

SANGER MERCHANT)
)
Plaintiff)
)
VS.)
)
JAMES H. OGWYNNS and)
GULF COAST TRUCK AND)
EQUIPMENT COMPANY,)
Incorporated, Jointly)
and Severally,)
)
Defendants)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

at Law

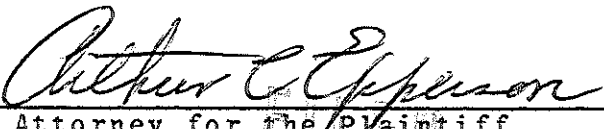
6616

Count One

The plaintiff claims of the defendants, jointly and severally, and whose names are otherwise unknown to the plaintiff and if incorrect will be changed to the correct name by amendment when discovered by the plaintiff, the sum of TEN THOUSAND DOLLARS (\$10,000.00) as damages for that he avers that on to-wit, the 28th day of July, 1964, James H. Ogwynns, the agent, servant or employee of Gulf Coast Truck and Equipment Company, Incorporated in charge of the operation or control of a truck on public highway number 59 at or near the intersection of said highway with First Street in Summerdale, Baldwin County, Alabama, while acting within the line or scope of his employment as such agent, servant or employee of Gulf Coast Truck and Equipment Company, Inc. ran said truck upon or against an automobile in which the plaintiff's minor son was riding at or near said intersection of highway 59 and First Street, and by reason thereof and as the proximate result thereof the plaintiff's minor son was severely injured and plaintiff was caused to spend large sums of money for doctors, hospital and medical attention for the treatment of said injuries to said minor son and for medical supplies and will have to expend money in the future for medical attention and supplies for said minor child as a direct and proximate consequence, that said minor son was permanently injured and has lost much time from his labors and his capacity for work has been greatly reduced and such condition continues to exist and will continue to exist for an indeterminate period of time, the plaintiff lost and continues to lose the services of said minor son; for all of which the plaintiff claims damages.

Count two

The plaintiff claims of the defendants, jointly and severally and whose names are otherwise unknown to the plaintiff and if incorrect, will be changed to the correct name by amendment when discovered by the plaintiff, the sum of Ten Thousand Dollars (\$10,000.00) as damages for that he avers that on to-wit, the 28th day of July, 1964, James H. Ogwynns, the agent, servant or employee of Gulf Coast Truck and Equipment Company, Incorporated, in charge of the operation or control of a truck on public highway number 59 at or near the intersection of said highway with First Street in the Town of Summerdale, Baldwin County, Alabama, while acting within the line or scope of his employment as such agent, servant or employee of Gulf Coast Truck and Equipment Company, Inc., ran said truck upon or against an automobile in which the plaintiff's minor son was riding at or near said intersection of highway 59 and First Street, and plaintiff avers that said James H. Ogwynns ~~willfully and wantonly injured plaintiff's minor son by willfully~~ or wantonly running said truck upon or against said automobile in which the plaintiff's minor son was riding at said time and place and by reason thereof the plaintiff's minor son was severely injured and as a proximate result thereof the plaintiff was caused to spend large sums of money for doctors, hospital, medical attention and supplies all in and about the treatment of the said injuries to the plaintiff's minor son and that the plaintiff will have to expend money in the future for doctors, medical attention and supplies in and about the treatment of the said injuries. The said minor son was injured permanently and has lost much time from his labors and his capacity for work has been greatly reduced and such condition continues to exist and will continue to exist for an indeterminate period of time, the plaintiff lost and continues to lose the services of said minor son; for all of which the plaintiff claims damages as aforesaid.


Attorney for the Plaintiff

The plaintiff demands a trial by Jury.


Attorney for the Plaintiff

JUL 27 1965
ALICE J. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 6616

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon James H. OGwynns & Gulf Coast Truck & Equipment
Company, Incorporated, Jointly & Severally

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.....James H. OGwynns
& Gulf Coast Truck & Equipment Co., Inc., jointly & Severally....., Defendant.....

by Sanger Merchant

..... Plaintiff.....

Witness my hand this.....27th.....day of.....July.....1965.....

64-8-4-66

Alice J. Duck

....., Clerk

2754-55 Co
No. 6616

Page

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

SANGER MERCHANT

Plaintiffs

vs.

JAMES H. OGWYNNS & GULF COAST
TRUCK & EQUIPMENT CO., INC.,
Jointly & Severally

Defendants

SUMMONS AND COMPLAINT

Filed July 27, 1965

Alice J. Duck

Clerk

Arthur C. Epperson

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

7-28 1965

Sheriff

I have executed this summons

this Aug 4, 1965
by leaving a copy with

James H. Ogwynns &
Gulf Coast Truck
& Equipment Co. &

James H. Ogwynns

Rae L. Bridges
Deputy Sheriff


SANGER MERCHANT,)	IN THE CIRCUIT COURT OF
)	BALDWIN COUNTY, ALABAMA
Plaintiff,)	
vs.)	AT LAW
JAMES H. OGWYNNS and GULF)	
COAST TRUCK AND EQUIPMENT)	
COMPANY, Incorporated, a)	
corporation,)	
Defendants.)	CASE NO. 6616

ANSWER OF DEFENDANTS

Come now the defendants in the above styled cause, and in answer to the complaint of the plaintiff, and to each count thereof, separately and severally, files the following pleas, separately and severally, that is to say:

1. This defendant is not guilty.
2. This defendant denies each and every one of the material allegations therein contained.

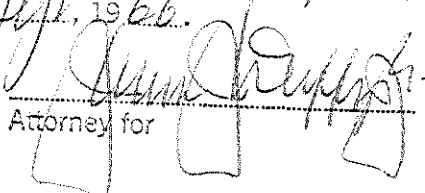
INGE, TWITTY, DUFFY & PRINCE

By: 
James J. Duffy, Jr.

Filed: 9-15-66
J. J. M.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 15 day of Sept. 1966.


Attorney for

SANGER MERCHANT,

Plaintiff

vs

JAMES H. OGWYNNS and
GULF COAST TRUCK AND
EQUIPMENT COMPANY Inc.
jointly and severally,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 6616

AMENDMENT TO COMPLAINT

Comes the Plaintiff in the above styled cause and amends his complaint, as heretofore filed, by more specifically designating the proper corporate name of the corporate defendant by adding the words "a corporation" after the words "Gulf Coast Truck and Equipment Company, Inc.", and by striking the words in the style of said cause "jointly and severally"; so as to cause the style of said case, as amended, to read as follows:

SANGER MERCHANT,

Plaintiff

vs

JAMES H. OGWYNNS and GULF
COAST TRUCK AND EQUIPMENT
COMPANY, Incorporated, a
corporation,

Defendants

Plaintiff further amends by substituting for the original Count One of said complaint the following Count:

COUNT "A"

The Plaintiff, Sanger Merchant, claims of the Defendants the sum of Ten Thousand and no/100 (\$10,000.00) Dollars, as damages, for that heretofore on to-wit: the 28th day of July, 1964, while the Plaintiff's minor son, Gary Randall Merchant, was riding in an automobile being operated along Alabama State Highway No. 59 at or near its intersection with 1st Street, public streets or highways in the town of Summerdale, Baldwin County, Alabama, the Defendants so negligently operated an automotive vehicle or truck at said time and place as to cause the same to run into or collide with said automobile in which

the Plaintiff's minor son was riding at said time and place, as aforesaid; and as a proximate consequence of the Defendants' said negligence the Plaintiff's minor son was injured and damaged as follows: he was caused to suffer severe personal injuries to his entire body; he was caused to suffer a severe whiplash injury or cervical neck sprain and back sprain; he was caused to be hospitalized for a long period of time and to seek the care and attention of doctors and nurses and medical treatment for his said injuries; he was caused to remain in traction for a long period of time and to wear a back brace and to change his sleeping habits from sleeping in a soft bed to sleeping on a board; he was caused to lose much time from his work and other usual and normal activities; he was caused to suffer great physical pain and mental anguish, and will in the future continue to suffer great physical pain and mental anguish; he was caused to suffer permanent and partial disability and incapacity to perform normal occupational pursuits and other daily activities; he will be caused in the future to continue to seek medical attention and advice and to incur medical expenses for doctors' bills and other medical expenses in and about the care and treatment of his said injuries; and his capacity to earn has been materially and appreciably diminished; and he was caused to suffer permanent injuries; and as a further proximate consequence of the Defendants' said negligence the Plaintiff was damaged as follows: the Plaintiff was caused to spend large sums of money for doctors, hospital, nurses and other medical care and attention in and about the care and treatment of his minor son's said injuries; and Plaintiff was caused to lose the services of his said minor son for a long period of time; for all of which the Plaintiff claims damages of the Defendant in the sum of \$10,000.00.

ARTHUR EPPERSON and
JONES, FOWLER, PROPST & TOPAZI
By

CERTIFICATE OF SERVICE

I certify that I have served a copy of the above and foregoing Pleading on attorneys of record in this case, by mailing a copy of the same to them at their office addresses, postage prepaid, this the THIRD

day of September, 1966.

Arthur Epperson and
JONES, FOWLER, PROPST & TOPAZI

By

Arthur Epperson
OF COUNSEL

Arthur Epperson
Attorneys for Plaintiff

FILED

SEP. 7 1966

ALICE L. DUCK, CLERK
REGISTER

We the jury find for the Plaintiff
and assess ~~the~~^{for} damages at \$1,475⁰⁰

Ira Lipscomb

Forman

SANGER MERCHANT,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
vs.)	
		AT LAW
JAMES H. OGWYNNS and GULF)		4616
COAST TRUCK AND EQUIPMENT)		
COMPANY, INC., jointly and)		
severally,)	
Defendants.)	

DEMURRER

Come now James H. Ogwynns and Gulf Coast Truck and Equipment Company, Inc., separately and severally, and demur to the complaint of the plaintiff herein, and to each count thereof, separately and severally, and for grounds of demurrer set down and assign the following, separately and severally, that is to say:

1. For that it does not state facts sufficient to constitute a cause of action.
2. For that negligence is therein alleged merely as a conclusion of the pleader.
3. For that it is vague, indefinite and uncertain, in that it does not apprise this defendant with sufficient certainty against what act or acts of negligence this defendant is called upon to defend.
4. For that it does not appear with sufficient certainty what duty, if any, this defendant may have owed to the plaintiff.
5. For that it does not appear with sufficient certainty wherein this defendant violated any duty it may have owed to the plaintiff.
6. For that it does not sufficiently appear that this defendant owed any duty to the plaintiff which this defendant negligently failed to perform.
7. For that there does not appear sufficient causal connection between this defendant's alleged breach of duty and the plaintiff's alleged injuries and damages.
8. For that no facts are alleged therein to show that the plaintiff

sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of this defendant.

9. For that it is not alleged with sufficient certainty where said accident occurred.

10. For that it is not alleged that the negligence complained of proximately caused the accident, the injuries and the damages complained of.

11. For that the averments thereof are conflicting and repugnant.

12. For that no causal connection appears between this defendant's alleged negligence and the injuries and damages complained of by the plaintiff.

13. For that it is not alleged that the willful or wanton conduct complained of proximately caused the accident, the injuries and damages complained of.

14. For that the facts averred in said complaint do not constitute willful or wanton negligence.

15. For aught that appears from said complaint, plaintiff's injuries and damages were not the direct and proximate result of any willful or wanton negligence on the part of defendant in this cause.

16. For that it is not alleged that the defendant willfully or wantonly injured the plaintiff.

17. For that the willful or wanton conduct complained of is but a conclusion of the plaintiff with no facts alleged in support thereof.

INGE, TWITTY, DUFFY & PRINCE

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 20th day of August, 1965.

James J. Duffy, Jr.
Attorney for

By:

James J. Duffy, Jr. - Designated
Trial Attorney