

May 27, 1959

EUGENE HARPER, Plaintiff
VS
CHARLES A. ADAMS, Defendant

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

CASE NO. 3838

TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

I, Bettye Frink, Secretary of State, hereby certify that on
I sent by registered mail in an envelope addressed as follows:

May 18, 1959

"Charles A. Adams
Post Office Box 128
Gulf Breeze, Florida"

"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:

"Charles A. Adams
Post Office Box 128
Gulf Breeze, Florida"

You will take notice that on May 18, 1959 the Sheriff of Montgomery
County, Alabama, served upon me, in my official capacity, summons and complaint in a
case entitled: EUGENE HARPER, Plaintiff VS CHARLES A. ADAMS, Defendant

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA
Case No. 3838 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 18
day of May 1959

Enclosure (1)

(Signed) Bettye Frink
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 May 25, 1959 I received the return card, showing
receipt by the designated addressee of the aforementioned matter at Baton Rouge, La.
on 5/23/59

WITNESS MY HAND and the Great Seal of the State of Alabama this the 27 day
of May 1959

Bettye Frink

Bettye Frink
Secretary of State

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

cc: Honorable James M. Prestwood
Prestwood & Prestwood
Attorneys at Law
Prestwood Building
Andalusia, Alabama

STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:—Greeting: YOU ARE HEREBY COMMANDED
TO SUMMON Charles A. Adams, P. O. Box 128, Gulf Breeze, Florida to appear
within thirty days from the service of this writ in the Circuit Court of said County,
at the place of holding the same, and plead, answer or demur to the complaint of
Eugene Harper.

Witness my hand this 16 day of May, 1959.

Deirdre French, Clerk

COMPLAINT

EUGENE HARPER

CHARLES A. ADAMS

VS.

PLAINTIFF

DEFENDANT

COUNT ONE:

Plaintiff claims of the defendant \$62,000.00 as damages for that on to wit,
October 31, 1958 the plaintiff's minor son, Toby Joseph Harper, age six years,
was a pedestrian on U. S. Highway No. 90 in Baldwin County, Alabama four miles
east of Robertsedale, where he had a right to be, and at said time and place the
defendant Adams was driving an automobile on said highway and plaintiff avers that
the defendant Adams then and there so negligently operated his automobile as to cause
the automobile to run against, over or upon plaintiff's said minor son and as a prox-
imate consequence of the defendant's negligence plaintiff's minor son received the
following injuries from which he died on to wit, November 3, 1958: He was injured
internally and externally all about his body and head; his skull was fractured and his
neck was broken; he was torn and bruised.

Wherefore plaintiff as the Father of said minor, sues and claims punitive
damages.

COUNT TWO:

Plaintiff claims of the defendant \$62,000.00 as damages for that on to wit,
October 31, 1958 the plaintiff's minor son, Toby Joseph Harper, age six years, was

a pedestrian on U. S. Highway No. 90 in Baldwin County, Alabama four miles East of Robertsedale, where he had a right to be, and at said time and place the defendant Adams was driving an automobile on said highway and plaintiff avers that the defendant Adams then and there wantonly injured plaintiff's minor son by running an automobile the defendant was then operating into, upon or against plaintiff's said minor son and as a proximate consequence of the defendant's said wanton conduct plaintiff's minor son received the following injuries from which he died on to wit, November 3, 1958: He was injured internally and externally all about his body and head; his skull was fractured and his neck was broken; he was torn and bruised.

Wherefore plaintiff as the Father of said minor, sues and claims punitive damages.

PRESTWOOD & PRESTWOOD
Andalusia, Alabama

By James M. Prestwood
Attorneys for Plaintiff

Plaintiff demands a trial by jury.

James M. Prestwood

STATE OF ALABAMA
COVINGTON COUNTY

Before me the undersigned authority, personally appeared James M. Prestwood who appears as attorney for Eugene Harper in the summons and complaint appended hereto and who being by me first duly sworn deposes and says as follows:

That the accident investigation report of the Alabama Highway Patrol reflects that Charles A. Adams, Post Office Box 128, Gulf Breeze, Florida ran over a six year old child, named Toby Joseph Harper, causing the child's death. That Eugene Harper, the Father of said minor child, is bringing suit against Charles A. Adams and to perfect service on the non-resident Adams the plaintiff, Eugene Harper, must invoke the provisions of Section 199 (1) Alabama Code 1940.

James M. Prestwood

Sworn to and subscribed before me this 15 day of May, 1959.

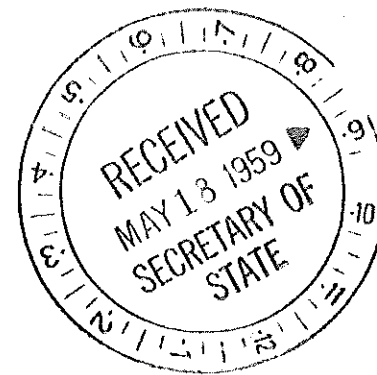
Helen Smith
Notary Public

3938

FILED

MAY 16 1959

ALICE J. DUCK, CLERK
REGISTER



Prestwood and Prestwood
ATTORNEYS AT LAW
Andalusia, Alabama

JAMES M. PRESTWOOD
ROGER A. PRESTWOOD
HUGH L. PRESTWOOD

PRESTWOOD BUILDING
TELEPHONE 688

May 15, 1959

Circuit Clerk
Baldwin County
Bay Minette, Alabama

Dear Sir:

Re: Eugene Harper v. Charles
A. Adams

Please file the enclosed summons and complaint.
Mr. Adams is a non-resident and we are enclosing our check in
the amount of \$3.00 for service to be obtained under the non-
resident motorists statute.

Thanking you, we are,

Very truly yours,

PRESTWOOD & PRESTWOOD

By *James M. Prestwood*

JMP:hg
Enc:

EUGENE HARPER,

Plaintiff,

vs.

CHARLES A. ADAMS,

Defendant.

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

Comes the Defendant in the above styled cause and demurs to the complaint filed in said cause and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That the allegation in the complaint that the Plaintiff's minor son was a pedestrian on U. S. Highway No. 90 does not sufficiently state where he was at the time he was struck by an automobile driven by the Defendant.

2. For aught that appears from said complaint the Plaintiff's minor son was not walking along such highway where he could be seen by the Defendant at the time of the accident.

3. That said complaint does not allege any duty owing by the Defendant to the Plaintiff or his minor son.

4. That said complaint does not allege whether the accident occurred in the daytime or the nighttime.

5. For aught that appears from the complaint the Defendant was unable to see the Plaintiff's minor son before he was struck by the automobile.

6. That the Defendant is not named in either count of the complaint.

7. That the place where the accident occurred is not sufficiently set out in the complaint.

8. That "COUNT ONE" of the complaint does not allege sufficient facts to justify the Plaintiff in his claim for punitive damages.

Filed
June 15, 1959
Alice J. Duck
clerk

Sharon Stone
Attorneys for Defendant

EUGENE HARPER,

Plaintiff,

VS.

CHARLES A. ADAMS,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

Sumner

FILED

JUN 15 1934

AUCE L. DUCK, CLERK
REGISTER

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

EUGENE HARPER,

Plaintiff,

vs.

CHARLES A. ADAMS,

Defendant.

I

I

I

I

I

I

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

Comes the Defendant in the above styled cause and for plea to the complaint filed in said cause, and to each and every count thereof, separately and severally, says:

1. Not guilty.

2. That the allegations of the complaint are untrue.

3. As to "COUNT ONE" of the complaint the Defendant says that at the time and place complained of in such count and in connection with the same accident referred to therein, the Plaintiff was himself guilty of negligence which was the proximate cause of the injuries and damages complained of in the complaint, hence the Plaintiff cannot recover.

4. As to "COUNT ONE" of the complaint the Defendant says that at the time of the accident for which such suit is brought the Plaintiff Eugene Harper was himself guilty of negligence in caring for Plaintiff's minor son, which negligence proximately contributed to his injury and death, hence the Plaintiff cannot recover under said count.

5. As to "COUNT ONE" of the complaint the Defendant says that the Plaintiff who is suing as the father of a deceased minor child six years of age to recover damages for his death, was himself guilty, at the time of the accident, for which the suit is brought, of negligence in caring for said child in that the Plaintiff negligently allowed such child of tender age to attempt to cross U. S. Highway 90, such Plaintiff knowing at said time that such highway was heavily traveled by many motor vehicles and the Defendant avers that the negligence of such Plaintiff proximately contributed to the injury and death of such child, hence the Plaintiff cannot recover under this count.

Filed
July 31, 1959
Alice J. Duck
clerk

92

Shaw & Stone
Attorneys for Defendant

EUGENE HARPER,

Plaintiff,

VS.

CHARLES A. ADAMS,

Defendant.

* * * * *

IN THE CIRCUIT COURT OF

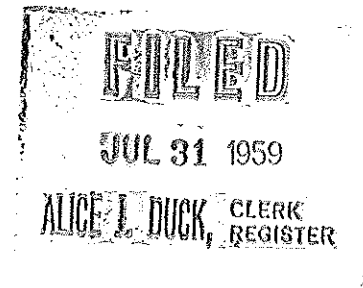
BALDWIN COUNTY, ALABAMA

AT LAW

* * * * *

PLEAS

* * * * *



LAW OFFICES

CHASON & STONE

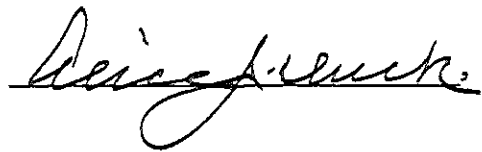
BAY MINETTE, ALABAMA

STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:—Greeting: YOU ARE HEREBY COMMANDED
TO SUMMON Charles A. Adams, P. O. Box 128, Gulf Breeze, Florida to appear
within thirty days from the service of this writ in the Circuit Court of said County,
at the place of holding the same, and plead, answer or demur to the complaint of
Eugene Harper.

Witness my hand this 16 day of May, 1959.

 Clerk

COMPLAINT

EUGENE HARPER

CHARLES A. ADAMS

VS.

PLAINTIFF

DEFENDANT

COUNT ONE:

Plaintiff claims of the defendant \$62,000.00 as damages for that on to wit,
October 31, 1958 the plaintiff's minor son, Toby Joseph Harper, age six years,
was a pedestrian on U. S. Highway No. 90 in Baldwin County, Alabama four miles
east of Robertsedale, where he had a right to be, and at said time and place the
defendant Adams was driving an automobile on said highway and plaintiff avers that
the defendant Adams then and there so negligently operated his automobile as to cause
the automobile to run against, over or upon plaintiff's said minor son and as a proxi-
mate consequence of the defendant's negligence plaintiff's minor son received the
following injuries from which he died on to wit, November 3, 1958: He was injured
internally and externally all about his body and head; his skull was fractured and his
neck was broken; he was torn and bruised.

Wherefore plaintiff as the Father of said minor, sues and claims punitive
damages.

COUNT TWO:

Plaintiff claims of the defendant \$62,000.00 as damages for that on to wit,
October 31, 1958 the plaintiff's minor son, Toby Joseph Harper, age six years, was

a pedestrian on U. S. Highway No. 90 in Baldwin County, Alabama four miles East of Robertsedale, where he had a right to be, and at said time and place the defendant Adams was driving an automobile on said highway and plaintiff avers that the defendant Adams then and there wantonly injured plaintiff's minor son by running an automobile the defendant was then operating into, upon or against plaintiff's said minor ~~son~~ and as a proximate consequence of the defendant's said wanton conduct plaintiff's minor son received the following injuries from which he died on to wit, November 3, 1958: He was injured internally and externally all about his body and head; his skull was fractured and his neck was broken; he was torn and bruised.

Wherefore plaintiff as the Father of said minor, sues and claims punitive damages.

PRESTWOOD & PRESTWOOD
Andalusia, Alabama

By *James M. Prestwood*
Attorneys for Plaintiff

Plaintiff demands a trial by jury.

James M. Prestwood

STATE OF ALABAMA
COVINGTON COUNTY

Before me the undersigned authority, personally appeared James M. Prestwood who appears as attorney for Eugene Harper in the summons and complaint appended hereto and who being by me first duly sworn deposes and says as follows:

That the accident investigation report of the Alabama Highway Patrol reflects that Charles A. Adams, Post Office Box 128, Gulf Breeze, Florida ran over a six year old child, named Toby Joseph Harper, causing the child's death. That Eugene Harper, the Father of said minor child, is bringing suit against Charles A. Adams and to perfect service on the non-resident Adams the plaintiff, Eugene Harper, must invoke the provisions of Section 199 (1) Alabama Code 1940.

James M. Prestwood

Sworn to and subscribed before me this 15 day of May, 1959.

Helen Smith
Notary Public

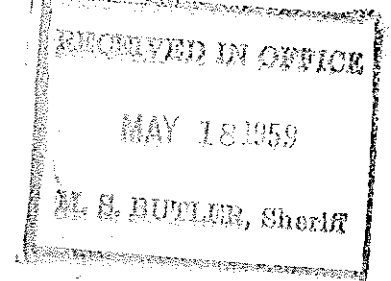
3838

Eugen Harper
vs.

Charles A. Adams

(3)

808



Executed by serving 3 copies of
the within on Billy Trump
Secretary of State of The State of
Alabama.

This the 18 day of May 1959.

Sheriff of Montgomery County

M. S. Butler,

By Adams D. S.

The Sheriff claims 2
miles at 10c per mile for a total
of \$ 20
M. S. Butler, Sheriff
Montgomery County, Ala.

FILED

MAY 18 1959

ALICE J. DUCK, CLERK
REGISTER

EUGENE HARPER VS CHARLES A. ADAMS

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Deliver ONLY to
addressee

☐ Show address where
delivered 3838

(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Charles A. Adams

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DELIVER TO ADDRESSEE ONLY

DATE DELIVERED

2/23/59

ADDRESS WHERE DELIVERED (only if requested in item #1)

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300

RECEIVED
MAY 25 1959
SECRETARY OF STATE

INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Attach gummed ends and attach to back of article. Write on front of article RETURN RECEIPT REQUESTED.

REGISTERED NO. 50608	NAME OF SENDER
CERTIFIED NO.	STREET AND NO. OR P. O. BOX Secretary of State
INSURED NO.	CITY, ZONE AND STATE Montgomery, Alabama

POD Form 3811 Jan. 1958

CSS-16-71848-4