

CIRCUIT COURT OF BALDWIN COUNTY
ALABAMA

CLYDE B. WEIR and)
MONARCH INSURANCE COMPANY, *

Plaintiffs,)

Vs. *

FLOYD PAINTER; FLOYD PAINTER)
d/b/a FOLEY AIRPORT; and)
FOLEY AIRPORT, a person, firm, *
or corporation whose name is)
otherwise unknown to the)
plaintiffs but which will be)
set forth when ascertained, *

Defendants.

CIVIL ACTION

NO. 13,014

C O M P L A I N T

COUNT ONE

1. The plaintiff Clyde Weir is the owner of a Cessna Skyland, Model 182D, registration number N8954X, and the plaintiff Monarch Insurance Company insured said Cessna Skyland against physical damage.

2. The defendants were in custody and control of said Cessna Skyland at the Foley Airport on April 13, 1975, in accordance with an agreement with plaintiff Weir, under the terms of which the defendants, for a consideration, agreed to store and care for said Cessna Skyland.

3. The defendants breached the aforesaid agreement in that while said Cessna Skyland was in the defendants care, custody and control they failed to exercise due care in the storage of said Cessna Skyland when they caused or permitted another aircraft to collide with said Cessna Skyland. As a proximate result of said breach the plaintiffs were injured and damaged in that the plane was greatly bent, broken,

damaged and rendered permanently and substantially less valuable, and the plaintiff Weir suffered further damage in that he was required to hire a plane for use while said Cessna Skyland was being repaired. The plaintiff Monarch by reason of its having paid benefits to the plaintiff Weir under the terms of its policy is by implied and express agreement subrogated in part to the rights of the plaintiff Weir.

WHEREFORE, the plaintiffs demand judgment against the defendants in the sum of Twelve Thousand Five Hundred (\$12,500.00) Dollars and costs.

COUNT TWO

4. The plaintiff Clyde Weir is the owner of a Cessna Skyland, Model 182D, registration number N8954X, and the plaintiff Monarch Insurance Company insured said Cessna Skyland against physical damage.

5. The defendants were in custody and control of said Cessna Skyland at the Foley Airport on April 13, 1975, in accordance with an agreement with plaintiff Weir, under the terms of which the defendants, for a consideration, agreed to store and care for said Cessna Skyland.

6. On or about the 13th day of April, 1975, the defendants negligently caused or allowed a plane to collide with the Cessna while in their custody and control at the Foley Airport as bailee.

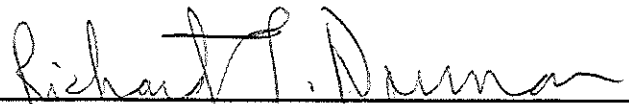
7. As a proximate consequence of the defendants said negligence, the plaintiffs were caused to suffer the following damages: the plaintiff Weir's plane was greatly bent, broken and damaged and was caused to depreciate substantially

in value, and the plaintiff Weir suffered further damage in that he was required to hire another plane for his use while the Cessna was being repaired. The plaintiff Monarch Insurance Company, by reason of its having paid to the plaintiff Weir under the terms of the policy, is impliedly and expressly subrogated to his rights in part.

WHEREFORE, the plaintiffs demand judgment against the defendants in the sum of Twelve Thousand Five Hundred (\$12,500.00) Dollars and costs.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By



Attorneys for Plaintiffs
Clyde B. Weir and
Monarch Insurance Company
P. O. Box 1988
Mobile, Alabama 36601

Defendant Floyd Painter
may be served at
Foley Airport
Foley, Alabama

FILED

AUG 20 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

CIRCUIT COURT OF BALDWIN COUNTY
ALABAMA

CLYDE B. WEIR and)
MONARCH INSURANCE COMPANY, *

Plaintiffs)

Vs. *

CIVIL ACTION

FLOYD PAINTER; FLOYD PAINTER)
d/b/a FOLEY AIRPORT; and)
FOLEY AIRPORT, a person, firm, *
or corporation whose name is)
otherwise unknown to the)
plaintiffs but which will be)
set forth when ascertained, *

NO. 13,014

Defendants

INTERROGATORIES TO DEFENDANT FOLEY AIRPORT

The plaintiffs request that the defendant Foley Airport answer under oath, in accordance with Rule 33 of the Alabama Rules of Civil Procedure, the following interrogatories:

1. Is your name correctly stated in the complaint as filed in this cause?
2. If your name is not correctly stated in the complaint as filed, then list your correct name.
3. What was the name of the airport on April 13, 1975?
4. If the present name of the airport is different from the name given in answer to Interrogatory 3, please state the present name of the airport.
5. Is this business incorporated?
6. If it is incorporated, give the location of the appropriate office in which the letters of incorporation are filed and give the book and page number at which the letters of incorporation are recorded.

7. If the airport is not incorporated, state the name or names of each and every person owning or having an interest in this business.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL
By Richard T. Dorman
Richard T. Dorman

P. O. Box 1988
Mobile, Alabama 36601

Certificate of Service

I do hereby certify that I have on this 19th day of August, 1975, served a copy of the foregoing on all parties to this proceeding by attaching a copy to the original complaint to be served with the complaint.

Richard T. Dorman
Richard T. Dorman

FILED

AUG 20 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

SUMMONS

MOORE Ptg. Co., Bay Minette

CLYDE B. WEIR and MONARCH INSURANCE CO.

Circuit Court, Baldwin County, Alabama

Vs. Plaintiff

Civil Action No. 13,014

FLOYD PAINTER; FLOYD PAINTER d/b/a

FOLEY AIRPORT; AND FOLEY AIRPORT, et al
Defendant

August 20, 1975

To Any Sheriff or any person authorized by Rule 4 (a) (3) of the Alabama Rules of Civil Procedure to effect service in the State of Alabama:

& Interrogatories

You are hereby commanded to serve this summons and a copy of the complaint in this action upon defendant Floyd Painter; Floyd Painter d/b/a Foley Airport; and Foley Airport, et al

& Interrogatories

Each defendant is required to serve a copy of a written answer to the complaint upon JOHNSTONE, ADAMS, MAY HOWARD & HILL By: Richard T. Dorman, attorney of record for the plaintiff whose address is

P. O. Box 1988, Mobile, AL 36601 within thirty (30) days after service of this summons excluding the day of service of the summons and to file the original of said written answer with the Clerk of this Court at the time of service of the answer upon the attorney of record for the Plaintiff or within a reasonable time thereafter. If any defendant fails to do so, a judgment by default may be entered against that defendant for the relief complained of in the complaint.

Dated August 20, 1975

Eunice B. Blackmon
Clerk of Circuit Court

Civil Action No. 13,014

STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

CLYDE B. WEIR and MONARCH INSURANCE

COMPANY

Plaintiffs

vs.

FLOYD PAINTER; FLOYD PAINTER d/b/a
FOLKY AIRPORT; and FOLKY AIRPORT, et al

Defendants

SUMMONS

Filed August 20, 1975

Eunice B. Blackmon Clerk

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By: RICHARD T. DORMAN

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Foley Airport
Foley, AL

Received In Office

19.....

Sheriff

I have executed this summons

this 22th day of aug 1975
by leaving a copy with

Floyd Painter d/b/a

Mr. Askegane 968-1201

Sheriff claimed 144 miles at
Ten Cents per mile Total \$ 14.40
THOMAS H. BENTON, Sheriff

By: TR. Myrick
DEPUTY SHERIFF

Sheriff

Deputy Sheriff


MOORE Prtg. Co., Bay Minette

CLYDE B. WEIR and	:	IN THE CIRCUIT COURT OF
MONARCH INSURANCE COMPANY,	:	BALDWIN COUNTY,
Plaintiffs,	:	ALABAMA
vs.	:	
FLOYD PAINTER, et al.,	:	
Defendants.	:	CIVIL ACTION NO. 13,014

MOTION TO DISMISS

Comes now Floyd Painter and Foley Aero, Inc., incorrectly described herein as Floyd Painter d/b/a Foley Airport, and moves the Court to dismiss the plaintiff's complaint and each count thereof on the following grounds:

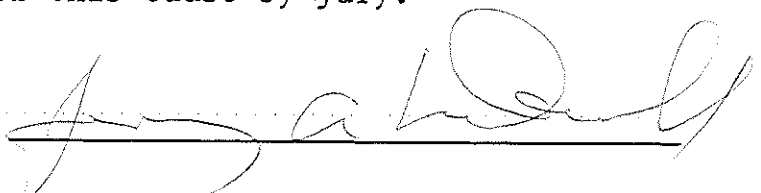
1. For that the same fails to state a claim upon which relief can be granted.


Attorney for Defendants

Of Counsel:

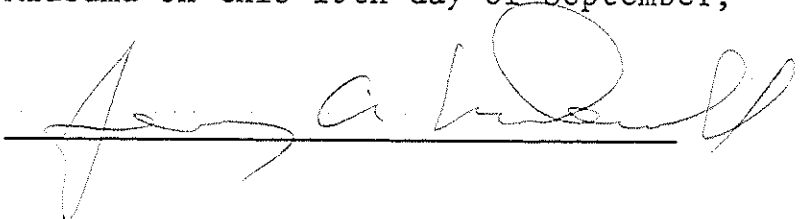
HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON
 3000 First National Bank Building
 Mobile, Alabama

Defendants demand trial of this cause by jury.


Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing Motion on Richard T. Dorman, Esq., Attorney for Plaintiffs, by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Mobile, Alabama on this 19th day of September, 1975.


Attorney for Defendants

FILED

SEP 22 1975

EUNICE B. BLACKMON CIRCUIT CLERK

CLYDE B. WEIR and
MONARCH INSURANCE COMPANY,

Plaintiffs

Vs.

FLOYD PAINTER, et al.,

Defendants

)

*

)

*

)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

CIVIL ACTION NO. 13,014

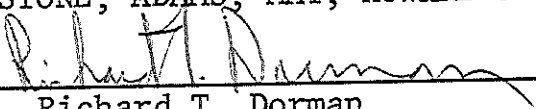
MOTION TO AMEND COMPLAINT

The plaintiffs for the purpose of correcting the name of the defendant Foley Airport, moves the Court for leave to amend the caption of the complaint by striking the words "Floyd Painter d/b/a Foley Airport" and the words "Foley Airport, a person, firm, or corporation whose name is otherwise unknown to the plaintiffs but which will be set forth when ascertained," and inserting in lieu thereof the words "Foley Aero, Inc.;".

The plaintiff further moves for leave to amend the complaint by adding thereto the name of Vincent A. Liberto.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

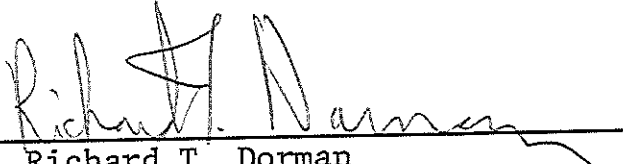
By


Richard T. Dorman
Attorneys for Plaintiffs

P. O. Box 1988
Mobile, Alabama 36601

Certificate of Service

I do hereby certify that I have on this 17th day of October, 1975, served a copy of the foregoing on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.


Richard T. Dorman

FILED

OCT 22 1975

EUNICE B. BLACKMON CIRCUIT CLERK

VOL

75 PAGE 288

CLYDE B. WEIR and
MONARCH INSURANCE COMPANY,

Plaintiffs

Vs.

FLOYD PAINTER, et al.,

Defendants

)

IN THE CIRCUIT COURT OF

*

BALDWIN COUNTY,

)

ALABAMA

*

)

CIVIL ACTION NO. 13,014

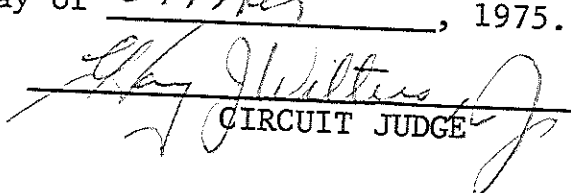
O R D E R

This cause coming to be heard upon motion of the plaintiffs for leave to amend plaintiffs' complaint, it is hereby ORDERED that leave be and is hereby given to the plaintiffs to amend the complaint as follows:

1. To strike the words "Floyd Painter d/b/a Foley Airport" and the words "Foley Airport, a person, firm, or corporation whose name is otherwise unknown to the plaintiffs but which will be set forth when ascertained," and inserting in lieu thereof the words "Foley Aero, Inc."

2. To add as a named defendant Vincent A. Liberto and for summons to be issued against the said Vincent A. Liberto.

DONE this 23rd day of October, 1975.


CIRCUIT JUDGE

FILED

OCT 23 1975

EUNICE B. BLACKMON CIRCUIT CLERK

EVOL

75 PAGE 289

CLYDE B. WEIR and
MONARCH INSURANCE COMPANY,

Plaintiffs

Vs.

FLOYD PAINTER, et al.,

Defendants

) IN THE CIRCUIT COURT OF
* BALDWIN COUNTY,

) ALABAMA

*

)

CIVIL ACTION NO. 13,014

AMENDMENT TO THE COMPLAINT

The plaintiffs for the purpose of correcting the names of the parties defendant herein, and adding the name of Vincent A. Liberto as a party defendant pursuant to Court order hereby amends the caption as follows:

"CLYDE B. WEIR and
MONARCH INSURANCE COMPANY,

Plaintiffs

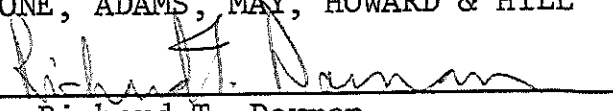
Vs.

FLOYD PAINTER; FOLEY AERO,
INC.; and VINCENT A. LIBERTO,

Defendants."

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

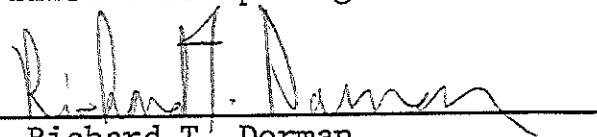
By


Richard T. Dorman
Attorneys for Plaintiffs

P. O. Box 1988
Mobile, Alabama 36601

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 17th day of October, 1975, served a copy of the foregoing on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.


Richard T. Dorman

FILED

OCT 22 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

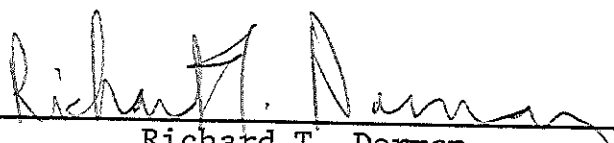
STATE OF ALABAMA

COUNTY OF MOBILE

A F F I D A V I T

Before me, personally appeared Richard T. Dorman, whose name is known to me, and who, being by me first duly sworn, deposes as says as follows:

"My name is Richard T. Dorman, and I am the attorney of record for the plaintiffs in the law suit styled Clyde Weir and Monarch Insurance Company, Plaintiffs Vs. Floyd Painter; Foley Aero, Inc.; and Vincent A. Liberto, Defendants, in the Circuit Court of Baldwin County, Alabama, Civil Action No. 13,014, and as such attorney, I am informed and believe and upon such information and belief, state that the postal address of the defendant Vincent A. Liberto is P. O. Box 1709, Laurel, Mississippi 39440, and that the above mentioned suit is based upon acts of the defendant, Vincent A. Liberto's agent, servant or employee, and that such acts constitute transacting business in this state and that the suit arises out of and as a consequence of such acts or business done in this state by the defendant Vincent A. Liberto and/or his agents, servants or employees, so that service may be perfected through the Secretary of State of Alabama pursuant to the provisions of Rule 4 of Alabama Rules of Civil Procedure."


Richard T. Dorman

Sworn to and subscribed before me this 17th day of October, 1975.


Notary Public, State of Alabama

8/17

CIRCUIT COURT OF BALDWIN COUNTY
ALABAMA

CLYDE B. WEIR and
MONARCH INSURANCE COMPANY,

Plaintiffs,

Vs.

FLOYD PAINTER; FLOYD PAINTER
d/b/a FOLEY AIRPORT; and
FOLEY AIRPORT, a person, firm,
or corporation whose name is
otherwise unknown to the
plaintiffs but which will be
set forth when ascertained,

Defendants.

CIVIL ACTION

NO. _____

C O M P L A I N T

COUNT ONE

1. The plaintiff Clyde Weir is the owner of a Cessna Skyland, Model 182D, registration number N8954X, and the plaintiff Monarch Insurance Company insured said Cessna Skyland against physical damage.
2. The defendants were in custody and control of said Cessna Skyland at the Foley Airport on April 13, 1975, in accordance with an agreement with plaintiff Weir, under the terms of which the defendants, for a consideration, agreed to store and care for said Cessna Skyland.
3. The defendants breached the aforesaid agreement in that while said Cessna Skyland was in the defendants care, custody and control they failed to exercise due care in the storage of said Cessna Skyland when they caused or permitted another aircraft to collide with said Cessna Skyland. As a proximate result of said breach the plaintiffs were injured and damaged in that the plane was greatly bent, broken,

damaged and rendered permanently and substantially less valuable, and the plaintiff Weir suffered further damage in that he was required to hire a plane for use while said Cessna Skyland was being repaired. The plaintiff Monarch by reason of its having paid benefits to the plaintiff Weir under the terms of its policy is by implied and express agreement subrogated in part to the rights of the plaintiff Weir.

WHEREFORE, the plaintiffs demand judgment against the defendants in the sum of Twelve Thousand Five Hundred (\$12,500.00) Dollars and costs.

COUNT TWO

4. The plaintiff Clyde Weir is the owner of a Cessna Skyland, Model 182D, registration number N8954X, and the plaintiff Monarch Insurance Company insured said Cessna Skyland against physical damage.

5. The defendants were in custody and control of said Cessna Skyland at the Foley Airport on April 13, 1975, in accordance with an agreement with plaintiff Weir, under the terms of which the defendants, for a consideration, agreed to store and care for said Cessna Skyland.

6. On or about the 13th day of April, 1975, the defendants negligently caused or allowed a plane to collide with the Cessna while in their custody and control at the Foley Airport as bailee.

7. As a proximate consequence of the defendants said negligence, the plaintiffs were caused to suffer the following damages: the plaintiff Weir's plane was greatly bent, broken and damaged and was caused to depreciate substantially

in value, and the plaintiff Weir suffered further damage in that he was required to hire another plane for his use while the Cessna was being repaired. The plaintiff Monarch Insurance Company, by reason of its having paid to the plaintiff Weir under the terms of the policy, is impliedly and expressly subrogated to his rights in part.

WHEREFORE, the plaintiffs demand judgment against the defendants in the sum of Twelve Thousand Five Hundred (\$12,500.00) Dollars and costs.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By _____

Attorneys for Plaintiffs
Clyde B. Weir and
Monarch Insurance Company
P. O. Box 1988
Mobile, Alabama 36601

Defendant Floyd Painter
may be served at
Foley Airport
Foley, Alabama

FILED

OCT 22 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

SUMMONS

Moore Printing Co. - Bay Minette

CLYDE B. WEIR AND MONARCH INSURANCE
COMPANY

Plaintiff

Vs.

FLOYD PAINTER, ET AL

Defendant

Circuit Court, Baldwin County, Alabama

Civil Action No.....13,014.....

..... 19.....

To Any Sheriff or any person authorized by Rule 4 (a) (3) of the Alabama Rules of Civil Procedure to effect service in the State of Alabama:

You are hereby commanded to serve this summons and a copy of the complaint in this action upon defendant Vincent A. Liberto, P. O. Box 1709, Laurel, Mississippi 39440

Each defendant is required to serve a copy of a written answer to the complaint upon Johnstone, Adams, May, Howard & Hill, attorney of record for the plaintiff whose address is

P. O. Box 1988, Mobile, Alabama 36601 within thirty (30) days after service of this summons excluding the day of service of the summons and to file the original of said written answer with the Clerk of this Court at the time of service of the answer upon the attorney of record for the Plaintiff or within a reasonable time thereafter. If any defendant fails to do so, a judgment by default may be entered against that defendant for the relief complained of in the complaint.

Date October 23, 1975

Eunice B. Blackmon
Clerk of Circuit Court

Civil Action No. 13,014

STATE OF ALABAMA
Baldwin County

Circuit Court

CLYDE B. WEIR AND MONARCH INSURANCE

COMPANY

Plaintiffs

vs.

FLOYD PAINTER, ET AL

Defendants

SUMMONS

Filed October 22, 1975

Eunice B. Blackmon Clerk

FILED

OCT 22 1975

EUNICE B. BLACKMON CIRCUIT CLERK

Johnstone, Adams, May, Howard & Hill
Plaintiff's Attorney

Defendant's Attorney

1680
RECEIVED IN OFFICE

Defendant lives at
Vincent A. Liberto - P. O. Box 1709
Laurel, Mississippi 39440

RECEIVED

M. S. BUTLER, SHERIFF

THOMAS H. BENTON

I have executed this summons

this 22 day of October, 1975
by leaving a copy with

Executed by serving 3 copies of
the within on at Bossett
Secretary of State of the State of
Alabama.

This the 22 day of Oct 1975

Sheriff of Montgomery County

M. S. Butler,

M. S. Butler, Sheriff of Montgomery

County, Alabama, Claim \$1.50 each for

serving 1 process(es) and \$1.00

travel expense on each of 1 Sheriff

process(es) or a total of 2.50 Deputy Sheriff

Deputy Sheriff