

CLARENCE MIDDLETON,

Plaintiff,

vs.

SAM ARD, d/b/a
ARD OIL COMPANY,

Defendant.

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

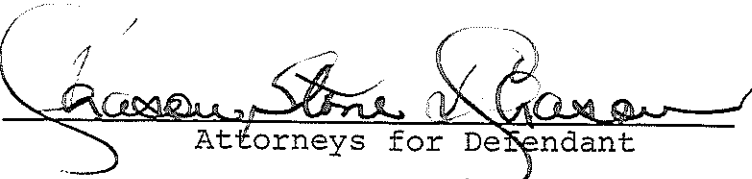
BALDWIN COUNTY, ALABAMA

AT LAW

6340

Comes the Defendant in the above styled cause and for plea to Counts two and three of the Amended Complaint filed in said cause, separately and severally, says:

1. Not Guilty.
2. That the allegations of the Amended Complaint are untrue.
3. The Defendant alleges that at the time and place complained of in Counts two and three of the Amended Complaint the Plaintiff himself was guilty of negligence which was the proximate cause of his injury and damages, hence he cannot recover in this action.


Attorneys for Defendant

FILED

AUG 25 1968

ALICE J. DUCK, CLERK
REGISTER

6340

CLARENCE MIDDLETON,
Plaintiff,

vs.

SAM ARD, d/b/a
ARD OIL COMPANY,
Defendant.

PLEAS

FILED

AUG 25 1965

ALICE L. DUCK, CLERK
REGISTER

CLARENCE MIDDLETON,

Plaintiff,

vs.

SAM ARD, dba ARD
OIL COMPANY,

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 by the Plaintiff in said cause, as amended, and each and every count thereof, separately and severally and assigns the following separate and several grounds, viz:

1. That Count 1 of the Complaint fails to allege the nature of the business of the Defendant.
2. That Count 2 of the Complaint fails to sufficiently allege where the accident occurred.
3. That Count 2 of the Complaint does not allege that the accident occurred in Baldwin County, Alabama.
4. That Count 2 of the Complaint claims damages for the burning of the building but fails to allege that the building was owned by the Plaintiff.
5. That Count 3 of the Complaint attempts to set out the Quo Modo of the Defendant's negligence without setting out sufficient facts to constitute negligence as a matter of law under the laws of the State of Alabama.
6. That Count 3 of the Complaint does not allege that the accident occurred in Baldwin County, Alabama.
7. That Count 3 of the Complaint does not sufficiently set out where the accident occurred.

8. That Count 3 of the Complaint claims damages for the loss of the building without alleging that it was owned by the Plaintiff.

9. That Count 3 of the Complaint does not allege that the Plaintiff owned the personal property which was lost.

Green, Stone & Hanson
Attorneys for Defendant

FILED

NOV 14 1957

RECEIVED
NOV 14 1957
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

~~68~~

6340

CLARENCE MIDDLETON,
Plaintiff,

vs

SAM ARD, dba
ARD OIL COMPANY,
Defendant.

DEMURRER

FILED
FEB 19 1986

1986 FEB 19 11:30 AM

CLARENCE MIDDLETON,
PLAINTIFF

vs

SAM ARD, d/b/a
ARD OIL COMPANY
DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

NO. _____

Comes now the Plaintiff in the above styled cause and amends his Complaint to read as follows:

1.

The Plaintiff claims of the Defendant the sum of \$15,000.00 as damages for that on, to-wit: the 10 day of July, 1964, the Defendant while pursuing his business, negligently set fire to a cafe and filling station which was located approximately one mile north of Robertsdale, in Baldwin County, Alabama, on U.S. highway 90; in which the Plaintiff owned cafe equipment, furniture, merchandise and store goods, food and miscellaneous parts and accessories, used ^{sold} and by the Plaintiff in the operation of his business; and as a direct and proximate consequence and result of the Defendant's negligence, the Plaintiff's said property was destroyed, or rendered less valuable, all to the loss of the Plaintiff in the aforesaid amount.

2.

The Plaintiff claims of the Defendant the sum of \$15,000.00 damages for that, whereas on, to-wit: July 10, 1964, the Plaintiff operated a Cafe and Filling Station known as "PAT'S PLACE," north of Robertsdale on highway 90; that at said time and place, the Defendant so negligently conducted his business of emptying an underground petroleum tank that the petroleum ignited, and as a direct and proximate result of such negligence, the Cafe and Filling Station building and Plaintiff's property, to-wit: cafe equipment, furniture, merchandise and store goods, food and miscellaneous parts and accessories, were destroyed, all to the loss of the Plaintiff in the aforesaid amount.

3.

The Plaintiff claims of the Defendant the sum of \$15,000.00 as damages for loss of the personal property, hereinafter described, caused by the negligence of the Defendant, under the following circumstances.

On to-wit: July 10, 1964, the Plaintiff operated a Cafe and Filling Station near the town of Robertsdale, Alabama. On this date the Defendant while pursuing his business, removed fuel oil from an underground tank,

located adjacent to the building in which the Cafe and Filling Station was located. The Plaintiff avers, that the Defendant removed the fuel oil in such a negligent manner as to set it afire, as a direct and proximate consequence and result of said negligence, the fire spread to and consumed the Cafe and Filling Station, and its contents. The contents included, to-wit: cafe equipment, furniture, merchandise and store goods, food and miscellaneous parts and accessories, used and sold by the Plaintiff in the operation of his business, all to the loss of the Plaintiff in the aforesaid amount.

WILTERS, BRANTLEY & NESBIT

By:

William M. Brantley
Attorney for Plaintiff

NO. 4348

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CLARENCE MIDDLETON,

PLAINTIFF

vs

SAM ARD, d/b/a
ARD OIL COMPANY

DEFENDANT

AMENDED COMPLAINT

Wilters, Brantley & Nesbit
Robertsdale, Alabama

Plaintiff's Attorneys

Chason, Stone & Chason
Bay Minette, Alabama

Defendant's Attorneys

FEB 18 1983

CLARENCE MIDDLETON,	Ø	
Plaintiff,	Ø	IN THE CIRCUIT COURT OF
vs.	Ø	
	Ø	BALDWIN COUNTY, ALABAMA
SAM ARD, d/b/a ARD OIL	Ø	
COMPANY,	Ø	AT LAW
Defendant.	Ø	

DEMURRER

Comes the Defendant in the above styled cause and demurs to the complaint filed in said cause and each 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. That said complaint does not allege any duty owing by the Defendant to the Plaintiff.
3. That said complaint does not allege any connection between the alleged negligence of the Defendant and the damages of the Plaintiff.
4. That said complaint does not allege that the property destroyed was located in Baldwin County, Alabama.
5. That the place where the property which was destroyed was located is not sufficiently set out.
6. That the property which was damaged or destroyed is not sufficiently described in any count of the complaint.
7. That no count in the complaint alleges what property was destroyed or rendered less valuable.
8. That said complaint fails to sufficiently allege how or in what manner the Defendant negligently set fire to the building.
9. That counts "2" and "3" of the complaint attempt to allege the quo modo of the negligence of the Defendant without alleging sufficient facts to show that the Defendant was negligent as a matter of law.
10. That count "2" of the complaint fails to sufficiently

describe the property which was destroyed as a result of the Defendant's negligence.

11. That count "3" of the complaint does not allege that the Plaintiff was the owner of the property which was allegedly damaged or destroyed.

Sharon Stone & Sharon
Attorneys for Defendant

The Defendant respectfully demands
a trial of this cause by a jury.

Sharon Stone & Sharon
Attorneys for Defendant

FILED

JAN 6 1965

ALICE L. DUNK, CLERK
REGISTER

6340
CLARENCE MIDDLETON,

Plaintiff,

vs

SAM ARD, d/b/a ARD OIL
COMPANY,

Defendant

* * * * *

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

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DEMURRER

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FILED

JAN 6 1965

ALICE L. DICK, CLERK
REGISTER

CLARENCE MIDDLETON

PLAINTIFF

vs

SAM ARD, d/b/a
ARD OIL COMPANY

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

NO. 6340

1.

The Plaintiff claims of the Defendant the sum of \$15,000.00 as damages for that on to-wit: the 10th day of July, 1964, the Defendant while pursuing his business, negligently set fire to a Cafe and Filling Station which was located approximately one mile north of Robertsdale, on U.S. highway 90; in which the Plaintiff owned cafe equipment, furniture, merchandise and store goods, food and miscellaneous parts and accessories, used and sold by the Plaintiff in the operation of his business; and as a direct and proximate consequence and result of the Defendant's negligence, the Plaintiff's said property was destroyed, or rendered less valuable, all to the loss of the Plaintiff in the aforesaid amount.

2.

The Plaintiff claims of the Defendant the sum of \$15,000.00 damages for that, whereas on, to-wit: July 10, 1964, the Plaintiff operated a Cafe and Filling Station known as "PAT'S PLACE," north of Robertsdale on highway 90; that at said time and place, the Defendant so negligently conducted his business of emptying an underground petroleum tank that the petroleum ignited, and as a direct and proximate result thereof, the Cafe and Filling Station building and Plaintiff's property, to-wit: cafe equipment, furniture, merchandise and store goods, food and miscellaneous parts and accessories, were destroyed, all to the loss of the Plaintiff in the aforesaid amount.

3.

The Plaintiff claims of the Defendant the sum of \$15,000.00 as damages for loss of the personal property, hereinafter described, caused by the negligence of the Defendant, under the following circumstances.

On to-wit: July 10, 1964, the Plaintiff operated a Cafe and Filling Station near the town of Robertsdale, Alabama. On this date the Defendant while pursuing his business, removed fuel oil from an underground tank,

located adjacent to the building in which the Cafe and Filling Station was located. The Plaintiff avers, that the Defendant removed the fuel oil in such a negligent manner as to set it afire, as a direct and proximate consequence and result of said negligence, the fire spread to and consumed the Cafe and Filling Station, and its contents. The contents included to-wit: cafe equipment, furniture, merchandise and store goods, food and miscellaneous parts and accessories, used and sold by the Plaintiff in the operation of his business, all to the loss of the Plaintiff in the aforesaid amount.

WILTERS, BRANTLEY & NESBIT

By:

Thyllis S. Nesbit
Attorney for Plaintiff

FILED

DEC 17 1964

ALICE J. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No.-----

-----TERM, 19----

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon SAM ARD, d/b/a ARD OIL COMPANY

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-----

SAM ARD, d/b/a ARD OIL COMPANY

-----, Defendant-----

by-----

CLARENCE MIDDLETON

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

Witness my hand this

17

day of

Dec 1964

67-12-17-64

Alice Duck, Clerk

No. 6340

Page _____

The State of Alabama

Baldwin County

CIRCUIT COURT

CLARENCE MIDDLETON

Plaintiffs

vs.

SAM ARD, d/b/a

ARD OIL COMPANY

Defendants

Summons and Complaint

FILED

Filed _____ 19

DEC 17 1964

Clerk

ALICE L. DUCK, CLERK
REGISTER

WILTERS, BRANTLEY & NESBIT

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Robertsdale, Alabama

Received In Office

DEC 17 1964

19

TAYLOR WILKINS
SHERIFF

, Sheriff

I have executed this summons

this 17 Dec 1964

by leaving a copy with

[Signature]

Sheriff claims 86 miles or

Ten Cents per mile Total \$ 8.60

TAYLOR WILKINS, Sheriff

BY

DEPUTY SHERIFF

[Signature] Sheriff
[Signature] Deputy Sheriff

[Signature]