

JURY LIST - MARCH 9, 1964.

(5521)

5521
Shuman
M. Davis
03

1. Beck, Charles C., Businessman, Lillian
2. Blalock, Greene C., Carpenter, Fairhope
3. Bloch, Herman, Farmer, Elberta
4. Malone, T.E., Merchant, Fairhope
5. Mason, Jimmy, Salesman, Fairhope
6. Mosley, Rufus, Farmer, Stapleton
7. Eslava, Clarence, Farmer, Mag. Spgs.
8. Haden, James T., Salesman, Robertsdale
9. Quinley, Wilburn, Farmer, Bay Minette
10. Rhodes, Charles R., Farmer, Foley
11. Rhodes, Larkin T., Jr., Farmer, Bay Minette
12. Rieben, Ray, Paper Mill, Bay Minette
13. Roberson, Mutt, Laborer, Robertsdale
14. Lazzari, Anglo, Farmer, Belforest
15. Lazzari, Joe, Jr., Farmer, Belforest
16. Lazzari, John, Farmer, Belforest
17. Lager, J.E., Salesman, Foley
18. Little, W.F., Mgr. Bell Tele. Commercial, Spanish Fort
19. Robinson, Dale L., Ins. Agt., Foley
20. Sanders, E. Frank, Banker, Foley
21. Andress, Herbert E., Farmer, Foley
22. Dickey, O.L., Butcher, Robertsdale
23. Crosby, James W., Bookkeeper, Foley
24. Arnould, M.L., Floor Finisher, Robertsdale
25. Barton, John, Jr., Newport, Bay Minette
26. Thompson, Albert M., Merchant, Bay Minette
27. Wenzel, Emmett O., Merchant, Gulf Shores
28. Woodward, C.H., Merchant, Fairhope
29. Wright, Justice D., Forester, Stapleton
30. Boan, Jessie Forest, Farmer, Stapleton
31. Bung, Floyd, Merchant, Fairhope
32. Oblak, John, Jr., Farmer, Silverhill
33. Leiterman, Nick, Civil Service, Elberta
34. Smith, Clinton, Defense Worker, Bay Minette
35. Suddith, Jack, Officer Manager, Bay Minette
36. Bosby, Eugene, Construction Worker, Fairhope
37. Bryant, Nathan, Clerk, Fairhope
38. Denton, Alphonse, Carpenter, Fairhope
39. Lamar, Reuben, Laborer, Foley
40. McReynolds, Leon, Labor Worker, Bay Minette
41. Moore, Jessie, Court House, Bay Minette
42. Wilson, Frank E., Brookley Field, Daphne
43. Tullos, Abe, Brookley Field, Fairhope
44. Nix, C. Herbert, Reserve Fleet, Bay Minette

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A. FLETCHER GORDON
ATTORNEY AT LAW
1607-10 MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

March 22, 1963

Clerk, Circuit Court of Baldwin County
County Court House
Bay Minette, Alabama

ATTENTION: Mrs. Alice J. Duck

Dear Mrs. Duck:

We herewith enclose complaint in the case of Clarice H. Shinn vs. J.C. McDaris, which we ask that you file for us. We will appreciate your advising us as to the filing date and we will furnish you any other information which may be needed.

With kindest personal regards , we are

Yours very truly,



A. FLETCHER GORDON

AFG/cb

Enclosure as noted.

CLARICE H. SHINN,)	IN THE CIRCUIT COURT OF
)	
Plaintiff,)	BALDWIN COUNTY, ALABAMA
)	
vs.)	
)	AT LAW
J. C. McDARIS, individually and)	
d/b/a J. C. McDARIS SERVICE)	
STATION,)	
)	NO. <u>552/</u>
Defendant.)	
)	

COUNT ONE

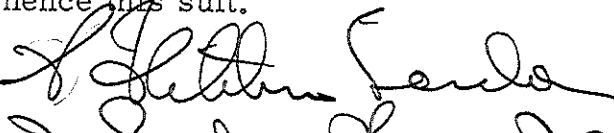
The Plaintiff claims of the Defendant the sum of TEN THOUSAND and no/100 (\$10,000.00) DOLLARS as damages, for that, heretofore, on, to-wit, October 17, 1962, at approximately 3 o'clock P.M. , the Plaintiff was walking around the gasoline pumps located in front of and on the premises of the Defendant while transacting business with the Defendant and at a place allowed for the passage of customers to and from their automobiles; that while walking in a careful and prudent manner, one of Plaintiff's feet came into contact with an oily substance which was then and there upon the hard ground surrounding said gasoline pumps on the Defendant's premises, with the result that the foot of the Plaintiff slipped on said oily substance and Plaintiff was caused to fall upon the said ground with great force and violence striking her legs and body upon said ground with great force and violence; that said oily substance was slippery and rendered said ground dangerous for use as a passage way for customers; that the Defendant well knew that unless vigilance was used slippery substances would accumulate on the said hard ground; that said oily substance had been on said ground for such a period of time immediately preceding the happening of said accident that persons of ordinary prudence in the position of Defendant should have known of the same and in the exercise of ordinary care would have had a reasonable opportunity to remove the same prior to the happening of said accident

herein alleged; that the Defendant after having such notice as aforesaid of the dangerous condition caused by said oily substance upon said ground, negligently failed and omitted to remove the same within a reasonable time and negligently failed to remove the same or take any precaution to prevent injury to invitees as a result thereof; that as a proximate result of the aforesaid negligence of Defendant, Plaintiff sustained the following painful injuries, to-wit: Plaintiff was injured, cut and bruised, sustaining cuts in and around the tibial area of her right leg, said cuts having penetrated to the depth of the periosteal sheath. That by reason of said injuries, Plaintiff was hindered and prevented from attending work, thereby losing time from work and earnings therefrom; and by reason of such injuries so sustained plaintiff respectfully claims damages in the aforesaid sum.

COUNT TWO

Plaintiff claims of the Defendant the sum of TEN THOUSAND and no/100 (\$10,000.00) DOLLARS for that the Defendant, on, to-wit, the 17th day of October, 1962, was engaged in the business of operating a gasoline filling station for profit in the Town of Robertsedale, Baldwin County, Alabama, and then and there held himself out to the public as being open for business, that at said time and place Plaintiff entered upon the premises on which Defendant conducted his said business as a customer of Defendant and purchased gasoline from Defendant for which she paid the charges therefor and while then and there walking on said premises in the area provided there by the Defendant for such purposes, Plaintiff slipped upon an oily substance which Defendant had neglected, failed to remove, or allowed to remain on said area, and fell upon her right leg and as a proximate result of Defendant's negligence, as aforesaid, Plaintiff was injured in and about her person as follows: She received cuts and bruises, sustaining cuts in and around the tibial

area of her right leg, said cuts having penetrated to the depth of the periosteal sheath and that she was otherwise bruised and injured in and about her person, and was thereby caused to lose sleep and suffer much pain and mental anguish and lost much time from her employment resulting in loss of earnings, and was required to spend large sums of money for doctors and medical care and treatment, all to her damage in the above amount, hence this suit.


J. Gordon Lowe Jr.
ATTORNEY FOR PLAINTIFF.

Defendant may be served:

J. C. McDaris Service Station
Robertsdale, Alabama

Plaintiff demands a trial by jury in the above cause.


ATTORNEY FOR PLAINTIFF.

FILED

MAR 25 1963

ALICE I. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,
Baldwin County.

Circuit Court, Baldwin County

No. 5521

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon J.C. McDaris, Ind. & d/b/a J.C. McDaris Service Station

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

J.C. McDaris, Ind. & d/b/a J.C. McDaris Service Station, Defendant

by Clarice H. Shinn

Plaintiff

Witness my hand this 25 day of March 19 63

64-4-2-63 Alice J. Shuck, Clerk

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

CLARICE H. SHINN

Plaintiffs

vs.

J. G. McDARIS, Ind. & d/b/a

J. G. McDARIS SERVICE STATION

Defendants

Summons and Complaint

Filed March 25, 1963

Alice J. Duck Clerk

A. Fletcher Gordon

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

March 25, 1963

Sheriff.

I have executed this summons

this

April 2

1963

by leaving a copy with

J. G. McDaris
J. G. McDaris
d/b/a J. G. McDaris
Service Station

Sheriff claims

50

miles at

Ten Cents per mile

Total \$

5.00

TAYLOR WILKINS, Sheriff

BY

DEPUTY SHERIFF

Sheriff.

Deputy Sheriff.

CLARICE H. SHINN,

Plaintiff,

vs.

J. C. McDARIS, individually
and d/b/a J. C. McDARIS
SERVICE STATION,

Defendant.

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§

§

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

DEMURRER

Comes the Defendant in the above styled cause and demurs to the Complaint filed in said cause, and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That the complaint does not state a cause of action.
2. That each count of said complaint is vague and indefinite.
3. That said complaint does not allege any duty owing by the Defendant to the Plaintiff.
4. That "COUNT ONE" of the complaint does not sufficiently set out where the accident occurred.
5. That "COUNT ONE" of said complaint does not sufficiently set out where the "oily substance" was located.
6. That it is not alleged that the place where the "oily substance" was located was in a passageway for customers.
7. That "COUNT ONE" of the complaint does not charge any negligence to the Defendant.
8. That "COUNT ONE" of the complaint does not allege how long the premises had been in its then condition, prior to such accident.
9. For aught that appears from said complaint the Plaintiff was a trespasser at the time the accident occurred.
10. That "COUNT ONE" of the complaint does not allege that the Plaintiff was there on business or had any reason to be on the

premises of the Defendant.

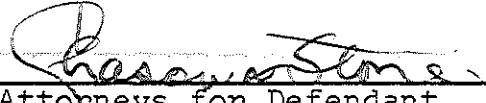
11. That it is not alleged in the complaint in "COUNT ONE" that the Plaintiff was employed at the time of the accident and lost time from her work as a result of her injuries.

12. That "COUNT ONE" of the complaint fails to allege how much time the Plaintiff lost from her employment as a result of her injuries.

13. That "COUNT TWO" of the complaint does not allege that the Defendant knew of the oily substance referred to therein.

14. That "COUNT TWO" of the complaint does not allege any negligence on the part of the Defendant.

15. That "COUNT TWO" of the complaint does not allege that the Plaintiff was employed at the time of her accident nor how much time she lost from such employment as a result of her injuries.


Attorneys for Defendant

FILED
APR 8 1963
ALICE I. DUCK, CLERK
REGISTER

5521

CLARICE H. SHINN,
Plaintiff,

vs.

J. C. McDARIS, individually
and d/b/a J. C. McDARIS SERVICE
STATION,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

DEMURRER:

FILED
APR 8 1963
ALICE J. DUCK, CLERK

CLARINE H. SHINN,	§	IN THE CIRCUIT COURT OF
Plaintiff,	§	
-vs-	§	BALDWIN COUNTY, ALABAMA
J. C. McDARIS, individually and	§	
d/b/a J. C. McDARIS SERVICE	§	AT LAW
STATION,	§	
Defendant.	§	NO. <u>5521</u>

AMENDED COMPLAINT

COUNT ONE

The Plaintiff claims of the Defendant the sum of TEN THOUSAND and no/100 (\$10,000.00) DOLLARS as damages, for that, heretofore, on, to-wit, October 17, 1962, at approximately 3 o'clock P. M., the Plaintiff was walking around the gasoline pumps located in front of and on the premises of the Defendant while transacting business with the Defendant and at a place allowed for the passage of customers to and from their automobiles; that while walking in a careful and prudent manner, one of Plaintiff's feet came into contact with an oily substance which was then and there upon the hard ground surrounding said gasoline pumps on the Defendant's premises, with the result that the foot of the Plaintiff slipped on said oily substance and Plaintiff was caused to fall upon the said ground with great force and violence striking her legs and body upon said ground with great force and violence; that said oily substance was slippery and rendered said ground dangerous for use as a passageway for customers; that the Defendant well knew that unless vigilance was used slippery substances would accumulate on the said hard ground; that said oily substance had been on said ground for such a period of time immediately preceding the happening of said accident that persons of ordinary prudence in the position of Defendant should have known of the same and in

the exercise of ordinary care would have had a reasonable opportunity to remove the same prior to the happening of said accident herein alleged; that the Defendant after having such notice as aforesaid of the dangerous condition caused by said oily substance upon said ground, negligently failed and omitted to remove the same within a reasonable time and negligently failed to remove the same or take any precaution to prevent injury to invitees as a result thereof; that as a proximate result of the aforesaid negligence of Defendant, Plaintiff sustained the following painful injuries, to-wit: Plaintiff was injured, cut and bruised, sustaining cuts in and around the tibial area of her right leg, *was thereby caused to incur great medical expense in the care and treatment of said wounds and* said cuts having penetrated to the depth of the periosteal sheath. That by reason of said injuries, Plaintiff was hindered and prevented from attending work, thereby losing five weeks' time from work and earnings therefrom; and by reason of such injuries so sustained Plaintiff respectfully claims damages in the aforesaid sum.

COUNT TWO

Plaintiff claims of the Defendant the sum of TEN THOUSAND and no/100 (\$10,000.00) DOLLARS for that the Defendant, on, to-wit, the 17th day of October, 1962, was engaged in the business of operating a gasoline filling station for profit in the Town of Robertsdale, Baldwin County, Alabama, and then and there held himself out to the public as being open for business, that at said time and place Plaintiff entered upon the premises on which Defendant conducted his said business as a customer of Defendant and purchased gasoline from Defendant from which she paid the charges therefor and while then and there walking on said premises in the area provided there by the Defendant for the passageway for customers, Plaintiff slipped upon an oily substance which was then and there upon the ground in said passageway; that the Defendant well knew that unless vigilance was used slippery substances

would accumulate on the said hard ground; that said oily substance had been on said ground for such a period of time immediately preceding the happening of said accident that persons of ordinary prudence in the position of Defendant should have known of the same and in the exercise of ordinary care would have had a reasonable opportunity to remove the same prior to the happening of said accident herein alleged; that the Defendant after having such notice as aforesaid of the dangerous condition caused by said oily substance upon said ground, negligently failed and omitted to remove the same within a reasonable time and negligently failed to remove the same or take any precaution to prevent injury to invitees as a result thereof; that as a proximate result of the aforesaid negligence of Defendant, Plaintiff sustained the following painful injuries, to-wit: Plaintiff was injured, cut and bruised, sustaining cuts in and around the tibial area of her right leg, said cuts having penetrated to the depth of the periosteal sheath. That by reason of said injuries, Plaintiff was hindered and prevented from attending work, ^{was thereby caused to} thereby losing five weeks' time from work and earnings therefrom; and by reason of such injuries so sustained Plaintiff respectfully claims damages in the aforesaid sum.

GORDON, COBB & HOUSE

By J. Gordon House, Jr.
ATTORNEYS FOR PLAINTIFF

I hereby certify that I have served a copy of the foregoing Amended Complaint upon the Defendant's attorney, Hon. John Chason, by United States mail, postage prepaid, properly addressed to him at his office in the Arcade Building, Bay Minette, Alabama on this the 16th day of July, 1963.

J. Gordon House, Jr.

FILED

JUL 17 1963

ALICE L. DUCK, CLERK
REGISTER

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incurred great medical expense in the care and treatment of said wounds and

CLARINE H. SHINN,	§		
Plaintiff,	§	IN THE CIRCUIT COURT OF	
vs.	§		
	§	BALDWIN COUNTY, ALABAMA	
J. C. McDARIS, individually	§		
and d/b/a J. C. McDARIS	§	AT LAW	NO. 5521
SERVICE STATION,	§		
Defendant.	§		

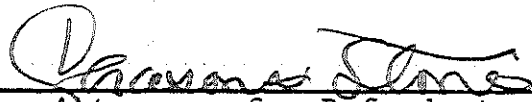
DEMURRER

Comes the Defendant in the above styled cause and demurs to the amended complaint filed in said cause and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said amended complaint does not allege any duty owing by the Defendant to the Plaintiff.
2. That the amended complaint does not allege that the Defendant negligently injured the Plaintiff.
3. That the place where the accident occurred is not set out in "COUNT ONE" of the amended complaint.
4. For aught that appears from "COUNT ONE" of the amended complaint, the injury did not occur in Baldwin County, Alabama.
5. Said amended complaint is vague and indefinite.
6. The allegation in "COUNT ONE" of the amended complaint that the Plaintiff was walking at a place allowed for the passage of customers to and from their automobiles is but a conclusion of the pleader and does not allege that such place was where the Plaintiff was supposed to walk when transacting such business.
7. That the place where the oily substance was supposed to be is not sufficiently set out in the amended complaint.
8. The allegation that the Defendant well knew that unless vigilance was used slippery substances would accumulate on the hard ground is but a conclusion of the pleader.

9. That said amended complaint fails to state how long the oily substance had been on the ground or that the Defendant knew that it was there.

10. That said amended complaint does not allege that the Plaintiff had any employment at the time of her injury.


Attorneys for Defendant

FILED

JUL 22 1963

MICHAEL L. DUCK, CLERK
REGISTER

CLARINE H. SHINN,

Plaintiff,

vs.

J. C. McDARIS, individually
and d/b/a J. C. McDARIS
SERVICE STATION,

Defendant

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5521

* * * * *

DEMURRER

* * * * *

FILED

JUL 22 1983

VICE L. DICK, CLERK
REGISTER

CLARINE H. SHINN,	§	IN THE CIRCUIT COURT
Plaintiff,	§	OF BALDWIN COUNTY,
-vs-	§	ALABAMA
J. C. McDARIS, individually and	§	
d/b/a J. C. McDARIS SERVICE	§	AT LAW
STATION.	§	
Defendant.	§	NO. 5521

COMPLAINT AS LAST AMENDED

COUNT ONE

The Plaintiff claims of the Defendant the sum of TEN THOUSAND and no/100 (\$10,000.00) DOLLARS as damages, for that, heretofore, on, to-wit, October 17, 1962, at approximately 3 o'clock P.M., the Plaintiff was walking around the gasoline pumps located in front of and on the premises of the Defendant in the Town of Robertsdale, Baldwin County, Alabama, while transacting business with the Defendant and at a place allowed for the passage of customers to and from their automobiles; that while walking in a careful and prudent manner, one of Plaintiff's feet came into contact with an oily substance which was then and there upon the hard ground surrounding said gasoline pumps on the Defendant's premises, with the result that the foot of the Plaintiff slipped on said oily substance and Plaintiff was caused to fall upon the said ground with great force and violence striking her legs and body upon said ground with great force and violence; that said oily substance was slippery and rendered said ground dangerous for use as a passageway for customers; that the Defendant well knew that unless vigilance was used slippery substances would accumulate on the said hard ground; that said oily substance had been on said ground for such a period of time immediately preceding the happening of said accident that persons of ordinary prudence in the position of Defendant should have known of the same and in the exercise of ordinary care would

have had a reasonable opportunity to remove the same prior to the happening of said accident herein alleged; that the Defendant after having such notice as aforesaid of the dangerous condition caused by said oily substance upon said ground, negligently failed and omitted to remove the same within a reasonable time and negligently failed to remove the same or take any precaution to prevent injury to invitees as a result thereof; that as a proximate result of the aforesaid negligence of Defendant, Plaintiff sustained the following painful damages and injuries, to-wit: Plaintiff was injured, cut and bruised, sustaining cuts in and around the tibial area of her right leg, said cuts having penetrated to the depth of the periosteal sheath; and Plaintiff was hindered and prevented from performing the work in which she was then actively engaged as a beauty shop operator, thereby losing five weeks' time from her work and earnings therefrom; hence Plaintiff respectfully claims damages in the aforesaid sum.

COUNT TWO

Plaintiff claims of the Defendant the sum of TEN THOUSAND and no/100 (\$10,000.00) DOLLARS for that the Defendant, on, to-wit, the 17th day of October, 1962, was engaged in the business of operating a gasoline filling station for profit in the Town of Robertsdale, Baldwin County, Alabama, and then and there held himself out to the public as being open for business, that at said time and place Plaintiff entered upon the premises on which Defendant conducted his said business as a customer of Defendant and purchased gasoline from Defendant from which she paid the charges therefor and while then and there walking on said premises in the area provided there by the Defendant for the passageway for customers, Plaintiff slipped upon an oily substance which was then and there upon the ground in said passageway; that the Defendant well knew that unless vigilance was used slippery substances would accumulate on the said hard ground; that said oily substance had been on said ground for such

a period of time immediately preceding the happening of said accident that persons of ordinary prudence in the position of Defendant should have known of the same and in the exercise of ordinary care would have had a reasonable opportunity to remove the same prior to the happening of said accident herein alleged; that the Defendant after having such notice as aforesaid of the dangerous condition caused by said oily substance upon said ground, negligently failed and omitted to remove the same within a reasonable time and negligently failed to remove the same or take any precaution to prevent injury to invitees as a result thereof; that as a proximate result of the aforesaid negligence of Defendant, Plaintiff sustained the following damages and painful injuries, to-wit: Plaintiff was injured, cut and bruised, sustaining cuts in and around the tibial area of her right leg, said cuts having penetrated to the depth of the periosteal sheath; and Plaintiff was hindered and prevented from performing the work in which she was then actively engaged as a beauty shop operator, thereby losing five weeks' time from her work and earnings therefrom; hence Plaintiff respectfully claims damages in the aforesaid sum.

GORDON, COBB & HOUSE

By J. Gordon House, Jr.
ATTORNEYS FOR PLAINTIFF

I hereby certify that I have served a copy of the foregoing Complaint As Last Amended upon the Defendant's attorney, Hon. John Chason, by United States mail, postage prepaid, properly addressed to him at his office in the Arcade Building, Bay Minette, Alabama on this the 10th day of September, 1963.

J. Gordon House, Jr.

FILED
SEP 11 1963
ALICE L. DICK, CLERK
REGISTER

CLARINE H. SHINN,	Ø	
Plaintiff,	Ø	IN THE CIRCUIT COURT OF
vs.	Ø	
	Ø	BALDWIN COUNTY, ALABAMA
J. C. McDARIS, individually	Ø	
and d/b/a J. C. McDARIS	Ø	AT LAW NO. 5521
SERVICE STATION,	Ø	
Defendants.	Ø	

PLEAS

Comes the Defendant in the above styled cause and for plea to the complaint as last amended, and to each and every count thereof, separately and severally, and says:

1. That the allegations of the complaint as last amended are untrue.

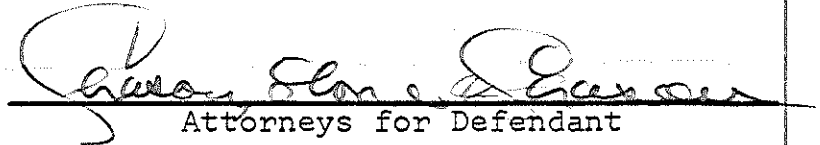
2. Not guilty.

3. That the Plaintiff, at the time and place complained of in the complaint as last amended, was herself guilty of negligence which was the proximate cause of her injuries and damages, hence she cannot recover in this suit.

4. That at the time and place complained of in the complaint as last amended, the Plaintiff herself was guilty of negligence which was the proximate cause of her injuries and damages in that she attempted to walk between the gasoline pumps and over a concrete abuttment in which the pumps were set, which means of passage was not the usual way for customers to walk and was not provided for passageway for customers to and from their automobiles while transacting business with the Defendant, hence she cannot recover in this suit.

5. That the Plaintiff assumed any risk of injury which might normally attend her while walking between the gasoline pumps and over the concrete abuttment in which they were placed, realizing at the time that this was not the usual passageway for

customers who were transacting business with the Defendant, and the injuries of the Plaintiff, if any, were the proximate result of her assumption of such risk and her walking between such gasoline pumps.


Attorneys for Defendant

FILED

JAN 22 1964

ALICE L. DUCK, CLERK
REGISTER

* * * * *

PLEAS

* * * * *

CLARINE H. SHINN,
Plaintiff,

vs.

J. C. McDARIS, individually
and d/b/a J. C. McDARIS
SERVICE STATION,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5521

FILED

JAN 22 1964

ALICE J. DUCK, CLERK
REGISTER

CLARINE H. SHINN,

Plaintiff,

vs.

J. C. McDARIS, Individually
and d/b/a J. C. McDARIS
SERVICE STATION,

Defendant.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

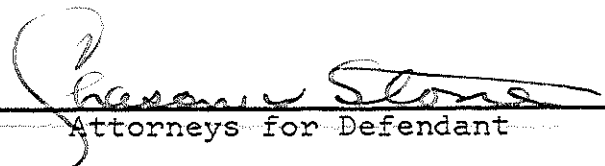
NO. 5521

Comes the Defendant in the above styled cause and demurs to the complaint as last amended in said cause and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said complaint does not state a cause of action.

2. The allegation in count "ONE" of said complaint that the Plaintiff was walking at a place allowed for the passage of customers fails to state that she was walking the way that a customer should have walked.

3. The allegation in count "ONE" of the complaint that there was an oily substance on the ground which was slippery and rendered said ground dangerous for use as a passageway for customers fails to allege that such oily substance was upon the ground at a place where the customer should have been walking or at a place provided for the customer to walk.


Attorneys for Defendant

CLARINE H. SHINN,

Plaintiff,

vs

J. C. McDARIS, Individually
and d/b/a J. C. McDARIS
SERVICE STATION,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5521

DEMURRER

FILED

OCT 2 1963

ALICE J. DUCK, CLERK
REGISTER