

To MARY L. BUSH:

1st Int. What is your age? Are you the daughter of Martin L. Bush?

2nd. Were you present on the wharf at Daphne on the morning of September 15th, 1915, when Charles D. Smith assaulted Mr. Bush?

3rd. Tell in your own language just what happened on this occasion from the beginning.

4th. Did Mr. Bush do anything to provoke this assault and was he much injured? Was he or not knocked senseless by the blow?

5th. Was John Smith present when this happened? Tell how big a man he was.

Elliott G. Rickarby
Att'y for Plaintiff.

Plaintiff suggests the names of _____

and _____, as suitable commissioners to take the foregoing testimony. Commissioners and witnesses both reside in the City of Detroit, Michigan.

STATE OF ALABAMA,)
MOBILE COUNTY.)

Before me, Elanche P. Vestal, a Notary Public in and for said State and County, this day appeared Elliott G. Rickarby, who, being sworn, says that he is of counsel for plaintiff in the above entitled cause. That Martin L. Bush and Mary Bush, who are material witnesses for plaintiff are at present residing more than one hundred miles from the place of trial, at 131 Anglenwood Avenue, Detroit, Michigan, so that it is necessary to procure their testimony by deposition.

Elliott G. Rickarby

Subscribed and sworn to before me
this 31st day of October, 1916.

Notary Public, Mobile County, Alabama.

The undersigned, Clerk of the Circuit Court of Baldwin County, Alabama, hereby certifies that the foregoing interrogatories were filed in this Court on the 31st day of October, 1916. That defendant and Foster K. Hale, Esq., his attorney of record, reside in the City of Mobile, Alabama and that notice of filing such interrogatories was given by me, the said Clerk, in writing addressed to Foster K. Hale, Esq., 66 St. Michael Street, Mobile, Alabama, with postage prepaid, on October 31st, 1916.

Clerk Circuit Court of Baldwin County.

The State of Alabama,--Baldwin County.

CIRCUIT COURT.

Martin L Bush

VS.

To Wesley L Nutton and Herbert J Newman

Chas D Smith.

Messrs Wesley L Nutton and Herbert J Newman, Esqrs, Greeting:

Know Ye, That we in confidence of your prudence and fidelity have appointed you, and by these Presents do give you, or any one of you full power and authority to take the deposition of Martin L Bush,

witness on the part of the Plaintiff,
in a cause pending in our said Court, wherein

Martin L Bush is plaintiff and

Chas D Smith

is defendant and therefore we command you, or any one of you, that at such time and place, or times and places as you may appoint, you do cause the said Martin L Bush

to come before you, or either of you, and then and there examine him on oath, on the interrogatories and cross interrogatories annexed. And that you, or either of you, do take such examination and reduce the same into writing and return the same annexed to this Writ, closed up under your seals, or the seal of any one of you, into our said Circuit Court, with all convenient speed, that the same may be read in evidence on the trial of the cause aforesaid.

T.W. Richerson,
Witness. ~~By~~ Clerk of our said
Court, this 11th, day
of Nov A. D. 1881 1916.

ATTEST:

T.W. Richerson CLERK.

To the Commissioner :

In executing the within commission, you will please be particular in observing the following rules:— Your certificate must show that you caused the witness to come before you at some specified time and place, or times and places, that he duly sworn by you; that he testified as it is set down, that the testimony was by you reduced to writing, and that it was subscribed by the witness in your presence after its having been first read over to him, and that he is personally known to you, or that you have had proof before you of the personally identity of the witness. All the papers returned by you should be attached together, and all enclosed in an envelope, this envelope should be sealed up by you, and across the seals of the same, you should write your name or names. The title of the case must be endorsed on the outside of the envelope, also, the names of the witnesses examined, and whether for the plaintiff or defendant. On the Commission itself must be marked the amount of your fees, and if paid, by whom. The package should then be directed to the Clerk of the Circuit Court, Baldwin County, Ala.

~~CHAS. H. J. Clerk.~~
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and that you are not of Counsel or kin to either party in this suit or in any way interested in the result thereof.

T. W. Ricc...
-----Clerk.

CIRCUIT COURT AT BALDWIN COUNTY.

Martin L. Bush

vs. { Commission to take Testimony.

Chas D Smith,

Witness

Martin L Bush.

*We, the jury
find for
plaintiff and
assess damages
at \$500.00
by J. B. M...
for...*

Commissioner's Fees, \$5⁰⁰

Paid by Martin L Bush

Wesley L. Nutter
Commissioner

SUMMONS AND COMPLAINT

The State of Alabama, }
Baldwin County. } No.

CIRCUIT COURT.
Fall Term, 1915.

To any Sheriff of the State of Alabama:

You are hereby commanded to summon

CHARLES D. SMITH

to appear at the next term of the Circuit Court to be held for said County at the place of holding the same, then and there to answer the complaint of

MARTIN L. BUSH

Witness my hand, this 4th day of October, 1915.

G. W. Riccerson Clerk

COMPLAINT

MARTIN L. BUSH

Plaintiffs

vs,

CHARLES D. SMITH

Defendants

The plaintiff claim^s of the Defendant

ONE THOUSAND - - - - - Dollars, due

damages for an assault and battery committed by the defendant
on the plaintiff, viz: on to-wit the Fifteenth day of
September, 1915.

Plaintiff demands a trial by jury.

Rekarby & Hustill
Plaintiffs Attorney

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Original

No.

The State of Alabama,

Baldwin County.

CIRCUIT COURT.

~~CHARLES D. SMITH~~

vs.

Plaintiffs.

Charles D. Smith

~~JAMES H. RUSH~~

Defendants.

SUMMONS AND COMPLAINT.

Filed

Oct 4th 1915

Clerk.

Defendant lives at

Plaintiff's Attorney.

Defendant's Attorney.

THE BALDWIN TIMES PRINT

Received in office

Nov 17 1915

W. H. McNamee Sheriff

I have executed this Writ

this 24th day Nov 1915
by leaving a copy of the within sum-
mons and complaint with

Warrant
Charles D. Smith

W. H. McNamee Sheriff

A. J. Oberhaus Deputy Sheriff

CIVIL SUBPOENA

In case the witness shall wish to charge for attendance he will please produce to the clerk in term this copy of his Subpoena, or within five days after adjournment of court, else he will be barred.

THE STATE OF ALABAMA, }
BALDWIN COUNTY. }

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING.

You are hereby commanded to summon

G. A. Hays Jerome Bay,
James D. Bay, E. L. Dyer, W. H. Grimes,
Mary Bush.

if to be found in your county, at the instance of the

Reft

to appear before the honorable Circuit Court of Baldwin County at the Court House thereof, on the

24th

day of

May

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6, then and there to testify, and the truth to say, in a certain

case pending, wherein

Martin L. Bush

Plaintiff

James D. Dyer

Defendant

and there remain during said Court until discharged by due course of law.

Herein fail not, and have you then and there this Writ.

Witness my hand this

21st

day of

Apr

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ATTEST:

T. H. Dickerson

Clerk

Original

No.

THE STATE OF ALABAMA,
BALDWIN COUNTY.

Martin L Bush

VS.

SUBPOENA FOR

Nicas D Smith

CIRCUIT COURT

WITNESSES:

G A Harper (Robertsdale)
Jerome Day " "
James D Day " "
E L Dyer " "
W H Givens + Daphne
+ Mary Bush " "

SET FOR TRIAL

24th day of *May* 191*6*

BALDWIN TIMES PRINT

E

Presented in full all except Mary Bush
E E Givens to Sheriff
Walter Taylor D S

MARTIN L. BUSH, PLAINTIFF,
VS
CHARLES D. SMITH, DEFENDANT.

NO. 1235.
IN THE CIRCUIT COURT OF
BALDWIN COUNTY.

INTERROGATORIES PROPOUNDED BY PLAINTIFF TO DEFENDANT
UNDER SECTION 4049 OF THE CODE.

1st. What was your occupation in the month of September 1915? Were you not engaged as Engineer of the Steamer "Beaver"?

2nd. By whom was the "Beaver" owned at that time and who was her Master? In what trade was she engaged?

3rd. Was not the "Beaver" at that time in active competition with the Steamer "Daphne" in the trade between Mobile and upper landings on the Eastern Shore?

4th. State whether or not you struck Martin L. Bush on the morning of September 15th, 1915.

5th. State what he had said to you to make you strike him. Was it not a fact that he was sitting on the wharf at the time accompanied by his little daughter and that you walked up to him and knocked him over as he was sitting down, and without provocation?

6th. If you say that you had provocation, please state in full what this was, giving the exact language that led up to the difficulty.

7th. What was your weight at the time this happened.

8th. Is it not a fact that you are a very strong, powerful man and Bush a man of sixty years of age, tall and slender?

9th. Was not your brother John Smith with you at the time you assaulted Bush and is he not a large, powerfully built man?

10th. State who else was present at the time of this occurrence.

11th. Is it not a fact that the reason you struck Mr. Bush was because he told an inquiring passenger that the "Daphne" would reach Mobile about twenty minutes sooner than the "Beaver"?

12th. State whether or not you heard what Bush told this passenger or whether it was just reported to you by one of the deck hands on your boat.

13th. Is it not a fact that one of the deck hands reported to you, while you were aboard the "Beaver", in substance that Bush was advising passengers to take the opposition boat, and that you and your brother both walked out on the wharf and cursed Bush for doing this, saying that he was lying about your boat and that, when he insisted that the "Daphne" got to Mobile first, you called him a "damned liar" and hit him, knocking him flat on the pier head, breaking in several of his teeth and rendering him senseless for a few minutes, and that this attack was without provocation or justification?

Rickarby Austin Rube
Attorneys for Plaintiff.

STATE OF ALABAMA,)
MOBILE COUNTY.)

Before me, the undersigned Notary Public, personally appeared this day Elliott G. Rickarby, who, being sworn, says that he is of counsel for plaintiff in the above entitled cause and that the answers to the interrogatories, if true, would be material evidence for plaintiff in this cause.

Elliott G. Rickarby

Subscribed and sworn to before me
this the 16th day of August, 1916.

Blanche L. Vestal
Notary Public, Mobile County, Alabama.

I hereby acknowledge receipt of a copy of the foregoing interrogatories and waive further notice of the filing of same.
August 16, 1916.

[Signature]
Attorney for Defendant.

M. L. Bush.

)

-vs-

) Circuit Court Baldwin County, Alabama

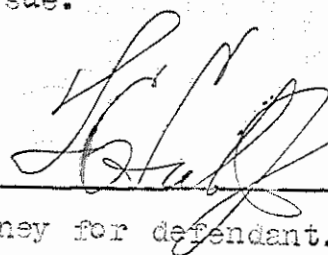
Charles D. Smith.

)

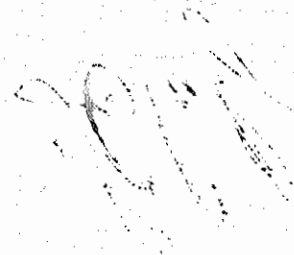
Now comes the defendant in the above entitled cause by his attorney and in answer to the complaint in each and every count thereof pleads as follows:-

-First-

In short by consent the general issue.



Attorney for defendant.



FOSTER K. HALE, JR.

ATTORNEY AT LAW

66 ST. MICHAEL STREET

MOBILE, ALA.

Dec 15/1915

Mr. T. W. Richersen

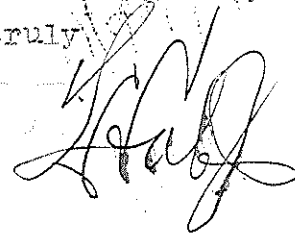
Clerk Circuit Court Baldwin Co.

Bayminette, Ala.

Dear Sir:-

I am enclosing herein plea in the case of Bush -vs- Smith
and ask that you file same in the Circuit Court of Baldwin County

Yours truly

A handwritten signature in dark ink, appearing to read "F. K. Hale, Jr.", written in a cursive style.

NO. 1235.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY.

MARTIN L. BUSH,

vs.

CHARLES D. SMITH.

Amendment to Complaint.

Filed Oct 28/916
RW Williams

Rickarby, Austill & Beebe,
Attorneys for Plaintiff.

NO. 1235.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY.

MARTIN L. BUSH,

vs.

CHARLES D. SMITH.

Amendment to Complaint.

Filed Oct 28/914
RW Hickman

Rickarby, Austill & Beebe,
Attorneys for Plaintiff.

MARTIN L. BUSH, : No. 1235.
Plaintiff, :
-Vs- : IN THE CIRCUIT COURT OF
CHARLES D. SMITH, : BALDWIN COUNTY, ALA.
Defendant. :
.....

The deposition of MARTIN L. BUSH,
a Witness examined on behalf of Plaintiff, in the above
entitled cause.

Said witness appeared before me at the time and place hereinafter named, and, after having been first duly sworn to speak the truth, the whole truth and nothing but the truth, did testify in answer to the interrogatories, as follows:

MARTIN L. BUSH.

To the 1st interrogatory, he says:

I am the plaintiff in this case. I know Charles D. Smith. In September of 1915 he was the engineer and part owner of the "Beaver", a small steamboat running on Mobile Bay between the City of Mobile and the Village of Daphne in Baldwin County. This boat was operated by Charles D. Smith and his brother John Smith.

2nd Int. I had a difficulty with the defendant on September 15th, 1915. This took place at the end of the Bell Rose wharf, which is one of the two wharves at Daphne. It was early in the morning, shortly before the leaving time of the boat. As I remember there were present on the wharf at the time, G. A. Hayes, Jerome Sea, James B. Sea, E. L. Dyas, W. H. Grimes and my little daughter, Mary Bush, also John Smith defendant's brother, and possibly a fireman of the boat and one or two negro deck hands.

3rd. Int. I was on the wharf with my little daughter, waiting for the Steamer "Daphne", on my way to Mobile, when one of the gentlemen from Robertdale, whose names I have

mentioned, came up and asked me which of the boats would get to Mobile first, saying that he was in a hurry. At that time the "Daphne" and the "Beaver" were active competitors. I told him that the "Daphne" would reach Mobile from twenty minutes to half an hour the earlier. One of the employees of the "Beaver" overheard; and evidently went and told Mr. Smith, for he and his brother at once came off the boat, which was lying at the wharf, and came up to where I was sitting, asking me what I meant by telling such a damned lie. I said it was not a lie, as I had gone to Mobile only a few days before on the "Daphne", and she had been tied up at the wharf at Mobile before the "Beaver" at least twenty minutes. Mr. Smith again said that this was not so; and when I offered to prove it by someone else, he cursed me and struck me a violent blow in the mouth, knocking me senseless. I know also that he struck my right lower jaw, and my molar tooth was broken, ~~and that he also struck me in the left side~~, and that he also struck me in the left side, which was very sore and pained me much for about two months. I became senseless after the blow in my mouth; but know that he struck me on the jaw as stated, and on the side, from the marks and soreness of my cheek and side; and the loss of a molar, and from what others told me. When I came to a few minutes later, I was lying on the wharf where I had been sitting,, my little daughter was holding my head and crying. I was sitting when I was struck and did nothing to provoke the assault. There was bad blood between the Smiths and the "Daphne", as the latter was getting most of the business, and Smith struck me because he knew what I told these men would cause them to patronize the "Daphne" rather than his boat.

4th Int. I did nothing to warrant the assault. I answered a question that I was asked by a stranger, and was seated when the blow was struck.

5th Int. I was struck in the mouth and knocked senseless. When I came to, I found two of my front teeth on the

upper jaw broken, and one molar broken off on the right lower jaw. I had a great deal of pain. I suffered a great deal of pain for a week or ten days. And my lips and jaw were very tender for some time after that. It also caused me a great deal of pain in having the dental work done on my teeth. I also suffered pain in the back of my head and neck; this lasted a month or more. I was confined to my bed four days and suffered most of that time. My head and neck were sore and lame, and it was necessary for my wife to feed me. My side where he struck me was sore for two months. I think my ribs were fractured on that side. I was unable to do any work for a month, and had to hire a man to take my place and paid him about Twenty Dollars to do the same work that I could have done.

6th Int. As I said before, my two front teeth were broken and I had dental work done to them to put them in shape. The molar tooth has not been attended to. My dental work was done by Dr. W. D. Crane of Mobile. He agreed to put my teeth in as good shape as they were prior to the assault for Thirty five (\$35.) Dollars, and has done so except the molar.

7th Int. At the time this happened I was 58 years old, and weighed about 147 pounds. Charles D. Smith at that time weighed about 225 pounds, and was somewhere in the neighborhood of thirty years of age. He was a strong, powerful man. His brother John Smith was also a very large man and weighed nearly 200 pounds. I would not have dared to have had trouble with them. John Smith had a bad reputation at that time for violence.

8th Int. The assault was unprovoked. I had no previous trouble with these people, and no reason to expect any. The defendant at the time of this assault was violent and most profane, apparently because of my answer to the stranger's question, and took his revenge on me. My daughter was badly frightened at the assault.

Martin L. Bush

I, Wesley L. Nutton, one of the Commissioners named in the foregoing commission, issued out of the Circuit Court of Baldwin County, Alabama, in a cause therein pending wherein Martin L. Bush is plaintiff and Charles D. Smith is defendant, do hereby certify that under and by virtue of the power conferred upon me by said commission, I caused the said Martin L. Bush to come before me at my office, No. 1540 Penobscot Building, Detroit, Michigan, he being one of the witnesses named in said commission, and who, being by me first duly sworn, testified in answer to the interrogatories as is hereinbefore written; that his testimony was by me reduced to writing as given by him as near as might be in the identical language of said witness, and that after his testimony had been reduced to writing, it was read over by the said witness, who assented to and signed the same in my presence.

I further certify that I am not of counsel or of kin to any of the parties to the cause and am not in anywise interested in the result thereof.

WITNESS my hand and seal as Commissioner, this the 17th day of November, A.d. 1916.

Wesley L. Nutton
Commissioner.

Put up by me

Wesley L. Hutton

COMMISSIONER

1540 Pennsylvania St.

Detroit Mich

Wesley L. Hutton
COMMISSIONER.

Boiled up by me
Wesley L. Hutton

COMMISSIONER.

NO. 1235.
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALA.

MARTIN L. BUSH
VS
CHARLES D. SMITH.

Deposition of Martin L. Bush,
witness for plaintiff.

*Opened by order of
Court May 22/91
J. W. Richerson*

T. W. Richerson, Esq.,

Clerk Circuit Court,

Bay Minette, Ala.

