plaintiff cannot maintain this suit, for that, at the time and place of the alleged accident, as the proximate result of which plaintiff alleges its intestate received injuries causing his death and for which plaintiff seeks to recover damages against this defendant, plaintiff's said intestate was an employee of and then and there was performing his duties as such employee of Allied Mills, Inc., a corporation. That at said time and place plaintiff's intestate and his said employer were both subject to and amenable to provisions of the Workmen's Compensation Act of Alabama; that plaintiff's said intestate left surviving him as his sole dependant, his wife, to-wit, Willie L. Ferrill, who is and was entitled to compensation under said act. Said defendant further avers that he is a third party or party other than employer of plaintiff's intestate and that it is asserted against said defendant in this suit an alleged legal liability for the death of said intestate; that under the terms of said Workmen's Compensation Act of Alabama, plaintiff does not have the right to sue

said defendant, but, on the contrary, said right is expressly given to others than the plaintiff, and further, that in recognition of this, the said Willie L. Ferrill, as surviving dependant of Allen W. Ferrill, deceased, has filed suit against said defendant in this court in an action styled Willie L. Ferrill, as surviving dependant of Allen W. Ferrill, Deceased, Plaintiff, versus Ely G. McMillan, Defendant, being Case No. 3357, which said case is presently pending. Wherefore, defendant says that plaintiff cannot maintain this suit.

HAND, ARENDALL & BEDSOLE

By: Paul W. Brock
Attorneys for Defendant

STATE OF ALABAMA:

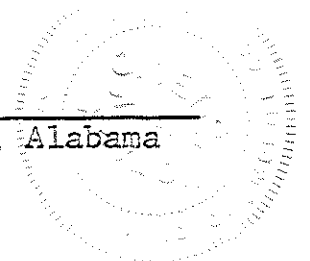
COUNTY OF MOBILE:

Before me, Dorothy W. Williams, a Notary Public in and for said County in said State, personally appeared Paul W. Brock, who, being duly sworn, deposes and says that he is the attorney at law for Ely G. McMillan, Defendant, and that he is informed and believes, and, based upon such information and belief, does say that the facts set forth in the above plea in abatement are true and are matters of record in this court.

Paul W. Brock

Subscribed and sworn to before me on this, the 14th day of November, 1957.

Dorothy W. Williams
Notary Public, Mobile County, Alabama



November 5, 1957

MERCHANTS NATIONAL BANK OF MOBILE, As Executor
under the Last Will and Testament of Allen W.
Ferrill, Deceased, Plaintiff

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA AT LAW

VS
ELY G. McMILLAN, Defendant

CASE NO. 3351

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

I, Mary Texas Hurt, Secretary of State, hereby certify that on October 30, 1957
I sent by registered mail in an envelope addressed as follows:

" Ely G. McMillan
c/o Morrison Cafeteria Company, Inc.
Post Office Box 9214
New Orleans, Louisiana"

"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:

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c/o Morrison Cafeteria Company, Inc.
Post Office Box 9214
New Orleans, Louisiana

You will take notice that on October 16, 1957 the Sheriff of Montgomery
County, Alabama, served upon me, in my official capacity, summons and complaint in a
case entitled: MERCHANTS NATIONAL BANK OF MOBILE, As Executor under the Last
Will and Testament of Allen W. Ferrill, Deceased, Plaintiff VS ELY G.
McMILLAN, Defendant

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW
Case No. 3351 a true copy of which summons and complaint is 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.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 30
day of October 1957

Enclosure (1)

(Signed) Mary Texas Hurt
Secretary of State"

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 in the above-styled
cause.

I further certify that on November 5, 1957 I received the return card, showing
receipt by the designated addressee of the aforementioned matter at Metairie, La.
on 11/4/57

WITNESS MY HAND and the Great Seal of the State of Alabama this the 5 day
of November 1957

Mary Texas Hurt Ganner
Mary Texas Hurt
Secretary of State

Enclosures: Return Receipt Card and copy
of Summons and Complaint.
cc: Messrs. Gordon & Jansen, Attorneys at Law
Room 1607-1610
Merchants National Bank Building
Mobile, Alabama



MERCHANTS NATIONAL BANK OF MOBILE, :
As Executor under the Last Will :
and Testament of Allen W. Ferrill, :
Deceased, :
Plaintiff, :

vs. :

ELY G. McMILLAN, :
Defendant :

IN THE CIRCUIT COURT
OF BALDWIN COUNTY,
ALABAMA
AT LAW

COUNT ONE

Plaintiff claims of the Defendant the sum of One Hundred Thousand (\$100,000.00) Dollars as damages for that on, to wit: the 19th day of October, 1955, the Defendant so negligently operated an automobile, truck or motor vehicle in a Westwardly direction on and along U. S. Highway 90 in Baldwin County, Alabama near Robertsdale, said highway being a public road in said State and County, as to cause or allow an automobile then and there being operated by Artie L. Smith in a Westwardly direction on and along said Highway, to run into, upon or against the automobile of Plaintiff's testator, Allen W. Ferrill, in which Plaintiff's testator was then and there riding, and as a proximate result of said negligence on the part of the Defendant, Plaintiff's testator received personal injuries from which he died on, to wit: the 28th day of October, 1955, and the automobile of Plaintiff's testator was badly bent, broken, crushed and otherwise damaged in and about its front, sides and rear, hence this suit.

COUNT TWO

Plaintiff claims of the Defendant the sum of One Hundred Thousand (\$100,000.00) Dollars as damages for that the Defendant did on, to wit: October 19, 1955 at a point on and along U. S. Highway 90 in Baldwin County, Alabama, near Robertsdale, then and there willfully or wantonly injured the Plaintiff's testator and damaged Plaintiff's testator's automobile by willfully or wantonly causing or allowing an automobile to run into, upon or

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 3351

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Ely G. McMillen

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

Ely G. McMillen

, Defendant

by Merchants National Bank of Mobile, as Executor under the last will and Testament

of Allen W. Ferrill, Deceased,

, Plaintiff

Witness my hand this 12 day of October 1957

A. J. [Signature], Clerk

against the Plaintiff's testator's automobile, in which Plaintiff's testator was then and there riding, and as a proximate result of said willful or wanton acts of Defendant, the Plaintiff's testator received injuries of which he died, and the automobile of the Plaintiff's testator was badly bent, broken, crushed and otherwise damaged about its front, sides and rear, all of which said damages were the proximate result of said willful or wanton acts of the Defendant, wherefore this suit.

Sorden & Jansen
ATTORNEYS FOR PLAINTIFF

FILED
OCT 13 1921
NEW ORLEANS, LA.

Plaintiff demands a trial by jury in said cause.

Sorden & Jansen
ATTORNEYS FOR PLAINTIFF

Address of Defendant:

1308 Camp Street
New Orleans, Louisiana

