

NORMA S. HARTNESS, : IN THE CIRCUIT COURT OF
Plaintiff : BALDWIN COUNTY, ALABAMA
vs. :
MRS. ALICE L. WRIGHT, : AT LAW
Defendant. : CASE NO. 7244

D E M U R R E R

Comes now the Defendant in the above-styled cause, and demurs to each separate and several count of the complaint filed herein, separately and severally, and sets down and assigns as separate and several grounds of demurrer, the following, separately and severally:

1. For that said count is vague and indefinite as to place.
2. For that the allegation "at Perdido in Baldwin County, Alabama" is not specific enough as to place.
3. For that said count fails to aver where the alleged negligence of the Defendant occurred.
4. For that the place of the alleged negligence is not described with sufficient certainty.
5. For that the place of the "premises or yard" is not described with sufficient certainty.
6. For that the use of the term "so negligently maintained the premises or yard" is but a conclusion.
7. For that said count avers negligence only as a conclusion.
8. For that negligence is alleged therein merely as a conclusion.
9. For that said count attempts to set forth the facts constituting negligence but said facts do not constitute negli-

gence.

10. For that said count attempts to aver the quo modo of the negligence, but the facts as set out do not as a matter of law constitute negligence.

11. For that the allegation that the Defendant so negligently maintained the premises as to cause or allow the Plaintiff to trip and fall on a brick or depression in the yard is not an allegation of negligence.

12. For that the allegation that the Defendant so negligently maintained the premises as to cause or allow the Plaintiff to trip and fall on a brick or depression in the yard does not sufficiently aver negligence.

13. For that the status of the Plaintiff is not described with sufficient certainty.

14. For that the use of the term "at the invitation of the Defendant" is but a conclusion.

15. For aught that appears the Plaintiff was only a licensee.

16. For aught that appears the Plaintiff was merely a social guest and, therefore, a licensee.

17. For that the use of the phrase "at the invitation of the Defendant and assisting the Defendant in raking and burning leaves" describes only a licensee; hence, no duty is averred.

18. For that the use of the phrase "at the invitation of the Defendant and assisting the Defendant in raking and burning leaves" describes only a licensee; hence, the Defendant is not liable to the Plaintiff for negligence.

19. For that the use of the phrase "at the invitation of the Defendant and assisting the Defendant in raking and burning leaves" describes only a licensee; hence, said count fails to

state a cause of action against this Defendant in that it does not aver any breach of a duty which the Defendant owed to the Plaintiff.

20. For that the facts as alleged in said count show that the Plaintiff was only a licensee and not an invitee.

21. For that said count fails to aver that there was any mutuality of benefit in a business or commercial sense so as to make the Plaintiff more than a licensee.

22. For that said count fails to aver that there was any mutuality of benefit in a business or commercial sense; hence, Plaintiff was only a licensee and, therefore, cannot recover of the Defendant for negligence.

23. For that said count fails to aver that there was any mutuality of benefit in a business or commercial sense; hence, Plaintiff was only a licensee and, therefore, cannot recover of the Defendant for negligence as alleged in said count.

24. For that said count fails to aver any facts to show that this Defendant owed a duty to the Plaintiff.

25. For that said count fails to aver any duty on the part of this Defendant to the Plaintiff.

26. For that said count fails to aver any duty to the Plaintiff.

27. For that said count fails to aver any duty owed the Plaintiff which the Defendant breached.

28. For that said count fails to aver any breach of a duty which was owed to the Plaintiff.

29. For aught that appears the Plaintiff was a trespasser.

30. For that said count affirmatively shows that the Plaintiff was nothing but a social guest and was not an invitee.

31. For that proximate causation is alleged therein merely as a conclusion.

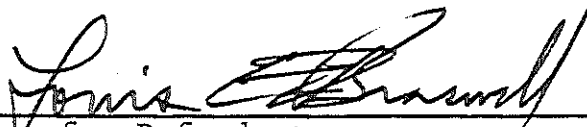
32. For that proximate causation is not sufficiently alleged in said count.

33. For that said count fails to aver facts constituting negligence.

34. For aught that appears the Plaintiff herself was guilty of contributory negligence.

35. For that said count does not negative the Plaintiff's contributory negligence.

36. For aught that appears the Plaintiff herself was guilty of contributory negligence and hence cannot recover.



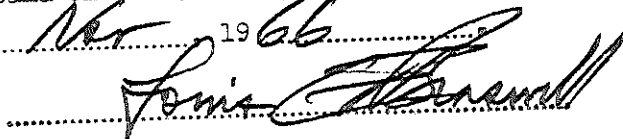
Attorney for Defendant
First National Bank Building
Mobile, Alabama

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES AND JOHNSTON

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing pleading to Marbome
C. Stone, Jr., Esq., Attorney for Plaintiff
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, the 25 day of Nov, 1966



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U.S. DISTRICT COURT
MOBILE, ALABAMA

STATE OF ALABAMA

IN THE CIRCUIT COURT - LAW SIDE

BALDWIN COUNTY

TO: ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Mrs. Alice L. Wright to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the Complaint of Norma S. Hartness.

Witness my hand this 4th day of November, 1966.

Alice J. Luck
Clerk

NORMA S. HARTNESS,	X	IN THE CIRCUIT COURT OF
Plaintiff,	X	
	X	BALDWIN COUNTY, ALABAMA
vs	X	
MRS. ALICE L. WRIGHT,	X	AT LAW #7244
Defendant.	X	

COUNT ONE:

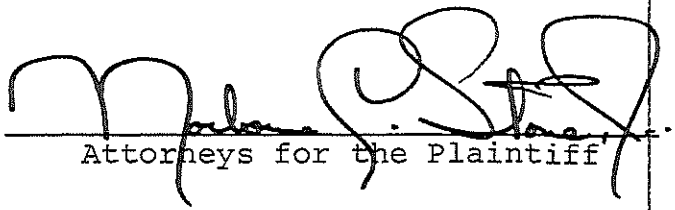
The Plaintiff claims of the Defendant Twenty Thousand Dollars (\$20,000.00) damages for that on heretofore, to-wit: the 7th day of December, 1965 at Perdido in Baldwin County, Alabama the Defendant so negligently maintained the premises or yard where she lives in said community as to cause or allow the Plaintiff who was in said yard at the invitation of the Defendant and assisting the Defendant in raking and burning leaves to trip and fall on a brick or depression in the yard and as a proximate consequence and result of the negligence of the Defendant aforesaid the

Plaintiff sustained serious and painful injuries in this: her neck was injured, her middle and lower cervical spine was injured and sprained, her left wrist was fractured, she suffered a carpal tunnel syndrome in her left wrist, she was required to be hospitalized and to undergo surgery on her left hand and wrist, she suffered great pain and mental anguish; she was caused to incur medical and hospital bills in the care and treatment of her injuries, she loss time from her employment as a seamstress, and she was otherwise injured and damaged, hereby she brings this suit and ask judgment in the above amount.

Respectfully Submitted,

CHASON, STONE & CHASON

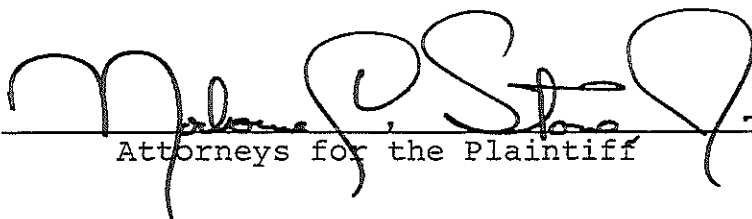
By:


Attorneys for the Plaintiff

The Plaintiff demands a trial of this case
by a jury.

CHASON, STONE & CHASON

By:


Attorneys for the Plaintiff

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NOV 4 1966

ALICE I. DUCK, CLERK
REGISTER

Executed
Nov 17, 1966
J. A. Williams Jr.
W. A. Talbert D.S.

7244

4 Nov 66
17 Nov 1966
I received a copy of the within etc
Mrs. Alice L. Wright

NORMA S. HARTNESS,
Plaintiff,

VS

MRS. ALICE L. WRIGHT,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

SUMMONS AND COMPLAINT

FILED

NOV 4 1966

ALICE A. DUCK, CLERK

CHASON, STONE & CHASON
ATTORNEYS AT LAW
P. O. Box 120
BAY MINETTE, ALABAMA

Sheriff claims 36 miles at
Ten Cents per mile Total \$2.60
TAYLOR WILKINS, Sheriff
BY W. A. Talbot
DEPUTY SHERIFF