

ANTONIO THOMAS, JR., : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
-vs- : AT LAW  
ALBERT DEAN KING and HERMAN :  
LESTER BOYINGTON, jointly :  
and severally, : CASE NUMBER 6921  
Defendants. :

COUNT ONE

Plaintiff claims of the Defendants the sum of TEN THOUSAND AND NO/HUNDREDTHS DOLLARS (\$10,000.00) as damages for that heretofore and on, to-wit, July 13, 1965, Plaintiff's wife was a passenger in a motor vehicle traveling westwardly on Winn Road at a point approximately 7.6 miles north of Jackson, Alabama, and at a point where the said Winn Road was a public highway within Clarke County, Alabama, and Defendant Albert Dean King, an agent, servant or employee of Defendant Herman Lester Boyington, while acting in the line and scope of his employment as such, was driving a logging truck of said Defendant Herman Lester Boyington eastwardly on the said Winn Road, and at such time and place, Defendant Albert Dean King so negligently operated the said motor vehicle of Defendant Herman Lester Boyington as to cause or allow the same to get out of control and to completely block the eastward and westward lane of the said Winn Road and to cause the automobile in which Plaintiff's wife was riding as a passenger to collide with it. Plaintiff avers that as a direct and proximate consequence and result of the negligence of the Defendant Herman Lester Boyington acting by and through his agent, servant or employee, Defendant Albert Dean King, while acting within the line and scope of his employment as such, Plaintiff's wife was torn, lacerated and punctured; she suffered abrasions, contusions and a cerebral concussion; she was caused to be hospitalized for a long period of time;

she has suffered great pain and mental anguish and will likely in the future suffer further great pain and mental anguish; and she was rendered unable to carry out her wifely duties. And Plaintiff avers that as a direct result and proximate consequence of the aforesaid negligence of the Defendants, Plaintiff was deprived of the services and consortium of his wife for a great period of time, was caused to incur expenses for hospital fees, doctors, nursing and medical services, and will likely in the future be caused to incur further such medical expenses, all to Plaintiff's damage in the amount claimed.

WHEREFORE, this suit.

COUNT TWO

Plaintiff claims of the Defendants the sum of TEN THOUSAND AND NO/HUNDREDTHS DOLLARS (\$10,000.00) as damages for that heretofore and on, to-wit, July 13, 1965, Plaintiff's wife was a passenger in a motor vehicle traveling westwardly on Winn Road at a point approximately 7.6 miles north of Jackson, Alabama, and at a point where the said Winn Road was a public highway within Clarke County, Alabama, and Defendant Albert Dean King, an agent, servant or employee of Defendant Herman Lester Boyington, while acting in the line and scope of his employment as such, was driving a logging truck of said Defendant Herman Lester Boyington eastwardly on the said Winn Road, and at such time and place Defendant Albert Dean King willfully or wantonly injured Plaintiff by willfully or wantonly causing the said motor vehicle of Defendant Herman Lester Boyington to get out of control and to completely block the eastward and westward lane of the said Winn Road and to cause the automobile in which Plaintiff's wife was riding as a passenger to collide with it. Plaintiff's wife's willful or wanton injuries consisted in the following: She was torn, lacerated and

punctured; she suffered abrasions, contusions and a cerebral concussion; she was caused to be hospitalized for a long period of time; she has suffered great pain and mental anguish and will likely in the future suffer further great pain and mental anguish; she was rendered unable to carry out her wifely duties. And Plaintiff avers that as a direct result and proximate consequence of the aforesaid negligence of the Defendants, Plaintiff was deprived of the services and consortium of his wife for a great period of time, was caused to incur expenses for hospital fees, doctors, nursing and medical services, and will likely in the future be caused to incur further such medical expenses, all to Plaintiff's damage in the amount claimed.

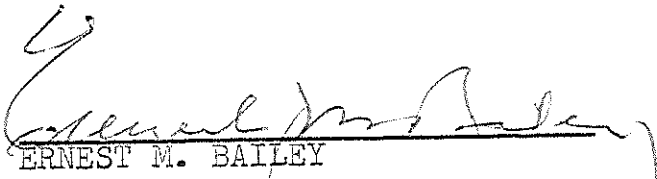
WHEREFORE, this suit.


  
ERNEST M. BAILEY

  
MICHAEL J. SALMON

Attorneys for the Plaintiff

Plaintiff respectfully demands trial by jury.

  
ERNEST M. BAILEY

  
MICHAEL J. SALMON

Attorneys for the Plaintiff

Defendants may be served at:

Albert Dean King  
Route 1  
Jackson, Alabama

Herman Lester Boyington  
1805 Hand Avenue, North  
Bay Minette, Alabama

FILED  
MAR 30 1966  
ALICE L. DUCK, CLERK  
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No. 6921

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Albert Dean King & Herman Lester Boyington,  
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 Albert Dean King  
and Herman Lester Boyington, jointly & Severally, Defendant....

by Antonio Thomas, Jr.,  
Plaintiff....

Witness my hand this 30th day of March, 1966

Alice J. Black Clerk

2413-31-66

No. 6921

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

ANTONIO THOMAS, JR.

Plaintiffs

vs.

ALBERT DEAN KING, & HERMAN  
LESTER BOYINGTON, Jointly  
& Severally Defendants

SUMMONS AND COMPLAINT

Filed March 30, 1966

Alice J. Duck Clerk

E.M. Bailey

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED

Received In Office

MAR 30 1966

TAYLOR WILKINS

SHERIFF

Sheriff

I have executed this summons

this March 31 1966

by leaving a copy with

Albert Dean King

Herman L Boyington

4-5-66

THE SHERIFF CLAIMS 10

MILES AT 10¢ PER MILE FOR

A TOTAL OF \$ 1.00

H. D. Paul, Sheriff

Taylor Wilkins

D. A. Talbot

H. D. Paul

Sheriff

W. H. Knight Deputy Sheriff

ANTONIO THOMAS, JR.,	)	IN THE CIRCUIT COURT OF
	:	
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
	:	
vs	)	AT LAW
	:	
ALBERT DEAN KING and HERMAN	)	
LESTER BOYINGTON, jointly	:	
and severally,	)	
	:	
Defendants.	)	CASE NUMBER 6921

DEMURRER

Come now the Defendants in the above styled cause, separately and severally, and demur to the complaint heretofore filed herein and to each count thereof, separately and severally, and for grounds of demurrer set down and assign as follows:

1. That it does not state facts sufficient to constitute a cause of action against this Defendant.

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 Defendant is called on 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 owed by Defendant to the Plaintiff.

6. For that it does not sufficiently appear that this Defendant owed any duty to the Plaintiff which Defendant negligently failed to perform.

7. For that the averments set up, if true, do

not show any liability on the part of this Defendant.

8. For that the pleader sets out in what said negligence consisted, and the facts so set out do not show negligence.

9. For that there does not appear sufficient causal connection between this Defendant's said breach of duty and Plaintiff's injuries and damages.

10. No facts are alleged to show that Plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of this Defendant.

11. It is not alleged with sufficient certainty where said accident occurred.

12. For aught that appears, Plaintiff had no right to be where Plaintiff was at the time and place of said accident.

13. It is not alleged that the negligence complained of proximately caused the accident and the injuries and damages complained of.

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

15. For that there is a misjoinder of parties Defendant.

16. It is not alleged that the wanton conduct complained of proximately caused the accident, the injuries and the damages complained of.

17. For that the pleader sets out in what the alleged wanton act consisted, and the facts so set out do

not show wantonness.

VICKERS, RIIS, MURRAY AND CURRAN

BY Marion R. Vickers.

Attorneys for Defendants



MAY 12 1966

ALICE J. TURNER, CLERK

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 11<sup>th</sup>  
day of May, 1966, served a copy of the  
foregoing pleading on counsel for all parties to this  
proceeding by mailing the same by United States mail,  
properly addressed, and first class postage prepaid.

Marion R. Vickers



ANTONIO THOMAS, JR., : IN THE CIRCUIT COURT OF  
 Plaintiff, : BALDWIN COUNTY, ALABAMA  
 v. : AT LAW  
 ALBERT DEAN KING and HERMAN : CASE NO. 6921  
 LESTER BOYINGTON, jointly :  
 and severally, :  
 Defendants. :

A N S W E R

Come now the defendants in the above styled cause, separately and severally, and for answer to the complaint heretofore filed in said cause, and to each count thereof, separately and severally, say, separately and severally, as follows:

1. Not guilty.
2. The matters alleged in the complaint are untrue.
3. At the time and place complained of, the plaintiff's wife was engaged in a joint enterprise with B. R. Kidd, who was then and there operating the motor vehicle in which the plaintiff's wife was riding, in that the plaintiff's wife and B. R. Kidd were making a trip in said motor vehicle for their joint and common purpose, so that plaintiff's wife had equal control over the operation of said motor vehicle, and the said B. R. Kidd did then and there so negligently operate said motor vehicle as to proximately contribute to the injuries and damages complained of, wherefore plaintiff ought not to recover.

VICKERS, RIIS, MURRAY & CURRAN

By Marion R. Vickers  
 Attorneys for Defendants.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 16<sup>th</sup> day of Aug., 1966, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.

Marion R. Vickers

FILED

8-17 1966

ALLIANCE I. DICK, CLERK REGISTERED

ANTONIO THOMAS, JR.,

PLAINTIFF

VS

ALBERT DEAN KING AND HERMAN  
LESTER BOYINGTON, JOINTLY  
AND SEVERALLY,

DEFENDANTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 6921

DEMURRER

COMES NOW THE PLAINTIFF AND DEMURS TO THE ANSWER NUMBERED  
THREE OF THE DEFENDANT HERETOFORE FILED, AND AS GROUNDS THEREFOR  
SETS FORTH AND ASSIGNS THE FOLLOWING:

1. FOR THAT THE SAME FAILS TO SET FORTH A DEFENSE.
2. FOR THAT THE SAME CONSISTS OF THE CONCLUSIONS OF THE  
PLEADER AND NO FACTS ARE ALLEGED IN SUPPORT THEREOF.
3. FOR THAT THE SAME FAILS TO SET OUT WITH SUFFICIENT  
PARTICULARITY WHAT ACTS IT IS ALLEGED THAT PLAINTIFF COMMITTED  
OR OMITTED PROXIMATELY CONTRIBUTING TO THE DAMAGES COMPLAINED OF.

MICHAEL J. SALMON

AND

ERNEST M. BAILEY

By: Ernest M. Bailey

ONE OF THE ATTORNEYS FOR THE  
PLAINTIFF

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT I HAVE ON THIS 30th  
DAY OF Sept, 1969, SERVED A COPY OF THE  
FOREGOING DEMURRER ON COUNSEL FOR ALL PARTIES TO  
THIS PROCEEDING BY MAILING THE SAME BY UNITED STATES  
MAIL, PROPERLY ADDRESSED, AND FIRST CLASS POSTAGE  
PREPAID.

Ernest M. Bailey

FILED

OCT 1 1969

ALICE J. DUCK CLERK  
REGISTER

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW CASE NO: 6921

ANTONIO THOMAS, JR.,

PLAINTIFF

VS

ALBERT DEAN KING AND HERMAN  
LESTER BOYINGTON, JOINTLY  
AND SEVERALLY,

DEFENDANTS

ANTONIO THOMAS, JR.,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
Vs.	X	BALDWIN COUNTY, ALABAMA
ALBERT DEAN KING and HERMAN LESTER BOYINGTON, jointly and severally,	X	AT LAW
Defendants.	X	CASE NO. 6921

DEMURRER

Comes now the Defendant, Herman Lester Boyington, and demurs to the Plaintiff's Complaint, and each count thereof, separately and severally, and as grounds therefor, says as follows:

1.

That the Complaint fails to state a cause of action.

WILTERS & BRANTLEY

BY: *Solomon M Brantley*  
Attorney for the Defendant,  
Herman Lester Boyington

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 20 day of April 1966, served a copy of the foregoing petition on counsel for all parties to the proceeding by mailing it to me by United States Mail, properly addressed, and that the postage is paid.

WILTERS & BRANTLEY

BY: *Solomon M Brantley*

FILED

APR 20 1966

ALICE J. DIXON, CLERK

Extra.

ANTONIO THOMAS, JR., : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
-vs- : AT LAW  
ALBERT DEAN KING and HERMAN :  
LESTER BOYINGTON, jointly :  
and severally, : CASE NUMBER 6921  
Defendants. :

COUNT ONE

Plaintiff claims of the Defendants the sum of TEN THOUSAND AND NO/HUNDREDTHS DOLLARS (\$10,000.00) as damages for that heretofore and on, to-wit, July 13, 1965, Plaintiff's wife was a passenger in a motor vehicle traveling westwardly on Winn Road at a point approximately 7.6 miles north of Jackson, Alabama, and at a point where the said Winn Road was a public highway within Clarke County, Alabama, and Defendant Albert Dean King, an agent, servant or employee of Defendant Herman Lester Boyington, while acting in the line and scope of his employment as such, was driving a logging truck of said Defendant Herman Lester Boyington eastwardly on the said Winn Road, and at such time and place, Defendant Albert Dean King so negligently operated the said motor vehicle of Defendant Herman Lester Boyington as to cause or allow the same to get out of control and to completely block the eastward and westward lane of the said Winn Road and to cause the automobile in which Plaintiff's wife was riding as a passenger to collide with it. Plaintiff avers that as a direct and proximate consequence and result of the negligence of the Defendant Herman Lester Boyington acting by and through his agent, servant or employee, Defendant Albert Dean King, while acting within the line and scope of his employment as such, Plaintiff's wife was torn, lacerated and punctured; she suffered abrasions, contusions and a cerebral concussion; she was caused to be hospitalized for a long period of time;

she has suffered great pain and mental anguish and will likely in the future suffer further great pain and mental anguish; and she was rendered unable to carry out her wifely duties. And Plaintiff avers that as a direct result and proximate consequence of the aforesaid negligence of the Defendants, Plaintiff was deprived of the services and consortium of his wife for a great period of time, was caused to incur expenses for hospital fees, doctors, nursing and medical services, and will likely in the future be caused to incur further such medical expenses, all to Plaintiff's damage in the amount claimed.

WHEREFORE, this suit.

COUNT TWO

Plaintiff claims of the Defendants the sum of TEN THOUSAND AND NO/HUNDREDTHS DOLLARS (\$10,000.00) as damages for that heretofore and on, to-wit, July 13, 1965, Plaintiff's wife was a passenger in a motor vehicle traveling westwardly on Winn Road at a point approximately 7.6 miles north of Jackson, Alabama, and at a point where the said Winn Road was a public highway within Clarke County, Alabama, and Defendant Albert Dean King, an agent, servant or employee of Defendant Herman Lester Boyington, while acting in the line and scope of his employment as such, was driving a logging truck of said Defendant Herman Lester Boyington eastwardly on the said Winn Road, and at such time and place Defendant Albert Dean King willfully or wantonly injured Plaintiff by willfully or wantonly causing the said motor vehicle of Defendant Herman Lester Boyington to get out of control and to completely block the eastward and westward lane of the said Winn Road and to cause the automobile in which Plaintiff's wife was riding as a passenger to collide with it. Plaintiff's wife's willful or wanton injuries consisted in the following: She was torn, lacerated and

punctured; she suffered abrasions, contusions and a cerebral concussion; she was caused to be hospitalized for a long period of time; she has suffered great pain and mental anguish and will likely in the future suffer further great pain and mental anguish; she was rendered unable to carry out her wifely duties. And Plaintiff avers that as a direct result and proximate consequence of the aforesaid negligence of the Defendants, Plaintiff was deprived of the services and consortium of his wife for a great period of time, was caused to incur expenses for hospital fees, doctors, nursing and medical services, and will likely in the future be caused to incur further such medical expenses, all to Plaintiff's damage in the amount claimed.

WHEREFORE, this suit.

  
ERNEST M. BAILEY

  
MICHAEL J. SALMON

Attorneys for the Plaintiff

Plaintiff respectfully demands trial by jury.

  
ERNEST M. BAILEY

  
MICHAEL J. SALMON

Attorneys for the Plaintiff

Defendants may be served at:

Albert Dean King  
Route 1  
Jackson, Alabama

Herman Lester Boyington  
1805 Hand Avenue, North  
Bay Minette, Alabama

FILED  
MAR 20 1966  
ALICE L. DICK, CLERK  
REGISTER

VICKERS, RIIS, MURRAY AND CURRAN

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS  
ERLING RIIS, JR.  
J. MANSON MURRAY  
EDWIN J. CURRAN, JR.  
MARION R. VICKERS, JR.

May 11, 1966

MAILING ADDRESS:  
P. O. BOX 990-36601  
PHONE 432-9772

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

Re: Case No. 6921 - Antonio Thomas, Jr. vs  
Albert Dean King and Herman Lester Boyington

Dear Mrs. Duck:

We are enclosing herewith demurrers in the above styled case on behalf of the defendants, Albert Dean King and Herman Lester Boyington. We would appreciate it if you would see that the demurrer is filed.

Yours very truly,

VICKERS, RIIS, MURRAY AND CURRAN

*Marion R. Vickers*  
Marion R. Vickers, Jr.

MRV/bm

Encl.