

MILDRED ECKART,

VS.

Plaintiff,

MICHAEL WAYNE COLA, DAVID  
HARVEY KNIZLEY and H. L.  
KNIZLEY,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5262

COMPLAINT


COUNT ONE

The plaintiff claims of the defendants the sum of One Hundred Thousand Dollars (\$100,000.00) as damages for that heretofore on, to-wit, September 4, 1961, the defendant, Michael Wayne Cola, an agent, servant or employee of the defendant, David Harvey Knizley, while acting within the line and scope of his authority as such agent, servant or employee, so negligently operated the motor vehicle which he was then and there driving on Alabama State Highway Number 187 in the Gulf State Park in Baldwin County, Alabama, as to cause or allow the said motor vehicle to run into, upon or against an automobile in which the plaintiff was then and there riding as a passenger, and as a proximate result of the negligence of the defendant as aforesaid the plaintiff's right leg was broken, her right kneecap was crushed, she was made sore and lame, she was caused to suffer mental and physical pain and anguish, she was permanently injured and still suffers and will suffer in the future from the said injuries; she was caused to incur great expense for medical care and attention in and about the treatment of her said injuries, all as a proximate consequence of the negligence of the defendant as aforesaid, hence this suit.

COUNT TWO

The plaintiff claims of the defendants the sum of One Hundred Thousand Dollars (\$100,000.00) as damages for that heretofore on, to-wit, September 4, 1961, the defendant, Michael Wayne Cola, an agent, servant or employee of the defendant, H. L. Knizley, while acting within the line and scope of his authority as such agent, servant or employee, so negligently operated the motor vehicle which he was then and there driving on Alabama State Highway Number 187 in the Gulf State Park in Baldwin County, Alabama, as to cause

or allow the said motor vehicle to run into, upon or against an automobile in which the plaintiff was then and there riding as a passenger, and as a proximate result of the negligence of the defendant as aforesaid the plaintiff's right leg was broken, her right kneecap was crushed, she was made sore and lame, she was caused to suffer mental and physical pain and anguish, she was permanently injured and still suffers and will suffer in the future from the said injuries; she was caused to incur great expense for medical care and attention in and about the treatment of her said injuries, all as a proximate consequence of the negligence of the defendant as aforesaid, hence this suit.

  
Attorney for plaintiff

Plaintiff demands a trial of  
said cause by jury.

  
Attorney for plaintiff

**FILED**

AUG 30 1962

ALICE L. DICK, CLERK  
REGISTER

File 5262 3321  
SUMMONS AND COMPLAINT

EXECUTED

This 31 day of Aug, 1962

by serving a copy of the within on

Michael Wayne Cola

RAY D. BRIDGES, Sheriff

By H. H. Halley, D.S.

MILDRED ECKART,

VS.

Plaintiff,

31/8/62  
MICHAEL WAYNE COLA, DAVID HARVEY  
KNIZLEY and H. L. KNIZLEY, et al

Defendants.

EXECUTED

This 4 day of Sept, 1962

by serving a copy of the within on

David Harvey Knizley

RAY D. BRIDGES, Sheriff

By H. H. Halley, D.S.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. \_\_\_\_\_

EXECUTED

This 4 day of Sept, 1962

by serving a copy of the within on

H. L. Knizley

RAY D. BRIDGES, Sheriff

By H. H. Halley, D.S.

FILED

AUG 30 1962

ALICE J. DUCK, CLERK  
REGISTER

RECEIVED

AUG 31 1962

SHERIFF'S OFFICE

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

8/30/62

MILDRED ECKART,

Plaintiff,

vs.

MICHAEL WAYNE COLA, DAVID  
HARVEY KNIZLEY and H. L.  
KNIZLEY,

Defendants.

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

Come David Harvey Knizley and H. L. Knizley and show unto this Honorable Court that their co-defendant in this cause, Michael Wayne Cola, is a minor.

The said David Harvey Knizley and H. L. Knizley, jointly and separately, demur to plaintiff's complaint, and to each count thereof, jointly and separately, and as grounds for said demurrer assign, jointly and separately, the following:

1. Because it is not alleged in nor shown by the averments of said count that this defendant or his agent, servant or employee violated a duty owed to the plaintiff.

2. Because said count does not show that this defendant or his agent, servant or employee owed to the plaintiff a duty and that there was a breach of this duty proximately causing the injury to plaintiff.

3. Because said count does not sufficiently show the nature of the negligence charged against this defendant.

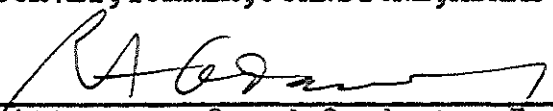
4. For that there is a misjoinder of causes of action.

5. For that there is a misjoinder of defendants.

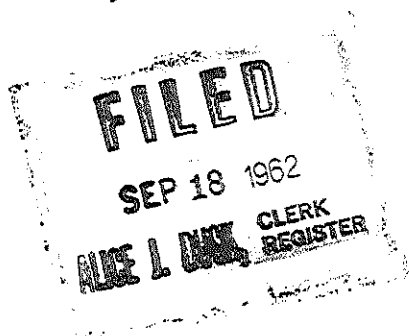
6. For that, construing the pleadings most strongly against the pleader, it affirmatively appears that plaintiff is not entitled to recover from the defendants or from either of them.

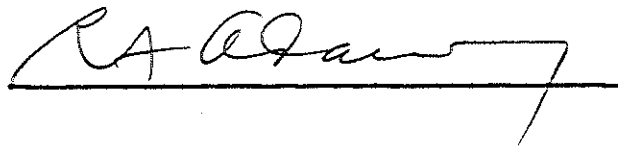
MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

By

  
Attorneys for defendants, David  
Harvey Knizley and H. L. Knizley

I hereby certify that I have this day, September 17, 1962, served a copy of the foregoing demurrer on the Honorable J. B. Blackburn by mailing a copy to him at his office in Bay Minette, Alabama.





57-62


McCORVEY, TURNER, JOHNSTONE, ADAMS & MAY  
ATTORNEYS AT LAW  
NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING  
MOBILE, ALABAMA

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon MICHAEL WAYNE COLA, DAVID HARVEY KNIZLEY and H. L. KNIZLEY to appear within thirty 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 MILDRED ECKART.

WITNESS my hand this 30 day of August, 1962.

  
Clerk of the Circuit Court

The defendant, Michael Wayne Cola, resides at 2505 Highland Drive, Mobile, Alabama.

The defendants, David Harvey Knizley and H. L. Knizley, reside at 420 Bear Fork Road, Whistler, Alabama.

EN- 8-31-62  
9-4-62