

SHELL OIL COMPANY,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
vs.)	AT LAW
ERVIN WALLACE,)	
ADAM ROE INSURANCE COMPANY,)	CASE NO. 4149
Defendants.)	

PLEA IN ABATEMENT

Comes now, Irving Wallace, defendant in the above entitled cause, and not waiving process or notice of service for any of his rights and privileges, and appears specially and not generally, for the sole purpose of filing this plea in abatement to this cause, and says:

That the true and correct name of the defendant herein is Irving Wallace, all of which is hereby verified.

WHEREFORE, defendant Irving Wallace moves the Court to quash the service of the summons and complaint herein.

PILLANS, REAMS, TAPPAN, WOOD & ROBERTS

By John H. Tappan
Attorneys for defendant Irving Wallace

STATE OF ALABAMA)

COUNTY OF MOBILE)

Personally appeared before me, the undersigned authority, in and for said County in said State, John H. Tappan, who, being by me first duly sworn, on oath, deposes and says that he is the attorney for the defendant, Irving Wallace, that he has knowledge of the facts herein contained, and is authorized to make this affidavit, and that the same are true.

Sworn to and subscribed before me this the 8th day of August, 1960.

John H. Tappan
Attorney for defendant Irving Wallace

Subscribed and sworn to
before me this 8th day
of August, 1960.

Jollene E. Brown
Notary Public, Mobile County, Alabama

Filed 8-8-60
Alice J. Smith
Clerk

4/49



FILED
AUG 8 1960
ALICE J. DUCK, CLERK
REGISTER

SHELL OIL COMPANY,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
vs.)	AT LAW
ERVIN WALLACE,)	
ADAM ROE INSURANCE COMPANY,)	CASE NO. 4149
Defendants.)	

PLEA IN ABATEMENT

Comes Adam Roe Insurance Company named as a defendant in the above styled cause and appears specially and only for the purpose of filing this plea, and says that the said Shell Oil Company, plaintiff in this cause, ought not to have and maintain its said action against the said Adam Roe Insurance Company for that while the complaint seeks relief against the defendant Ervin Wallace, said complaint further seeks relief against the said Adam Roe Insurance Company on the grounds that said Company was the alleged insurer of defendant Ervin Wallace and of the vessel "FLORIDA LADY" at the time of the happenings alleged in the complaint, and it further appears from the complaint that there has been no judgment rendered against the defendant Ervin Wallace in favor of the plaintiff.

WHEREFORE, the said defendant Adam Roe Insurance Company, appearing specially for this purpose only as aforesaid, says ^{as against it} that this suit should be abated, /and should not be allowed to proceed.

ADAM ROE INSURANCE COMPANY

By John H. Tappan
John H. Tappan thereunto lawfully
authorized.

~~STATE OF ALABAMA)~~

COUNTY OF MOBILE)

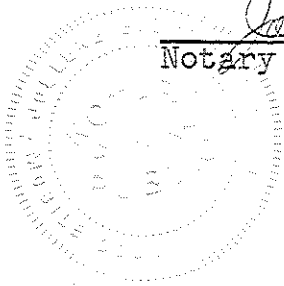
Before me, Isellene E. Brown, a Notary Public in and for said County in said State, personally appeared John H. Tappan, who being duly sworn, says on oath that he has read the foregoing plea in abatement and that the facts stated therein

are true to the best of his knowledge, information and belief.

John H. Tappan

Subscribed and sworn to
before me this 8th day
of August, 1960.

Iseline E. Brown
Notary Public, Mobile County, Alabama



FILED

AUG 8 1960

**ALICE I. DUCK, CLERK
REGISTER**

SHELL OIL COMPANY,	:	IN THE CIRCUIT COURT OF
Plaintiff	:	BALDWIN COUNTY, ALABAMA
VS:	:	
	:	AT LAW
ERVIN WALLACE, AND	:	
ADAM ROE INSURANCE COMPANY,	:	
Defendants	:	CASE NO. 4149

Comes now the Plaintiff in the above styled cause and amends its Complaint by striking therefrom as a Defendant, Adam Roe Insurance Company, and further amends said Complaint and the Caption thereof so that the same shall read as follows:

SHELL OIL COMPANY	:	IN THE CIRCUIT COURT OF
Plaintiff	:	BALDWIN COUNTY, ALABAMA
VS:	:	
	:	AT LAW
ERVIN WALLACE	:	
Defendant	:	CASE NO. 4149

The COUNT ONE

The Plaintiff claims of the Defendant the sum of TWO THOUSAND FIVE HUNDRED AND FOUR AND 37/100 (\$2,504.37) DOLLARS as damages for that heretofore and on to-wit: January 24, 1959, the agents, servants, or employees of the Defendant acting within the line and scope of their employment trespassed on an oil and gas well and structures appurtenant thereto by tying the boat "Florida Lady" to structures surrounding the well, owned by the Plaintiff, said oil and gas well being known as State Lease 1355, Well Number 19, and situated adjacent to the coast line of the State of Louisiana and the Parish of Plaquemines, and as a direct and proximate result of such trespass by the agents, servants or employees of the Defendant acting within the line and scope of their employment as such, the well jacket surrounding the well was damaged, and the flow line by which

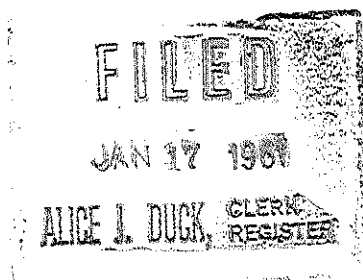
the production of said well Number 19 is transported was damaged and broken, and the Plaintiff was put to great expense in and about cutting the flow line from the boat "Florida Lady" and in repairing the flow line, all to the Plaintiff's great damage in the amount aforesaid, hence this suit.

COLLINS, GALLOWAY & MURPHY

BY: 

Fred G. Collins
Attorneys for Plaintiff

I, Fred G. Collins, one of the attorneys of record for the Plaintiff hereby certify that I have served a copy of the foregoing amendment on the Honorable Fred Killion one of the attorneys for the Defendant by mailing the same to his office on January 16, 1961.

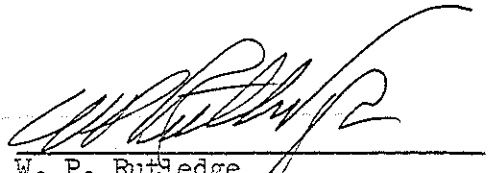



Fred G. Collins

PRAECIPE FOR SUMMONS

TO THE CLERK OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

On filing complaint in the cause entitled below issue summons therein, substantially in accordance with that below, to be served on Ervin Wallace and Adam Roe Insurance Company, a corporation, in the matter provided by law.


W. P. Rutledge
Attorney for Plaintiff
Shell Oil Company

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

AT LAW

SHELL OIL COMPANY,
PLAINTIFF

V.

ERVIN WALLACE
ADAM ROE INSURANCE COMPANY,
DEFENDANTS

NO. _____

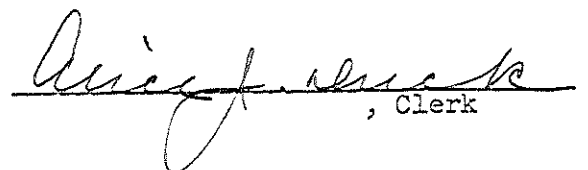
: : : : : : : : : : :

SUMMONS

STATE OF ALABAMA)
 (
BALDWIN COUNTY) TO ANY SHERIFF OF THE STATE OF ALABAMA
 GREETINGS:

You are hereby commanded to summon Ervin Wallace and Adam Doe Insurance Company, a corporation, the latter being the fictitious name of a party defendant in the above styled cause whose true name is yet unascertained as revealed by the complaint herewith, to appear within thirty (30) days from the service of this writ in the circuit court to be held for said county at the place of holding the same, then and there to answer the complaint of Shell Oil Company in the above styled cause.

Witness my hand this 21 day of January, 1960.


Clerk

COLLINS, GALLOWAY & MURPHY

ATTORNEYS AT LAW

817 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

HEMLOCK 2-0568

March 3rd, 1961

FRED G. COLLINS
THOMAS M. GALLOWAY
M. THOMAS MURPHY (1925-1956)

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

Re: Shell Oil Company
vs: Wilbur McKee
Case #4150
Re: Shell Oil Company
vs: Ervin Wallace
Case #4149

Dear Mrs. Duck:

Apparently the referenced two cases have been settled, and we would like to have a dismissal entered in each case, and have forwarded to us a copy of the order of the Court dismissing the pleadings. If you will forward the cost bills to our office, I will see to it that they are paid.

However, before the order of dismissal is actually entered, I wonder if you would clarify the following for me. I have been advised by the attorneys for the Plaintiff, located in New Orleans, that a letter of January 29th, 1960, was sent to your offices with the Complaints and a check in the amount of \$75.00 as a cost deposit enclosed. I do not know whether you ever deposited the check to your clerk's account as a deposit for costs, or whether the check is in your files, but in any event, I wish you would give me advice concerning this check so that I can, in turn, advise the attorneys in New Orleans. If the check is still in your files, please forward it to me, along with a copy of the order dismissing both cases and the cost bill.

Sincerely yours,

COLLINS, GALLOWAY & MURPHY

BY: 
FRED G. COLLINS

FGC/tb

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

AT LAW

SHELL OIL COMPANY,
PLAINTIFF

V.

ERVIN WALLACE,
ADAM ROE INSURANCE COMPANY,
DEFENDANTS

NO. _____

: : : : : : : : : : : :

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, STATE OF ALABAMA:

COMPLAINT

COUNT I

Now comes Shell Oil Company and for this, its complaint, in the above styled cause alleges that:

1.

Ervin Wallace, defendant, is domiciled at Gulf Shores or Bon Secour in Baldwin County, Alabama, and Adam Roe Insurance Company, defendant, is a foreign insurance corporation, qualified to do and doing business both in the State of Alabama and in the State of Louisiana, the latter being the State where this cause of action arose, whose full or correct name is not known to plaintiff, but will be promptly supplied by amendment upon ascertainment. These two defendants are jointly liable to plaintiff for damages in the amount of Twenty Five Hundred Four and 37/100 Dollars (\$2504.37) for injury to plaintiff's property arising from the following facts:

2.

Plaintiff owns, possesses and maintains, and at all times mentioned herein has done so in the past, an oil and gas well known as State Lease 1355, Well No. 19, which is situated adjacent to the coast line of the State of Louisiana, in the Parish of Plaquemines. This well is a producing well whose production is carried to a production platform in the area by a 3 inch flow line which is buried beneath the bottom of the Gulf of Mexico. This well and flow line, and their appurtenances, were on an oil and gas lease owned by plaintiff and were put down by plaintiff under the supervision of and with authority from the proper governmental agencies, namely, the U. S. Army Corps of Engineers, the U. S. Coast Guard, and the Police Jury of Plaquemines Parish.

At all times mentioned herein, the well and the area about it were properly lighted at night and a sign was on the well itself, clearly visible from afar, indicating that it was the property of plaintiff. Likewise, this well was surrounded by protective piling clusters which were also the property of plaintiff and lawfully installed.

3.

On or about January 24, 1959, the boat "Florida Lady" tied up to the protective piling clusters around the well; this action of mooring the "Florida Lady" to these piling clusters was unauthorized and constituted a trespass upon the property of Shell Oil Company. On or about the same date the "Florida Lady" swung loose from its moorings and collided and became entangled with the well jacket surrounding this well, damaging same and breaking the flow line serving the well. By subsequent maneuvering in the vicinity to free itself from the well jacket, the "Florida Lady" became entangled in the flow line serving the well and did serious damage to the flow line.

4.

The sole and proximate cause of this damage was the carelessness and negligence of the master and members of the crew of the "Florida Lady" in the following particulars:

1. In trespassing upon the property of the plaintiff by improperly mooring said boat at piling clusters designated to protect the well.
2. In negligently mooring the "Florida Lady" so that it was allowed to collide with the well and flow line.
3. In not keeping a lookout to warn the master of the boat that the boat was changing position endangering the well.
4. In maneuvering the boat in the immediate vicinity of an oil and gas well with full knowledge or foreseeability that a flow line was present.
5. In navigating the "Florida Lady" into shallow water where the boat's draught was too deep, knowing that control of the boat would be lost, and with full knowledge or foreseeability that the oil and gas installations in the vicinity would be endangered.

5.

As a direct result of these careless and negligent operations of the "Florida Lady", plaintiff suffered the following damages:

1. Labor and equipment furnished to cut the flow line from the "Florida Lady"	\$ 178.03
2. Repairs to flow line	2,171.69
3. Overhead in effecting repairs	154.65
	<hr/>
Total Damages	\$2,504.37

6.

The "Florida Lady" at all times mentioned herein was owned by the defendant, Ervin Wallace, and was being operated in Louisiana waters for the use and benefit of Ervin Wallace. Likewise, the master and members of the crew of the vessel were employees and servants of Ervin Wallace, acting in the course and scope of their employment.

7.

Defendant Adam Roe Insurance Company was at all times mentioned herein the insurer of defendant Ervin Wallace and the vessel "Florida Lady" in respect to public liability insurance, protection indemnity coverage, marine risks coverage, and other insurance coverage regarding all of the matters and things herein involved, and that as such, said insurer is directly liable to plaintiff and jointly liable with defendant, Ervin Wallace, to plaintiff pursuant to Louisiana Law then and there in force, particularly Louisiana Revised Statute 22:655, commonly known as a direct-action statute and which provides in part as follows:

"...The injured person or his or her survivors or heirs... at their option, shall have a right of direct action against the insurer within the terms and limits of the policy in the parish where the accident or injury occurred or in the parish where the insured or insurer is domiciled, and said action may be brought against the insurer alone or against both the insured and insurer jointly and in solido, at the domicile of either or their principal place of business in Louisiana. This right of direct action shall exist whether the policy of insurance sued upon was written or delivered in the state of Louisiana or not and whether or not such policy contains a provision forbidding such direct action, provided the accident or injury occurred within the state of Louisiana. Nothing contained in this Section shall be construed to affect the provisions of the policy or contract if the same are not in violation of the laws of this state. It is the intent of this Section that any action brought hereunder shall be subject to all of the lawful conditions of the policy or contract and the defenses which could be urged by the insurer to a direct action brought by the insured, provided the terms and conditions of such policy or contracts are not in violation of the laws of this state.

"It is also the intent of this Section that all liability policies within their terms and limits are executed for the benefit of all injured persons, his or her survivors or heirs, to whom the insured is liable; and that it is the purpose of all liability policies to give protection and coverage to all insureds, whether they are named insureds or additional insureds under the omnibus clause, for any legal liability said insured may have as or for a tortfeasor within the terms and limits of said policy."

COUNT II.

1.

Plaintiff incorporates herewith by reference all the allegations of

Count I save paragraph No. 6 thereof.

2.

Defendant Ervin Wallace was at all times mentioned herein the master of the vessel "Florida Lady."

COUNT III.

1.

Plaintiff incorporates herewith by reference all the allegations of

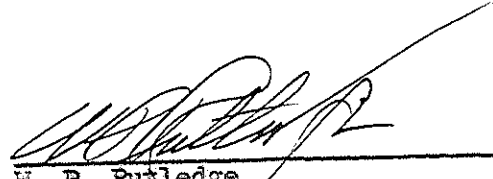
Count I save paragraph No. 6 thereof.

2.

Defendant was at all times mentioned herein the charterer of the "Florida Lady" and, as such, was responsible for the negligence and carelessness of the master and crew.

WHEREFORE, Plaintiff prays for judgment jointly against defendants, Ervin Wallace and Adam Roe Insurance Company, in the sum of Twenty Five Hundred Four and 37/100 Dollars (\$2504.37) together with legal interest from the date of such judgment, and all costs.

RECEIVED
JUL 1 1939
U.S. DEPT. OF JUSTICE
RECORDS SECTION


W. P. Rutledge
Attorney for Shell Oil Company
P. O. Box 193
New Orleans 3, Louisiana

APPEARANCE ~~BALDWIN COUNTY~~
STATE OF ALABAMA -- ~~MOBILE COUNTY~~

CIRCUIT COURT — CIVIL DIVISION

SHELL OIL COMPANY
Plaintiff

vs.

Ervin Wallace,

Adam Roe Insurance Company,
Defendants

CASE NO. 4149

Mobile, Ala., June 17 1960

Pillans, Reams Tappan, Wood & Robert
BY: Fred W. Killion, Jr. appear for

Ervin Wallace,
Adam Roe Insurance Co. Defendants

in the above entitled cause and reserve the right to demur or plead specially.

Filed

10-2-60

, 1960

PILLANS, REAMS, TAPPAN, WOOD & ROBERTS
Attorney for Defendants

Clerk

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama,
Baldwin County.

}

Circuit Court, Baldwin County

No. 4119

----- TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Ervin Wallace and Adam Roe Insurance Company

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-----

Ervin Wallace and Adam Roe Insurance Company-----, Defendant-----

by Shell Oil Company-----

-----, Plaintiff-----

Witness my hand this 21----- day of January----- 19 60

Ervin J. Luck-----, Clerk

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

AT LAW

SHELL OIL COMPANY,
PLAINTIFF
V.
ERVIN WALLACE,
ADAM ROE INSURANCE COMPANY,
DEFENDANTS

NO. _____

: : : : : : : : : : : :

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, STATE OF ALABAMA:

COMPLAINT

COUNT I

Now comes Shell Oil Company and for this, its complaint, in the above styled cause alleges that:

1.

Ervin Wallace, defendant, is domiciled at Gulf Shores or Bon Secour in Baldwin County, Alabama, and Adam Roe Insurance Company, defendant, is a foreign insurance corporation, qualified to do and doing business both in the State of Alabama and in the State of Louisiana, the latter being the State where this cause of action arose, whose full or correct name is not known to plaintiff, but will be promptly supplied by amendment upon ascertainment. These two defendants are jointly liable to plaintiff for damages in the amount of Twenty Five Hundred Four and 37/100 Dollars (\$2504.37) for injury to plaintiff's property arising from the following facts:

2.

Plaintiff owns, possesses and maintains, and at all times mentioned herein has done so in the past, an oil and gas well known as State Lease 1355, Well No. 19, which is situated adjacent to the coast line of the State of Louisiana, in the Parish of Plaquemines. This well is a producing well whose production is carried to a production platform in the area by a 3 inch flow line which is buried beneath the bottom of the Gulf of Mexico. This well and flow line, and their appurtenances, were on an oil and gas lease owned by plaintiff and were put down by plaintiff under the supervision of and with authority from the proper governmental agencies, namely, the U. S. Army Corps of Engineers, the U. S. Coast Guard, and the Police Jury of Plaquemines Parish.

At all times mentioned herein, the well and the area about it were properly lighted at night and a sign was on the well itself, clearly visible from afar, indicating that it was the property of plaintiff. Likewise, this well was surrounded by protective piling clusters which were also the property of plaintiff and lawfully installed.

3.

On or about January 24, 1959, the boat "Florida Lady" tied up to the protective piling clusters around the well; this action of mooring the "Florida Lady" to these piling clusters was unauthorized and constituted a trespass upon the property of Shell Oil Company. On or about the same date the "Florida Lady" swung loose from its moorings and collided and became entangled with the well jacket surrounding this well, damaging same and breaking the flow line serving the well. By subsequent maneuvering in the vicinity to free itself from the well jacket, the "Florida Lady" became entangled in the flow line serving the well and did serious damage to the flow line.

4.

The sole and proximate cause of this damage was the carelessness and negligence of the master and members of the crew of the "Florida Lady" in the following particulars:

1. In trespassing upon the property of the plaintiff by improperly mooring said boat at piling clusters designated to protect the well.
2. In negligently mooring the "Florida Lady" so that it was allowed to collide with the well and flow line.
3. In not keeping a lookout to warn the master of the boat that the boat was changing position endangering the well.
4. In maneuvering the boat in the immediate vicinity of an oil and gas well with full knowledge or foreseeability that a flow line was present.
5. In navigating the "Florida Lady" into shallow water where the boat's draught was too deep, knowing that control of the boat would be lost, and with full knowledge or foreseeability that the oil and gas installations in the vicinity would be endangered.

5.

As a direct result of these careless and negligent operations of the "Florida Lady", plaintiff suffered the following damages:

1. Labor and equipment furnished to cut the flow line from the "Florida Lady"	\$ 178.03
2. Repairs to flow line	2,171.69
3. Overhead in effecting repairs	154.65
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Total Damages	\$2,504.37

6.

The "Florida Lady" at all times mentioned herein was owned by the defendant, Ervin Wallace, and was being operated in Louisiana waters for the use and benefit of Ervin Wallace. Likewise, the master and members of the crew of the vessel were employees and servants of Ervin Wallace, acting in the course and scope of their employment.

7.

Defendant Adam Roe Insurance Company was at all times mentioned herein the insurer of defendant Ervin Wallace and the vessel "Florida Lady" in respect to public liability insurance, protection indemnity coverage, marine risks coverage, and other insurance coverage regarding all of the matters and things herein involved, and that as such, said insurer is directly liable to plaintiff and jointly liable with defendant, Ervin Wallace, to plaintiff pursuant to Louisiana Law then and there in force, particularly Louisiana Revised Statute 22:655, commonly known as a direct-action statute and which provides in part as follows:

"...The injured person or his or her survivors or heirs... at their option, shall have a right of direct action against the insurer within the terms and limits of the policy in the parish where the accident or injury occurred or in the parish where the insured or insurer is domiciled, and said action may be brought against the insurer alone or against both the insured and insurer jointly and in solido, at the domicile of either or their principal place of business in Louisiana. This right of direct action shall exist whether the policy of insurance sued upon was written or delivered in the state of Louisiana or not and whether or not such policy contains a provision forbidding such direct action, provided the accident or injury occurred within the state of Louisiana. Nothing contained in this Section shall be construed to affect the provisions of the policy or contract if the same are not in violation of the laws of this state. It is the intent of this Section that any action brought hereunder shall be subject to all of the lawful conditions of the policy or contract and the defenses which could be urged by the insurer to a direct action brought by the insured, provided the terms and conditions of such policy or contracts are not in violation of the laws of this state.

"It is also the intent of this Section that all liability policies within their terms and limits are executed for the benefit of all injured persons, his or her survivors or heirs, to whom the insured is liable; and that it is the purpose of all liability policies to give protection and coverage to all insureds, whether they are named insureds or additional insureds under the omnibus clause, for any legal liability said insured may have as or for a tortfeasor within the terms and limits of said policy."

COUNT II.

1.

Plaintiff incorporates herewith by reference all the allegations of Count I save paragraph No. 6 thereof.

2.

Defendant Ervin Wallace was at all times mentioned herein the master of the vessel "Florida Lady."

COUNT III.

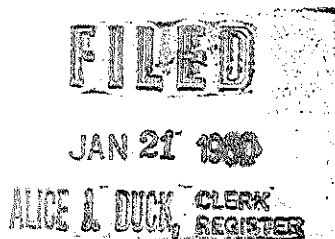
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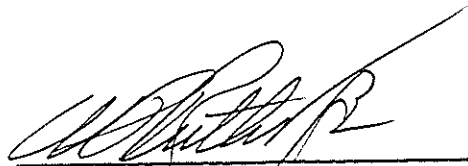
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2.

Defendant was at all times mentioned herein the charterer of the "Florida Lady" and, as such, was responsible for the negligence and carelessness of the master and crew.

WHEREFORE, Plaintiff prays for judgment jointly against defendants, Ervin Wallace and Adam Roe Insurance Company, in the sum of Twenty Five Hundred Four and 37/100 Dollars (\$2504.37) together with legal interest from the date of such judgment, and all costs.




W. P. Rutledge
Attorney for Shell Oil Company
P. O. Box 193
New Orleans 3, Louisiana

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. 1119

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Ervin Wallace and Adam Roe Insurance Company

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

Ervin Wallace and Adam Roe Insurance Company, Defendant

by Shell Oil Company

Plaintiff

Witness my hand this 21 day of January 19 60

Alice J. Smith, Clerk

No. 4149

Page _____

The State of Alabama

Baldwin County

CIRCUIT COURT

SHELL OIL COMPANY

Plaintiffs

vs.

ERVIN WALLACE AND

ADAM ROE INSURANCE COMPANY

Defendants

Summons and Complaint

Filed 1-21- 19 60

Alice J. Duck

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Gulf Shores

Received In Office

19 _____

_____, Sheriff

I have executed this summons

this Feb 5 19 60

by leaving a copy with

Ervin Wallace

Sheriff claims 100 miles at

Ten Cents per mile Total \$ 10.00

TAYLOR WILKINS, Sheriff

BY Taylor Wilkins

DEPUTY SHERIFF

Returned 5 day of Feb 19 60

Not found in my county after diligent search and In-
quiry, as to Adam Roe

Taylor Wilkins, Sheriff

By C. C.

Deputy Sheriff

Taylor Wilkins Sheriff

Barthelme Deputy Sheriff

Taken