

SUMMONS AND COMPLAINT

STATE OF ALABAMA)
BALDWIN COUNTY)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

No. _____

Term, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Rosemont, Inc., Fairhope, 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 Rosemont, Inc. by Lena Durden, Plaintiff.

Witness my hand this 7th day of April, 1966.

Alice J. Duck, Clerk.

LENA DURDEN,
Plaintiff,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

vs.

AT LAW

ROSEMONT, INC.,
Defendant.

6929

COUNT ONE:

Plaintiff claims of the defendant Twenty Thousand (\$20,000.00) Dollars, as damages, for that on 3 November, 1965, the defendant, Rosemont, Inc., was engaged as a nursing and convalescent center, near Fairhope, Baldwin County, Alabama, for caring for elderly patients needing professional nursing and convalescent treatment and care; that on 3 November, 1965, while plaintiff was a patient for hire and reward, at the said Rosemont, Inc., the defendant undertook, promised and agreed to provide personal services as may be necessary for the health, safety and well being of plaintiff, including the services of a licensed physician and medications as the said licensed physician may prescribe; that on said 3 November, 1965, plaintiff avers that while she was in said Rosemont, Inc., nursing center for the purposes aforesaid, the defendant's servants, agents or employees, who were then and there in charge of plaintiff, and while then and there acting within the line and scope of their

authority as such servants, agents or employees of the defendant, so negligently conducted themselves in and about the premises of the defendant so as to cause plaintiff to trip and fall, upon a metal object in the floor of the premises owned and operated by defendant, and as a proximate consequence of the said negligence your plaintiff suffered a comminuted intertrochanteric fracture neck, left femur, extensively comminuted fracture of the distal portion of the left radius and tip of the ulna styloid and great pains and mental anguish, hence this suit.

Kenneth Cooper
Attorney For Plaintiff

*Plaintiff demands a
trial by jury in
this Cause.*

Kenneth Cooper
Attorney For Plaintiff

EX-4-9-66

FILED
APR 7 1966
ALICE L. DICK, CLERK
REGISTER

CASE NO. 6929

LENA DURDEN,

Plaintiff,

vs.

ROSEMONT, INC.,

Hope, AL Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

FILED
APR 12 1966
ALICE A. DICK, CLERK
BALDWIN COUNTY, ALA.

KENNETH COOPER
ATTORNEY AT LAW
109 EAST 131 STREET
BAY MINETTE, ALABAMA

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9

Deppie 1966
April 1966

Rosemont, Inc.

Francis E. Green
Admn.

TAYLOR WILKINS, Sheriff
By Roy Randall
G. L. Lyle

70 miles at
Ten Cents per mile Total \$ 7.00
TAYLOR WILKINS, Sheriff
By Roy Randall

LENA DURDEN, : IN THE CIRCUIT COURT OF
Plaintiff : BALDWIN COUNTY, ALABAMA
vs. : AT LAW
ROSEMONT, INC., :
Defendant. : CASE NO. 6929

D E M U R R E R

Comes now the defendant in the above-styled cause, Rosemont, Inc., and demurs to each count of the complaint heretofore filed, separately and severally, and for separate and several grounds of demurrer, assigns the following, separately and severally:

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 the averments set up, if true, do not show any liability on the part of this defendant.

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


8. For that the plaintiff has attempted to plead specific facts showing negligence on the part of the defendant, and such facts do not show in what manner this defendant was negligent.

9. For that the complaint fails to aver facts showing where and how this defendant allegedly committed a negligent act proximately resulting in injury of the plaintiff.

10. For aught that appears from the allegations of the complaint, the metal object in the floor of the premises owned and operated by the defendant, was placed there without the knowledge or agency of this defendant.

11. For that this defendant is not advised by the factual allegations of the complaint in what manner its agents, servants or employees negligently conducted themselves about the premises so as to cause this plaintiff to fall.

12. For that the averments that the agents, servants or employees of the defendant negligently conducted themselves in and about the premises so as to cause the plaintiff to trip and fall is but a conclusion of the pleader.


Trial Attorney for Defendant

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

FILED

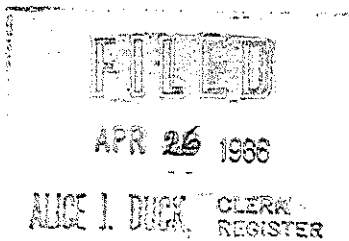
APR 26 1966

ALICE J. DUCK, CLERK
REGISTER

C E R T I F I C A T E

I hereby certify that I have mailed a true and correct copy of the foregoing Demurrer to Kenneth Cooper, Esq., Attorney for Plaintiff by depositing a copy of same in the United States Mail, postage prepaid, addressed to Mr. Cooper at his office in Bay Minette, Alabama on this, the 25th day of April, 1966.

Donald B. Brier



HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON
LAWYERS

FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

36601

MAILING ADDRESS:
P. O. BOX 123

CABLE ADDRESS:
HAB

TELEPHONE:
432-5511
AREA CODE 205

CHAS. C. HAND
C. B. ARENDALL, JR.
T. MASSEY BEDSOLE
THOMAS G. GREAVES, JR.
WM. BREVARD HAND
VIVIAN G. JOHNSTON, JR.
PAUL W. BROCK
ALEX F. LANKFORD, III
EDMUND R. CANNON, JR.
LYMAN F. HOLLAND, JR.
J. THOMAS HINES, JR.
DONALD F. PIERCE
LOUIS E. BRASWELL
HAROLD D. PARKMAN
G. PORTER BROCK, JR.
HARWELL E. COALE, JR.
STEPHEN G. CRAWFORD
JERRY A. MCDOWELL
W. RAMSEY MCKINNEY, JR.
LARRY U. SIMS
C. WAYNE LOUDERMILCH

April 25, 1966

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

Re: Lena Durden v. Rosemont, Inc.
Circuit Court, Case #6929

Dear Mrs. Duck:

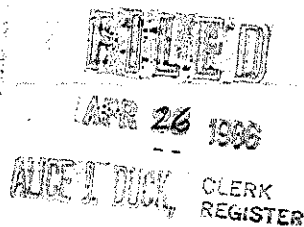
Enclosed please find a Demurrer which we would appreciate your filing on behalf of the defendant Rosemont, Inc.. I am enclosing an additional copy of this letter so that you might stamp the filing date on it and mail it back to me in the enclosed self-addressed envelope.

Thanking you in advance for your cooperation, I am,

Yours very truly,



For the Firm



DFP.mbd
Enclosure