THOMAS W. TRAWICK, Plaintiff -vs- PARGO, INCORPORATED, A Corporation, LAKE FOREST, INCORPORATED, a Corporation, and JOSEPH B. BURCH, III, Defendants	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW CASE NO. 5235

INTERROGATORIES

Comes the Plaintiff in the above styled cause, and desiring the testimony of the Defendant Pargo, Incorporated, a Corporation, propound to the Defendant's President, George R. Smith, the following interrogatories as provided under Section 477, et seq., of Title 7 of the Code of Alabama, as amended and ask that the said Defendant be ruled to answer same under oath within a reasonable period of time, to-wit:

1. State your name.

Answer:

2. State your residence address and business address.

Answer:

3. State your official capacity with the Defendant Pargo, Incorporated.

Answer:

4. In what State is the Certificate of Incorporation of Pargo, Incorporated, registered?

Answer:

5. Was Pargo, Incorporated, on August 12, 1961 qualified with the Secretary of State, State of Alabama, to do business in the State of Alabama?

Answer:

6. Does your corporation manufacture, rent or lease golf cars to various golf courses or Country Clubs?

Answer:

7. On August 12, 1961 did Pargo, Incorporated, own golf cars located at Lake Forest Country Club, Baldwin County, Alabama?

Answer:

8. On March 23, 1962 did you have any correspondence with the Plaintiff, Mr. Thomas W. Trawick, regarding golf cars at Lake Forest Country Club?

Answer:

9. In the correspondence referred to in question number 8, above, did you state "The golf cars at the Lake Forest Country Club were the property of Pargo, Incorporated at the time of the accident"?

Answer:

10. Attached to these interrogatories is a copy of a letter from Pargo, Incorporated to Mr. Thomas W. Trawick, dated March 23, 1962, we ask you whether or not you are the same George R. Smith who signed this letter as President of Pargo, Incorporated?

Answer:

11. In the correspondence referred to in the preceding question did you or did you not acknowledge that Pargo Incorporated owned the golf cars at the Lake Forest Country Club at the time of Mr. Trawick's accident on August 12, 1961?

Answer:

_____
GEORGE R. SMITH

Sworn and subscribed before me on this the _____ day of _____, 1963.

Affix Seal

_____
Notary Public

P. O. Box 1109

Pargo, Incorporated
CHARLOTTE 1, NORTH CAROLINA

1041 Hawthorne Lane
Telephone FR 5-5290

March 23,1962

Mr. Thomas W. Trawick
Route 1, Box 587
Lake Forest
Daphne, Alabama

Dear Mr. Trawick:

We are in receipt of your letter of February 22 addressed to E.J. Smith & Sons Company. The golf cars at the Lake Forest Country Club were the property of Pargo, Incorporated at the time of the accident.

We are turning over your letter to the Travelers Insurance Company who are our insurance agents.

Very truly yours,

PARGO, INCORPORATED

George R. Smith
President

GRS/mo
cc: Larry Tomlinson
James J. Harris & Company

STATE OF ALABAMA)
)
COUNTY OF BALDWIN)

Before me, the undersigned authority in and for said County, in said State, this day personally appeared HARRY WILTERS, who is known to me, and who being by me first duly sworn, upon oath deposes and says that he is one of the attorneys for the Plaintiff in the above entitled cause, and as such is authorized to make this affidavit; that the answers of the Defendant to the foregoing Interrogatories when well and truly made and filed will be material testimony for the Plaintiff on the trial of this cause.

WILTERS & BRANTLEY

BY: Harry Wilters

Sworn to and subscribed before me on this 21st day of May, 1963.

Phyllis L. Nesbit
Notary Public
State of Alabama at Large

FILED
MAY 21 1963
ALICE J. DUCK, CLERK
REGISTER

Civil # 52355
Thomas W. Trudrick
vs.
Pargo, Incorporated
et al,

Interrogatories

Received _____ day of _____ 19__
and on 21st day of May 1963
I served a copy of the within Subpoena on
~~on~~ J. B. Blackburn
Atty for Pargo Inc
~~By service on~~ _____

TAYLOR WILKINS, Sheriff
By G. B. Wilkins Deputy
No Info

Pltfs Exh 10

THOMAS W. TRAWICK, Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
PARGO, INCORPORATED, a corporation, ET AL., Defendants.	)	AT LAW NO. 5235

ANSWERS TO INTERROGATORIES

Now comes George R. Smith and files this, his answer to the interrogatories heretofore propounded to him in this cause.

1. State your name.

Answer:

George R. Smith.

2. State your residence address and business address.

Answer:

3445 Sharon Road, Charlotte, North Carolina
1041 Hawthorne Lane, Charlotte, North Carolina

3. State your official capacity with the defendant, Pargo, Incorporated.

Answer:

President and Treasurer.

4. In what State is the Certificate of Incorporation of Pargo, Incorporated, registered?

Answer:

North Carolina

5. Was Pargo, Incorporated, on August 12, 1961, qualified with the Secretary of State, State of Alabama, to do business in the State of Alabama?

Answer:

No.

6. Does your corporation manufacture, rent or lease golf cars to various golf courses or Country Clubs?

Answer:

Yes.

7. On August 12, 1961 did Pargo, Incorporated, own golf cars located at Lake Forest Country Club, Baldwin County, Alabama?

Answer:

Yes. The cars were not rented to or in the possession of Lake Forest Country Club.

8. On March 23, 1962 did you have any correspondence with the Plaintiff, Mr. Thomas W. Trawick, regarding golf cars at Lake Forest Country Club?

Answer:

Yes.

9. In the correspondence referred to in question number 8, above, did you state "The golf cars at the Lake Forest Country Club were the property of Pargo, Incorporated at the time of the accident"?

Answer:

The undersigned declines to answer this interrogatory because the correspondence referred to in the interrogatory is in the possession of the plaintiff and is the best evidence.

10. Attached to these interrogatories is a copy of a letter from Pargo, Incorporated to Mr. Thomas W. Trawick, dated March 23, 1962, we ask you whether or not you are the same George R. Smith who signed this letter as President of Pargo, Incorporated?

Answer:

Yes.

11. In the correspondence referred to in the preceding question did you or did you not acknowledge that Pargo, Incorporated owned the golf cars at the Lake Forest Country Club at the time of Mr. Trawick's accident on August 12, 1961?

Answer:

The undersigned declines to answer this interrogatory for the following separate and several reasons:

A. The correspondence or letter referred to in the said interrogatory is in the possession of the plaintiff and is the best evidence.

B. The said interrogatory calls for incompetent, irrelevant and immaterial testimony.

C. The last paragraph in the letter referred to in the said interrogatory is a statement which will inject immaterial evidence into the trial of this

cause which is prejudicial to the rights of the defendant, Pargo, Incorporated.

D. The letter or correspondence referred to in the said interrogatory is incompetent, irrelevant and immaterial evidence in this cause.

George R. Smith

George R. Smith

STATE OF NORTH CAROLINA)
*
MECKLENBURG COUNTY)

Before me, the undersigned authority, within and for said County in said State, personally appeared George R. Smith, who, after being by me first duly and legally sworn, deposes and says: That he has read over and answered the foregoing interrogatories and that the answers contained therein are true.

George R. Smith

George R. Smith

Sworn to and subscribed before me on this the 28th day of June, 1963.

Marie B. Osborne

Notary Public, Mecklenburg County, North Carolina

My Commission Expires December 9, 1964

Affix seal.

FILED

JUL 9 1963

CLERK

ANSWERS TO INTERROGATORIES

THOMAS W. TRAWICK,

Plaintiff,

VS.

PARGO, INCORPORATED, a corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 5235

FILED
JUL 9 1963
ALICE J. BUCK, CLERK
REGISTER

THOMAS W. TRAWICK,	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
PARGO, INCORPORATED, ET AL.,	)	AT LAW NO. 5235
Defendants.	)	

DEMURRER TO AMENDED COMPLAINT

Now come the defendants, each separately and severally, and demur to the amended complaint heretofore filed in this cause and to each and every count thereof, separately and severally, and as grounds of such demurrer assign, separately and severally, the following:

1. It does not state a cause of action.

2. No facts are alleged on which the relief sought can be granted.

3. The allegations of the amended complaint are conclusions of the pleader.

4. The allegations of the amended complaint are vague, indefinite and uncertain in that it does not allege the kind of cart which was rented by the defendants to the plaintiff.

5. The allegations of the amended complaint are vague, indefinite and uncertain in that it does not allege how or in what way the brakes on the cart were in a defective and dangerous condition.

6. The allegations of the amended complaint are vague, indefinite and uncertain in that it alleges that the defendants rented one of "its said carts" to the plaintiff.

7. The allegations of the amended complaint are vague, indefinite and uncertain in that it does not allege which of the defendants owned the alleged cart.

8. The allegations of the amended complaint are vague, indefinite and uncertain in that it does not allege how or in what way the alleged cart was defective when it was rented to the plaintiff.

9. No facts are alleged to show that the alleged cart

had a bad brake rod when it was rented to the plaintiff.

10. No facts are alleged to show that the defendants, or any of them, had any knowledge of any defect in the alleged cart at the time it was rented to the plaintiff.

11. The amended complaint does not allege any duty owing by the defendants to the plaintiff.

12. The amended complaint does not allege the breach by the defendants of any duty owing by them to the plaintiff.

13. The allegations of the amended complaint are vague, indefinite and uncertain in that it does not allege how or in what way the defendants negligently rented the alleged cart to the plaintiff.

14. It is not alleged that the plaintiff was injured through any negligence of the defendants.

15. The allegations of the amended complaint are vague, indefinite and uncertain in that it does not apprise the defendants with sufficient certainty against what act or acts or negligence they are called upon to defend.

16. It does not allege any causal connection between the plaintiff's alleged injuries and the defendants' alleged negligence.

17. It does not allege that the defendants' alleged negligence was the efficient cause of the plaintiff's alleged injuries.

J. B. Blackburn

Attorney for Defendants

DEMURRER TO AMENDED COMPLAINT

THOMAS W. TRAWICK,

Plaintiff,

VS.

PARGO, INCORPORATED, ET AL.,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 5235

THOMAS W. TRAWICK, Plaintiff Vs. PARGO, INCORPORATED, a corporation, LAKE FOREST, INCORPORATED, a corporation, and JOSEPH B. BURCH, III, Defendants	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW CASE NO. 5235

COUNT ONE

Plaintiff claims of the Defendants the sum of Fifty Thousand and no/100 ($50,000.00) Dollars, damages, for that, on to-wit, the 12th day of August, 1961, the Defendants were engaged in the business of renting electric golf carts to the public for hire to be used on the Lake Forest Country Club at Spanish Fort, Baldwin County, Alabama; that on, to-wit, said day and date as aforesaid, the Defendants rented one of its said carts to the Plaintiff at the Lake Forest Country Club in said County and State, with the brakes of said cart in a defective and dangerous condition, and thereafter while the said cart so rented as aforesaid was being driven by the Plaintiff, the Plaintiff applied said defective brakes between number three (3) fairway and number four (4) fairway of the Lake Forest Country Club and said defective brakes failed to stop the cart because of the defective condition of said brakes; the cart turned over and against the Plaintiff and the Plaintiff received severe personal injuries in this, to-wit: He was knocked to the ground; he was rendered unconscious; he suffered a number of contusions and abrasions on the face, body and leg; part of his right ear was torn off and his jaw bones were broken on each side; he was permanently injured and permanently disfigured; he was caused to incur considerable expenses for medicine, surgical, and hospital treatment, nurses, doctors, and etc; he was incapacitated and unable to work for a number of weeks.

Plaintiff avers that the Defendants negligently rented said cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and as a proximate consequence of said negligence of the Defendants the Plaintiff was injured and damaged as aforesaid, hence this suit.

COUNT TWO

Plaintiff claims of the Defendants, separately and severally, the sum of Fifty Thousand and no/100 ($50,000.00) Dollars as damages, for that, on to-wit, the 12th day of August, 1961, the Defendants Pargo, Incorporated and Joesph B. Burch, III, then and there acting within the line and scope of their employment as agent or servant of the defendant, Lake Forest, Incorporated, were engaged in the business of renting electric golf carts for hire to be used on the golf course and known as the Lake Forest Country Club which Club is owned and operated by the Defendant Lake Forest, Incorporated at Spanish Fort, Baldwin County, Alabama; that on, to-wit, said day and date as aforesaid, the Defendants rented one of its said carts to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and thereafter while the said cart was so rented and driven by the Plaintiff on the Lake Forest Country Club between fairway number three (3) and fairway number four (4) the Plaintiff applied said defective brakes and said brakes failed to stop said cart because of the defective condition of said brakes and the said cart was run against and over the Plaintiff and the Plaintiff thereby received severe personal injuries in this, to-wit: He was knocked to the ground; he was rendered unconscious; he suffered a number of contusions and abrasions on his face, body and legs; his right ear was torn off and his jaw bones were broken on each side; he was permanently injured and permanently disfigured; he was caused to incur considerable expenses for medicine, surgical, and hospital treatment, nurses, doctors, and etc; he was incapacitated and unable to work for a number of weeks.

Plaintiff avers that the Defendants negligently rented said cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and as a proximate consequence of said negligence of the Defendants, the Plaintiff was injured and damaged as aforesaid, hence this suit.

BAILEY & LACEY

BY: Emmett M. Bailey
ATTORNEYS FOR PLAINTIFF

For the trial of this cause the Plaintiff demands a trial by Jury.

BAILEY & LACEY
BY: Emmett M. Bailey
ATTORNEY FOR PLAINTIFF

BILL OF COMPLAINT

THOMAS W. TRAWICK,

Plaintiff

Vs.

PARGO, INCORPORATED, a Corporation, LAKE FOREST, Incorporated, a corporation, and JOSEPH B. BURCH, III,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW
CASE NO._____

THOMAS W. TRAWICK, Plaintiff	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW
Vs.	)	
PARGO, INCORPORATED, A Corporation, LAKE FORREST, INCORPORATED, a corporation, and JOSEPH B. BURCH, III, Defendants	)	CASE NO._____

STATE OF ALABAMA)
)
BALDWIN COUNTY)

Personally appeared before me the undersigned authority, Ernest M. Bailey, who being duly sworn deposes and says as follows: My name is Ernest M. Bailey. I am one of the Attorneys representing the Plaintiff in the above styled cause. As such Attorney, I am informed and believe, and upon such information and belief state, that Pargo, Incorporated is a Corporation organized under the laws of some State other than the State of Alabama, and that its address is 1041 Hawthorne Lane, Charlotte, 1, North Carolina; that said Pargo, Incorporated in, to-wit, the month of August, 1961, was carrying on, transacting, and doing business in the State of Alabama, and was soliciting business in the State of Alabama, in that it was engaged in the rental of electric golf carts to certain County Clubs or public golf courses; that said Pargo, Incorporated was not at such time, and is not at the present, qualified to do business in this State and had not at such time and has not at the present filed with the Secretary of State of the State of Alabama any instrument designating an agent for the service of process.

WHEREFORE, Affiant states that the provisions of Section 193 of Title 7 of the Code of Alabama of 1940, as recompiled in 1958 and appearing in the Acts of the Legislature of the State of Alabama of 1953 page 371, are applicable to the above styled cause. And Affiant further states that Section 199 (1) of Title 7 of the Code of Alabama of 1940, as recompiled, as amended and appearing in the Acts of the Legislature of the State of Alabama of 1953, page 347, are also applicable to the above styled cause.

Ernest M. Bailey
ERNEST M. BAILEY

Sworn to and subscribed to before me this 8th day of August, 1962.

Betty Joe Wolff
NOTARY PUBLIC, STATE OF ALABAMA AT LARGE

FILED
AUG 9 1962
ALICE J. DUCK, CLERK REGISTER

225

THOMAS W. TRAWICK,

Plaintiff

Vs.

PARGO, INCORPORATED, a corporation, LAKE FORREST, INCORPORATED, a corporation and JOSEPH B. BURCH, III,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
CASE NO._____

Received 9 day of Aug 1962
and on 16th day of aug 1962
I served a copy of the within [illegible]
on [illegible]

By service on Joseph B. Burch, III

TAYLOR WILKINS, Sheriff
By [illegible] D. S.

Sheriff claims 44 miles at
Ten Cents per mile Total $ 4.40
TAYLOR WILKINS, Sheriff
BY [illegible]
DEPUTY SHERIFF

RETURNED 8-30-62
Not found in my County after diligent search and inquiry.
RAY D. BRIDGES, Sheriff
By [illegible] D. S.

LAW OFFICES
BAILEY & LACEY
P. O. BOX 161
FAIRHOPE, ALABAMA

CASE NO. 3

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

ALICE L. DUCK, CLERK
REGISTER

AUG 9 1962

FILED

THOMAS W. TRAWICK,

Plaintiff,

VS.

PARGO, INCORPORATED, a corporation, LAKE FOREST, INCORPORATED, a corporation, and JOSEPH B. BURCH, III,

Defendants

BILL OF COMPLAINT

3233

Filed this 7 day of Aug 1962
Fees $ 27
Deputy Clerk
Lake Forest, Inc. a Corp
Malcolm McDermott
FAY D. BUTLER
ATTORNEY AT LAW
FAIRHOPE, ALABAMA

Baldwin Times

SUMMONS AND COMPLAINT

CIRCUIT COURT, BALDWIN COUNTY

THE STATE OF ALABAMA,
BALDWIN COUNTY

No. 5235

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon PARGO, INC. A CORP., LAKE FOREST, INC., A CORP. AND JOSEPH B. BURCH, III

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 PARGO, INC., A CORP: LAKE FORREST, INC., A CORP: & JOSEPH B. BURCH, III, Defendant

by THOMAS W. TRAWICK, Plaintiff

Witness my hand this 9th day of August 19 62

Alice J. Clark, Clerk

Ed - 11-27-62 - Lake Forest Inc
Ed - 8-10-62 - Sec - of State

276

No. 5235 Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

THOMAS W. TRAWICK

Plaintiffs

vs.

PARGO, INC., A CORP.,: LAKE FORREST, INC., A CORP: & JOSEPH B. BURCH, III

Defendants

SUMMONS and COMPLAINT

Filed Aug. 9, 19 62

Alice J. Duck, Clerk

RECEIVED
AUG 21 1962
SHERIFF'S OFFICE

Bailey & Lacey
Plaintiff's Attorney

RECEIVED
NOV 7 1962
Defendant's Attorney

SHERIFF'S OFFICE
8-9-62

1492

Defendant lives at

RECEIVED IN OFFICE
RECEIVED IN OFFICE
AUG 10 1962
M. S. BUTLER, Sheriff

(3)

, 19

, Sheriff

I have executed this summons

this , 19

by leaving a copy with

Executed by serving 3 copies of the within on Betty Gafrey Secretary of State of The State of Alabama.

This the 10 day of Aug 1962

Sheriff of Montgomery County,
M. S. Butler,
By D. S.

The Sheriff claims 2 miles at 10c per mile for a total of $ .20

M. S. Butler, Sheriff
Montgomery County, Ala.

Sheriff

Deputy Sheriff

THOMAS W. TRAWICK, Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
PARGO, INCORPORATED, a corporation, ET AL., Defendants.	)	AT LAW NO. 5235

DEMURRER

Now comes the defendant, Lake Forest, Incorporated, a corporation, by its attorney, and demurs to each count of the complaint heretofore filed in this cause, separately and severally, and as grounds of such demurrer assigns, separately and severally, the following:

1. It does not state a cause of action.

2. The allegations of the complaint are vague, indefinite and uncertain.

3. The allegations of the complaint are conclusions of the pleader.

4. The allegations of the complaint are vague, indefinite and uncertain in that it does not allege the kind of cart which was rented by the defendant to the plaintiff.

5. The allegations of the complaint are vague, indefinite and uncertain in that the complaint does not allege how or in what way the brakes on the cart were in a defective and dangerous condition.

6. The complaint does not allege any duty owing by the defendant to the plaintiff.

7. The complaint does not allege the breach by the defendant of any duty owing by it to the plaintiff.

8. The allegations of the complaint are vague, indefinite and uncertain in that it does not allege how or in what way the defendant negligently rented the cart to the plaintiff.

9. It is not alleged with sufficient certainty how the plaintiff was injured.

10. It is not alleged that the plaintiff was injured through any negligence of the defendant.

11. The allegations of the complaint are vague, indefinite and uncertain in that it does not apprise this defendant with sufficient certainty against what act or acts of negligence it is called on to defend.

12. It does not allege that any negligence on the part of this defendant was the proximate cause of plaintiff's alleged injuries.

13. It does not allege any causal connection between the plaintiff's alleged injuries and the defendant's alleged negligence.

14. It does not allege that this defendant's alleged negligence was the efficient cause of the plaintiff's alleged injuries.

15. It does not allege the date on which the plaintiff received his alleged injuries.

16. It does not allege where the plaintiff was injured.

J. B. Blackburn

Attorney for Lake Forest, Incorporated, a corporation

FILED
DEC 21 1962
ALICE L. DUCK, CLERK REGISTER

DEMURRER

THOMAS W. TRAWICK,

Plaintiff,

VS.

PARGO, INCORPORATED, a corporation
ET AL.,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 5235

THOMAS W. TRAWICK,	)	
	)	
Plaintiff	)	IN THE CIRCUIT COURT OF
	)	
-vs-	)	BALDWIN COUNTY, ALABAMA
	)	
PARGO, INCORPORATED, a Corporation, LAKE FOREST, INCORPORATED, a Corporation, and JOSEPH B. BURCH, III,	)	AT LAW
	)	CASE NO. 5235
	)	
Defendants	)	

AMENDED BILL OF COMPLAINT

Comes now the Plaintiff in the above styled cause and amends Count One and Count Two of the Bill of Complaint to read as follows:

COUNT ONE:

Plaintiff claims of the Defendants the sum of Fifty Thousand and no/100 ($50,000.00) Dollars, damages, for that, on to-wit, the 12th day of August, 1961, the Defendants were engaged in the business of renting electric golf carts to the public for hire to be used on the Lake Forest Country Club at Spanish Fort, Baldwin County, Alabama; that on, to-wit, said day and date as aforesaid, the Defendants rented a cart to the Plaintiff at the Lake Forest Country Club in said County and State, with the brakes of said cart in a defective and dangerous condition, in that there was a bent brake rod, and thereafter while the said cart so rented, on said day and date as aforesaid, was being driven by the Plaintiff, the Plaintiff applied said defective brakes between number three (3) fairway and number four (4) fairway of the Lake Forest Country Club and said defective brakes failed to stop the cart because of the defective condition of said brakes; the cart turned over and against the Plaintiff and the Plaintiff received severe personal injuries in this, to-wit: He was knocked to the ground; he was rendered unconscious; he suffered a number of contusions and abrasions on the face, body and leg; part of his right ear was torn off and his jaw bones were broken on each side; he was permanently injured and permanently disfigured; he was caused to incur considerable expenses for medicine, surgical, and hospital treatment, nurses, doctors, and etc; he was incapacitated and unable to work for a number of weeks.

Plaintiff avers that the Defendants negligently rented said cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and as a proximate consequence of said negligence of the Defendants the Plaintiff was injured and damaged as aforesaid, hence this suit.

COUNT TWO:

Plaintiff claims of the Defendants, separately and severally, the sum of Fifty Thousand and no/100 ($50,000.00) Dollars as damages, for that, on to-wit, the 12th day of August, 1961, the Defendants Pargo, Incorporated and Joseph B. Burch, III, then and there acting within the line and scope of their employment as agent or servant of the defendant, Lake Forest, Incorporated, were engaged in the business of renting electric golf carts for hire to be used on the golf course and known as the Lake Forest Country Club which Club is owned and operated by the Defendant Lake Forest, Incorporated at Spanish Fort, Baldwin County, Alabama; that on, to-wit, said day and date as aforesaid, the Defendants rented a cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, in that there was a bent brake rod, and thereafter, on said day and date as aforesaid, while the said cart was so rented and driven by the Plaintiff on the Lake Forest Country Club between fairway number three (3) and fairway number four (4) the Plaintiff applied said defective brakes and said brakes failed to stop said cart because of the defective condition of said brakes and the said cart was run against and over the Plaintiff and the Plaintiff thereby received severe personal injuries in this, to-wit: He was knocked to the ground; he was rendered unconscious; he suffered a number of contusions and abrasions on his face, body and legs; his right ear was torn off and his jaw bones were broken on each side; he was permanently injured and permanently disfigured; he was caused to incur considerable expenses for medicine, surgical, and hospital treatment, nurses, doctors, and etc; he was incapacitated and unable to work for a number of weeks.

Plaintiff avers that the Defendants negligently rented said cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and as a proximate consequence of said negligence of the Defendants, the Plaintiff was injured and damaged as aforesaid, hence this suit.

ERNEST M. BAILEY
Attorney for Plaintiff

For the trial of this cause the Plaintiff demands a trial by Jury.

ERNEST M. BAILEY
Attorney for Plaintiff

FILED
FEB 21 1963
ALICE L. DUCK, CLERK REGISTER

THOMAS W. TRAWICK,

Plaintiff

-vs-

PARGO, INCORPORATED, a Corporation, LAKE FOREST INCORPORATED, a Corporation, and JOSEPH B. BURCH III,

Defendants

In The Circuit Court of
Baldwin County, Alabama
At Law
Case No. 5235

FILED
FEB 21 1963
ALICE J. DUCK, CLERK
REGISTER

We the jury find for the defendants in this case

Foreman

THOMAS W. TRAWICK,	)	
VS. Plaintiff,	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
PARGO, INCORPORATED, ET AL.,	)	AT LAW NO. 5235
Defendants.	)	

PLEAS

Now come the defendants, each separately and severally, and for answer to the complaint as last amended and to each and every count thereof, separately and severally, say:

1. The defendants for answer to the amended complaint saith that they are not guilty of the matters alleged therein.

2. At the time and place alleged in the amended complaint, the plaintiff was himself guilty of negligence which proximately contributed to his alleged injuries, in that he then and there so negligently operated the golf cart in which he was riding as to cause it to overturn and injure himself.

3. At the time and place alleged in the amended complaint W. T. Ames, the agent, servant or employee of the plaintiff, who was then and there acting within the line and scope of his authority as such agent, servant or employee, was himself guilty of negligence which proximately contributed to the plaintiff's alleged injuries, in that he then and there so negligently operated the golf cart which he was then and there operating as to cause it to overturn and injure the plaintiff.

4. At the time and place alleged in the plaintiff's amended complaint, the plaintiff and W. T. Ames were engaged in a joint enterprise, to-wit, the operation of the golf cart which they had rented and were then and there using, and at the said time and place W. T. Ames, one of the joint adventurers, was himself guilty of negligence which proximately contributed to the plaintiff's alleged injuries, in that he then and there so negligently operated the said golf cart as to cause it to overturn and injure the plaintiff.

J. B. Blackburn

Attorney for Defendants

PLEAS

THOMAS W. TRAWICK,

Plaintiff,

VS.

PARGO, INCORPORATED, ET AL.,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 5235

THOMAS W. TRAWICK,	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
PARGO, INCORPORATED, ET AL.,	)	AT LAW NO. 5235
Defendants.	)	

DEMURRER

Now come the defendants, each separately and severally, and demur to the complaint as last amended (the amended complaint filed on February 21, 1963) and to each and every count thereof, separately and severally, and as grounds of such demurrer assign, separately and severally, the following:

1. It does not state a cause of action.

2. No facts are alleged on which the relief sought can be granted.

3. The allegations of the complaint as last amended are conclusions of the pleader.

4. The allegations of the complaint as last amended are vague, indefinite and uncertain in that it does not allege the kind of cart which was rented by the defendants to the plaintiff.

5. The allegations of the complaint as last amended are vague, indefinite and uncertain in that it does not allege how or in what way the brakes on the cart were in a defective and dangerous condition.

6. The allegations of the complaint as last amended are vague, indefinite and uncertain in that it alleges that the defendants rented one of "its said carts" to the plaintiff.

7. The allegations of the complaint as last amended are vague, indefinite and uncertain in that it does not allege which of the defendants owned the alleged cart.

8. The allegations of the complaint as last amended are vague, indefinite and uncertain in that it does not allege how or in what way the alleged cart was defective when it was rented to the plaintiff.

9. No facts are alleged to show that the alleged cart had a bad brake rod when it was rented to the plaintiff.

10. No facts are alleged to show that the defendants, or any of them, had any knowledge of any defect in the alleged cart at the time it was rented to the plaintiff.

11. The complaint as last amended does not allege any duty owing by the defendants to the plaintiff.

12. The complaint as last amended does not allege the breach by the defendants of any duty owing by them to the plaintiff.

13. The allegations of the complaint as last amended are vague, indefinite and uncertain in that it does not allege how or in what way the defendants negligently rented the alleged cart to the plaintiff.

14. It is not alleged that the plaintiff was injured through any negligence of the defendants.

15. The allegations of the complaint as last amended are vague, indefinite and uncertain in that it does not apprise the defendants with sufficient certainty against what act or acts of negligence they are called upon to defend.

16. It does not allege any causal connection between the plaintiff's alleged injuries and the defendants' alleged negligence.

17. It does not allege that the defendants' alleged negligence was the efficient cause of the plaintiff's alleged injuries.

18. It does not allege that the plaintiff lost any time from his incapacity and inability to work.

19. It does not allege any facts to show that the plaintiff suffered any loss of earnings or salary because of his alleged injuries.

20. No facts are alleged to show that the defendants, Pargo, Incorporated, and Joseph B. Burch, III, were the agents of the defendant, Lake Forest, Incorporated, on August 12, 1961.

21. No facts are alleged to show that the defendant, Lake Forest, Incorporated, was engaged in renting golf carts on August 12, 1961.

J. B. Blackburn
Attorney for Defendants

DEMURRER

THOMAS W. TRAWICK,

Plaintiff,

VS.

PARGO, INCORPORATED, ET AL.,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 5235

Filed 2-22-63
Reis J. Peck
Clerk

_____DIV. NO._____ CERTIFICATE OF APPEAL. (Civil Cases.)

No. 5235

THE STATE OF ALABAMA

BALDWIN County.

I, Alice J. Duck, Clerk of the Circuit Court of Baldwin County, in and for said State and County, hereby certify that the foregoing pages numbered from one to _____, both inclusive, contain a full, true and complete transcript of the record and proceedings of said Court in a certain cause lately therein pending wherein Thomas W. Trawick was plaintiff, and Pargo, Inc. a Corporation, LAKE FOREST, Inc., a Corporation, and JOSEPH B. BURCH, III, was Defendants as fully and completely as the same appears of record in said Court.

And I further certify that the said Thomas W. Trawick did on the 16th day of December, 1963, pray for and obtain an appeal from the judgment of said Court to the ~~Sx~~ Supreme Court of Alabama to reverse said judgment of said Court upon entering into bond with Tolbert M. Brantley & Harry J. Wilters, Jr. as surety thereon, which said bond has been approved by me.

Witness my hand and the seal of said Circuit Court of Baldwin County is hereto affixed, this the 18th day of December, 1963

Alice J. Duck

Clerk of the Circuit Court of

Baldwin County, Alabama.

(Code 1940, Title 7, Sec. 767)

August 16, 1962

THOMAS W. TRAWICK, Plaintiff
VS.
PARGO, INCORPORATED, a corporatinn, et al, Defendants

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW

CASE NO. Not Given

STATE OF ALABAMA
MONTGOMERY COUNTY

Before me, Nancy H. Turner, a Notary Public in and for said State-at-Large, personally appeared Bettye Frink, Secretary of State of the State of Alabama, who is known to me and who, being duly sworn, deposes and says that in her official capacity as Secretary of State of the State of Alabama she, on the 10 day of August 1962 sent by registered mail in an envelope addressed as follows:

"Pargo, Incorporated
1041 Hawthorne Lane
Charlotte 1, North Carolina"

"Registered Mail—
Return Receipt Requested
~~Deliver to Addressee only~~"

bearing sufficient and proper prepaid postage, a notice bearing her signature and the Great Seal of the State of Alabama in words and figures as follows:

"Pargo, Incorporated
1041 Hawthorne Lane
Charlotte 1, North Carolina

You will take notice that on August 10, 1962 the Sheriff of Montomery County, Alabama, served upon me, in my official capacity, Summons and Complaint and Affidavit in a case entitled: THOMAS W. TRAWICK, Plaintiff VS PARGO, INCORPORATED, a corporation, et al, Defendants

in the CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW Case No. Not Given

a true copy of which Summons and Complaint and Affidavit are 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, said service being under provisions of Title 7, Section 199(1) of the 1940 Code of Alabama and Supplement thereto.

WITNESS MY HAND and the Great Seal of the State of Alabama this the 10 day of August 1962

(Signed) Bettye Frink
Bettye Frink
Secretary of State

Enclosures (2)

Affiant further says 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 and Affidavit in the above-styled cause.

Affiant further says that on Aug 16 1962 she received the "Return Card" showing receipt ——— by the designated addressee of the aforementioned matter at Charlotte, N.C. on Aug 14 1962

Bettye Frink
Affiant—Bettye Frink
Secretary of State

Sworn to and subscribed before me, this the 16 day of August 1962

Nancy H. Turner
Notary Public—State-at-Large
My Commission expires: 10/17/62

Enclosures—"Return Receipt" and Copy of Process

cc: Hon. Ernest M. Bailey
Bailey and Lacey
Attorneys at Law
Fairhope, Ala.

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 5235

_____ TERM, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon PARCO, INC. A CORP., LAKE FORREST, INC., A CORP. AND JOSEPH B. BURCH, III

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 PARCO, INC., A CORP: LAKE FORREST, INC., A CORP: & JOSEPH B. BURCH, III, Defendant

by THOMAS W. TRAWICK

_____, Plaintiff

Witness my hand this 9th day of August 19 62

Allie J. Clark, Clerk

THOMAS W. TRAWICK, Plaintiff Vs. PARGO, INCORPORATED, a corporation, LAKE FOREST, INCORPORATED, a corporation, and JOSEPH B. BURCH, III, Defendants	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW CASE NO._____

COUNT ONE

Plaintiff claims of the Defendants the sum of Fifty Thousand and no/100 ($50,000.00) Dollars, damages, for that, on to-wit, the 12th day of August, 1961, the Defendants were engaged in the business of renting electric golf carts to the public for hire to be used on the Lake Forest Country Club at Spanish Fort, Baldwin County, Alabama; that on, to-wit, said day and date as aforesaid, the Defendants rented one of its said carts to the Plaintiff at the Lake Forest Country Club in said County and State, with the brakes of said cart in a defective and dangerous condition, and thereafter while the said cart so rented as aforesaid was being driven by the Plaintiff, the Plaintiff applied said defective brakes between number three (3) fairway and number four (4) fairway of the Lake Forest Country Club and said defective brakes failed to stop the cart because of the defective condition of said brakes; the cart turned over and against the Plaintiff and the Plaintiff received severe personal injuries in this, to-wit: He was knocked to the ground; he was rendered unconscious; he suffered a number of contusions and abrasions on the face, body and leg; part of his right ear was torn off and his jaw bones were broken on each side; he was permanently injured and permanently disfigured; he was caused to incur considerable expenses for medicine, surgical, and hospital treatment, nurses, doctors, and etc; he was incapacitated and unable to work for a number of weeks.

Plaintiff avers that the Defendants negligently rented said cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and as a proximate consequence of said negligence of the Defendants the Plaintiff was injured and damaged as aforesaid, hence this suit.

COUNT TWO

Plaintiff claims of the Defendants, separately and severally, the sum of Fifty Thousand and no/100 ($50,000.00) Dollars as damages, for that, on to-wit, the 12th day of August, 1961, the Defendants Pargo, Incorporated and Joesph B. Burch, III, then and there acting within the line and scope of their employment as agent or servant of the defendant, Lake Forest, Incorporated, were engaged in the business of renting electric golf carts for hire to be used on the golf course and known as the Lake Forest Country Club which Club is owned and operated by the Defendant Lake Forest, Incorporated at Spanish Fort, Baldwin County, Alabama; that on, to-wit, said day and date as aforesaid, the Defendants rented one of its said carts to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and thereafter while the said cart was so rented and driven by the Plaintiff on the Lake Forest Country Club between fairway number three (3) and fairway number four (4) the Plaintiff applied said defective brakes and said brakes failed to stop said cart because of the defective condition of said brakes and the said cart was run against and over the Plaintiff and the Plaintiff thereby received severe personal injuries in this, to-wit: He was knocked to the ground; he was rendered unconscious; he suffered a number of contusions and abrasions on his face, body and legs; his right ear was torn off and his jaw bones were broken on each side; he was permanently injured and permenently disfigured; he was caused to incur considerable expenses for medicine, surgical, and hospital treatment, nurses, doctors, and etc; he was incapacitated and unable to work for a number of weeks.

Plaintiff avers that the Defendants negligently rented said cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and as a proximate consequence of said negligence of the Defendants, the Plaintiff was injured and damaged as aforesaid, hence this suit.

BAILEY & LACEY

BY: _____
ATTORNEYS FOR PLAINTIFF

For the trial of this cause the Plaintiff demands a trial by Jury.

BAILEY & LACEY
BY: _____
ATTORNEY FOR PLAINTIFF

BILL OF COMPLAINT

THOMAS W. TRAWICK,

Plaintiff

Vs.

PARGO, INCORPORATED, a corporation, LAKE FOREST, INCORPORATED, a corporation, and JOSEPH B. BURCH, III,

Defendants,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. _____

THOMAS W. TRAWICK, Plaintiff	)	IN THE CIRCUIT COURT OF
Vs.	)	BALDWIN COUNTY, ALABAMA
PARGO, INCORPORATED, A Corporation, LAKE FORREST, INCORPORATED, a corporation, and JOSEPH B. BURCH, III, Defendants	)	AT LAW CASE NO._____

STATE OF ALABAMA)
BALDWIN COUNTY)

Personally appeared before me the undersigned authority, Ernest M. Bailey, who being duly sworn deposes and says as follows: My name is Ernest M. Bailey. I am one of the Attorneys representing the Plaintiff in the above styled cause. As such Attorney, I am informed and believe, and upon such information and belief state, that Pargo, Incorporated is a Corporation organized under the laws of some State other than the State of Alabama, and that its address is 1041 Hawthorne Lane, Charlotte, 1, North Carolina; that said Pargo, Incorporated in, to-wit, the month of August, 1961, was carrying on, transacting, and doing business in the State of Alabama, and was soliciting business in the State of Alabama, in that it was engaged in the rental of electric golf carts to certain County Clubs or public golf courses; that said Pargo, Incorporated was not at such time, and is not at the present, qualified to do business in this State and had not at such time and has not at the present filed with the Secretary of State of the State of Alabama any instrument designating an agent for the service of process.

WHEREFORE, Affiant states that the provisions of Section 193 of Title 7 of the Code of Alabama of 1940, as recompiled in 1958 and appearing in the Acts of the Legislature of the State of Alabama of 1953 page 371, are applicable to the above styled cause. And Affiant further states that Section 199 (1) of Title 7 of the Code of Alabama of 1940, as recompiled, as amended and appearing in the Acts of the Legislature of the State of Alabama of 1953, page 347, are also applicable to the above styled cause.

Sworn to and subscribed to before me this 8th day of August, 1962.

Ernest M. Bailey
ERNEST M. BAILEY

Betty Jo Wolff
NOTARY PUBLIC, STATE OF ALABAMA AT LARGE

5235

THOMAS W. TRAWICK,

Plaintiff

V.

FARGO, INCORPORATED, a corporation, LAKE FORREST INCORPORATED, a corporation and JOSEPH B. BURCH, III,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. _____

FILED

AUG 9 1962

ALICE J. DUCK, CLERK
REGISTER

RECEIVED
AUG 10 1962
SECRETARY OF STATE

5735 Thomas Drum vs. Pargo Inc

JURY LIST - FALL SESSION - SEPTEMBER 9, 1963

1. Koch, William, Ideal Cement cost Controler, Spanish Ft.
2. Cooper, John L., Laborer, Bay Minette
3. Cox, Y.A., Jr., Farmer, Stockton
4. Garrett, Malcolm, Farmer, Belforest
5. Gates, Carl B., Farmer, Robertsdale
6. Gee, Luther, State Employee, Bay Minette
7. Hall, John, Sr., Carpenter, Loxley
8. Hayles, J. Otis, Farmer, Perdido
9. Hedge, Langston, Chemist, Bay Minette
10. Helms, Kenneth B., Civil Service, Elberta
11. Hinterlighter, Daniel G., Clerk, Bay Minette
12. Hoffman, Winfred C., Gov't Emp., Bay Minette
13. Landcaster, Eartis, Paperwood, Robertsdale
14. Larson, Arthur, Farmer, Rosinton
15. Lipscomb, Frederick A., Farmer, Mag. Spgs.
16. Little, Bernie, Mechanic, Bay Minette
17. Long, Fred, Brookley Field, Fairhope
18. Lowery, Robert, Dairyman, Fairhope
19. Mascaro, Edward, Corp. Secretary, Spanish Fort,
20. Mason, Arnold K., Farmer, Mag. Spgs.
21. McKenzie, J.D., Farmer, Robertsdale
22. Page, Glenn A., Jr., Ins., Bay Minette
23. Urbanch, Robert C., Brookley Field, Fairhope
24. Weeks, Ellis, Laborer, Mag. Spgs.
25. Wilcox, Roy E., Trk. Driver, Elberta
26. Kaiser, Paul, Jr., Farmer, Gulf Shores
27. Allegri, Angelo, Carpenter, Fairhope
28. Armstrong, William, Civil Service, Elberta
29. Baker, Lewis E., Foley Fert. Co., Foley
30. Barnhill, Charles W., Oil Dealer, Robertsdale
31. Bell, Bill, Brookley Field, Rosinton
32. Blackwell, Earl, Merchant, Foley
33. Boeschen, Arthur, Farmer, Bay Minette
34. Boone, DeWitt, Ideal Cement Cost Controler, Spanish Ft.
35. Bryant, Roy Woolf, Farmer, Bay Minette
36. Bryars, Charles Henry, Jr., Farmer, Stockton
37. Buck, Eddie, Shipyard, Robertsdale
38. Chafin, J. Horace, Trk. Driver, Perdido
39. Chesnick, Joe, Farmer, Robertsdale
40. Childress, Kenneth, Barber, Foley
41. Childress, Rube, Farmer, Loxley
42. Cocke, James, Jewler, Fairhope
43. Conway, James, Mobile Construction, Daphne
44. Lipscomb, Ira, Farmer, Mag. Spgs.
45. Inge, McKinley, Clerk, Bay Minette
46. Smith, Samuel, Sr., Brookley Field, Daphne
47. Stephens, W. Henry, Millman, Stockton
48. Styron, Theo, Farmer, Foley

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5735 Thomas Drewe vs. Pargo Inc

JURY LIST - FALL SESSION - SEPTEMBER 9, 1963

1. Koch, William, Ideal Cement cost Controler, Spanish Ft.
2. Cooper, John L., Laborer, Bay Minette
3. Cox, Y.A., Jr., Farmer, Stockton
4. Garrett, Malcolm, Farmer, Belforest
5. Gates, Carl B., Farmer, Robertsdale
6. Gee, Luther, State Employee, Bay Minette
7. Hall, John, Sr., Carpenter, Loxley
8. Hayles, J. Otis, Farmer, Perdido
9. Hedge, Langston, Chemist, Bay Minette
10. Helms, Kenneth B., Civil Service, Elberta
11. Hinterlighter, Daniel G., Clerk, Bay Minette
12. Hoffman, Winfred C., Gov't Emp., Bay Minette
13. Landcaster, Eartis, Paperwood, Robertsdale
14. Larson, Arthur, Farmer, Rosinton
15. Lipscomb, Frederick A., Farmer, Mag. Spgs.
16. Little, Bernie, Mechanic, Bay Minette
17. Long, Fred, Brookley Field, Fairhope
18. Lowery, Robert, Dairyman, Fairhope
19. Mascaro, Edward, Corp. Secretary, Spanish Fort,
20. Mason, Arnold K., Farmer, Mag. Spgs.
21. McKenzie, J.D., Farmer, Robertsdale
22. Page, Glenn A., Jr., Ins., Bay Minette
23. Urbanch, Robert C., Brookley Field, Fairhope
24. Weeks, Ellis, Laborer, Mag. Spgs.
25. Wilcox, Roy E., Trk. Driver, Elberta
26. Kaiser, Paul, Jr., Farmer, Gulf Shores
27. Allegri, Angelo, Carpenter, Fairhope
28. Armstrong, William, Civil Service, Elberta
29. Baker, Lewis E., Foley Fert. Co., Foley
30. Barnhill, Charles W., Oil Dealer, Robertsdale
31. Bell, Bill, Brookley Field, Rosinton
32. Blackwell, Earl, Merchant, Foley
33. Boeschen, Arthur, Farmer, Bay Minette
34. Boone, DeWitt, Ideal Cement Cost Controler, Spanish Ft.
35. Bryant, Roy Woolf, Farmer, Bay Minette
36. Bryars, Charles Henry, Jr., Farmer, Stockton
37. Buck, Eddie, Shipyard, Robertsdale
38. Chafin, J. Horace, Trk. Driver, Perdido
39. Chesnick, Joe, Farmer, Robertsdale
40. Childress, Kenneth, Barber, Foley
41. Childress, Rube, Farmer, Loxley
42. Cocke, James, Jewler, Fairhope
43. Conway, James, Mobile Construction, Daphne
44. Lipscomb, Ira, Farmer, Mag. Spgs.
45. Inge, McKinley, Clerk, Bay Minette
46. Smith, Samuel, Sr., Brookley Field, Daphne
47. Stephens, W. Henry, Millman, Stockton
48. Styron, Theo, Farmer, Foley

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THOMAS W. TRAWICK, Plaintiff, VS. PARGO, INCORPORATED, a corporation, ET AL., Defendants.	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW NO. 5235

DEMURRER

Now come the defendants, Pargo, Incorporated, a corporation, and Joseph B. Burch, III, each separately and severally, and demur to each count of the complaint heretofore filed in this cause, separately and severally, and as grounds of such demurrer assign, separately and severally, the following:

1. It does not state a cause of action.

2. The allegations of the complaint are vague, indefinite and uncertain.

3. The allegations of the complaint are conclusions of the pleader.

4. The allegations of the complaint are vague, indefinite and uncertain in that it does not allege the kind of cart which was rented by the defendants to the plaintiff.

5. The allegations of the complaint are vague, indefinite and uncertain in that the complaint does not allege how or in what way the brakes on the cart were in a defective and dangerous condition.

6. The complaint does not allege any duty owing by the defendants to the plaintiff.

7. The complaint does not allege the breach by the defendants of any duty owing by them to the plaintiff.

8. The allegations of the complaint are vague, indefinite and uncertain in that it does not allege how or in what way the defendants negligently rented the cart to the plaintiff.

9. It is not alleged with sufficient certainty how the plaintiff was injured.

10. It is not alleged that the plaintiff was injured through any negligence of the defendants.

11. The allegations of the complaint are vague, indefinite and uncertain in that it does not apprise the defendants with sufficient certainty against what act or acts of negligence they are called on to defend.

12. It does not allege that any negligence on the part of the defendants was the proximate cause of plaintiff's alleged injuries.

13. It does not allege any causal connection between the plaintiff's alleged injuries and the defendants' alleged negligence.

14. It does not allege that the defendants' alleged negligence was the efficient cause of the plaintiff's alleged injuries.

15. It does not allege the date on which the plaintiff received his alleged injuries.

J. B. Blackburn

Attorney for Pargo, Incorporated, a corporation, and Joseph B. Burch, III

FILED
SEP 14 1962
ALICE J. DUCK, CLERK REGISTER

5235

DEMURRER

THOMAS W. TRAWICK,

Plaintiff,

VS.

PARGO, INCORPORATED, a corporation, ET AL.,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 5235

FILED
SEP 14 1962
ALICE J. DUCK, CLERK
REGISTER

THOMAS W. TRAWICK,	)	
	)	
Plaintiff	)	IN THE CIRCUIT COURT OF
	)	
Vs.	)	BALDWIN COUNTY, ALABAMA
	)	
PARGO, INCORPORATED, a Corporation, LAKE FOREST, INCORPORATED, a corporation, and JOSEPH B. BURCH, III,	)	AT LAW
	)	CASE NO. 5235
	)	
	)	
Defendants	)	

AMENDED BILL OF COMPLAINT

Comes now the Plaintiff in the above styled cause and amends Count One and Count Two of the Bill of Complaint to read as follows:

COUNT ONE:

Plaintiff claims of the Defendants the sum of Fifty Thousand and no/100 ($50,000.00) Dollars, damages, for that, on to-wit, the 12th day of August, 1961, the Defendants were engaged in the business of renting electric golf carts to the public for hire to be used on the Lake Forest Country Club at Spanish Fort, Baldwin County, Alabama; that on, to-wit, said day and date as aforesaid, the Defendants rented one of its said carts to the Plaintiff at the Lake Forest Country Club in said County and State, with the brakes of said cart in a defective and dangerous condition, in that there was a bent brake rod, and thereafter while the said cart so rented, on said day and date as aforesaid, was being driven by the Plaintiff, the Plaintiff applied said defective brakes between number three (3) fairway and number four (4) fairway of the Lake Forest Country Club and said defective brakes failed to stop the cart because of the defective condition of said brakes; the cart turned over and against the Plaintiff and the Plaintiff received severe personal injuries in this, to-wit: He was knocked to the ground; he was rendered unconscious; he suffered a number of contusions and abrasions on the face, body and leg; part of his right ear was torn off and his jaw bones were broken on each side; he was permanently injured and permanently disfigured; he was caused to incur considerable expenses for medicine, surgical, and hospital treatment, nurses, doctors, and etc; he was incapacitated and unable to work for a number of weeks.

Plaintiff avers that the Defendants negligently rented said cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and as a proximate consequence of said negligence of the Defendants the Plaintiff was injured and damaged as aforesaid, hence this suit.

COUNT TWO:

Plaintiff claims of the Defendants, separately and severally, the sum of Fifty Thousand and no/100 ($50,000.00) Dollars as damages, for that, on to-wit, the 12th day of August, 1961, the Defendants Pargo, Incorporated and Joseph B. Burch, III, then and there acting within the line and scope of their employment as agent or servant of the defendant, Lake Forest, Incorporated, were engaged in the business of renting electric golf carts for hire to be used on the golf course and known as the Lake Forest Country Club which Club is owned and operated by the Defendant Lake Forest, Incorporated at Spanish Fort, Baldwin County, Alabama; that on, to-wit, said day and date as aforesaid, the Defendants rented one of its said carts to the Plaintiff with the brakes of said cart in a defective and dangerous condition, in that there was a bent brake rod, and thereafter, on said day and date as aforesaid, while the said cart was so rented and driven by the Plaintiff on the Lake Forest Country Club between fairway number three (3) and fairway number four (4) the Plaintiff applied said defective brakes and said brakes failed to stop said cart because of the defective condition of said brakes and the said cart was run against and over the Plaintiff and the Plaintiff thereby received severe personal injuries in this, to-wit: He was knocked to the ground; he was rendered unconscious; he suffered a number of contusions and abrasions on his face, body and legs; his right ear was torn off and his jaw bones were broken on each side; he was permanently injured and permanently disfigured; he was caused to incur considerable expenses for medicine, surgical, and hospital treatment, nurses, doctors, and etc; he was incapacitated and unable to work for a number of weeks.

Plaintiff avers that the Defendants negligently rented said cart to the Plaintiff with the brakes of said cart in a defective and dangerous condition, and as a proximate consequence of said negligence of the Defendants, the Plaintiff was injured and damaged as aforesaid, hence this suit.

ERNEST M. BAILEY
Attorney for Plaintiff

For the trial of this cause the Plaintiff demands a trial by Jury.

ERNEST M. BAILEY
Attorney for Plaintiff

FILED
JAN 19
ALICE J. DUCK, CLERK
REGISTER

AMENDED BILL OF COMPLAINT

THOMAS W. TRAWICK,

Plaintiff

Vs.

PARGO, INCORPORATED, a Cor
poration, ET AL,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. 5235

Ernest M. Bailey, Attorney
for the Plaintiff

THOMAS W. TRAWICK,	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
Vs.	)	BALDWIN COUNTY, ALABAMA
PARGO, INC., a corporation, LAKE FOREST, INC., a corporation, and JOSEPH B. BURCH, III,	)	AT LAW
	)	CASE NO. 5235
Defendants.	)	

APPEAL

Comes now the Plaintiff in the above styled cause and gives notice of appeal from the judgment of the Circuit Court rendered on the 10 day of September, 1963, and also from the judgment of said Court over-ruling his Motion for New Trial entered on the 6 day of November, 1963, to the Supreme Court of Alabama.

WILTERS & BRANTLEY

BY: Delbert M Brantley
Attorneys for Plaintiff

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA -- GREETINGS:

You are hereby commanded to summon J. B. Blackburn, Attorney of Record for Pargo, Inc., a corporation, Lake Forest, Inc., a corporation, and Joseph B. Burch, III, to appear at the next term of the Supreme Court of said State, then and there to defend an appeal which Thomas W. Trawick has this day sued out, and returnable to said Court, to reverse the judgment of the Circuit Court of Baldwin County, Alabama, and make immediate return of this writ.

Witness my hand this the 16 day of December, 1963.

Alice J. Duck
Alice J. Duck, Clerk of the Circuit Court

Executed by serving a copy of the within on J. B. Blackburn.

This the 18 day of December, 1963.

Taylor Wilkins By A. Gilbert
Taylor Wilkins, By Deputy Sheriff

7052355

Thomas W. Fredricks

vs.

Fargo Inc.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19 64-65

To the Clerk *of the* Circuit *Court,*

Baldwin *County—Greeting:*

Whereas, the Record and Proceedings of the Circuit *Court*

of said county, in a certain cause lately pending in said Court between

Thomas W. Trawick, *Appellant*,

and

Fargo, Inc., Lake Forest, Inc., a Corp. & Joseph B. Burch, III, *Appellee*,

wherein by said Court it was considered adversely to said appellant, were brought before our Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ordered, and adjudged by our Supreme Court, on the 19th *day of* November, 19 64, *that said* judgment *of said* Circuit *Court be in all things affirmed, and that it was further considered, ordered, and adjudged that the appellant, and* Tolbert M. Brantley and Harry J. Wilters, Jr., sureties on the appeal bond, pay

the costs accruing on said appeal in this Court and in the Court below, for which costs let execution issue.

Witness, J. Render Thomas, Clerk of the Supreme Court of Alabama, at the Judicial Department Building, this the 19th *day of* November, 19 64

J. Render Thomas

Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

October Term, 19 64-65

1 Div., No. 201

Thomas W. Trawick

Appellant,

vs.

Fargo, Inc., Lake Forest, Inc., a Corp. & Joseph B. Burch, III

Appellee.

From Baldwin Circuit Court.

CERTIFICATE OF AFFIRMANCE

The State of Alabama,
Baldwin County. } Filed

this 1-6 day of Nov 1966

Alice Jalnek

BROWN PRINTING CO., MONTGOMERY

THOMAS W. TRAWICK,	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
Vs.	)	BALDWIN COUNTY, ALABAMA
PARGO, INC., a corporation, LAKE FOREST, INC., a corporation, and JOSEPH B. BURCH, III,	)	AT LAW
	)	CASE NO. 5235
Defendants.	)	

We hereby acknowledge ourselves security for costs of appeal to the Supreme Court in the above case.

FILED

DEC 15 1983

ALICE I. DUCK, CLERK REGISTER

THOMAS W. TRAWICK,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
Vs.	X	BALDWIN COUNTY, ALABAMA
	X	AT LAW
PARGO, INC., a corporation, LAKE FOREST, INC., a corporation, and JOSEPH B. BURCH, III,	X	CASE NO. 5235
	X	
Defendants.	X	

We hereby acknowledge ourselves security for costs of appeal to the Supreme Court in the above case.

Delbert M Brantley

Tony J Wilters Jr

FILED

DEC 15 1983

WINE I. DUCK, CLERK
REGISTER

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1964-65

1 Div. 201

Thomas W. Traswick

v.

Pargo, Incorporated, a Corporation, et al.

Appeal from Baldwin Circuit Court

PER CURIAM.

This is an appeal by plaintiff in the court below from a judgment rendered by the circuit court of Baldwin County, in favor of defendants, Pargo, Incorporated, a corporation, and Joseph E. Burch, III. The judgment was

based on a jury's verdict directed for defendants by the trial judge, because the plaintiff failed to adduce any evidence to sustain his allegation of negligence.

The complaint was amended by striking Lake Forest, Incorporated, against whom count two, as amended, was directed. When this defendant was stricken count two was in effect stricken, leaving only count one, as amended, for consideration.

Plaintiff in count one sought damages for personal injuries he received when an electric golf cart he had co-rented and was occupying with another co-renter overturned while in motion on the golf course at Lake Forest Country Club. The plaintiff alleged that defendants (appellees) negligently rented said cart to plaintiff with the brakes thereon in a defective and dangerous condition, and as a proximate consequence of said negligence he suffered certain personal injuries that were catalogued in the complaint.

Several assignments of error appear in the record, but only one is insisted on. This assignment charges error on the part of the court in directing the jury (without hypothesis) to return a verdict for the defendants. We have consistently held that assignments of error not sufficiently argued are waived. McGee v. Frost, 268 Ala. 23, 24, 104 So. 2d 905(1).

We are impelled to pretermit consideration of the one assignment referred to in appellant's brief because,

first, appellant failed to observe the mandate of subsection (b) of Rule 9, Revised Rules of the Supreme Court, effective June 1, 1955, 261 Ala. XIX, XXII, which requires " * * * a condensed recital of the evidence in narrative form so as to present the substance clearly and concisely, referring to the pages of the transcript, and if the insufficiency of the evidence to sustain the verdict or finding, in fact or law, is assigned, then the statement shall contain a condensed recital of the evidence given by each witness in narrative form bearing on the points in issue so as to fully present the substance of the testimony of the witness clearly and concisely; * * * ." This recital must appear in the brief under the heading "Statement of the Facts."

Appellant's brief fails to comply with the above mandate of the court. The record before us contains 65 transcript pages of testimony by several witnesses, which is omissively condensed into slightly more than three letter size pages forming a part of appellant's brief. The central theme of the purported narration hovers closely, but not exclusively, to what happened just before and after the accident, and directed to the finding, after the accident, of bent brake rods, which appellant contends were sufficient to make a jury question of his allegation of negligently furnishing a cart with faulty brakes.

We are further impelled to state that appellant's contention in his brief that the discovery of bent brake rods

after the accident was sufficient to present a jury question of negligence is more of a conclusion than a helpful argument. No cases or points of law were cited which support this contention. We are aware that the scintilla rule prevails in this state. Patterson v. Seibenhener, 273 Ala. 204, 137 So. 2d 758(2-4), but whether the bent brake rods discovered after the accident are sufficient to invoke the scintilla rule is not sufficiently argued to meet the requirement of Rule 9, supra.

We think the enforcement of Rule 9, supra, should be observed to promote the efficient disposition of appeals to this court. We regretfully apply the rule.

The judgment of the trial court is affirmed.

The foregoing opinion was prepared by B. W. Simmons, Supernumerary Circuit Judge, and was adopted by the court as its opinion.

Affirmed.

Livingston, C. J., Lawson, Goodwyn and Coleman, JJ., concur.

STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st *Div., No.* 201

Thomas W. Trawick, *Appellant*,

v.

Pargo, Incorporated, a Corporation, et al., *Appellee*,

From Baldwin Circuit *Court.*

The State of Alabama.
City and County of Montgomery.

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages numbered from one to four *inclusive, contain a full, true, and correct copy of the* opinion of

said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme Court of Alabama, this the 19th *day of* November 19 64

J. Render Thomas
Clerk of the Supreme Court of Alabama

THE SUPREME COURT OF ALABAMA

1st *Div., No.* 201

Thomas W. Trawick

Appellant,

v.

Pargo, Incorporated, a Corp.,

et al.

Appellee.

From Baldwin Circuit *Court.*

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Opinion

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THOMAS W. TRAWICK VS PARCO, INCORPORATED, a corp

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