

3727

WILLIAM BOOKER,)
Plaintiff,) IN THE CIRCUIT COURT OF
vs.) BALDWIN COUNTY, ALABAMA
WILSON BRUTON, HOWARD PEARSON)
and NEWMAN GAUTHIER,) AT LAW.
Defendants.)

COMPLAINT:

COUNT ONE:

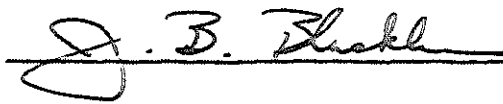
The Plaintiff claims of the Defendants, Wilson Bruton and Howard Pearson, SEVEN HUNDRED FIFTY DOLLARS (\$750.00) as damages for that heretofore on to-wit, December 14, 1957, on United States Highway #90, a public highway in Baldwin County, Alabama, at a point in Seminole, Alabama, the Defendant, Howard Pearson, who was then and there an agent, servant or employee of the Defendant, Wilson Bruton, and who was then and there acting within the line and scope of his authority as such agent, servant or employee, so negligently operated the motor vehicle which he was then and there driving as to cause it to run into, upon or against the automobile of the Plaintiff and as a proximate consequence and result of the negligence of the said defendant, Howard Pearson, the automobile of the Plaintiff was completely demolished, all to his damage as aforesaid.


COUNT TWO:

The Plaintiff claims of the Defendant, Howard Pearson, SEVEN HUNDRED FIFTY DOLLARS (\$750.00) as damages for that heretofore on to-wit, December 14, 1957, on United States Highway #90, a public highway in Baldwin County, Alabama, at a point in Seminole, Alabama, the defendant, Howard Pearson, so negligently operated the motor vehicle which he was then and there driving as to cause it to run into, upon or against the automobile of the Plaintiff, and as a proximate consequence and result of the negligence, the automobile of the Plaintiff was complete demolished, all to his damage as aforesaid.

COUNT THREE:

The Plaintiff claims of the Defendant, Newman Gauthier, SEVEN HUNDRED FIFTY DOLLARS (\$750.00) as damages for that heretofore on to-wit, December 14, 1957, on United States Highway #90, a public highway in Baldwin County, Alabama, at a point in Seminole, Alabama, the Defendant, Newman Gauthier, parked a motor vehicle on the said Highway #90, and as a proximate consequence thereof, the automobile which Plaintiff was driving at said time and place ran into said motor vehicle of Defendant, Newman Gauthier, and as a proximate consequence thereof, Plaintiff's automobile was completely demolished, all to his damage as aforesaid. Plaintiff avers that the damage to his automobile was caused as a proximate result of the negligence of said Defendant in parking said motor vehicle on said highway at said time and place.

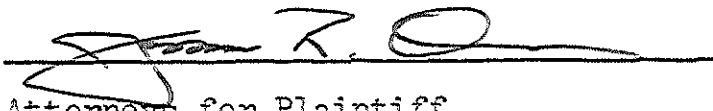




Attorneys for Plaintiff.

Plaintiff demands a trial of
said cause by Jury.





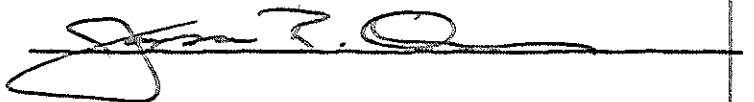
Attorneys for Plaintiff.

WILLIAM BOOKER,)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,)	
vs.	)	BALDWIN COUNTY, ALABAMA
WILSON BRUTON, HOWARD PEARSON)	
and NEWMAN GAUTHIER,	)	AT LAW.
)	
Defendants.)	

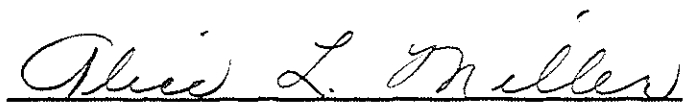
STATE OF ALABAMA)	
	*	AFFIDAVIT
BALDWIN COUNTY)	

Before me, the undersigned authority within and for said County in said State, personally appeared James R. Owen, who after being by me first duly and legally sworn, deposes and says:

That he is one of the Attorneys for the Plaintiff in the above styled cause; that the Defendant, Wilson Bruton, is, in the belief of the affiant, a non-resident of the State of Alabama, whose place of residence and mailing address is Terminal Market, San Antonio, Texas; that the Defendant, Howard Pearson, in the belief of the affiant, is a non-resident of the State of Alabama, whose place of residence and mailing address is 1631 San Angelo, San Antonio, Texas; that the Defendant, Newman Gauthier, is, in the belief of the affiant, a non-resident of the State of Alabama, whose place of residence and mailing address is Route I, Hessmer, Louisiana.



Sworn to and subscribed before
me on this the 13th day of
December, 1958.



Notary Public, Baldwin County, Alabama.

SUMMONS AND BILL OF COMPLAINT

WILLIAM BOOKER,

Plaintiff,

vs.

WILSON BRUTON, HOWARD PEARSON,
and NEWMAN GAUTHIER,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW.

FILED

DEC 18 1958

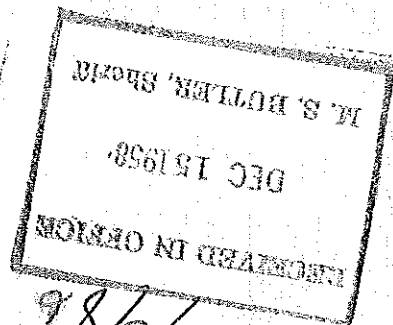
ALICE L. DUCK, CLERK
REGISTER

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

By *M. S. Butler*
M. S. Butler,
Attorney at Law,
Baldwin County, Alabama.

16 day of Dec. 1958

Executed by serving 9 copies of
this within on Mary Texas Hurt,
County of State of The State of





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

January 16, 1959

MARY TEXAS HURT GARNER
SECRETARY OF STATE

Honorable J. B. Blackburn
Blackburn & Owens
Attorneys at Law
P. O. Box 59
Bay Minette, Alabama

Re: William Booker VS Howard Pearson, et al

Dear Mr. Blackburn:

Please refer to your file in the above-styled cause and be advised that on December 16, 1958, I sent by registered mail, return receipt requested, deliver to addressee only, my notice, with copy of Summons and Complaint attached, to:

Howard Pearson
1631 San Angelo
San Antonio, Texas

On January 13, 1959, this letter (Registered No. 58778) was returned to me with reason for non-delivery given as "UNCLAIMED".

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

Sincerely yours,

M T H A

Mary Texas Hurt Garner
Secretary of State

N H T

By: (Mrs.) Nancy H. Turner
Administrative Assistant

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

December 29, 1958

WILLIAM BOOKER, Plaintiff
VS
WILSON BRUTON, et al, Defendants

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA AT LAW.

CASE NO. 3727

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

I, Mary Texas Hurt Garner, Secretary of State, hereby certify that on December 16, 1958
I sent by registered mail in an envelope addressed as follows:

" Wilson Bruton
Terminal Market
San Antonio, Texas"

"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:

" Wilson Bruton
Terminal Market
San Antonio, Texas

You will take notice that on December 16, 1958 the Sheriff of Montgomery
County, Alabama, served upon me, in my official capacity, summons and complaint in a
case entitled: WILLIAM BOOKER, Plaintiff VS WILSON BRUTON, et al, Defendants

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW.
Case No. 3727 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 16
day of December 1958

Enclosure (1)

(Signed) Mary Texas Hurt Garner
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 December 29, 1958 I received the return card, showing
receipt by the designated addressee of the aforementioned matter at San Antonio, Tex.
on Dec 20 1958 Sta. A

WITNESS MY HAND and the Great Seal of the State of Alabama this the 29 day
of December 1958

Mary Texas Hurt Garner
Mary Texas Hurt Garner
Secretary of State

Enclosures: Return Receipt Card and copy
of Summons and Complaint.
cc: Honorable J. B. Blackburn
Blackburn & Owens
Attorneys at Law
P. O. Box 59
Bay Minette, Alabama

STATE OF ALABAMA)
 *
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon WILSON BRUTON, HOWARD PEARSON and NEWMAN GAUTHIER, 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 filed against them by WILLIAM BOOKER.

WITNESS my hand this 13th day of December, 1958.

Reice J. Duck
Clerk of the Circuit Court.

The defendant, Wilson Bruton, is a non-resident of the State of Alabama, whose place of residence is San Antonio, Texas, and whose mailing address is Terminal Market, San Antonio, Texas.

The defendant, Howard Pearson, is a non-resident of the State of Alabama, whose place of residence is San Antonio, Texas, and whose mailing address is 1631 San Angelo, San Antonio, Texas.

The defendant Newman Gauthier is a non resident of the State of Alabama, whose place of residence is Hessmer, Louisiana, and whose mailing address is Route I, Hessmer, Louisiana.

WILLIAM BOOKER,

Plaintiff,

vs.

WILSON BRUTON, HOWARD PEARSON
and NEWMAN GAUTHIER,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

COMPLAINT:

COUNT ONE:

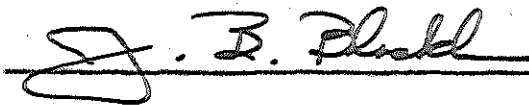
The Plaintiff claims of the Defendants, Wilson Bruton and Howard Pearson, SEVEN HUNDRED FIFTY DOLLARS (\$750.00) as damages for that heretofore on to-wit, December 14, 1957, on United States Highway #90, a public highway in Baldwin County, Alabama, at a point in Seminole, Alabama, the Defendant, Howard Pearson, who was then and there an agent, servant or employee of the Defendant, Wilson Bruton, and who was then and there acting within the line and scope of his authority as such agent, servant or employee, so negligently operated the motor vehicle which he was then and there driving as to cause it to run into, upon or against the automobile of the Plaintiff and as a proximate consequence and result of the negligence of the said defendant, Howard Pearson, the automobile of the Plaintiff was completely demolished, all to his damage as aforesaid.

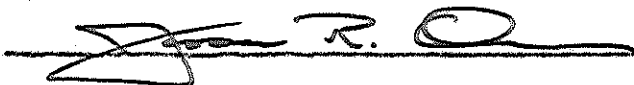
COUNT TWO:

The Plaintiff claims of the Defendant, Howard Pearson, SEVEN HUNDRED FIFTY DOLLARS (\$750.00) as damages for that heretofore on to-wit, December 14, 1957, on United States Highway #90, a public highway in Baldwin County, Alabama, at a point in Seminole, Alabama, the defendant, Howard Pearson, so negligently operated the motor vehicle which he was then and there driving as to cause it to run into, upon or against the automobile of the Plaintiff, and as a proximate consequence and result of the negligence, the automobile of the Plaintiff was complete demolished, all to his damage as aforesaid.

COUNT THREE:

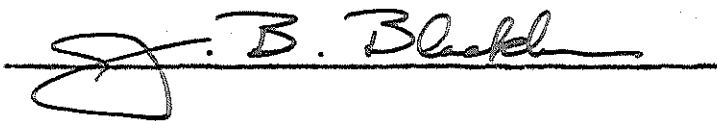
The Plaintiff claims of the Defendant, Newman Gauthier, SEVEN HUNDRED FIFTY DOLLARS (\$750.00) as damages for that heretofore on to-wit, December 14, 1957, on United States Highway #90, a public highway in Baldwin County, Alabama, at a point in Seminole, Alabama, the Defendant, Newman Gauthier, parked a motor vehicle on the said Highway #90, and as a proximate consequence thereof, the automobile which Plaintiff was driving at said time and place ran into said motor vehicle of Defendant, Newman Gauthier, and as a proximate consequence thereof, Plaintiff's automobile was completely demolished, all to his damage as aforesaid. Plaintiff avers that the damage to his automobile was caused as a proximate result of the negligence of said Defendant in parking said motor vehicle on said highway at said time and place.

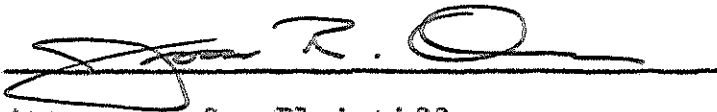




Attorneys for Plaintiff.

Plaintiff demands a trial of
said cause by Jury.





Attorneys for Plaintiff.

WILLIAM BOOKER,)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
vs.	)	BALDWIN COUNTY, ALABAMA
WILSON BRUTON, HOWARD PEARSON)	
and NEWMAN GAUTHIER,	)	AT LAW.
Defendants.)	

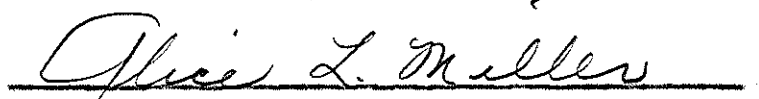
STATE OF ALABAMA)	
	*	AFFIDAVIT
BALDWIN COUNTY)	

Before me, the undersigned authority within and for said County in said State, personally appeared James R. Owen, who after being by me first duly and legally sworn, deposes and says:

That he is one of the Attorneys for the Plaintiff in the above styled cause; that the Defendant, Wilson Bruton, is, in the belief of the affiant, a non-resident of the State of Alabama, whose place of residence and mailing address is Terminal Market, San Antonio, Texas; that the Defendant, Howard Pearson, in the belief of the affiant, is a non-resident of the State of Alabama, whose place of residence and mailing address is 1631 San Angelo, San Antonio, Texas; that the Defendant, Newman Gauthier, is, in the belief of the affiant, a non-resident of the State of Alabama whose place of residence and mailing address is Route I, Hessmer, Louisiana.



Sworn to and subscribed before
me on this the 13th day of
December, 1958.


Notary Public, Baldwin County, Alabama.

WILLIAM BOOKER,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
Vs	)	AT LAW
WILSON BRUTON, HOWARD PEARSON)	
and NEWMAN GAUTHIER,)	
Defendants.	)	NO _____

Come now the defendants Wilson Bruton and Howard Pearson and demur to the plaintiff's complaint and to each count thereof, and as grounds for said demurrer set down and assign the following separately and severally:

1. Said count fails to allege the violation of any duty owed by these defendants to the plaintiff.
2. Said count fails to allege facts showing the violation of any duty owed by these defendants to the plaintiff.
3. For aught that appears from said count, the accident did not occur on a public street.
4. For aught that appears from said count, the plaintiff was not at a place where he had a legal right to be at the time and place complained of.
5. For aught that appears from said count, the injuries and damages suffered by the plaintiff were not the proximate result of any act or failure to act on the part of these defendants.
6. For that said count fails to allege any casual connection between the alleged negligence of these defendants and the alleged injuries and damages of the plaintiff.
7. For that said count attempts to allege the negligence of these defendants but does not allege facts which as a matter of law constituted negligence.
8. For that the allegations thereof are so vague and indefinite that these defendants are not advised thereby of the matters and things to be defended.

9. For that no facts are alleged to show joint liability on the part of the defendants.

10. For that no facts are alleged to show any individual liability on the part of these defendants.

11. For that said count fails to allege facts to show negligence with sufficient certainty against either defendant.

12. For that there is a misjoinder of causes of action.

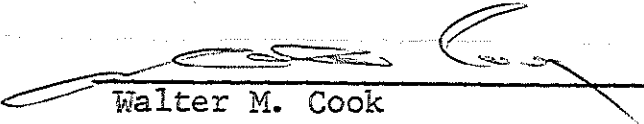
13. For that there is a misjoinder of parties.

14. For that the said complaint attempts to proceed against both defendants in the same counts, separately and severally.

15. For that the plaintiff seeks to hold the defendants liable for trespass and case, in the same count.

LYONS, PIPES AND COOK
Attorneys for Defendants Wilson Bruton
and Howard Pearson

Filed
1-8-59


Walter M. Cook

3727

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
IN CHARGE

NEW YORK, JANUARY 10, 1959

FILED

JAN 16 1959

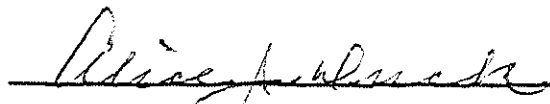
ALICE J. DUCK, CLERK
REGISTER

STATE OF ALABAMA)
 *
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon WILSON BRUTON, HOWARD PEARSON and NEWMAN GAUTHIER, 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 filed against them by WILLIAM BOOKER.

WITNESS my hand this 13th day of December, 1958.


Clerk of the Circuit Court.

The defendant, Wilson Bruton, is a non-resident of the State of Alabama, whose place of residence is San Antonio, Texas, and whose mailing address is Terminal Market, San Antonio, Texas.

The defendant, Howard Pearson, is a non-resident of the State of Alabama, whose place of residence is San Antonio, Texas, and whose mailing address is 1631 San Angelo, San Antonio, Texas.

The defendant Newman Gauthier is a non resident of the State of Alabama, whose place of residence is Hessmer, Louisiana, and whose mailing address is Route I, Hessmer, Louisiana.

EX 12-16-58

FILED
DEC 13 1958
ALICE J. DUCK, CLERK
REGISTER