

S U M M O N S

STATE OF ALABAMA

COUNTY OF BALDWIN

TO ANY SHERIFF OF THE STATE OF ALABAMA \* GREETING:

3063

You are hereby commanded to summon GRAY OIL COMPANY,  
a Corporation, to appear in the Circuit Court of Baldwin  
County, Alabama, at the place of holding of same, and plead,  
answer or demur, within thirty days from service hereof,  
to the complaint of W. A. Hobbs, individually and doing  
business as Hobbs Service Station.

WITNESS my hand this 10 day of Feb,  
1959.

Alice J. Hucker  
Clerk

C O M P L A I N T

W. A. HOBBS, individually and doing business as HOBBS SERVICE STATION	)	IN THE CIRCUIT COURT OF
	)	
Plaintiff	)	BALDWIN COUNTY, ALABAMA
	)	
vs	)	AT LAW
	)	
GRAY OIL COMPANY, a Corporation	)	CASE NO. _____
Defendant	)	

COUNT ONE

Plaintiff claims of the defendant the sum of, to-wit,  
Five Hundred and NO/100 (\$500.00) Dollars, as damages, for that,  
heretofore, on, to-wit, the 12th day of February, 1958, the  
plaintiff was in the business of servicing motor vehicles at  
Bay Minette, Alabama, and at the said time and place, Luther

Fountain an agent, servant or employee of the defendant Gray Oil Company, while acting within the line and scope of his authority as such, negligently delivered thirty-five pounds of a product known as "Dintax 90" instead of transmission grease to the plaintiff for the purpose of lubricating automobiles in the plaintiff's business, and as a direct and proximate consequence of the said negligence of the said Luther Fountain, an agent, servant or employee of the defendant Gray Oil Company, all while acting within the line and scope of his employment as such, the plaintiff was damaged in the aforesaid amount in that, to-wit, the said product known as "Dintax 90" was inadvertently used as transmission grease in a vehicle serviced by the plaintiff's service station and as a direct and proximate cause of said use the customer's said vehicle's transmission was damaged, all to the damage of the plaintiff, hence, this suit.

COUNT TWO

Plaintiff claims of the defendant the sum of, to-wit, Five Hundred and NO/100 (\$500.00) Dollars, as damages, for that, heretofore, on, to-wit, the 12th day of February, 1958, the plaintiff was operating a service station in Bay Minette, Baldwin County, Alabama, and at the said time and place ordered from Luther Fountain, an agent, servant or employee of the defendant, Gray Oil Company, while acting within the line and scope of his authority as such, thirty-five pounds of transmission grease, expressly and impliedly making known to said agent, servant or employee of the said defendant the particular use and purpose for which said goods was required, and relying on the said defendant's skill or judgment, and subsequently between the 12th day of February, 1958 and the 17th day of February, 1958, the defendant delivered to the plaintiff a thirty-five pound container, and on the 17th day of February, 1958,

the plaintiff serviced an automobile the property of another with the contents of said container, and subsequently as the direct and proximate consequence of the use of said container, the said transmission of the said pick-up truck was severely damaged, and it was later found that the said contents of the said container delivered by the said Luther Fountain, an agent, servant or employee of the defendant Gray Oil Company, while acting within the line and scope of his authority as such, was actually tractor oil rather than transmission grease as ordered and not suited for the purpose for which said goods were required, and expressly and impliedly warranted by the said defendant, wherefore, the plaintiff sustained damages in the aforesaid sum by reason of said breach; hence, this suit.

FOREMAN & McNALLY

BY

*James E. McNally*  
Attorneys for the Plaintiff

Plaintiff demands trial by jury.

FOREMAN & McNALLY

BY

*James E. McNally*  
Attorneys for the Plaintiff

Defendant's address

Gray Oil Company  
Atmore, Alabama

*Exp. Feb. 11, 1959*

July

3769

W. A. Hobbs, ind. and  
d/b/a Hobbs Service Station

vs.

Gray Oil Company  
a corp

Received in Sheriff's Office  
this 11 day of Feb, 1959  
G. S. BYRNE, Sheriff

FILED

FEB 10 1959

ALICE J. DUCK, CLERK  
REGISTER

Executed this 11 day  
Feb - 1959 by serving  
a copy of the within  
Wray and Company  
Good Hope, Ind  
on Agent  
Ray Albert Hunsicker  
Sheriff

FOREMAN & McNALLY

ATTORNEYS AT LAW

SUITE 214 FIRST NATIONAL BANK ANNEX

MOBILE 13, ALABAMA

February 9, 1959

ALEXANDER FOREMAN, JR.  
GEORGE E. McNALLY

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

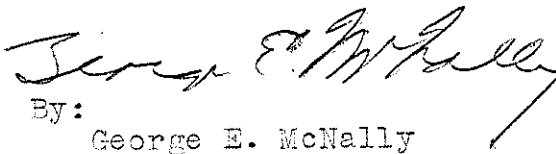
Dear Mrs. Duck:

Please find enclosed a Summons and Complaint  
in the matter styled W. A. Hobbs, individually and  
doing business as Hobbs Service Station vs. Gray  
Oil Company. Please cause this matter to be filed.

Thanking you for your courtesy in this  
matter, we remain,

Yours very truly,

FOREMAN & McNALLY

  
By: George E. McNally

GEM/bd  
Enclosure