

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. JEPHTA HILL
CHARLES D. BAILEY, JR.

April 12, 1958

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

Re: Hempstead Oil & Storage Co.,
Inc., a Corporation vs.
Edgar S. Essary

Dear Mrs. Duck:

Please cause the enclosed complaint to be filed in your Court and the enclosed copy thereof to be served on the defendant at his address shown on the complaint, through the Sheriff of Tuscaloosa County, Alabama.

Your acknowledging receipt of these enclosures will be appreciated.

Yours very truly,

James L. May, Jr.
James L. May, Jr.

JLM, Jr/an*
Encls.

3513

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
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NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
HEMLOCK 3-5561 P. O. BOX 1070
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J. JEPHTHA HILL
CHARLES D. DAILEY, JR.

April 1, 1959

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

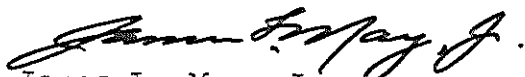
Re: Hempstead Oil and Storage Co., Inc.
vs. Edgar S. Essary
Case No. 3515

Dear Mrs. Duck:

Final settlement of the above suit, including the matter of the plea of recoupment, has been effected. Therefore, it is requested that the cause be dismissed with prejudice.

With very best personal regards, I am

Sincerely,


James L. May, Jr.

JLM,Jr./lgn

CC: Mr. Sam Johnston, Jr., Attorney
First National Bank Annex
Mobile, Alabama

Mr. John Chason, Attorney
Bay Minette, Alabama

Mr. Telfair Mashburn, Attorney
Bay Minette, Alabama

JOHNSTON, MCCALL & JOHNSTON
LAWYERS
EIGHTH FLOOR FIRST NATIONAL BANK ANNEX

SAMUEL M. JOHNSTON
DAN T. MCCALL, JR.
WILLIAM E. JOHNSTON
SAMUEL M. JOHNSTON, JR.
PIERRE PELHAM

MOBILE, ALABAMA
March 31, 1959

MAILING ADDRESS:
P. O. BOX 550
MOBILE 4, ALABAMA

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

Re: Hempstead Oil & Storage Co. vs.
Edgar S. Essary
Circuit Court at
Law No. 3513
Our File No. 2662

Dear Mrs. Duck:

I am enclosing herein The Employers' Group draft payable to you in the amount of \$17.65, which is the amount of court cost upon dismissal of the Plaintiffs suit and the Defendant's recoupement plea.

I represented the Defendant along with John Chason, and Telfair Mashburn.

I have notified Mr. James May, one of the attorneys for the Plaintiff, that we are paying the court cost and that he should dismiss this case. This is my request to dismiss the Defendant's recoupement Plea.

Would you kindly send me a receipted court cost bill.

Very truly yours,


Sam M. Johnston, Jr.

SMJ, Jr./fc

Enclosure

cc: Mr. James May
Attorney at Law

Mr. John Chason
Attorney at Law

Mr. Telfair Mashburn
Attorney at Law

Chas. Stone
HEMPSTEAD OIL & STORAGE CO.,
INC., a Corporation,
Plaintiff,

VS.

EDGAR S. ESSARY,
Defendant.

* IN THE CIRCUIT COURT OF
* BALDWIN COUNTY, ALABAMA
*
* AT LAW
*
* NO. _____
*

Comes the Plaintiff in the above-styled cause and with leave of the Court first requested and obtained, amends the complaint filed therein by striking Count One therefrom and substituting in lieu thereof the following:

COUNT TWO

Plaintiff claims of the Defendant the sum of Four Thousand Five Hundred (\$4,500.00) Dollars as damages for that heretofore on, to-wit, the 5th day of November, 1957, the Defendant so negligently drove or operated an automobile on U.S. Highway No. 90, a public highway in the County of Baldwin, State of Alabama, near Billups Service Station on Bay Bridge Causeway at a point in Baldwin County, Alabama, about six miles eastwardly from Mobile River, as to cause or allow said automobile to run into, upon or against a motor vehicle pulling a tank trailer, which were then and there owned by Plaintiff. Plaintiff avers that as a proximate result of such negligence of the Defendant as aforesaid, said motor vehicle of the Plaintiff and the tank trailer attached thereto were then and there overturned. Plaintiff further alleges that as a proximate result of such negligence as aforesaid, the cab, fenders, radiator, grille, wheels, frame, and other parts of said motor vehicle were bent, damaged, and broken, said tank trailer was bent, twisted, broken, punctured, torn and otherwise damaged, and Plaintiff sustained a loss of said motor vehicle for a period of approximately four weeks while said motor vehicle was being repaired, all to the damage of the Plaintiff in the aforesaid amount, and all as a proximate result

of the aforesaid negligence of the Defendant, hence this suit.

Filed
Oct. 27, 1958
Alice J. Duck
clerk

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

By

J. B. Blackburn

J. B. Blackburn

J. B. Blackburn

Attorneys for Plaintiff

HEMPSTEAD OIL & STORAGE	Y	IN THE CIRCUIT COURT OF
COMPANY, INC., a corporation,	Y	BALDWIN COUNTY,
Plaintiff,	Y	ALABAMA,
vs.	Y	AT LAW
EDGAR S. ESSARY,	Y	NO. 3513
Defendant	Y	

Comes the Defendant in the above entitled cause and demurs to the Plaintiff's complaint, separately and severally, on the following separate and several grounds:

1. From aught that appears the Defendant breached no duty owed to the Plaintiff in said suit.
2. The Plaintiff fails to set out in detail the damages done to its motor vehicle in said suit.
3. The Plaintiff failed to set out with sufficient certainty the damages done to its motor vehicle.
4. The Plaintiff failed to set out with sufficient certainty the damages done to its tank trailer.
5. The Plaintiff failed to allege what dates the truck and trailer were being repaired.
6. From aught that appears the Plaintiff did not lose the use of its truck and trailer for any length of time.
7. From aught that appears the Plaintiff was not using its truck and trailer in its business, therefore, is not entitled to compensation for the loss of use thereof.
8. From aught that appears the Plaintiff did not suffer any loss of use of his truck and trailer due to repairs.
9. Plaintiff does not state a cause of action against the Defendant.

JOHNSTON, McCALL & JOHNSTON

BY Sam M. Johnston
CHASON & STONE

BY John Chason
Attorneys for Defendant

The Defendant demands a trial by jury in the above case.

Filed April 26, 1958
Alvin J. Suck, Clerk

185 Sam M. Johnston
John Chason

HEMPSTEAD OIL & STORAGE CO.,
INC., a Corporation,

Plaintiff,

VS.

EDGAR S. ESSARY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. _____

Comes the defendant in the above styled cause and, for
amended
answer to the/complaint heretofore filed in said cause, and to
each and every count thereof, separately and severally, sets down
and assigns the following separate and several pleas, viz:

O N E

That he is Not Guilty.

T W O

For further plea defendant says: That at the time and place
complained of in the amended complaint, one Oscar Siglar, who was
then and there an agent, servant or employee of the plaintiff,
acting within the line and scope of his employment as such, was
guilty of negligence which proximately contributed to the injuries
complained of in the complaint, in that he so negligently operated
or motor
an automobile/vehicle pulling a tank trailer, belonging to the
plaintiff, as to cause or allow said motor vehicle and tank trailer
to run into, upon or against defendant's automobile.

T H R E E

Come the defendant, EDGAR S. ESSARY, and claims of the plain-
tiff, HEMPSTEAD OIL & STORAGE CO., A Corporation, by way of recoup-
ment, the sum of TWO THOUSAND (\$2,000.00) DOLLARS, as damages, for
that, heretofore, on, to-wit: the 5th day of November, 1957, at
about 4:45 o'clock, P. M., on U. S. Highway Number 90, a public
highway in the County of Baldwin, State of Alabama, near Billups
Service Station on the Mobile Bay Causeway, one Oscar Sigler, who
was then and there an agent, servant or employee of the plaintiff,
acting within the line and scope of his employment as such, so
negligently operated a motor vehicle and tank trailer, belonging
to the plaintiff, which he was then and there driving, as to cause
or allow said motor vehicle and tank trailer to run into, upon or
against an automobile of the defendant, and as a proximate result

and consequence of said negligence, said automobile was damaged as follows: the fenders, body, grille, wheels, frame, and other parts of said automobile were bent, broken and damaged, the tires were damaged, the window glass was broken, and the market value of said automobile was permanently depreciated.

JOHNSTON, McCALL AND JOHNSTON,

by S. M. Johnston Jr

CHASON & STONE,

by W. C. Chason

Telfair J. Mashburn

Telfair J. Mashburn, Jr.,
Attorneys for defendant.

Filed Oct. 31, 1958
Alice J. Luck, Clerk

Service accepted, this 31st
day of October, 1958,
J. B. Blackburn
Of counsel for
Plaintiff

HEMPSTEAD OIL & STORAGE CO., INC.,*	IN THE CIRCUIT COURT OF
a corporation,	
	* BALDWIN COUNTY, ALABAMA
Plaintiff,	* AT LAW
Vs.	* NO. _____
EDGAR S. ESSARY,	* _____
Defendant.	* _____

COUNT ONE

Plaintiff claims of the Defendant the sum of Four Thousand Five Hundred (\$4,500.00) Dollars as damages for that heretofore on, to-wit, the 5th day of November, 1957, the Defendant so negligently drove or operated an automobile on, along and over U.S. Highway No. 90 near Billups Service Station, at a point in Baldwin County, Alabama, about six miles eastwardly from Mobile River, as to cause or allow said automobile to run into, upon or against a motor vehicle then and there owned by Plaintiff. Plaintiff avers that said U. S. Highway No. 90 at such time and at such point was a public highway in the County of Baldwin, Alabama, and that as a proximate result of such negligence of the Defendant as aforesaid, said motor vehicle of the Plaintiff and a tank trailer attached thereto, which said tank trailer was then and there the property of the Plaintiff, were overturned. Plaintiff further alleges that as a proximate result of such negligence as aforesaid the body, radiator, and other parts of said motor vehicle were damaged and broken, said tank trailer was broken, punctured, torn and otherwise damaged, and Plaintiff sustained a loss of the use of said tank trailer, and of said motor vehicle while said motor vehicle was being repaired, all to the damage of the Plaintiff in the aforesaid amount, and all as a proximate result of the aforesaid negligence of the Defendant, hence this suit.

McCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

Defendant's Address:
1024 Eighth Avenue
Tuscaloosa, Alabama

By

Edgar S. Essary, Jr.
Attorneys for Plaintiff

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama,
Baldwin County.

}

Circuit Court, Baldwin County

No. 3513

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon EDGAR S. ESSARY

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

EDGAR S. ESSARY

Defendant

by HEMPSTEAD OIL & STORAGE CO., INC. A CORPORATION

Plaintiff

Witness my hand this 14 day of April 19 58

Executed 4-17-58

Alvin J. Duck, Clerk