

HAMILTON, DENNISTON, BUTLER & RIDDICK

ATTORNEYS AND COUNSELLORS AT LAW

AMERICAN NATIONAL BANK BUILDING

P. O. BOX 1671

MOBILE, ALABAMA

36601

PETER HAMILTON 1838-1886
THOMAS A. HAMILTON 1844-1897
J. GAILLARD HAMILTON 1899-1956

THOMAS A. HAMILTON
ROBERT P. DENNISTON
CHARLES R. BUTLER
HARRY H. RIDDICK
JOHN W. MOBLEY
MILLER A. WIDEMIRE

OLIVER J. LATOUR, JR.
FERRILL D. McRAE

September 11, 1964

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

Re: Case No. 5653
Southback vs. Greer's Stores, et al
Our File No. 16,776-OJL

Dear Mrs. Duck:

We would appreciate it if you would file the original of the enclosed Notice of Taking Deposition and, forward a copy to Mr. Epperson, if your rules require you to do so. You will note that we are sending a copy of this Notice directly to Mr. Epperson.

In order to insure the attendance of the plaintiff at the deposition mentioned in the Notice, we would appreciate it if you would issue a subpoena requiring the plaintiff to appear at the law offices of Mr. Arthur Epperson at 3:00 o'clock P.M. on September 23, 1964.

Unfortunately, we do not have an address more complete than Foley, Alabama. We do however have Mrs. Southback's telephone number - WH 3-7887 if that might be of some service to you.

Thank you in advance for your attention in this matter.

Very truly yours,

For the Firm

OJL:pg
Enclosure

ELIZABETH SOUTHBACK,	*	IN THE CIRCUIT COURT OF
Plaintiff	*	BALDWIN COUNTY, ALABAMA
-vs-	*	AT LAW
GREER'S STORES, ALIAS	*	
GREER'S, ALIAS GREER'S	*	
STORES, INC.,	*	
Defendant	*	CASE NO. 5653

NOTICE OF TAKING DEPOSITION

TO: HONORABLE ARTHUR EPPERSON
Attorney at Law
P. O. Box 716
Foley, Alabama

PLEASE TAKE NOTICE that at 3:00 o'clock P.M. on the 23rd day of September, 1964 at the law offices of Arthur Epperson, the defendant in the above styled cause, specifically reserving and not waiving hereby its plea in abatement heretofore filed herein, will cause the deposition of Elizabeth Southback to be taken upon oral examination pursuant to Title 7, Section 474 of the Code of Alabama, providing for the taking of depositions of parties and witnesses upon oral examination. Said deposition to be taken before Louis Hubbard, or before some other officer authorized by law to administer oaths. The oral examination will continue from day to day until completed.

HAMILTON, DENNISTON, BUTLER & RIDDICK

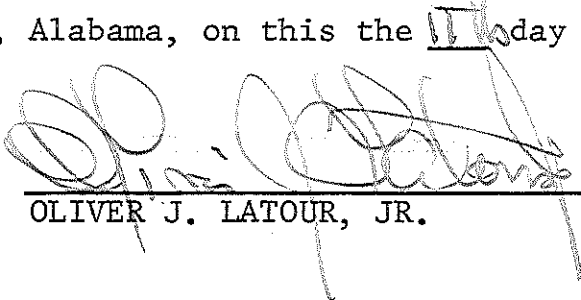
BY: 

Attorneys for Defendant

CERTIFICATE OF SERVICE

I, Olivier J. Latour, Jr., one of the attorneys for the defendant in the above styled cause, hereby certify that I have

served a copy of the above and foregoing notice on the attorney for the plaintiff by depositing a copy thereof in the United States Mail, first class postage prepaid, addressed to Arthur Epperson, P. O. Box 716, Foley, Alabama, on this the 11 day of September, 1964.



OLIVER J. LATOUR, JR.

FILED

SEP 14 1964

ALICE J. DUCK, CLERK
REGISTER

ELIZABETH SOUTHACK)
)
Plaintiff)
)
VS.)
)
GREER'S STORES, Alias)
)
GREER"S, Alias GREER"S)
)
STORES, INC.)
)
Defendant)

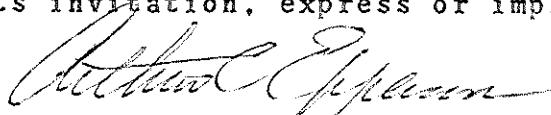
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

5652

COUNT ONE

The plaintiff claims of the defendant the sum of \$12,500.00 as damages, for that heretofore, to-wit, August 4, 1962, the defendant occupied and was in possession of certain premises in Foley, Baldwin County, Alabama, on one of the public streets of Foley, Alabama, where it conducted or operated a public store to which the public generally were invited to come and trade or on other business; that the plaintiff was an invitee of the defendant upon said premises, being there on the occasion complained of to transact business with the defendant, and while in said store and on said premises, where she was invited, on the occasion aforesaid, she was caused to slip and fall on the floor of the said premises and plaintiff's hip was dislocated, sprained and made sore; her spine was injured, sprained and made sore; she suffered great mental and physical pain and anguish, spent or became liable for a large sum of money for medicine and medical attention in and about the treatment of her injuries. Plaintiff alleges that all her said injuries and damages were proximately caused by reason of the negligence of the defendant in negligently failing to use due care to keep said premises reasonable safe for persons visiting the place by its invitation, express or implied.


ARTHUR C. EPPERSON
Attorney for the Plaintiff

Defendant can be
served at:
Greer's Stores
Genl. Office
9 N. Commerce
Mobile, Ala.

FILED

AUG 5 1963

ALICE I. DUCK, CLERK
REGISTER

copy
3809

No. 5653

Page

Conn

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

Elizabeth Southack

Plaintiffs

vs.

94/conn
Greer's Stores, alias

Greer's alias Greer's
Stores Inc

Defendants

C. L. Baggett, off mgr
Summons and Complaint

FILED

Filed 19

AUG 5 1963

Clerk

**ALICE J. DUCK, CLERK
REGISTER**

RECEIVED

AUG 8 1963

SHERIFF'S Plaintiff's Attorney

Defendant's Attorney

Def. Ex. 1

Defendant lives at

9. N. Commerce
Mobile, Ala.

Received In Office

8/5, 19 *63*

Sheriff.

I have executed this summons

this *August 9*, 19 *63*

by leaving a copy with

C. L. Baggett, off mgr

Greer's Stores,

Ray L. Bridges
Sheriff.

W. E. Conniff
Deputy Sheriff.

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 Greer's Stores, alias. Greer's , alias,
Greer's Stores, Inc. 9 North Commerce, Mobile, Alabama

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 Greer's Stores,
alias, Greer's, alias, Greer's Stores, Inc.
-----, Defendant-----

by Elizabeth Southack

-----, Plaintiff-----

Witness my hand this 5th ~~Second~~ day of August 19 63

EX-8-9-63

Alise Luck, Clerk

ELIZABETH SOUTHACK)	
)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
v.)	AT LAW
GREER'S STORES, Alias)	
GREER'S, Alias GREER'S)	
STORES, INC.)	
Defendant.)	

PLEA OF ABATEMENT

Comes the Defendant by Attorney, and for Plea of Abatement says: its true name is Greer's at Foley, Inc. and not Greer's Stores, Greer's, Greer's Stores, Inc., as alleged in the Complaint; and it has never been known by the names alleged in said Complaint; which it is ready to verify and prays that suit be abated.

HAMILTON, DENNISTON, BUTLER & RIDDICK

By *[Signature]*
Attorney for Defendant

STATE OF ALABAMA)

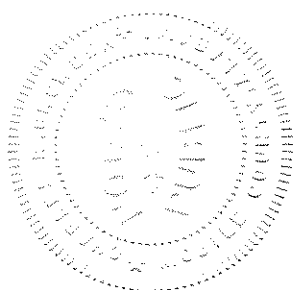
COUNTY OF MOBILE)

Before me, the undersigned personally appeared Greer E. Sumner/ Vice-President and Secretary of the Defendant, who being by me first duly sworn, deposes and says: that he has read the above Plea of Abatement and that the facts stated therein are true.

E. Sumner Greer
E. Sumner Greer

Subscribed and sworn to before me this 31st day of August, 1963.

Charles R. Crowder
Notary Public, Mobile County, Alabama.



FILED

SEP 3 1963

ALICE L. DUCK

CLERK REGISTER

CERTIFICATE OF SERVICE

I, Thomas A. Hamilton, one of the attorneys of record for the Defendant in the above styled cause, do hereby certify that I have served a copy of the foregoing Plea of Abatement on Arthur C. Epperson, attorney of record for Plaintiff, by depositing a copy thereof in the United States mail, postage prepaid, addressed to the office of said attorney, Foley, Alabama, on this the 31st day of August, 1963.


Thomas A. Hamilton

ELIZABETH SOUTHACK)
)
Plaintiff,)
)
VS.)
)
GREER'S STORES, Alias)
GREER'S, Alias GREER'S)
STORES, INC.)
)
Defendant)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

Comes the plaintiff in the above styled cause and demurs to the plea in abatement heretofore filed by the defendant and for grounds of demurrer sets down and assigns the following separately and severally:

1. It affirmatively appears from the allegations of the plea of abatement that the defendant is sufficiently described and identified in the complaint to allow the plaintiff to amend the complaint to meet the plea.

2. It affirmatively appears from the plea in abatement that the party defendant intended to be sued was the party actually served with the original process and now is before the court on it's plea in abatement.

3. It affirmatively appears from the allegations contained in the defendant's plea of abatement that an amendment to the complaint to correct the name of the defendant to "Greer's at Foley, Inc." would not work a change party defendant.

4. It affirmatively appears from the allegations of the plea of abatement that an amendment to the complaint changing the name of the defendant to "Greer's at Foley, Inc. " would relate to the same party defendant.

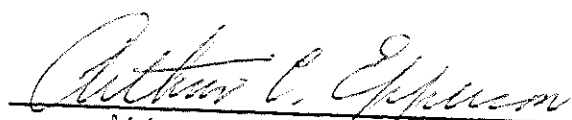
5. It affirmatively appears from the allegations of the plea of abatement that the plaintiff is entitled to amend the complaint to correct the name of the defendant to "Greer's at Foley, Inc."/

6. It affirmatively appears from the plea in abatement that the defendant served with process and before the Court as "Greer's at Foley, Inc." owns and operates the grocery store described in the complaint.

FILED

DEC 1 1964

ALICE L. DUCK, CLERK
REGISTER


Attorney for the plaintiff

ELIZABETH SOUTHACK)	
Plaintiff)	IN THE CIRCUIT COURT OF
)	
Vs.)	BALDWIN COUNTY, ALABAMA
)	
GREER'S STORES, Alias,)	AT LAW
GREER'S, Alias GREER'S)	
STORES, INC.)	
Defendant)	

REPLICATION TO PLEA OF ABATEMENT

Comes the plaintiff and for replication to the plea of abatement heretofore filed by the defendant says:

1. That she joins issue thereon.
2. For special replication to the plea of abatement

heretofore filed by the defendant the plaintiff says:

That the store where the cause of action arose as set out in the complaint is generally known by the public in Foley, Baldwin County, Alabama, and vicinity as "Greer's or Greer's Store; that said store and defendant as listed in the telephone directory for the City of Foley, Alabama, is Greer's Store; that the general office where the officers of the defendant keep the defendant's records, books and accounting is in Mobile, Alabama, at 9 North Commerce Street, where process was served upon the defendant and that the telephone listing for the defendant in the telephone directory for the City of Mobile, Alabama is "Greer's Stores"; that the defendant has caused to be published flyers at different times and occasions in the past advertising it's business or store in Foley, Alabama, as; Greer's; Greer's Store; Greer's #19 and Greer's Food Market, said flyers having been distributed in the City of Foley, Alabama and vicinity for the purpose of drawing trade to it's store or place of business in Foley, Alabama; that the defendant has not advertised or disclosed to the general public doing business with it as customers that it's true name or correct name is "Greer's at Foley, Inc." Wherefore the plaintiff says the matters setforth in said plea of abatement are no defense to this action.



 Attorney for the plaintiff

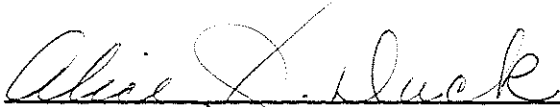
STATE OF ALABAMA

BALDWIN COUNTY

Before me the undersigned, personally appeared Arthur C. Epperson, who first by me being duly sworn deposes and says on oath: that he is attorney for the plaintiff in the foregoing action; that he has read the foregoing replication; that he has personal knowledge of the allegations contained in the special replication and that the said allegations are true.


Arthur C. Epperson

Subscribed and sworn to before me this the 7th day of December, 1964.


Alice J. Duck, Clerk of the Circuit Court, Baldwin County, Ala.

FILED

DEC 7 1964

ALICE J. DUCK, CLERK
REGISTER

ELIZABETH SOUTHACK)	
Plaintiff)	IN THE CIRCUIT COURT OF
)	
VS.)	BALDWIN COUNTY, ALABAMA
)	
GREER'S STORES, Alias,)	AT LAW
GREER'S, Alias, GREER'S)	
STORES, INC.)	
Defendant)	

AMENDED
REPLICATION TO PLEA OF ABATEMENT

Comes the plaintiff and amends her replication to the plea in abatement as heretofore filed so that said replication will be as follows:

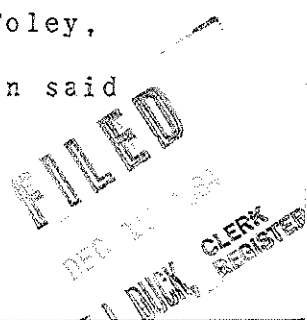
Comes the plaintiff and for replication to the plea in abatement heretofore filed by the defendant says:

1. That she joins issue thereon.

2. That said plea of abatement as framed and worded is a general appearance by the defendant and not a special appearance.

3. For special replication to the plea of abatement heretofore filed by the defendant, the plaintiff says:


That at the time and place where the cause of action as set out in the complaint arose the defendant was operating and doing business as GREER'S; that at said time and place the defendant had a sign on the outside of the building with the one word "GREER'S" written thereon; that at said time and place the defendant was known to the general public in the community where it was doing business as GREER'S; that at said time the defendant was listed in the telephone directory for the City of Foley as GREER'S STORE; that at said time the license privilege to do business in the City of Foley, by the City of Foley to the defendant was recorded in the records of the City of Foley as GREER'S INC.; that the license issued to the defendant by the City of Foley to do business in Foley, Alabama for the subsequent year of 1963 was in the name of GREER'S STORE and the year of 1964 in the name of GREER'S; that prior to said date and subsequent to said date, the defendant has advertised it's business in Foley, Alabama, and vicinity as GREER'S and as one of a number of stores operating under the same name and ownership by flyers distributed through the mails and by publication in the Foley Onlooker, a News paper of general circulation published in Foley, Alabama, Wherefore the plaintiff says the matters setforth in said plea of abatement are no defense to this action




STATE OF ALABAMA

BALDWIN COUNTY

Before me the undersigned, personally appeared Arthur C. Epperson, who being by me first duly sworn, deposes and says on oath; that he is attorney for the plaintiff in the foregoing action; that he has been informed and believes the allegations contained in the foregoing replication; and says that the said=allegations upon said information and belief are true.


Arthur C. Epperson

Subscribed and sworn to before me this ;the 17th day of
December 1964.


Alice J. Duck, Clerk of the Circuit
Court, Baldwin County, Ala.

FILED
DEC 17 1964
ALICE J. DUCK, CLERK
BALDWIN COUNTY, ALA.