August 3, 1961

IN THE CIRCUIT COURT OF BALDWIN COUNTY, Alabama AT LAW

MICHAEL NICHOLAS BARBOUR, Defendant

ALICE T. TUBERVILLE, Plaintiff

CASE NO.

4779

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

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

July 21, 1961

Michael Nicholas Barbour 4326 Yorkshire Detroit, Michigan"

"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:

Michael Nicholas Barbour 4326 Yorkshire Detroit, Michigan

will take notice that on Unity 21, 1961 the Sheriff of Montgomery County, Alabama, served upon me, in my official capacity, summons and complaint in a You will take notice that on case entitled: ALICE T. TUBERVILLE, Plaintiff VS MICHAEL NICHOLAS BARBOUR, Defendant

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW Case No. 4779 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 day of Auly 1961

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 Jul 31 1961 I received the return card, showing receipt by the designated addressee of the aforementioned matter at Miami, Fla. 7/29/61 Shenandoah Sta.

WITNESS MY HAND and the Great Seal of the State of Alabama this the

day

21

of August 1961

Bettye Frink Secretary of State

Enclosures: Return Receipt Card and copy

of Summons and Complaint.

Attorney at Law 109 E. First St. Bay Minette, Alabama

### THE STATE OF ALABAMA, BALDWIN COUNTY

		CIRCUIT	COURT,	BALDWIN	COUNTY
No.	<u>1779</u>				
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ALICE T. TUBERVILLE,

Plaintiff,

Vs

MICHAEL NICHOLAS BARBOUR,

Defendant

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW

Case No. 4779

#### COUNT CME:

The Plaintiff claims of the Defendant the sum of Twenty-Five Thousand Dollars (\$25,000.00) as damages for that, on, to-wit, August 24th, 1960, on United States Highway No. 90, at a point about three miles south of Loxley, in Baldwin County, State of Alabama, the Defendant, Michael Nicholas Barbour, negligently ran his automobile into, upon or against the school bus which the Plaintiff was operating, and as a proximate result of the said negligence on the part of the said Defendant, the Plaintiff was injured in this: she suffered possible concussion, lumbosacral strain and cervical sprain, and she was caused to suffer much extreme pain and mental anguish, and Plaintiff was caused to incur large hospital and medical bills, all to the damage of the Plaintiff in the sum aforesaid, hence this suit.

Alumania for Plainties

Plaintiff demands a trial by jury of this cause.

Appell For Navely

AFFIDAVIT OF NON-RESIDENCE

RECEIVED SECRETARY OF SECRETARY OF STATE

STATE OF ALABAMA)
BALDWIN COUNTY

I, Kenneth Cooper, Attorney for the Plaintiff in the case of Alice T. Tuberville, Plaintiff, vs. Michael Nicholas Barbour, Defendant, in the Circuit Court of Baldwin County, Alabama, swear that to the best of my knowledge, information and belief the said Defendant, Michael Nicholas Barbour is over the age of twenty-one years, and is a non-resident of the State of Alabama; that the said Michael Nicholas Barbour now resides at 4326 Yorkshire, Detroit, Michigan.

Sworn to and subscribed before me this 20th day of July,

Clark, Circuit Court, Baldwin County, Alabama.

In the Matter of the Removal to the District Court of the United States for the Southern District of Alabama, Southern Division, of the case of:

ALICE T. TUBERVILLE,

Plaintiff

Vs.

MICHAEL NICHOLAS BARBOUR,

Defendant

TO: Kenneth Cooper, Esq. Attorney at Law 109 E. First Street Bay Minette, Alabama

Please take notice that Michael Nicholas Barbour, defendant in the above styled cause, has on this 15th day of August, 1961, filed his petition to remove the above entitled action to the United States District Court for the Southern Division of the Southern District of Alabama; a copy of the said petition being attached to this said notice, and that said defendant has on this said date filed in the United States District Court a bond with good and sufficient surety condition as is provided by law with respect to said proceedings. You are hereby further notified that a copy of the said petition was deposited in the United States Post Office at Mobile, Alabama, in an envelope securely sealed, sufficiently stamped and properly addressed to the Honorable Alice J. Duck, Clerk, Circuit Court of Baldwin County, Bay Minette, Alabama, wherein said cause is now pending, which shall effect the removal of said cause from said Court.

This notice is given to you as attorney for the plaintiff in compliance with the provisions of Title 28 U.S.C.A., Sec. 1446.



DATED this 15th day of August, 1961.

Jan W. Boes	i i sanin
Attorneys for Defendant	

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

# IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

ALICE T. TUBERVILLE,	)		1	The same	e e e e e e e e e e e e e e e e e e e
Plaintiff	)				
Vs.	>	CIVIL	ACTI	ON NO	AND COMMON TO SERVICE OF THE SERVICE
MICHAEL NICHOLAS BARBOUR,	· )				and the parties
Defendant	)				

## PETITION OF DEFENDANT FOR REMOVAL TO UNITED STATES DISTRICT COURT TO THE HONORABLE JUDGE OF SAID COURT:

Comes your petitioner, Michael Nicholas Barbour, defendant in the above styled cause, and respectfully shows unto this Honorable Court as follows:

- 1. That the defendant, Michael Nicholas Barbour, is now and was at the time of the commencement of this suit a resident citizen of the State of Michigan, having his domicile in said state, and that the plaintiff, Alice T. Tuberville, is now and was at the time of the commencement of this suit a citizen of the State of Alabama; that this is an action brought by a citizen of the State of Alabama against a citizen of the State of Michigan, and is wholly between citizens of different states, and one which can be fully determined between them.
- 2. That this is a suit to recover damages for personal injuries allegedly received by the plaintiff as a direct and proximate result of the negligence of the defendant.

- 3. That the amount sued for and involved in this action exceeds the sum of Ten Thousand Dollars (\$10,000.00), exclusive of interests and costs; that the defendant has filed no pleadings in said cause in the State Court and the time within which this defendant is allowed by law to file his said petition for removal has not expired; and that the defendant has a good defense to said cause. Defendant attaches hereto as Exhibit A and makes a part hereof, a copy of all process, pleadings and orders purported to have been served upon him in such action.
- 4. Petitioner desires to remove this action to this Court on the ground of diversity of citizenship existing therein between the plaintiff and the defendant, in pursuance to the Acts of Congress in that behalf provided. Petitioner, therefore, files and offers herewith bond with good and sufficient surety in the penal sum of Five Hundred Dollars (\$500.00) conditioned that the defendant will pay all costs and disbursements incurred by reason of this said removal proceedings should it be determined that this action was wrongfully or improperly removed to this said Court.
- 5. Petitioner represents that promptly upon the filing of this petition and the said bond filed herewith, petitioner shall give written notice thereof to the adverse party and shall file a copy of the petition with the Clerk of the Circuit Court of Baldwin County, Alabama, wherein said action is now pending.

WHEREFORE, your petitioner prays that the said bond filed herewith be accepted as good and sufficient and that this Court will enter an order for the removal of this action to this said Court.

DATED this 15th day of August, 1961.

Local Fliciel

Actorneys for Defendant

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

STATE OF ALABAMA )

COUNTY OF MOBILE )

Personally appeared before me, the undersigned authority in and for said County in said State, Donald F. Pierce, whose name is signed above, and who is known to me, and who, being by me first duly sworn on oath, deposes and says that he is one of the attorneys in the above entitled cause for the defendant therein; that he is familiar with the allegations of the foregoing Petition; that he is informed and believes that the allegations of said Petition are true and correct; and that upon such information and belief he states the allegations of said Petition are true and correct.

DONALD F. PIERCE

Subscribed and sworn to before me on this 15th day of August, 1961.

TAPEN SINT A

State of alabama at Karge

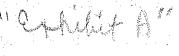
#### CERTIFICATE

DONALD F. PIERCE, one of the attorneys of record for the defendant herein, being duly sworn on oath, says that heretofore upon the filing herewith of the petition for removal and requisite bond, he forthwith, on the 15th day of August, 1961, gave written notice thereof to the adverse party herein by depositing in the United States Post Office at Mobile, Alabama, this 15th day of August, 1961, a true and correct copy of the above and foregoing notice and of the petition for removal and of the removal bond, in an envelope securely sealed, and sufficiently stamped, and properly addressed to Kenneth Cooper, Esq., Attorney at Law, 109 E. First Street, Bay Minette, Alabama, the true and correct address of the attorney for the plaintiff; and that on the said 15th day of August, 1961, a copy of said petition, together with notice thereof, copy of which is attached hereto, was deposited in the United States Post Office at Mobile, Alabama, in an envelope securely sealed, sufficiently stamped and properly addressed to the Honorable Alice J. Duck, Clerk, Circuit Court of Baldwin County, Bay Minette, Alabama, wherein said action was originally pending.

DATED this 15th day of August, 1961.

Subscribed and sworm to before me this 15th day of August, 1961.

Notary Profice State of alabama





# STATE OF ALABAMA OFFICE OF SECRETARY OF STATE MONTGOMERY 4. ALABAMA

July 21, 1961

Michael Micheles Berbwer 4326 Terkebire Detroit, Michigas REGISTERED MAIL
RETURN RECKIPT REQUESTED
DELIVER TO ADDRESSES ONLY

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STATE OF ALCOHOLY

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STATE OF ALABAMA :

COUNTY OF MOBILE :

KNOW ALL MEN BY THESE PRESENTS, that MICHAEL NICHOLAS
BARBOUR, as principal, and NATIONAL SURETY CORPORATION, as
surety, are held and firmly bound unto ALICE T. TUBERVILLE, in
the penal sum of Five Hundred Dollars (\$500.00), for the payment
thereof well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, by these presents.

The condition of this bond is such that:

WHEREAS, the said Michael Nicholas Barbour has filed his petition in the United States District Court for the Southern Division of the Southern District of Alabama for the removal to said Court of a certain cause of action pending in the Circuit Court of Baldwin County, Alabama, wherein the said Alice T. Tuberville is plaintiff and the said Michael Nicholas Barbour is the defendant;

NOW, THEREFORE, if said petitioner shall pay or cause to be paid all costs and disbursements incurred by reason of this said removal proceedings should it be determined that this action was wrongfully or improperly removed to this said Court, then this obligation shall be void; otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, we, the above and undersigned named principal and surety, have hereunto set our hands and seals on this the 14th day of August, 1961.

MICHAEL NICHOLAS BARBOUR

Ey:

Donald F. Pierce

Mis: Attorney in Fact

NATIONAL SURETY CORPORATION

By: Lo S. Jenkuio

Its: attorney in Fact

### HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON LAWYERS

SIXTH FLOOR FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

August 15, 1961

MAILING ADDRESS:

CABLE ADDRESS:

TELEPHONE: HEMLOCK 2-5514

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

> Re: Alice T. Tuberville vs. Michael Nicholas Barbour, Case No. 4779

Dear Mrs. Duck:

CHAS. C. HAND

C. D. ARENDALL, JR.

T. MASSEY BEDSOLE THOMAS G. GREAVES, JR. WM. BREVARD HAND

VIVIAN G. JOHNSTON, JR. PAUL W. BROCK ALEX F. LANKFORD, III

EDMUND R.CANNON, JR. LYMAN F. HOLLAND, JR. J. THOMAS HINES, JR. W. C. BOONE, JR. DONALD F. PIERCE

Enclosed you will find a petition for removal to the Federal Court, a copy of the bond, copy of the complaint and related papers, notice to Kenneth Cooper, Esq., attorney for the plaintiff, and notice to the Clerk of the Circuit Court of Baldwin County. It would be appreciated if you would file these papers of record in the above referenced case.

With best regards,

Yours very truly,

For the Firm

DFP.pcb Encls. In the Matter of the Removal to the District Court of the United States for the Southern District of Alabama, Southern Division, of the case of:

ALICE T. TUBERVILLE,

Plaintiff

Vs.

MICHAEL NICHOLAS BARBOUR,

Defendant

TO: Hon. Alice J. Duck Clerk, Circuit Court of Baldwin County, Alabama

Pursuant to the provisions of law in such cases made and provided, there is hereby filed with you a copy of the petition of the defendant in the above entitled cause to remove said cause to the United States District Court for the Southern Division of the Southern District of Alabama. The said petition, accompanied by a bond with good and sufficient surety conditioned as is required by law, has been this day filed in the said United States District Court for the Southern Division of the Southern District of Alabama.

Written notice of the filing of the aforesaid petition and bond has been this day given to attorney for the plaintiff herein, and you are hereby notified that the filing of a copy of the aforesaid petition with you as Clerk of the Circuit Court of Baldwin County, Alabama, effects the removal of said cause to the aforesaid United States District Court.

DATED this 15th day of August, 1961.

AUG 16 1961
AUG 1. DUUX, CLERK REGISTER

Attorneys for Defendant

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

ALICE T. TUBERVILLE,

Plaintiff,

Vs

MICHAEL NICHOLAS BARBOUR,

Defendant

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW

Case No. 4779

#### COUNT ONE:

The Plaintiff claims of the Defendant the sum of Twenty-Five Thousand Dollars (\$25,000.00) as damages for that, on, to-wit, August 24th, 1960, on United States Highway No. 90, at a point about three miles south of Loxley, in Baldwin County, State of Alabama, the Defendant, Michael Nicholas Barbour, negligently ran his automobile into, upon or against the school bus which the Plaintiff was operating, and as a proximate result of the said negligence on the part of the said Defendant, the Plaintiff was injured in this: she suffered possible concussion, lumbosacral strain and cervical sprain, and she was caused to suffer much extreme pain and mental anguish, and Plaintiff was caused to incur large hospital and medical bills, all to the damage of the Plaintiff in the sum aforesaid, hence this suit.

Plaintiff demands a trial by jury of this cause.

#### AFFIDAVIT OF NON-RESIDENCE

STATE OF ALABAMA)
BALDWIN COUNTY )

I, Kenneth Cooper, Attorney for the Plaintiff in the case of Alice T. Tuberville, Plaintiff, vs. Michael Nicholas Barbaur, Defendant, in the Circuit Court of Baldwin County, Alabama, swear that to the best of my knowledge, information and belief the said Defendant, Michael Nicholas Barbaur, is over the age of twenty-one years, and is a non-resident of the State of Alabama; that the said Michael Nicholas Barbaur now resides at 4326 Yorkshire, Detroit, Michigan.

Sworn to and subscribed before me this 20th day of July, 1961.

Clerk, Circuit Court, Baldwin County, Alabama.

### THE STATE OF ALABAMA,

BALDWIN COUNTY

No.	4779	
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CIRCUIT COURT, BALDWIN COUNTY

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