

HAL GEORGE DEMPSEY,
and FRANCES DEMPSEY,

Plaintiffs,

VS.

KEITH PHILLIPS,

Defendant.

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)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE No. 6698

DEMURRER

Comes now the defendant in the above entitled cause and demurs to the Plaintiffs' complaint and to each count thereof, separately and severally, on the following separate and several grounds, to-wit:

1. The allegations thereof are insufficient to state a claim against defendant upon which relief can be granted.
2. The allegations thereof do not state a cause of action against defendant.
3. The allegations thereof are vague, uncertain and indefinite.
4. The allegations thereof are so vague, uncertain and indefinite that defendant is not sufficiently apprised of what it is called upon to defend against in this cause.
5. The allegations thereof are mere conclusions of the pleader unsupported by sufficient averments of fact.
6. The allegations thereof are insufficient to show as a matter of law that there was any legal duty owing by defendant to the plaintiffs at the time and with respect to the matters complained of therein.
7. The allegations thereof are insufficient to show as a matter of law that defendant breached any legal duty owing by defendant to the plaintiffs at the time and with respect to the matters complained of therein.
8. For aught appearing therein, there was no sufficient causal connection between the plaintiffs' damages complained of and the breach of any legal duty owing by defendant to plaintiffs at the time and with respect to the matters complained of therein.

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

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

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

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

13. For that there is no allegations therein that the plaintiffs' alleged injuries and damages were the proximate result of any negligence of this defendant.

14. For that it is not alleged that the injuries and damages complained of were the direct and proximate result of the defendant's alleged negligence.

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

16. For that the facts averred in said complaint do not constitute wanton negligence.

17. For aught that appears from said complaint, plaintiffs' alleged injuries and damages were not the direct and proximate result of any wanton negligence on the part of this defendant.

18. For that it is not alleged that this defendant willfully or wantonly injured the plaintiffs.

19. For that it is not alleged that this defendant willfully or wantonly damaged the plaintiffs' property.

20. For that the wanton conduct complained of is but a conclusion of the pleader with no facts alleged in the support thereof.

21. For that there is a misjoinder of causes of action.

22. For that the allegation therein that the defendant "wantonly or

negligently drove" a vehicle constitutes a misjoinder of causes of action.

INGE, TWITTY, DUFFY & PRINCE

By 

Sydney R. Prince, III

FILED

NOV 1 1965

ALICE J. DUCK, CLERK
REGISTER

CUMMINGS & TARBUCK
ATTORNEYS AT LAW
220 South Palafox St.
PENSACOLA, FLORIDA

PAUL L. CUMMINGS
JOSEPH Q. TARBUCK

Telephone
HEmlock 8-4641

September 23, 1965

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

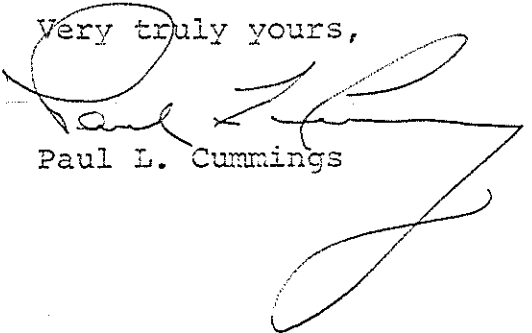
RE: Hal George Dempsey and
Frances Dempsey
-vs-
Keith Phillips

Dear Mrs. Duck:

6698

Enclosed you will find my trust account check in the amount of \$30.00. As Keith Phillips resides in Mobile, I have already forwarded a copy of the complaint to the Sheriff and enclosed my trust account check in the amount of \$5.00 for service of process. Therefore, would you please remit the difference as I do not know exactly what your costs are.

Very truly yours,


Paul L. Cummings

PLC:jem

Enc.

INGE, TWITTY, DUFFY & PRINCE
LAWYERS

THOS. E. TWITTY
FRANCIS H. INGE (1902-1959)
RICHARD H. INGE
THOS. E. TWITTY, JR.
JAMES J. DUFFY, JR.
SYDNEY R. PRINCE, III

MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA
36601

MAILING ADDRESS:
P. O. BOX 1109
MOBILE, ALA.
36601

CABLE ADDRESS:
TWINING
TELEPHONE
433-5441

January 12, 1966

Mrs. Alice J. Duck, Clerk-Register
Circuit Court of Baldwin County
Bay Minette, Alabama

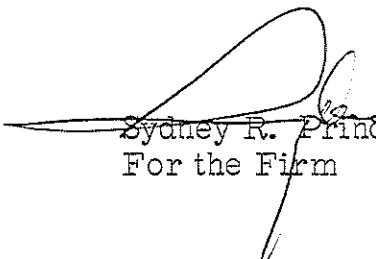
Re: Hal George Dempsey et al vs.
Keith Phillips, Case No. 6698
Circuit Court of Baldwin County

Dear Mrs. Duck:



Thank you very much for sending me a copy of the Judge's order dismissing the above referenced case with prejudice.

I would appreciate it if you will send me a cost bill so that I can mail you a check for same.

Cordially yours,


Sydney R. Prince, III
For the Firm

SRP, III:tt



1-14-66

IN THE CIRCUIT COURT IN AND FOR BALDWIN COUNTY, STATE OF ALABAMA.

AT LAW

HAL GEORGE DEMPSEY and FRANCES
DEMPSEY,

Plaintiffs

-vs-

KEITH PHILLIPS,

Defendant

C O M P L A I N T

No. 6698

**** **** **** **** **** ****

Come now the Plaintiff's, HAL GEORGE DEMPSEY and FRANCES DEMPSEY, husband and wife, and personally file this Complaint against the Defendant, KEITH PHILLIPS, and allege as follows:

1. That the Defendant is a natural person residing in Mobile, Alabama.

2. On, to-wit, April 26, 1965, on U. S. Highway #90, a public highway, in or near the City of Robertsedale, Alabama, the Defendant, KEITH PHILLIPS, wantonly or negligently drove or caused to be driven a motor vehicle against the vehicle in which the Plaintiff, FRANCES DEMPSEY, was a passenger, and the Plaintiff, HAL GEORGE DEMPSEY, was the operator.

3. As a proximate result and consequence of the wanton or negligent conduct of the Defendant, the Plaintiff's were thrown about and received certain injuries and disabilities as more fully hereinafter set out. The Plaintiff, HAL GEORGE DEMPSEY, was severely shaken and as a result thereof became extremely nervous, distrot, and upset, which condition continued for a considerable period of time subsequent to the date of the aforesaid collision. The Plaintiff, FRANCES DEMPSEY, was also violently shaken and upset and received a severe injury to her back and neck, and has suffered great pain of body and mind. As a further result of the aforementioned collision, the Plaintiff's have been caused to incur expenses for medical attention and hospitalization.

WHEREFORE, Plaintiff's demand judgment against
the Defendant, KEITH PHILLIPS,, in the amount of Ten Thousand Dollars
(\$10,000.00).

Hal George Dempsey
HAL GEORGE DEMPSEY

Frances Dempsey
FRANCES DEMPSEY

Plaintiff's request a trial by jury.

FILED
SEP 21 1965
ALICE L. DUCK, CLERK
REGISTER

IN THE CIRCUIT COURT IN AND FOR BALDWIN COUNTY, STATE OF ALABAMA.

AT LAW

HAL GEORGE DEMPSEY and FRANCES
DEMPSEY,

Plaintiffs

-VS-

KEITH PHILLIPS,

Defendants

Case No. 6698

MOTION FOR DISMISSAL

**** **** **** **** **** ****

Come now the Plaintiffs, HAL GEORGE DEMPSEY and
FRANCES DEMPSEY, husband and wife, and respectfully move that the
above cause of action be dismissed with prejudice.

Dated this 20th day of December, 1965.

FILED

JAN 10 1966

ALICE L. DUNN, CLERK
REGISTER

Hal George Dempsey
HAL GEORGE DEMPSEY

Frances Dempsey
FRANCES DEMPSEY

O R D E R

This Cause having come on to be considered upon
Motion of Plaintiffs for an Order of Dismissal with prejudice and
the Court having been advised in the premises, it is;

ORDERED AND ADJUDGED that the above cause of action
be, and the same is hereby dismissed with prejudice.

DONE AND ORDERED in Chambers at Baldwin County,
Alabama, this 10th day of ^{January} ~~December~~, 1965.

Jeffrey A. Washburn
JUDGE, CIRCUIT COURT

INGE, TWITTY, DUFFY & PRINCE

LAWYERS

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

36601

THOS. E. TWITTY
FRANCIS H. INGE (1902-1959)
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SYDNEY R. PRINCE, III

MAILING ADDRESS:

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MOBILE, ALA.
36601

CABLE ADDRESS:

TWINING
TELEPHONE
433-5441

October 30, 1965

Mrs. Alice V. Duck, Clerk
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: Dempsey vs. Phillips

Dear Mrs. Duck:

Enclosed herewith are the original and one copy of the demurrer to the above styled case. The complaint appears to have been drawn by the plaintiffs without the assistance of a lawyer. There is no number on the copy that I have. I would appreciate it if you would advise me of the plaintiff's address if you have it.

Your cooperation is appreciated.

Cordially,



Sydney R. Prince, III
For the Firm

SRP, III:ns

Enclosures

September 21, 1965

Hon. Paul L. Cummings
220 South Palafox Street
Pensacola, Florida

Dear Sir:

Re: Hal George Dempsey
and Frances Dempsey
vs: Keith Phillips

This will acknowledge receipt of the above styled case, same has been filed and given number 6698. The deposit for cost should be \$30.00 the amount sufficient to cover court cost including Sheriff fees.

Yours very truly,

Circuit Clerk.

AJD/eb

COPY

CUMMINGS & TARBUCK
ATTORNEYS AT LAW
220 South Palafox St.
PENSACOLA, FLORIDA

PAUL L. CUMMINGS
JOSEPH Q. TARBUCK

Telephone
HEmlock 9-4641

September 20, 1965

Clerk, Circuit Court
Baldwin County
Alabama

Dear Sir:

Would you kindly file the enclosed complaint which Plaintiff's have personally executed. I am presently attempting negotiations toward settlement of Plaintiff's claim, however, if unsuccessful, this case will be forwarded to one of your local attorneys for further handling. Would you kindly advise this office of your filing fees and any other costs which are required at this point.

With kind regards, I remain,

Very truly yours,


Paul L. Cummings

PLC:jem

Enc.

INGE, TWITTY, DUFFY & PRINCE
LAWYERS

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36601

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TELEPHONE
433-5441

January 7, 1966

Mrs. Alice J. Duck, Clerk-Register
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: Hal George Dempsey et al vs.
Keith Phillips, Case No. 6698
Circuit Court of Baldwin County

Dear Mrs. Duck:

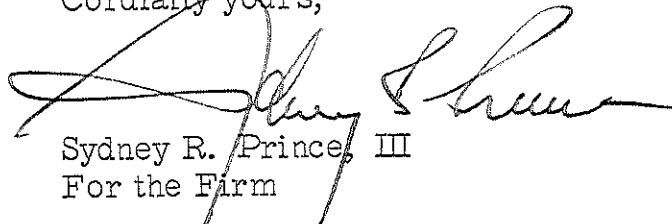
Enclosed herewith is a Motion for Dismissal which has been signed by Hal George Dempsey and Frances Dempsey, the plaintiffs in the above styled cause.

For the convenience of the Judge an order has been appended to said motion.

I would appreciate it if you will have the Judge rule on our motion and I would also ask that you send me an executed copy.

Costs are to be taxed to the defendant.

Cordially yours,


Sydney R. Prince, III
For the Firm

SRP, III:tt
Enc.