

COLLINS, GALLOWAY & MURPHY

ATTORNEYS AT LAW
817 FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA 36602
432-0568

FRED G. COLLINS
THOMAS M. GALLOWAY
M. THOMAS MURPHY (1924-1956)
H. GERRARD CLAY

July 23, 1964

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

In re: Rebecca W. Deupree
vs: Victor Lehmann

Dear Mrs. Duck:

I enclose herewith demurrers to the complaint in this matter.

Would you please file these in the Court and notify me of the date of filing same. You may just place the date on the enclosed copy of this letter and return.

I enclose herewith a copy of this demurrer for the Plaintiff but I am this date mailing a copy of same to Jim Brice in Foley.

Very truly yours,

COLLINS, GALLOWAY & MURPHY

By: 

Thomas M. Galloway

TMG/fs
Encls:

cc: Hon. James Brice
Attorney at Law
Foley, Alabama

70.6075

Rebecca W. Kupke

Victor Lehmann

JURY LIST - December 8, 1965

- ~~1. Bentley, Newton F., Merchant, Bay Minette~~
- ~~2. Bentley, Newton F., Merchant, Bay Minette~~
3. Blackman, W.K., Farmer, Foley
- ~~4. Booth, James D., Farmer, Fairhope~~
- ~~5. Campbell, H.B., Farmer, Rosinton~~
- ~~6. Chandler, Sidney, Bank Clerk, Silverhill~~
- ~~7. Clark, David, Farmer, Bay Minette~~
- ~~8. Davis, Fred, Laborer, Bay Minette~~
- ~~9. Ellis, Joseph, Farmer, Silverhill~~
- ~~10. Ellis, Thomas, Paperwood Fleet, Loxley~~
- ~~11. Ellison, H.W., Farmer, Robertsdale~~
12. Evans, John G., Farmer, Foley
- ~~13. Gentry, Harold, Mechanic, Bay Minette~~
14. Hale, Arthur H., Merchant, Stapleton
15. James, Dayton, Mechanic, Foley
- ~~16. Jones, James, Farmer, Rahon~~
- ~~17. Kennedy, Raymond, Fleet, Bay Minette~~
18. Kucera, Frank A., Jr., Farmer, Robertsdale
- ~~19. Little, Fred, State Emp., Bay Minette~~
20. Manning, Wesley W., Civil Service, Foley
- ~~21. Moore, Uley, Newport, Bay Minette~~
22. Nelson, Durwood F., Farmer, Fairhope
23. Salac, Tommy, Farmer, Robertsdale
24. Underwood, Verne, Farmer, Mag. Spgs.
- ~~25. Urbanek, Robert C., Brookley Field, Fairhope~~
- ~~26. Venable, W. Kirby, Retired, Bay Minette~~
27. Williams, George, John Kidd Logging Co., Daphne
- ~~28. Wilson, Jack W., Merchant, Foley~~
- ~~29. Yates, Harold, Govt. Emp., Fairhope~~
- ~~30. Struckey, Whit Nelson, Millman, Bay Minette~~
- ~~31. Powell, Shirley, Post Office, Bay Minette~~
32. Coleman, John E., Farmer, Bay Minette
33. Quinley, Lyman, Farmer, Bay Minette
- ~~34. Conway, Clyde, Shipyard, Bay Minette~~
- ~~35. McGill, Jake H., Insurance, Bay Minette~~
36. Wilson, Libert M., Bookkeeper, Bay Minette
- ~~37. Steele, Clyde Harrison, Merchant, Bay Minette~~
- ~~38. Homan, Milford, Truck Driver, Bay Minette~~

36
12
24
12
12

P XXXXX X

D XXXXX X

REBECCA W. DEUPREE, : IN THE CIRCUIT COURT OF
Plaintiff, :
VS.: : BALDWIN COUNTY, ALABAMA
VICTOR LEHMANN, : AT LAW
Defendant. : CASE NO. _____

Comes the Defendant in the above styled cause and demurs separately and severally to the complaint heretofore filed and each count thereof, and for grounds separately and severally assigns the following:

1. For that said count does not state a cause of action.
2. From aught that appears Plaintiff has sustained no substantial injury as a proximate result of the Defendant's alleged negligence.
3. For that said count does not allege a negligent injury.
4. For that said count does not allege a wanton injury.
5. From aught that appears the Plaintiff's alleged injuries were not the proximate result of the Defendant's alleged negligence.
6. From aught that appears the Plaintiff's alleged injuries were not proximately caused by the Defendant's alleged wantonness.
7. From aught that appears the Defendant committed no act of wanton misconduct.
8. The averments of said count are insufficient to charge this Defendant with wantonly inflicting any injuries upon the Plaintiff.
9. For that said count does not allege that Plaintiff sustained a substantial injury, for which he can recover.
10. For that said count claims damages which are merely speculative.

COLLINS, GALLOWAY & MURPHY

By: 

H. Gerrard Clay
Attorneys for Defendant

REBECCA W. DEUPREE, : IN THE CIRCUIT COURT OF
Plaintiff, :
VS: : BALDWIN COUNTY, ALABAMA
VICTOR LEHMANN, :
Defendant. : AT LAW
CASE NO. 6 0 7 5

Comes the Defendant in the above styled matter and
for answer to the complaint heretofore filed says as follows:

1. Not guilty.

2. The Plaintiff cannot have and recover of the Defendant
in this matter for at the time and place alleged in the complaint
the Plaintiff herself was engaged in a joint venture with her
husband Thomas Deupree, who was the driver of the automobile in
which she was riding, and at the time and place aforesaid her
husband Thomas Deupree while operating the motor vehicle in
which she was riding, was himself guilty of negligence which
proximately contributed to the injuries complained of in the
complaint, hence the Plaintiff cannot recover.

COLLINS, GALLOWAY & MURPHY

By: Thomas M. Galloway
THOMAS M. GALLOWAY
Attorneys for Defendant

FILED
MAY 13 1965
ALICE I. DUCK, CLERK
REGISTER

We the Jury Award for the Plaintiff
~~\$500.00~~ ~~Damages~~ and costs for the
Damages \$500.00

Vernon L. Lusk

6075

6075

REBECCA W. DEUPREE, : IN THE CIRCUIT COURT OF
Plaintiff, :
VS: : BALDWIN COUNTY, ALABAMA
VICTOR LEHMANN, : AT LAW
Defendant. : CASE NO. _____

Comes the Defendant in the above styled cause and demurs separately and severally to the complaint heretofore filed and each count thereof, and for grounds separately and severally assigns the following:

1. For that said count does not state a cause of action.
2. From aught that appears Plaintiff has sustained no substantial injury as a proximate result of the Defendant's alleged negligence.
3. For that said count does not allege a negligent injury.
4. For that said count does not allege a wanton injury.
5. From aught that appears the Plaintiff's alleged injuries were not the proximate result of the Defendant's alleged negligence.
6. From aught that appears the Plaintiff's alleged injuries were not proximately caused by the Defendant's alleged wantonness.
7. From aught that appears the Defendant committed no act of wanton misconduct.
8. The averments of said count are insufficient to charge this Defendant with wantonly inflicting any injuries upon the Plaintiff.
9. For that said count does not allege that Plaintiff sustained a substantial injury, for which he can recover.
10. For that said count claims damages which are merely speculative.

FILED

JUL 24 1960

AUG 1 1960, CLERK
REGISTER

COLLINS, GALLOWAY & MURPHY

By: _____

H. Gerrard Clay
Attorneys for Defendant

COMPLAINT

REBECCA W. DEUPREE

PLAINTIFF

VS

VICTOR LEHMANN

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

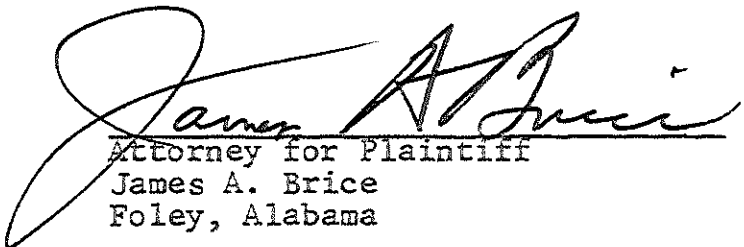
CLAIM

The Plaintiff claims of the Defendant the sum of Thirty-five Thousand Dollars (\$35,000.00) as damages for that heretofore on, to-wit: the 8th day of June, 1963, the Plaintiff was riding in a vehicle being operated Southwardly on McKenzie Street, a public street in Foley, Alabama, at its point of intersection with Azaela Street, within the corporate limits of Foley, Baldwin County, Alabama, by her husband, Thomas Deupree, where she and said vehicle had a right to be, and the Defendant, Victor Lehmann, so negligently operated a motor vehicle then and there as to cause said motor vehicle he was operating to run upon and against the automobile the Plaintiff was riding in; and Plaintiff avers that as a proximate consequence thereof the Plaintiff sustained multiple injuries, including multiple rib cage fractures involving the right fifth rib in the axillary line, left fifth rib in the axillary line, and the sixth rib in the axillary line, and cortical fracture of the articular border of the right tibia and avulsion fracture of the tip of the lateral malleolus, right ankle; in addition Plaintiff suffered trauma and suffered contusions over the right lower extremity and chest cage; has suffered and will continue to suffer shock, pain and anguish; Plaintiff was seriously injured, was made sick and sore, weak and weary. The Plaintiff has suffered and is apt to continue to suffer and incur expenses of medical treatment in and about her said injuries as aforesaid, for all of which she claims damages.

II

The Plaintiff claims of the Defendant the sum of Thirty-five Thousand Dollars (\$35,000.00) as damages for that heretofore on, to-wit: the 8th day of June, 1963, the Plaintiff was riding in a vehicle being operated Southwardly on McKenzie Street, a public

street in Foley, Alabama, at its point of intersection with Azaela Street, within the corporate limits of Foley, Baldwin County, Alabama, by her husband, Thomas Deupree, where she and said vehicle had a right to be, and the Defendant, Victor Lehmann, so wantonly operated a motor vehicle then and there as to cause said motor vehicle he was operating to run upon and against the automobile the Plaintiff was riding in; and Plaintiff avers that as a proximate consequence thereof the Plaintiff sustained multiple injuries, including multiple rib cage fractures involving the right fifth rib in the axillary line, left fifth rib in the axillary line, and the sixth rib in the axillary line, and cortical fracture of the articular border of the right tibia and avulsion fracture of the tip of the lateral malleolus, right ankle; in addition Plaintiff suffered trauma and suffered contusions over the right lower extremity and chest cage; has suffered and will continue to suffer shock, pain and anguish; Plaintiff was seriously injured, was made sick and sore, weak and weary. The Plaintiff has suffered and is apt to continue to suffer and incur expenses of medical treatment in and about her said injuries as aforesaid, for all of which she claims damages.


Attorney for Plaintiff
James A. Brice
Foley, Alabama

Plaintiff demands trial by jury.


Attorney for Plaintiff

FILED

MAY 28 1934

ALICE L. RUCK, CLERK
RECEIVED

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. _____

_____ TERM, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon

Victor Lehmann

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 _____

Victor Lehmann

_____, Defendant_____

by _____

Rebecca W. Deupree

_____, Plaintiff_____

Witness my hand this

28

day of

May

1964

Exp- 6-26-64

Alice D. Duck

_____, Clerk

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

Rebecca W. Deupree

Plaintiffs

vs.

Victor Lehmann

Defendants

Summons and Complaint

Filed FILED 19____

MAY 28 1964

Clerk

ALICE L. DICK CLERK
REGISTERED

James A. Brice

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Summerdale, Alabama

Received In Office

5/28, 1964

Sheriff.

I have executed this summons

this June 28 1964
by leaving a copy with

Victor Lehmann

Sherriff's Office 60 miles at
Total \$ 6.00
TAYLOR WILKINS Sheriff
BY: [Signature] DEPUTY SHERIFF

[Signature] Sheriff.
[Signature] Deputy Sheriff.

Summerdale