

CURTIS ELTON JOHNSON for the
use of CURTIS F. JOHNSON his
ward,

Plaintiff,

vs.

BALDWIN COUNTY ELECTRIC
MEMBERSHIP CORPORATION, a
corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CIV. DIV. CASE NO. 7394

DEMURRER TO ANSWER TO PLEA IN ABATEMENT

Now comes the Defendant in the above styled cause and demurs to the answer heretofore filed by the Plaintiff to Defendant's Plea in Abatement, and as grounds therefor assigns, separately and severally, the following:

1. For that said answer does not constitute an answer to said Plea in Abatement.
2. For that said answer is not a sufficient answer as a matter of law to said Plea in Abatement.
3. For that said answer does not constitute a legal defense to said Plea in Abatement.
4. For that said answer does not deny the truth of the allegations of said Plea in Abatement.
5. For that said answer contains allegations which are irrelevant to the allegations contained in said Plea in Abatement.
6. For that said answer does not traverse the Plea in Abatement.
7. For that said answer does not sufficiently traverse the Plea in Abatement.
8. For that said answer does not confess and avoid the allegations of said Plea in Abatement.
9. For that said answer neither denies nor confesses and avoids the allegations of the Plea in Abatement.
10. For that said answer contains conclusions.
11. For that it affirmatively appears from said answer that the party plaintiff had no capacity to sue.
12. For it affirmatively appears from said answer that the party plaintiff had no capacity to sue on the date the amendment to the complaint was filed.

13. For that said answer is not sworn to.

14. From aught that appears party plaintiff had no capacity to sue at the time the amendment alleged in the answer was filed.

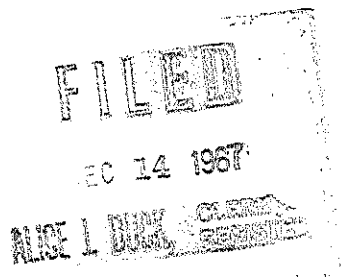
MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

BY

Alex T. Howard, Jr.
Attorneys for Defendant

CERTIFICATE

I, Alex T. Howard, Jr., one of the attorneys for the Defendant in the above styled cause, hereby certify that I have served a copy of the above and foregoing upon Mr. Charles S. Street, one of the attorneys for the Plaintiff in said cause, by mailing a copy of same to him by First Class United States Mail, properly addressed and with postage prepaid on this 13th day of December, 1967.



Alex T. Howard, Jr.
(Alex T. Howard, Jr.)

CURTIS ELTON JOHNSON for the use of)	IN THE CIRCUIT COURT OF
CURTIS F. JOHNSON his ward,)
Plaintiff,)
vs.)
BALDWIN COUNTY ELECTRIC MEMBERSHIP)
CORPORATION, a corporation,)
Defendant.)
	BALDWIN COUNTY, ALABAMA
	CIVIL DIV. CASE NO. 7394

ANSWER TO PLEA IN ABATEMENT

Comes now the Plaintiff in the above styled cause, and for answer to the plea in abatement heretofore filed herein, says and shows unto this Honorable Court as follows:

1. That on, to-wit, the 2nd day of June, 1967, Curtis Elton Johnson filed in the Probate Court of Baldwin County a petition to declare Curtis F. Johnson mentally incompetent; that on, to-wit, the 21st day of June, 1967, the said Curtis Elton Johnson was appointed Guardian over the estate of Curtis F. Johnson, incompetent; that thereupon attorneys for Curtis Elton Johnson prepared the necessary amendment to the pending suit to substitute the Guardian for use of the ward in the place and stead of the ward, and forwarded them to this Honorable Court; that said papers were filed in this Court on, to-wit, the 7th day of July, 1967.

2. That on, to-wit, the 3rd day of July, 1967, the said Curtis F. Johnson died; that on, to-wit, the 10th day of July, 1967, attorneys for the Plaintiff learned of the death, and immediately proceeded to petition the Probate Court of Baldwin County to grant letters of Administration on the estate of Curtis Franklin Johnson, which were, on, to-wit, the 18th day of July, 1967, issued to Curtis Elton Johnson; that attorneys for Plaintiffs then prepared and filed in this court a motion to revive the pending action in the name of Curtis Elton Johnson as Administrator of the estate of Curtis F. Johnson, Deceased as Plaintiff.

3. That subsequent to the death of deceased and prior to filing of the motion to revive in the name of the Administrator, Defendant filed a pleading entitled "Plea in Abatement" which sets out the death of the Plaintiff and prays that the pending action be abated.

WHEREFORE, Plaintiff prays that said Plea in Abatement be treated as a suggestion of death, and Plaintiff's motion to revive in the name of the personal representative of the deceased be granted, and Plaintiff prays for such other, further and different relief to which he may be entitled, premises considered.

TYSON, MARR AND FRIEDLANDER
Attorneys for Plaintiff

By

Charles J. Tyson
for the firm

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 24th
day of November, 1967, 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.

Charles J. Tyson

FILED

NOV 25 1967

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CURTIS ELTON JOHNSON,) IN THE CIRCUIT COURT OF
as Guardian of the estate)
of CURTIS FRANKLIN JOHNSON,) BALDWIN COUNTY, ALABAMA
Deceased,

Plaintiff,) CIVIL DIVISION

VS.)

BALDWIN COUNTY ELECTRIC)
MEMBERSHIP CORPORATION,)
A Corporation,)

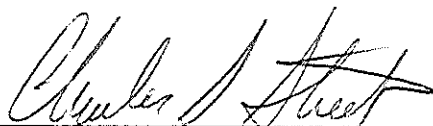
Defendant.) CASE NO. 7394

TO: Honorable Alex T. Howard, Jr.
Attorney at Law
P. O. Box 1070
Mobile, Alabama

Please take notice that at 9:00 A. M. on the 1st day of September, 1967, in the office of Tyson, Marr and Friedlander, situated at 158 St. Louis Street, Mobile, Alabama, the Plaintiff will take the deposition of Raymond Bradford, whose address is c/o Baldwin County Electric Membership Corporation, Robertsdale, Alabama, upon oral examination before Walter W. Wise, or some other officer authorized to administer oath in the County of Mobile, State of Alabama, duly authorized to take depositions and swear witnesses in said County in said State. The oral examination will continue from day to day until completed and you are invited to attend and cross-examine.

TYSON, MARR AND FRIEDLANDER
Attorneys for Plaintiff

By


Charles S. Street

CURTIS ELTON JOHNSON,) IN THE CIRCUIT COURT OF
as Guardian of the estate)
of CURTIS FRANKLIN) BALDWIN COUNTY, ALABAMA
JOHNSON, Deceased,)

Plaintiff,) CIVIL DIVISION

VS.)

BALDWIN COUNTY ELECTRIC)
MEMBERSHIP CORPORATION,)
A Corporation,)

Defendant.) CASE NO. 7394

TO: Honorable Alex T. Howard, Jr.
Attorney at Law
P. O. Box 1070
Mobile, Alabama

Please take notice that at 9:00 A.M on the 1st day of September, 1967, in the office of Tyson, Marr and Friedlander, situated at 158 St. Louis Street, Mobile, Alabama, the Plaintiff will take the deposition of Roy Douglas Powers, whose address is 209 Violet Street, Foley, Alabama, upon oral examination before Walter W. Wise, or some other officer authorized to administer oath in the County of Mobile, State of Alabama, duly authorized to take depositions and swear witnesses in said County in said State. The oral examination will continue from day to day until completed and you are invited to attend and cross-examine.

TYSON, MARR AND FRIEDLANDER
Attorneys for Plaintiff

By 
Charles S. Street

FILED

AUG 22 1967

ALICE J. DUCK

CLERK
REGISTER

CURTIS ELTON JOHNSON for the	:	IN THE CIRCUIT COURT OF
use of CURTIS F. JOHNSON his	:	BALDWIN COUNTY, ALABAMA
ward,	:	
Plaintiff,	:	CIVIL DIVISION
VS.	:	
BALDWIN COUNTY ELECTRIC	:	
MEMBERSHIP CORPORATION, a	:	
corporation,	:	
Defendant.	:	CASE NO. 7394

MOTION TO REVIVE

Comes now Curtis Elton Johnson, Administrator of the Estate of Curtis F. Johnson, deceased, and moves this Honorable Court revive the said action in his name as Administrator, and as grounds for said motion, says and shows unto this Honorable Court that heretofore and on, to-wit, the 3rd day of July, 1967, the Plaintiff Curtis F. Johnson died; that on, to-wit, the 18th day of July, 1967, your movant was duly appointed Administrator of the estate of Curtis F. Johnson, deceased.

WHEREFORE, Plaintiff moves this Honorable Court revive the said action in his name as Administrator of the Estate of Curtis F. Johnson, deceased, and movant prays for such other, further and different relief as he may be entitled to receive, the premises considered.

TYSON, MARR & FRIEDLANDER
Attorneys for Curtis Elton
Johnson, Administrator of the
Estate of Curtis F. Johnson,
deceased

By Charles J. Hunt
For the Firm

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 28th day of September, 1967, 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.

Charles J. Hunt

CURTIS ELTON JOHNSON,
as Guardian of the estate
of CURTIS FRANKLIN JOHNSON,
Deceased,

Plaintiff,

VS.

BALDWIN COUNTY ELECTRIC
MEMBERSHIP CORPORATION,
A Corporation,

Defendant.

) IN THE CIRCUIT COURT OF
)
) BALDWIN COUNTY, ALABAMA
)
)

) CIVIL DIVISION
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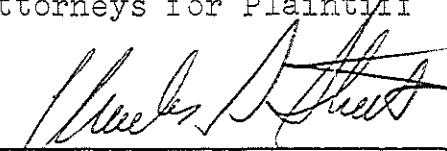
) CASE NO. 7394
)

TO: Honorable Alex T. Howard, Jr.
Attorney at Law
P. O. Box 1070
Mobile, Alabama

Please take notice that at 9:00 A. M. on the 1st day of September, 1967, in the office of Tyson, Marr and Friedlander, situated at 158 St. Louis Street, Mobile, Alabama, the Plaintiff will take the deposition of Thad Nixon, whose address is Snack Shack Road, Foley, Alabama, upon oral examination before Walter W. Wise, or some other officer authorized to administer oath in the County of Mobile, State of Alabama, duly authorized to take depositions and swear witnesses in said County in said State. The oral examination will continue from day to day until completed and you are invited to attend and cross-examine.

TYSON, MARR AND FRIEDLANDER
Attorneys for Plaintiff

By


Charles S. Street

FILED

AUG 22 1967

ALICE J. DICK CLERK
REGISTRY

CURTIS ELTON JOHNSON for the use of)	}	IN THE CIRCUIT COURT OF
CURTIS F. JOHNSON his ward,		
Plaintiff,		
vs.		
BALDWIN COUNTY ELECTRIC MEMBERSHIP CORPORATION, a corporation,	}	BALDWIN COUNTY, ALABAMA
Defendant.)		CIVIL DIV. CASE NO. 7394

PLEA IN ABATEMENT

Now comes the Defendant in the above styled cause and files this, its Plea in Abatement, to the Complaint in said cause, as last amended, and as grounds therefor shows unto the Court as follows:

"That on, to-wit, the 7th day of July, 1967, there was filed in the Circuit Court of Baldwin County in this cause an amendment to the Complaint in said cause whereby one Curtis Elton Johnson, suing for the use of Curtis F. Johnson, his ward, was substituted for Curtis F. Johnson, the original Plaintiff in said cause; that prior to said date of July 7, 1967, and on, to-wit, the 2nd day of July, 1967, the said Curtis F. Johnson died and, therefore, the said Curtis F. Johnson was not the ward of the said Curtis Elton Johnson at the time said amendment was filed in this Court."

WHEREFORE, the Defendant prays that this suit be abated and that it be allowed to go hence without day.

McCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

BY *Alvin T. Howard*
Attorneys for Defendant

STATE OF ALABAMA

COUNTY OF BALDWIN

Before me, *Audrey L. Clayton*, a Notary Public in and for said County in said State, personally appeared Albert M. Redd, who is known to me and who being by me first duly sworn, deposes and says that he is General Manager of Baldwin County Electric Membership Corporation, Defendant in the above styled cause, that he has read the above and foregoing Plea in Abatement and has information and knowledge as to the facts set forth therein and states that according to his best knowledge, information and belief, all of said facts are true and correct.

Albert M. Redd
(Albert M. Redd)

Subscribed and sworn to before me
on this 15th day of August, 1967.

Audrey L. Clayton
Notary Public, Baldwin County, Alabama

Notary Public, State of Alabama at Large
My Commission Expires October 26, 1968

C50

CERTIFICATE

I, Alex T. Howard, Jr., one of the attorneys for the Defendant in the above styled cause, hereby certify that I have served a copy of the above and foregoing Plea in Abatement upon Mr. Thomas M. Marr, one of the attorneys for the Plaintiff in said cause, by mailing a copy of same to him by First Class United States Mail, properly addressed and with postage prepaid on this 16th day of August, 1967.


(Alex T. Howard, Jr.)

FILED

AUG 17 1967

ALICE J. QUINN, CLERK

051

CURTIS F. JOHNSON	)	IN THE CIRCUIT COURT OF
Plaintiff	)	BALDWIN COUNTY, ALABAMA
VS	)	CIVIL DIVISION
BALDWIN COUNTY ELECTRIC)	
MEMBERSHIP CORPORATION,)	
a corporation)	
Defendant	)	CASE NO. 7394

Comes now the Plaintiff in the above entitled cause and amends the style of said cause to read as follows:

CURTIS ELTON JOHNSON for the	)	IN THE CIRCUIT COURT OF
use of CURTIS F. JOHNSON his	)	BALDWIN COUNTY, ALABAMA
ward,)	
Plaintiff	)	CIVIL DIVISION
VS)	
BALDWIN COUNTY ELECTRIC)	
MEMBERSHIP CORPORATION,)	
a corporation,)	
Defendant	)	CASE NO. 7394

TYSON, MARR AND FRIEDLANDER

By David S. Conrad
David S. Conrad

FILED
July 7 1967
ALICE L. BUCK, CLERK

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 6 day of June 1967, 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.

David S. Conrad

LAW OFFICES

TYSON, MARR AND FRIEDLANDER

158 ST. LOUIS STREET

MOBILE, ALABAMA 36601

TELEPHONE 432-4554

May 30, 1967

JOHN M. TYSON
THOMAS M. MARR
MAURY FRIEDLANDER
CHARLES S. STREET
DAVID S. CONTRAD

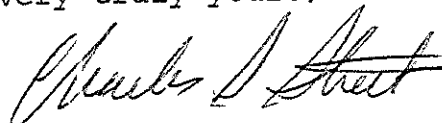
Clerk of Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama

Re: Curtis F. Johnson vs.
Baldwin County Electric
Membership Corp.
Case No. 7,394

Dear Sir:

Please issue a subpoena for Mr. Albert M. Redd, whose address is c/o The Baldwin County Electric Membership Corporation, Robertsedale, Alabama, to appear at the offices of Tyson, Marr & Friedlander, 158 St. Louis Street, Mobile, Alabama, on June 9, 1967, at 2:00 p.m., then and there to submit to oral examination under the provisions of Title 7, Section 474 (1) et. seq.

Very truly yours,



Charles S. Street

CSS:ccs

CAF

CURTIS F. JOHNSON,	:	IN THE CIRCUIT COURT OF
Plaintiff,	:	BALDWIN COUNTY, ALABAMA
VS.	:	CIVIL DIVISION
BALDWIN COUNTY ELECTRIC	:	
MEMBERSHIP CORPORATION,	:	
A Corporation,	:	
Defendant.	:	CASE NO. 7,394

TO: Honorable Alex T. Howard, Jr.
 Attorney at Law
 P. O. Box 1070
 Mobile, Alabama

Please take notice that at 2:00 p.m. on the 9th day of June, 1967, in the office of Tyson, Marr and Friedlander, situated at 158 St. Louis Street, Mobile, Alabama, the Plaintiff will take the deposition of Albert M. Redd, whose address is c/o The Baldwin County Electric Membership Corporation, Robertsdale, Alabama, upon oral examination before Louis M. Hubbard, Jr., or some other officer authorized to administer oath in the County of Mobile, State of Alabama, duly authorized to take depositions and swear witnesses in said County in said State. The oral examination will continue from day to day until completed and you are invited to attend and cross-examine.

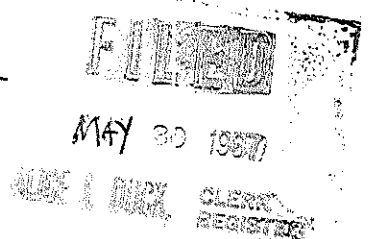
TYSON, MARR & FRIEDLANDER

By Charles J. Street
 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 30th day of May, 1967, 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.

Charles J. Street



CURTIS F. JOHNSON,
Plaintiff,
vs.
BALDWIN COUNTY ELECTRIC
MEMBERSHIP CORPORATION,
A Corporation,
Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
CIVIL DIV. CASE NO. 7394

Now comes the Defendant in the above styled cause and for answer to the Complaint in said cause and to each and every count thereof, separately and severally, says, separately and severally, as follows:

PLEA ONE

Not guilty.

PLEA TWO

Not indebted.

PLEA THREE

The allegations of the Complaint are untrue.

PLEA FOUR

At the time and place complained of in the Complaint Defendant's live wire referred to in the Complaint was located several feet above the house which was being moved under said wire; that as said house moved under said wire the Plaintiff negligently stood up at or near the top portion of said house thereby placing himself in close proximity to said live wire, although the Plaintiff at said time and place knew, or in the exercise of ordinary care, should have known that said wire was charged with a substantial amount of electricity and if he stood up at said time and place he was likely to come in contact with said live wire; that notwithstanding the foregoing, Plaintiff did stand up at said time and place and come in contact with said live wire and the Defendant alleges that said negligence on the part of the Plaintiff proximately contributed to his injuries and damages complained of in the Complaint. Hence the Plaintiff cannot recover in this case.

PLEA FIVE

At the time and place complained of in the Complaint Defendant's live wire referred to in the Complaint was located several feet above the house which was being moved under said wire and the Plaintiff knew or in the exercise of ordinary care should have known that there was no necessity for him or anyone else to touch or move said wire; that as said house moved under said wire the Plaintiff was standing at or near the topmost portion of the roof of said house, and as he passed under said live wire the Plaintiff negligently reached up and grabbed said live wire with his hand thereby causing an electrical current to pass through his body, although the Plaintiff at said time and place knew, or in the exercise of ordinary care, should have known that said wire was charged with a substantial amount of electricity and that if he touched said live wire he was likely to be injured thereby; that notwithstanding the foregoing, Plaintiff did touch said live wire and the Defendant alleges that said negligence on the part of the Plaintiff proximately contributed to his injuries and damages complained of in the Complaint. Hence the Plaintiff cannot recover in this case.

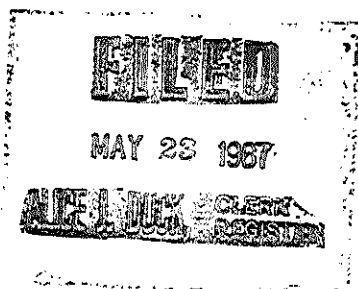
MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAX

BY

Alex T. Howard, Jr.
Attorneys for Defendant

CERTIFICATE

I, Alex T. Howard, Jr., one of the attorneys for the Defendant in the above styled cause, hereby certify that I have served a copy of the above and foregoing Answer upon Mr. Charles F. Street, one of the attorneys for the Plaintiff in said cause, by mailing a copy of same to him by First Class United States Mail, properly addressed and with postage prepaid on this 23rd day of May, 1967.



Alex T. Howard, Jr.
(Alex T. Howard, Jr.)

CURTIS F. JOHNSON, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY, ALABAMA
vs. : CIVIL DIVISION
BALDWIN COUNTY ELECTRIC : CASE NO. 7,394
MEMBERSHIP CORPORATION, :
A Corporation, :
Defendant. :

Now comes the defendant in the above styled cause and demurs to the complaint in said cause and to each and every count thereof, separately and severally, and as grounds therefor assigns, separately and severally, the following:

1. From aught that appears the defendant lawfully maintained power lines at the time and place complained of.

2. From aught that appears the consideration alleged was not paid to the defendant.

3. From aught that appears the consideration alleged was not sufficient.

4. From aught that appears the consideration alleged was not paid by the plaintiff to the defendant.

5. From aught that appears the consideration alleged was not paid on behalf of or for the benefit of the plaintiff.

6. From aught that appears the consideration alleged was not paid by the plaintiff's employer.

7. From aught that appears the defendant did not agree to supply personnel to clear or render safe the travel way alleged for the plaintiff.

8. From aught that appears the defendant entered no agreement with the plaintiff to supply personnel to clear or render safe the travel way.

9. From aught that appears the defendant entered no agreement with any person, firm or corporation to supply personnel to clear or render safe the travel way on behalf of or for the benefit of the plaintiff.

10. For that the allegation that defendant's power lines were highly charged with electrical current and highly

dangerous is but a conclusion of the pleader.

11. From aught that appears the plaintiff knew or had reason to know that defendant's power lines were highly charged with electrical current and were highly dangerous.

12. From aught that appears the alleged dangerous nature of defendant's power lines was obvious to the plaintiff.

13. For that the defendant was not an insurer of the plaintiff's safety.

14. From aught that appears the house loaded on a vehicle was not lawfully at the place where it is alleged to have been at the time and place alleged in the complaint.

15. From aught that appears the defendant's power lines were above the minimum lawful height.

16. From aught that appears the defendant's power lines were high enough for usual and customary uses.

17. From aught that appears the defendant could not have reasonably anticipated that the house loaded on a vehicle would be at the place alleged in the complaint.

18. From aught that appears defendant's power lines did not strike the house loaded on a vehicle.

19. From aught that appears the plaintiff was not injured by defendant's power lines coming in close proximity to him.

20. From aught that appears there was no duty owing from the defendant to the plaintiff at the time and place alleged in the complaint.

21. From aught that appears the plaintiff was not put in danger by defendant's power lines coming within close proximity to him.

22. From aught that appears the house loaded on a truck had no lawful right to pass under defendant's power lines.

23. From aught that appears the allegation that the power lines were to be handled by the plaintiff is but a conclusion of the pleader.

24. From aught that appears the allegation that the power lines were to be handled by the plaintiff is unclear.

25. For that it affirmatively appears that the defendant's agents, servants or employees cut off the electrical current in defendant's power lines.

26. For that the allegation defendant had knowledge of "said procedure" is but a conclusion of the pleader.

27. For that the allegation that defendant "changed said procedure" is but a conclusion of the pleader.

28. From aught that appears the defendant had no right, duty or authority to direct plaintiff's employer to place one of his men on top of the house.

29. From aught that appears the procedure alleged to have been instituted and continued through the 18th day of January, 1967, and until the accident complained of was not adopted or followed by plaintiff's employer or by the plaintiff.

30. For that the allegation that the procedure was in effect on the 19th day of January, 1967, is but a conclusion of the pleader.

31. From aught that appears the plaintiff was not on the house, as it approached defendant's power line, by the direction of or at the request of the defendant.

32. From aught that appears said house had no lawful right to approach defendant's power line where same crosses Alabama State Highway 59 at or near its intersection with 4th Avenue West.

33. From aught that appears the house alleged to be approaching defendant's power lines at the time and place alleged in the complaint was not on the truck motor vehicle on which plaintiff was alleged to be riding at the time and place alleged in the complaint.

34. From aught that appears the truck did not move under the defendant's power lines upon signal of the defendant's agent, servant or employee at the time and place alleged

in the complaint.

35. From aught that appears the truck did not proceed, after stopping, upon signal of defendant's agent, servant or employee.

36. From aught that appears the negligent giving of a signal did not proximately cause the injuries and damages complained of at the time and place alleged in the complaint.

37. From aught that appears defendant's agent, servant or employee was under no duty to cut off the electrical current in defendant's power line at the time and place alleged in the complaint.

38. From aught that appears the injuries and damages the plaintiff alleges to have suffered were not caused by the defendant's power lines.

39. From aught that appears the plaintiff did not come in contact with power lines of the defendant.

40. From aught that appears the house alleged in the complaint did not come in contact with defendant's power lines.

41. From aught that appears the truck on which plaintiff was riding at the time and place alleged in the complaint did not come in contact with power lines of the defendant.

42. For that it affirmatively appears that the injuries and damages alleged were not the direct and proximate result of the negligence of the defendant.

43. For that there is a misjoinder of cause of action.

44. For that the allegation that defendant negligently failed to warn plaintiff of a heavily charged and extremely dangerous electrical wire is but a conclusion of the pleader.

45. From aught that appears the defendant did not place the alleged electrical wire along, over or across Alabama State Highway 59.

46. From aught that appears the alleged power line did

not cross Alabama State Highway 59 at or near its intersection with 4th Avenue West.

47. For that the defendant is not advised as to the location of the alleged power lines in questions.

48. From aught that appears the truck loaded with a dwelling on which the plaintiff was riding was not lawfully on Alabama State Highway 59.

49. From aught that appears the defendant did not agree to maintain a safe condition for the plaintiff.

50. From aught that appears the defendant did not agree with any person, firm or corporation to maintain a safe condition for or on behalf of the plaintiff at the time and place alleged in the complaint.

51. From aught that appears no consideration was paid by or on behalf of the plaintiff to the defendant to maintain a safe condition at the time and place alleged in the complaint.

52. From aught that appears the defendant maintained a safe condition on January 19, 1967.

53. From aught that appears the high electrical current which is alleged to have passed through the plaintiff's body was not caused to do so by any negligence on the part of the defendant.

54. For that the allegation that defendant negligently failed to maintain a safe condition is but a conclusion of the pleader.

55. For that no facts are alleged to show that defendant negligently failed to maintain a safe condition.

56. From aught that appears the defendant was not caused to suffer electrical shock and fall from the top of the dwelling as the proximate result of negligence of the defendant.

57. From aught that appears the plaintiff did not come in contact with nor come in close proximity to power lines of the defendant at the time and place complained of.

58. From aught that appears plaintiff was not riding atop the house on a motor vehicle at the intersection of Alabama State Highway 59 and 4th Avenue West at the time and place alleged.

59. From aught that appears the defendant did not hang or place an electrical wire across State Highway 59.

60. From aught that appears 4th Avenue West is not in Baldwin County, Alabama.

61. For that the allegation "that the defendant negligently permitted one of its said wires to be hung or placed so low at a point where it crossed State Highway 59" is vague, uncertain and indefinite.

62. From aught that appears the defendant did not negligently cause or allow an electrical wire to come in contact with the plaintiff.

63. From aught that appears the wires of the defendant were above the minimum height required by law.

64. From aught that appears the house loaded upon the truck as alleged had no right to be on State Highway 59 at the time and place alleged in the complaint.

65. From aught that appears the alleged electrical wire came in contact with the plaintiff other than as the proximate result of the negligence of the plaintiff.

66. From aught that appears the plaintiff had no right to be on a house loaded on a truck at the time and place it is alleged that a wire of the defendant came in contact with the plaintiff.

67. From aught that appears the plaintiff did not receive the damages and injuries alleged as a proximate result of coming in contact with a wire of the defendant.

68. From aught that appears the plaintiff did not receive the damages and injuries complained of as a proximate result of the defendant negligently permitting one of its wires to be hung or placed low at a point where it crossed State Highway 59.

69. For that the allegation "Defendant negligently permitted one of its wires to be hung or placed low" is vague, indefinite and uncertain.

70. For that no facts are alleged setting forth the alleged negligence on the part of the defendant.

71. From aught that appears Gulf Shores, Alabama, is not in Baldwin County, Alabama.

72. From aught that appears this cause is not within the jurisdiction of this Court.

73. From aught that appears the plaintiff had no right to move a house along public roads.

74. From aught that appears the defendant owed no duty to the plaintiff to remove the electrical charge from wires handled by him.

75. From aught that appears the electrical wires lifted by the plaintiff were not the property of the defendant.

76. From aught that appears neither the plaintiff nor his employer had the right to move the alleged house under the electrical wires alleged.

77. From aught that appears it is not alleged on which occasion the agent, servant or employee of the defendant negligently failed to remove the electrical charge from a wire.

78. From aught that appears the plaintiff did not receive the injuries and damages complained of as a proximate result of the agent, servant or employee of the defendant negligently failing to remove the electrical charge from a wire.

79. For that no facts are alleged setting forth how the plaintiff was caused or allowed to come into contact with the alleged electrically charged wire.

80. From aught that appears plaintiff's alleged contact with the alleged electrically charged wire did not proximately cause the injuries and damages complained of.

81. From aught that appears the alleged electrically

charged wire did not carry sufficient electrical charge to cause the damages and injuries complained of.

82. For that from aught that appears Gulf Shores, Alabama, is not within the jurisdiction of this Court.

83. From aught that appears the plaintiff had no right to ride on the house at the time and place alleged.

84. For that the allegation that the agent, servant or employee of the defendant knew plaintiff did not know which wires were electrically charged and which were not is but a conclusion of the pleader.

85. For that no facts are alleged setting forth the manner in which plaintiff was caused or allowed to come into contact with the alleged electrically charged wire.

86. For that the plaintiff did not receive the injuries and damages alleged as a proximate result of coming in contact with the alleged electrically charged wire.

87. From aught that appears the agent, servant or employee of the defendant did not know or have reason to know that the alleged wire crossing State Highway 59 at or near its intersection with 4th Avenue West was electrically charged at the time and place complained of.

88. From aught that appears it was not necessary for the electrical wire alleged to be crossing State Highway 59 at or near its intersection with 4th Avenue West to be lifted in order to move the alleged house under said wire.

89. From aught that appears the plaintiff did not attempt to lift the wire alleged to be crossing State Highway 59 at or near its intersection with 4th Avenue West at the time and place complained of.

90. For that the plaintiff attempts to allege the quo modo of the negligence but the allegations thereof do not constitute actionable negligence as a matter of law.

91. From aught that appears the wires were not placed so that the defendant could reasonably expect plaintiff to

come in dangerous proximity to them.

92. For that no facts are alleged disclosing a breach of duty by the defendant owed to the plaintiff.

93. For that no facts are alleged disclosing that defendant agreed to shut off power from its lines.

94. For that no facts are alleged showing any obligation on the part of the defendant to the plaintiff under the agreement alleged in complaint.

McCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

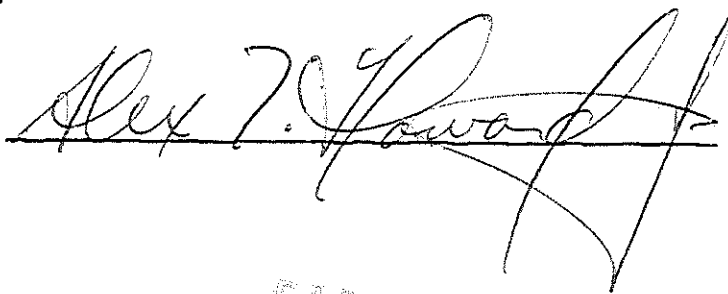
By


Attorneys for Defendant

Alex T. Howard, Jr. and Ben H. Harris, Jr. are the attorneys designated by the defendant for the trial of this case.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 6th day of April, 1967, 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.



FILED

APR 7 1967

RECEIVED CLERK
RECEIVED

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MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
ATTORNEYS AT LAW

NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
PHONE 433-5561 P. O. BOX ~~204~~ 1988
MOBILE, ALABAMA 36601

C. A. L. JOHNSTONE, JR.
R. F. ADAMS, SR.
JAMES L. MAY, JR.
ALEX T. HOWARD, JR.
J. JEPHIA HILL
CHARLES B. BAILEY, JR.
C. M. A. ROGERS, III
BROCK B. GORDON
BEN H. HARRIS, JR.
WILLIAM H. HARDIE, JR.
DOUGLAS INGE JOHNSTONE

August 16, 1967

GESSNER T. MCCORVEY (1882-1965)
BEN D. TURNER, OF COUNSEL

Honorable Alice J. Duck
Clerk of the Circuit Court of
Baldwin County
Courthouse
Bay Minette, Alabama

Re: Curtis Elton Johnson for the use of Curtis F.
Johnson, his ward vs. Baldwin County Electric
Membership Corporation, Circuit Court of
Baldwin County, Alabama, Case Numbered 7,394

Dear Mrs. Duck:

Enclosed is a Plea in Abatement which I am requesting
that you file in the above case which is pending in your
Court.

Please advise the date such Plea in Abatement is filed
and I am enclosing a self-addressed, stamped envelope for
your convenience in replying.

Thank you for your kind attention to the above.

Yours very truly,


Alex T. Howard, Jr.

ATHjr:djl
Enclosure

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
ATTORNEYS AT LAW
NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
PHONE 433-5561 P. O. BOX 1988
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C. A. L. JOHNSTONE, JR.
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CHARLES B. BAILEY, JR.
C. M. A. ROGERS, III
BROCK B. GORDON
DEN H. HARRIS, JR.
WILLIAM H. HARDIE, JR.
DOUGLAS INGE JOHNSTONE

December 13, 1967

GESSNER T. MCCORVEY (1882-1965)
DEN D. TURNER, OF COUNSEL

Honorable Alice J. Duck
Clerk of the Circuit Court of Baldwin County
Courthouse
Bay Minette, Alabama

Re: Curtis Elton Johnson, etc., v. Baldwin County Electric
Membership Corporation, Circuit Court, Baldwin County
Case Number 7394

Dear Mrs. Duck:

Enclosed is a Demurrer to Plaintiff's Answer to our
Plea in Abatement in the above case and I am requesting that you
file this Demurrer in such case.

You will note that I have today mailed a copy of such
Demurrer to Plaintiff's attorney.

Yours very truly,


Alex T. Howard, Jr.

ATHjr:djl
Enclosure

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

ATTORNEYS AT LAW

NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING

PHONE 433-5561 P. O. BOX 2104

MOBILE, ALABAMA 36601

C. A. L. JOHNSTONE, JR.

R. F. ADAMS, SR.

JAMES L. MAY, JR.

ALEX T. HOWARD, JR.

J. JEPHTHA HILL

CHARLES B. BAILEY, JR.

C. M. A. ROGERS, III

BROCK B. GORDON

BEN H. HARRIS, JR.

WILLIAM H. HARDIE, JR.

DOUGLAS INGE JOHNSTONE

GESSNER T. MCCORVEY (1882-1965)

BEN D. TURNER, OF COUNSEL

April 6, 1967

Honorable Alice J. Duck
Clerk of the Circuit Court of Baldwin County
Bay Minette, Alabama

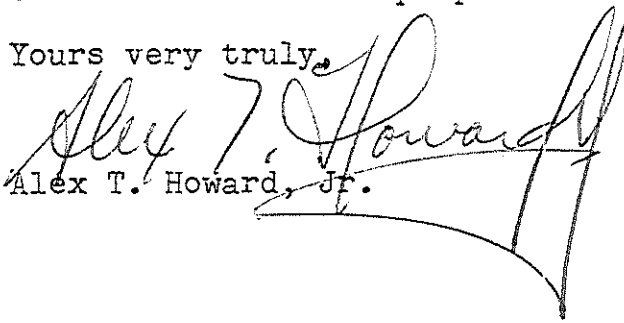
Re: Curtis F. Johnson vs. Baldwin County Electric
Membership Corporation, Circuit Court of Baldwin
County, Alabama Case Numbered 7,394

Dear Mrs. Duck:

Enclosed are the original and one copy of a Demurrer to the Complaint in the above case and I would appreciate your filing this Demurrer in such case.

I have mailed a copy of this Demurrer to the attorney for the Plaintiff, as this is the way we effect service of such papers in Mobile County, but I believe your practice is for you to mail a copy of all pleadings to opposing counsel and so I am enclosing an extra copy of the Demurrer for such purpose.

Yours very truly,


Alex T. Howard, Jr.

ATHjr:djl

Enclosures

CURTIS F. JOHNSON, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY, ALABAMA
vs. : CIVIL DIVISION
BALDWIN COUNTY ELECTRIC : CASE NO. 7,394
MEMBERSHIP CORPORATION,
A Corporation, :
Defendant. :

Now comes the defendant in the above styled cause and demurs to the complaint in said cause and to each and every count thereof, separately and severally, and as grounds therefor assigns, separately and severally, the following:

1. From aught that appears the defendant lawfully maintained power lines at the time and place complained of.

2. From aught that appears the consideration alleged was not paid to the defendant.

3. From aught that appears the consideration alleged was not sufficient.

4. From aught that appears the consideration alleged was not paid by the plaintiff to the defendant.

5. From aught that appears the consideration alleged was not paid on behalf of or for the benefit of the plaintiff.

6. From aught that appears the consideration alleged was not paid by the plaintiff's employer.

7. From aught that appears the defendant did not agree to supply personnel to clear or render safe the travel way alleged for the plaintiff.

8. From aught that appears the defendant entered no agreement with the plaintiff to supply personnel to clear or render safe the travel way.

9. From aught that appears the defendant entered no agreement with any person, firm or corporation to supply personnel to clear or render safe the travel way on behalf of or for the benefit of the plaintiff.

10. For that the allegation that defendant's power lines were highly charged with electrical current and highly

dangerous is but a conclusion of the pleader.

11. From aught that appears the plaintiff knew or had reason to know that defendant's power lines were highly charged with electrical current and were highly dangerous.

12. From aught that appears the alleged dangerous nature of defendant's power lines was obvious to the plaintiff.

13. For that the defendant was not an insurer of the plaintiff's safety.

14. From aught that appears the house loaded on a vehicle was not lawfully at the place where it is alleged to have been at the time and place alleged in the complaint.

15. From aught that appears the defendant's power lines were above the minimum lawful height.

16. From aught that appears the defendant's power lines were high enough for usual and customary uses.

17. From aught that appears the defendant could not have reasonably anticipated that the house loaded on a vehicle would be at the place alleged in the complaint.

18. From aught that appears defendant's power lines did not strike the house loaded on a vehicle.

19. From aught that appears the plaintiff was not injured by defendant's power lines coming in close proximity to him.

20. From aught that appears there was no duty owing from the defendant to the plaintiff at the time and place alleged in the complaint.

21. From aught that appears the plaintiff was not put in danger by defendant's power lines coming within close proximity to him.

22. From aught that appears the house loaded on a truck had no lawful right to pass under defendant's power lines.

23. From aught that appears the allegation that the power lines were to be handled by the plaintiff is but a conclusion of the pleader.

24. From aught that appears the allegation that the power lines were to be handled by the plaintiff is unclear.

25. For that it affirmatively appears that the defendant's agents, servants or employees cut off the electrical current in defendant's power lines.

26. For that the allegation defendant had knowledge of "said procedure" is but a conclusion of the pleader.

27. For that the allegation that defendant "changed said procedure" is but a conclusion of the pleader.

28. From aught that appears the defendant had no right, duty or authority to direct plaintiff's employer to place one of his men on top of the house.

29. From aught that appears the procedure alleged to have been instituted and continued through the 18th day of January, 1967, and until the accident complained of was not adopted or followed by plaintiff's employer or by the plaintiff.

30. For that the allegation that the procedure was in effect on the 19th day of January, 1967, is but a conclusion of the pleader.

31. From aught that appears the plaintiff was not on the house, as it approached defendant's power line, by the direction of or at the request of the defendant.

32. From aught that appears said house had no lawful right to approach defendant's power line where same crosses Alabama State Highway 59 at or near its intersection with 4th Avenue West.

33. From aught that appears the house alleged to be approaching defendant's power lines at the time and place alleged in the complaint was not on the truck motor vehicle on which plaintiff was alleged to be riding at the time and place alleged in the complaint.

34. From aught that appears the truck did not move under the defendant's power lines upon signal of the defendant's agent, servant or employee at the time and place alleged

in the complaint.

35. From aught that appears the truck did not proceed, after stopping, upon signal of defendant's agent, servant or employee.

36. From aught that appears the negligent giving of a signal did not proximately cause the injuries and damages complained of at the time and place alleged in the complaint.

37. From aught that appears defendant's agent, servant or employee was under no duty to cut off the electrical current in defendant's power line at the time and place alleged in the complaint.

38. From aught that appears the injuries and damages the plaintiff alleges to have suffered were not caused by the defendant's power lines.

39. From aught that appears the plaintiff did not come in contact with power lines of the defendant.

40. From aught that appears the house alleged in the complaint did not come in contact with defendant's power lines.

41. From aught that appears the truck on which plaintiff was riding at the time and place alleged in the complaint did not come in contact with power lines of the defendant.

42. For that it affirmatively appears that the injuries and damages alleged were not the direct and proximate result of the negligence of the defendant.

43. For that there is a misjoinder of cause of action.

44. For that the allegation that defendant negligently failed to warn plaintiff of a heavily charged and extremely dangerous electrical wire is but a conclusion of the pleader.

45. From aught that appears the defendant did not place the alleged electrical wire along, over or across Alabama State Highway 59.

46. From aught that appears the alleged power line did

not cross Alabama State Highway 59 at or near its intersection with 4th Avenue West.

47. For that the defendant is not advised as to the location of the alleged power lines in questions.

48. From aught that appears the truck loaded with a dwelling on which the plaintiff was riding was not lawfully on Alabama State Highway 59.

49. From aught that appears the defendant did not agree to maintain a safe condition for the plaintiff.

50. From aught that appears the defendant did not agree with any person, firm or corporation to maintain a safe condition for or on behalf of the plaintiff at the time and place alleged in the complaint.

51. From aught that appears no consideration was paid by or on behalf of the plaintiff to the defendant to maintain a safe condition at the time and place alleged in the complaint.

52. From aught that appears the defendant maintained a safe condition on January 19, 1967.

53. From aught that appears the high electrical current which is alleged to have passed through the plaintiff's body was not caused to do so by any negligence on the part of the defendant.

54. For that the allegation that defendant negligently failed to maintain a safe condition is but a conclusion of the pleader.

55. For that no facts are alleged to show that defendant negligently failed to maintain a safe condition.

56. From aught that appears the defendant was not caused to suffer electrical shock and fall from the top of the dwelling as the proximate result of negligence of the defendant.

57. From aught that appears the plaintiff did not come in contact with nor come in close proximity to power lines of the defendant at the time and place complained of.

58. From aught that appears plaintiff was not riding atop the house on a motor vehicle at the intersection of Alabama State Highway 59 and 4th Avenue West at the time and place alleged.

59. From aught that appears the defendant did not hang or place an electrical wire across State Highway 59.

60. From aught that appears 4th Avenue West is not in Baldwin County, Alabama.

61. For that the allegation "that the defendant negligently permitted one of its said wires to be hung or placed so low at a point where it crossed State Highway 59" is vague, uncertain and indefinite.

62. From aught that appears the defendant did not negligently cause or allow an electrical wire to come in contact with the plaintiff.

63. From aught that appears the wires of the defendant were above the minimum height required by law.

64. From aught that appears the house loaded upon the truck as alleged had no right to be on State Highway 59 at the time and place alleged in the complaint.

65. From aught that appears the alleged electrical wire came in contact with the plaintiff other than as the proximate result of the negligence of the plaintiff.

66. From aught that appears the plaintiff had no right to be on a house loaded on a truck at the time and place it is alleged that a wire of the defendant came in contact with the plaintiff.

67. From aught that appears the plaintiff did not receive the damages and injuries alleged as a proximate result of coming in contact with a wire of the defendant.

68. From aught that appears the plaintiff did not receive the damages and injuries complained of as a proximate result of the defendant negligently permitting one of its wires to be hung or placed low at a point where it crossed State Highway 59.

69. For that the allegation "Defendant negligently permitted one of its wires to be hung or placed low" is vague, indefinite and uncertain.

70. For that no facts are alleged setting forth the alleged negligence on the part of the defendant.

71. From aught that appears Gulf Shores, Alabama, is not in Baldwin County, Alabama.

72. From aught that appears this cause is not within the jurisdiction of this Court.

73. From aught that appears the plaintiff had no right to move a house along public roads.

74. From aught that appears the defendant owed no duty to the plaintiff to remove the electrical charge from wires handled by him.

75. From aught that appears the electrical wires lifted by the plaintiff were not the property of the defendant.

76. From aught that appears neither the plaintiff nor his employer had the right to move the alleged house under the electrical wires alleged.

77. From aught that appears it is not alleged on which occasion the agent, servant or employee of the defendant negligently failed to remove the electrical charge from a wire.

78. From aught that appears the plaintiff did not receive the injuries and damages complained of as a proximate result of the agent, servant or employee of the defendant negligently failing to remove the electrical charge from a wire.

79. For that no facts are alleged setting forth how the plaintiff was caused or allowed to come into contact with the alleged electrically charged wire.

80. From aught that appears plaintiff's alleged contact with the alleged electrically charged wire did not proximately cause the injuries and damages complained of.

81. From aught that appears the alleged electrically

charged wire did not carry sufficient electrical charge to cause the damages and injuries complained of.

82. For that from aught that appears Gulf Shores, Alabama, is not within the jurisdiction of this Court.

83. From aught that appears the plaintiff had no right to ride on the house at the time and place alleged.

84. For that the allegation that the agent, servant or employee of the defendant knew plaintiff did not know which wires were electrically charged and which were not is but a conclusion of the pleader.

85. For that no facts are alleged setting forth the manner in which plaintiff was caused or allowed to come into contact with the alleged electrically charged wire.

86. For that the plaintiff did not receive the injuries and damages alleged as a proximate result of coming in contact with the alleged electrically charged wire.

87. From aught that appears the agent, servant or employee of the defendant did not know or have reason to know that the alleged wire crossing State Highway 59 at or near its intersection with 4th Avenue West was electrically charged at the time and place complained of.

88. From aught that appears it was not necessary for the electrical wire alleged to be crossing State Highway 59 at or near its intersection with 4th Avenue West to be lifted in order to move the alleged house under said wire.

89. From aught that appears the plaintiff did not attempt to lift the wire alleged to be crossing State Highway 59 at or near its intersection with 4th Avenue West at the time and place complained of.

90. For that the plaintiff attempts to allege the quo modo of the negligence but the allegations thereof do not constitute actionable negligence as a matter of law.

91. From aught that appears the wires were not placed so that the defendant could reasonably expect plaintiff to

come in dangerous proximity to them.

92. For that no facts are alleged disclosing a breach of duty by the defendant owed to the plaintiff.

93. For that no facts are alleged disclosing that defendant agreed to shut off power from its lines.

94. For that no facts are alleged showing any obligation on the part of the defendant to the plaintiff under the agreement alleged in complaint.

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY

By Alex T. Howard, Jr.
Attorneys For Defendant

Alex T. Howard, Jr. and Ben H. Harris, Jr. are the attorneys designated by the defendant for the trial of this case.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 6th day of April, 1967, 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.

Alex T. Howard, Jr.

FILED

APR 7 1967

AMERICAN SOUTHERN
COURT REPORTERS

CURTIS F. JOHNSON,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
VS.	)	CIVIL DIVISION
BALDWIN COUNTY ELECTRIC)	
MEMBERSHIP CORPORATION,)	
A Corporation,)	
Defendant.	)	CASE NO. <u>1394</u>

COUNT ONE

Plaintiff, Curtis F. Johnson, claims of the Defendant, Baldwin County Electric Membership Corporation, an Alabama Corporation, doing business in Baldwin County, Alabama, the sum of Six Hundred Seventy Five Thousand and No/100 (\$675,000.00) Dollars damages for that at all times herein mentioned Defendant by and through its agents, servants or employees, while acting within the line and scope of their authority as such, operated an electrical supply distribution system in Baldwin County, Alabama, which system maintained electrical power lines along, over, or across public roads in Baldwin County, and Defendant did on, to-wit, the 19th day of January, 1967, maintain said power lines across Alabama State Highway 59 at or near, to-wit, its intersection with 4th Avenue West in Gulf Shores, Baldwin County, Alabama; both of said roads at said time and place were public roads in Baldwin County, Alabama.

Plaintiff avers that at all times herein referred to, the Defendant, for a consideration agreed to supply personnel to clear or render safe the travel way hereinafter referred to from Defendant's power lines which were highly charged with electrical current and were highly dangerous, and which were placed at such elevation as to strike the house loaded on the vehicle as herein-after more fully set out, and on which Plaintiff was riding at said time and place or to come within close proximity with Plaintiff in his position on said house where Plaintiff had a right to be.

Plaintiff avers that at all times herein he was employed by Marvin Powell, doing business as Powell Housemovers, who was moving two houses from a point near the industrial canal to a location near the beach in Gulf Shores, Alabama, and that one house was moved on the 18th day of January, 1967, and that for a consideration the Defendant, through its agents, servants or employees Roy Powers and Thad Nixon, while acting within the line and scope of their authority, did participate in the said moving by cutting off electrical current in the Defendant's power lines to allow the house loaded on a truck to pass under the said power lines, and the said power lines to be handled by Plaintiff.

Plaintiff avers that on the 18th day of January, 1967, a procedure for moving said houses was established by Marvin Powell which in part provided for a Police escort, for Plaintiff to walk along the street near the truck upon which the house was loaded, and by the use of a long wooden stick, lift the power lines over the top of the house and allow the truck to move under each power line after the electrical power in said line had been cut off by Defendant's agents, servants or employees aforesaid, acting within the line and scope of their authority as such, and that Defendant had knowledge of said procedure through its agents, servants or employees Powers and Nixon, acting within the line and scope of their authority as such, and Plaintiff avers that Defendant changed said procedure on 18 January, 1967, through its agent, servant or employee Powers, while acting within the line and scope of this authority as such, by directing Plaintiff's employer to place one of his men on the top of the house as it moved along the roadway and to lift the power lines over the house after they were made safe by cutting off the electrical current, and on signal of Defendant's

agent, servant or employee, while acting within the line and scope of his authority as such, to proceed under the wire with the house, and that said procedure was instituted and continued through the 18th of January, 1967 and until the accident herein complained of on 19 January, 1967.

Plaintiff avers that on, to-wit, the 19th day of January, 1967, the procedure as heretofore set out and as directed by Defendant's agent, servant or employee Powers, while acting within the line and scope of his authority as such, was in effect and Plaintiff was on said house as it approached Defendant's power line where it crosses Alabama State Highway 59 at or near its intersection with 4th Avenue West as aforesaid, and that immediately prior to approaching said power line the truck motor vehicle on which Plaintiff was riding stopped, and Defendant's agent, servant or employee Powers, while acting within the line and scope of his authority as such, negligently gave the signal as had been previously established for the truck to proceed under Defendant's power line without having first cut off the electrical current in said power line of Defendant at said time and place and as a direct and proximate result of the negligence of the Defendant as aforesaid Plaintiff was caused to suffer a severe electrical shock and to fall from the top of said house to the pavement and sustained the following personal injuries and damages: Plaintiff was permanently and totally disabled for life; Plaintiff sustained severe electrical burns to his arms, back and body requiring amputation of both the left and right arms; Plaintiff was caused to suffer severe physical pain and will suffer severe pain in the future; Plaintiff was caused to suffer severe mental anguish; Plaintiff's nervous system was severely shocked and permanently damaged; Plaintiff's head was injured and skull fractured; Plaintiff suffered severe brain damage; Plaintiff's right hip was broken and crushed and suffered compound fractures of the

left leg and ankle; Plaintiff's left and right pelvis was broken and crushed and suffered three broken ribs on his left side; Plaintiff was injured internally and externally, Plaintiff will be unable to earn a livelihood in the future and has suffered great loss of earnings in his occupation; Plaintiff incurred great hospital, doctor, and medical bills in and about the treatment for his injuries and will incur hospital, doctor, and medical bills in the future; all as a direct and proximate result of the negligence of the Defendant as aforesaid.

COUNT TWO

Plaintiff, Curtis F. Johnson, claims of the Defendant, Baldwin County Electric Membership Corporation, a corporation, organized under the law of Alabama and doing business in Baldwin County, Alabama, the sum of Six Hundred Seventy Five Thousand and No/100 (\$675,000.00) Dollars damages for that heretofore on, to-wit, the 19th day of January, 1967, the Defendant, by and through its agents, servants or employees Roy Powers and Thad Mixon, while acting within the line and scope of their authority as such, so negligently failed to warn the Plaintiff of a heavily charged and extremely dangerous electrical wire which Defendant used in its business of supplying electrical power to its customers for money, which highly dangerous electrical wire was supported by poles above the ground along, over or across Alabama State Highway 59 at or near, to-wit, its intersection with 4th Avenue West, both of said roads being public roads located in Gulf Shores, Baldwin County, Alabama at said time and place, and Plaintiff was then and there traveling on Alabama State Highway 59 riding on a truck loaded with a dwelling which was then and there being moved, Plaintiff being at a place where he had a right to be; that Defendant by and through its said agents, servants or employees, while acting within the line and scope of their authority as such, operated an electrical distribution system and agreed for a consideration to maintain a safe condition at said time and place, namely, to-wit,

the intersection of Alabama State Highway 59 and 4th Avenue West on January 19, 1967, for said house to be moved along said road and Defendant by and through its agents, servants or employees negligently failed to maintain a safe condition in that the high electrical current in said power line passed through the body of Plaintiff at said time and place and as a direct and proximate result of the negligence of the Defendant as aforesaid, Plaintiff was caused to suffer said electrical shock and to fall from atop the dwelling which he was then and there riding, and where he had a right to be, and Plaintiff sustained the following injuries and damages: Plaintiff was permanently and totally disabled for life; Plaintiff sustained severe electrical burns to his arms, back and body requiring amputation of both the left and right arms; Plaintiff was caused to suffer severe physical pain and will suffer severe pain in the future; Plaintiff was caused to suffer severe mental anguish; Plaintiff's nervous system was severely shocked and permanently damaged; Plaintiff's head was injured and skull fractured; Plaintiff suffered severe brain damage; Plaintiff's right hip was broken and crushed and he suffered compound fractures of the left leg and ankle; Plaintiff's left and right pelvis was broken and crushed and he suffered three broken ribs on his left side; Plaintiff was injured internally and externally; Plaintiff will be unable to earn a livelihood in the future and has suffered great loss of earnings in his occupation; Plaintiff incurred great hospital, doctor, and medical bills in and about the treatment for his injuries and will incur hospital, doctor, and medical bills in the future; all as a direct and proximate result of the negligence of the Defendant as aforesaid.

COUNT THREE

The Plaintiff claims of the Defendant, Baldwin County Electric Membership Corporation, a corporation, the sum of Six Hundred Seventy Five Thousand and No/100 (\$675,000.00) Dollars damages for that heretofore on, to-wit, the 19th day of January, 1967, the Defendant operated an electrical distribution system in Gulf Shores, Baldwin County, Alabama, for the purpose of

supplying electricity through wires charged with electricity, said wires being strung upon poles, and the Plaintiff avers that the Defendant negligently permitted one of its said wires to be hung or placed so low at a point where it crossed State Highway 59, a public road in Gulf Shores, Alabama, at or near its intersection with 4th Avenue West, so as to cause or allow the same to come into contact with the Plaintiff, on said date, the Plaintiff then and there being upon a house which had been loaded onto a truck and which was being moved along Alabama Highway 59 in Gulf Shores, Alabama, that being a place where he had a right to be, and as a direct and proximate result of the negligence of the Defendant aforesaid, Plaintiff was injured as follows: Plaintiff was permanently and totally disabled for life; Plaintiff sustained severe electrical burns to his arms, back and body requiring amputation of both the left and right arms; Plaintiff was caused to suffer severe physical pain and will suffer severe pain in the future; Plaintiff was caused to suffer severe mental anguish; Plaintiff's nervous system was severely shocked and permanently damaged; Plaintiff's head was injured and skull fractured; Plaintiff suffered severe brain damage; Plaintiff's right hip was broken and crushed and he suffered compound fractures of the left leg and ankle; Plaintiff's left and right pelvis was broken and crushed and he suffered three broken ribs on his left side; Plaintiff was injured internally and externally; Plaintiff will be unable to earn a livelihood in the future and has suffered great loss of earnings in his occupation; Plaintiff incurred great hospital, doctor, and medical bills in and about the treatment for his injuries and will incur hospital, doctor and medical bills in the future; all as a direct and proximate result of the negligence of the Defendant as aforesaid.

COUNT FOUR

The Plaintiff claims of the Defendant, Baldwin County Electric Membership Corporation, a corporation, the sum of Six Hundred Seventy Five Thousand and No/100 (\$675,000.00) Dollars damage for this: That on and before, to-wit, the 19th day of January, 1967, the Defendant operated an electrical distribution system in Gulf Shores, Baldwin County, Alabama, and for the purpose of conveying electricity maintained therein wires charged with electricity, said wires being strung upon poles placed along public roads, and said wires crossing over said public roads at numerous points in Gulf Shores, Alabama; that on the 19th day of January, 1967, your Plaintiff was engaged in and about moving a house along one of such public roads as an employee of Marvin E. Powell, said house having been placed upon a truck and said truck being driven along the public roads of Gulf Shores, Alabama; that on said occasion, the Plaintiff was riding upon said house, and was engaged in lifting electrical wires over the house, when this procedure was necessary in order to move the house under the wires; that on said occasion Roy Powers, an agent, servant or employee of the Defendant, while acting in the line and scope of his duties as such, was engaged in removing the electrical charge from each of the wires which were handled by the Plaintiff prior to the Plaintiff touching the same; that on said occasions, the aforesaid agent, servant or employee of the Defendant, while acting within the line and scope of his duties as such agent, servant or employee, negligently failed to remove the electrical charge from one such wire which required handling to pass over the house, that is, the wire crossing State Highway 59 at or near its intersection with 4th Avenue West in Gulf Shores, Alabama, and as a proximate result of the negligence of the Defendant's agent,

servant or employee, acting within the line and scope of his authority as such, the Plaintiff was caused or allowed to come into contact with the said electrically charged wire, and was injured and damaged as follows: Plaintiff was permanently and totally disabled for life; Plaintiff sustained severe electrical burns to his arms, back and body requiring amputation of both the left and right arms; Plaintiff was caused to suffer severe physical pain and will suffer severe pain in the future; Plaintiff was caused to suffer severe mental anguish; Plaintiff's nervous system was severely shocked and permanently damaged; Plaintiff's head was injured and skull fractured; Plaintiff suffered severe brain damage; Plaintiff's right hip was broken and crushed and he suffered compound fractures of the left leg and ankle; Plaintiff's left and right pelvis was broken and crushed and he suffered three broken ribs on his left side; Plaintiff was injured internally and externally; Plaintiff will be unable to earn a livelihood in the future and has suffered great loss of earnings in his occupation; Plaintiff incurred great hospital, doctor, and medical bills in and about the treatment for his injuries and will incur hospital, doctor, and medical bills in the future; all as a direct and proximate result of the negligence of the Defendant as aforesaid.

COUNT FIVE

The Plaintiff claims of the Defendant, Baldwin County Electric Membership Corporation, a corporation, the sum of Six Hundred Seventy Five Thousand and No/100 (\$675,000.00) Dollars damage for this: That on and before, to-wit, the 19th day of January, 1967, the Defendant operated an electrical distribution system in Gulf Shores, Alabama, and for the purpose of conveying electricity maintained therein wires charged with electricity, said wires being strung upon poles placed along public roads

therein, and said wires crossing over said public roads at numerous points in Gulf Shores, Alabama; that on the 19th day of January, 1967, your Plaintiff was engaged in and about moving a house across Gulf Shores, Alabama as an employee of Marvin E. Powell, said house having been placed upon a truck and said truck being driven along the public roads of Gulf Shores, Alabama; that on said occasion, the Plaintiff was riding upon said house, and was engaged in lifting electrical wires over the house, when this procedure was necessary in order to move the house under the wires; that on said occasion Roy Powers, an agent, servant or employee of the Defendant, while acting in the line and scope of his duties as such, was engaged in removing the electrical charge from each of the wires which were handled by the Plaintiff prior to the Plaintiff touching the same and notifying the Plaintiff when a wire was electrically charged so that Plaintiff would not touch the same, he knowing that the Plaintiff did not know which wires were charged electrically and which were not; that the aforesaid agent, servant or employee of the Defendant, while acting within the line and scope of his authority as such, negligently failed to warn the Plaintiff that the wire crossing State Highway 59, at or near its intersection with 4th Avenue West in Gulf Shores, Alabama, was electrically charged at the time that the house was moving under the said wire, and as a proximate result thereof, Plaintiff was caused or allowed to come into contact with the said electrically charged wire, and was injured and damaged as follows: Plaintiff was permanently and totally disabled for life; Plaintiff sustained severe electrical burns to his arms, back and body requiring amputation of both the left and right arms; Plaintiff was caused to suffer severe physical pain and will suffer severe pain in the future; Plaintiff was caused to suffer severe mental anguish; Plaintiff's nervous

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system was severely shocked and permanently damaged; Plaintiff's head was injured and skull fractured; Plaintiff suffered severe brain damage; Plaintiff's right hip was broken and crushed and he suffered compound fractures of the left leg and ankle; Plaintiff's left and right pelvis was broken and crushed and he suffered three broken ribs on his left side; Plaintiff was injured internally and externally; Plaintiff will be unable to earn a livelihood in the future and has suffered great loss of earnings in his occupation; Plaintiff incurred great hospital, doctor, and medical bills in and about the treatment for his injuries and will incur hospital, doctor, and medical bills in the future; all as a direct and proximate result of the negligence of the Defendant as aforesaid.

TYSON, MARR AND FRIEDLANDER
Attorneys for Plaintiff

By *Paul A. Broad*

for the firm

Plaintiff respectfully demands a trial by struck jury.

Paul A. Broad
designated trial attorney

FILED

FEB 28 1966

ALICE L. DICK, CLERK
3:27 P.M.

8 day of March 1967
20 day of March 1967

served a copy of the within S & C
on Bald. Co. Electric
Membership Corp.

By service on Norman Michonis Jr.
Director

TAYLOR WILKINS, Sheriff
By W. A. Solbert D. S.
Stockton

Received 8 day of March 1967
and on 10 day of March 1967

I served a copy of the within S & C
on Bald. Co. Electric Membership
Corp.

By service on Thomas L. Steele Jr.
Director

TAYLOR WILKINS, Sheriff
By J. M. Eastman D. S.
Tuley, Ala.

Received 8 day of March 1967
and on 10 day of March 1967

served a copy of the within S & C
on Bald. Co. Electric
Membership Corp.

By service on Linton Cunningham,
Director

TAYLOR WILKINS, Sheriff
By J. M. Eastman D. S.
Gulf Shores, Ala.

Received 8 day of March 1967
and on 10 day of March 1967

I served a copy of the within S & C
on Bald. Co. Electric Membership
Corp.

By service on Albert M. Reddy,
mgr.

TAYLOR WILKINS, Sheriff
By Carlisle Childress
Ridale

Received 8 day of March 1967
and on 10 day of March 1967

I served a copy of the within S & C
on Bald. Co. Electric Membership
Corp.

By service on Frank Earle,
Director

TAYLOR WILKINS, Sheriff
By W. A. Solbert D. S.
Blockhouse

Received 8 day of March 1967
and on 10 day of March 1967

I served a copy of the within S & C
on Bald. Co. Electric Membership
Corp.

By service on John Schenk,
Director

TAYLOR WILKINS, Sheriff
By J. M. Eastman D. S.
Elberta, Ala.

Received 8 day of March 1967
and on 10 day of March 1967

I served a copy of the within S & C
on Bald. Co. Electric Membership
Corp.

By service on George Engel,
Director

TAYLOR WILKINS, Sheriff
By Carlisle Childress
S. Dale

Received 8 day of March 1967
and on 10 day of March 1967

I served a copy of the within S & C
on Bald. Co. Electric
Membership Corp.

By service on Jim Swoboda, Jr.
Director

TAYLOR WILKINS, Sheriff
By Carlisle Childress
S. Hill

Sheriff claims 558 miles at
Ten Cents per mile Total \$ 55.80
TAYLOR WILKINS, Sheriff
BY Carlisle Childress
DEPUTY SHERIFF
Joe Eastman
W. A. Solbert

h36 EL '826

SUMMONS AND COMPLAINT

MOORE PRINTING CO., BAY MINETTE, ALA.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No. 7394

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Baldwin County Electric Membership Corporation,
a Corporation

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 Baldwin County

Electric Membership Corporation, a Corp., Defendant.

by Curtis F. Johnson

Plaintiff.

Witness my hand this 28th day of February 19 67

Curtis F. Johnson Clerk

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

CURTIS F. JOHNSON

Plaintiffs

vs.

BALDWIN COUNTY ELECTRIC
MEMBERSHIP CORP., A CORP. Defendants

SUMMONS AND COMPLAINT

Filed February 28, 1967

Alice J. Duck Clerk

Tyson, Marr & Friedlander - David Conrad
158 St. Louis St., Mobile, Alabama
Plaintiffs Attorney

Defendant's Attorney

Defendant lives at

RECEIVED

Received In Office

MAR 8 1967

19.....

TAYLOR WILKINS

SHERIFF

Sheriff

I have executed this summons

this 19.....

by leaving a copy with

Baldwin County Electric
Membership Corp.

By serving:

A. M. Kelding

3/10/67

K. Dale

Taylor Wilkins Sheriff

Carlisle Child Deputy Sheriff