

Defendant.

* IN THE CIRCUIT COURT OF
* BALDWIN COUNTY, ALABAMA
* AT LAW
*
*
*
* -
* CASE NO. 8038

Come NOTICE OF TAKING OF DEPOSITION

TO: Honorable John V. Duck
Attorney at Law
Post Office Box Y
Fairhope, Alabama

Please take notice that at 11:00 a.m. on Monday, November 3, 1969, the Defendant will take the deposition of George T. Fowler at the office of Honorable John V. Duck, Fairhope, Alabama, pursuant to Act No. 375 of the Legislature of the State of Alabama, September 8, 1955, before Charles Howard, or such other officer authorized to administer oaths in the County of Mobile, State of Alabama, and 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 participate in the taking of said deposition.

Dated this 23rd day of October, 1969.

FOREMAN, BROWN & HUDGENS
Attorneys for the Defendant.

By Peter V. Sintz

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 23rd
day of Oct, 1969, 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.

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

001-241901-111

FILED

OCT 24 1969

ALICE J. DUCK CLERK
REGISTER

JOHN V. DUCK
ATTORNEY AT LAW
P. O. BOX Y
FAIRHOPE, ALABAMA 36532
June 24, 1969

to Judge

-8038

Mrs. Alice J. Duck
Clerk of the Circuit Court
Bay Minette, Alabama

Re: George T. Fowler
Vs: Wise Tile Company, Inc.

Dear Mrs. Duck:

I enclose a Motion to reinstate the case of George T. Fowler, Plaintiff, vs. Wise Tile Co., Inc., Civil Case No. 8038.

I wrote to Judge Mashburn on June 2nd, 1969, and evidently, my letter to Judge Mashburn was misplaced. Mr. Peter Sintz, who is representing the defendant, had asked to take some depositions later in the summer, and he also had some demurrers pending against my amended Bill of Complaint that were not ruled on, so the case was not actually at issue.

I would appreciate it if you would submit this Motion to the Judge.

Sincerely,

JOHN V. DUCK
JVD/ts
encl.

P. S. Please ~~advise~~¹ when the Judge reinstates the case.

GEORGE T. FOWLER,

Plaintiff,

VS.

WISE TILE COMPANY,
INC., a Corporation,

Defendant.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

Case No. 8038.

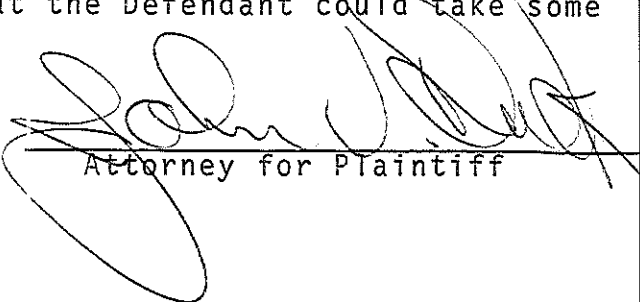
Comes now the Plaintiff in the above styled cause, and respectfully moves the Court to reinstate the cause of action herein, and for grounds thereof files the following, separately and severally:

1.

That the said cause was not at issue at the time the suit was set for trial.

2.

That the attorney for the Plaintiff had requested by letter a continuance, in order that the Defendant could take some depositions.


Attorney for Plaintiff

FILED

JUN 26 1969

ALICE J. DUCK CLERK
REGISTER

GEORGE T. FOWLER,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	BALDWIN COUNTY, ALABAMA
VS	*	AT LAW
WISE TILE COMPANY, INC.,	*	
a corporation,	*	
Defendant.		CASE NO. 8038

D E M U R R E R

Now comes the Defendant, Wise Tile Company, Inc., in the above captioned cause and files this its Demurrers to the Plaintiff's Complaint and sets down and assigns separately and severally, to each Count, separately and severally, as follows:

1. For aught appearing therein defendant owed Plaintiff no duty at the time and place and with respect to the matters and things complained of.
2. That said complaint is vague, indefinite and uncertain in that it fails to apprise this Defendant of the nature and things it is expected to defend against.
3. That said complaint fails to state a cause of action against this Defendant.
4. That said negligence is merely a conclusion of the Plaintiff without facts alleged in support thereof.
5. That the alleged agency is merely a conclusion of the Plaintiff.
6. That no facts are alleged to show the existence of any agency.
7. No facts are alleged to show a duty owed by this Defendant to the Plaintiff which proximately contributed to the damages complained of.

FOREMAN, BROWN AND HUDGENS
Attorneys for the Defendant.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 29th day of May, 1969, 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.

By Peter V. Sintz

FILED

MAY 30 1969

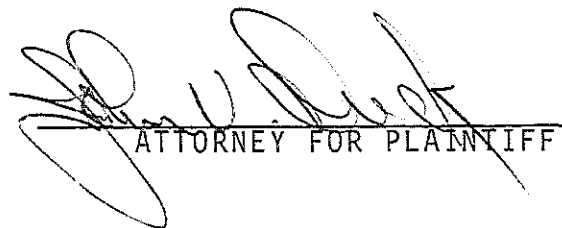
ALICE J. DUCK
CLERK
REGISTER

GEORGE T. FOWLER,)
Plaintiff,)
vs.)
WISE TILE COMPANY, INC.,)
a corporation,)
Defendant.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW, CASE NO. 8038

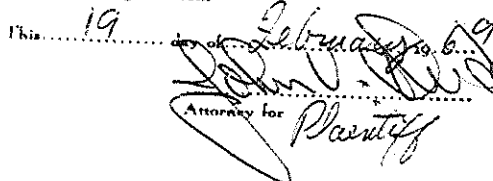
Comes now the Plaintiff in the above styled cause, and amends his Bill of Complaint filed herein to read as follows:

Plaintiff claims of the Defendant the sum of EIGHT HUNDRED SIXTY-THREE AND 26/100 (\$863.26) DOLLARS as damages, for that heretofore on, to-wit: the 15th day of March, 1967, the Defendant acting by and through its agents, servants or employees, which said agents, servants or employees, while acting within the line and scope of their authority, so negligently made repairs in the Plaintiff's home at 406 Fairwood Blvd., Fairhope, Alabama, to-wit: the laying of plastic over Plaintiff's carpet and removing a deep-freeze and refrigerator thereon which caused a fire, and as a proximate consequence thereof, Plaintiff's house suffered damages in that his refrigerator was burned and had to be repaired, and that the carpet in Plaintiff's hallway was burned and had to be replaced, all of which was proximately caused by the negligent acts of the agents, servants or employees of the Defendant while acting within the line and scope of their authority, hence this suit.


ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 19 day of February 1969

Attorney for Plaintiff

FILED

FEB 20 1969

ALICE J. COOK CLERK
REGISTER

FOREMAN, BROWN & JOHNSTON
ATTORNEYS AT LAW

SUITE 210 VAN ANTWERP BUILDING

MOBILE, ALABAMA

36602

ALEXANDER FOREMAN, JR. (1914-1966)
ALTON R. BROWN, JR.
JAMES A. JOHNSTON
PETER V. SINTZ
JOHN D. RICHARDSON

AREA CODE 205
432-2792

December 20, 1968

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

RE: George Fowler vs
Wise, Inc.
Case No. 8038
Our File No. 68-5433-PS

Dear Mrs. Duck:

Our office filed Demurs in the above styled cause on the 29th of March, 1968. We have agreed with Mr. Duck, the Plaintiff's attorney, to submit the Demurs without argument to the Judge.

If there is any way that this can be accomplished without our having to be personally present in Court, we would appreciate having this done. If this is not possible, please advise what steps we must take.

Thanking you for your help and assistance, we remain,

Yours very truly,


For the firm

PS/gpw

FILED

APR 2 1968

ALICE J. DUCK CLERK
REGISTER

GEORGE T. FOWLER, * IN THE CIRCUIT COURT OF
Plaintiff, * BALDWIN COUNTY, ALABAMA
Vs. * AT LAW
WISE TILE COMPANY, INC., *
a corporation, *
Defendant. * CASE NO: 8038

DEMURRER

Now comes the Defendant, Wise Tile Company, Inc.,
in the above captioned cause and files this its
Demurrers to the Plaintiff's Complaint and sets down
and assigns separately and severally, to each Count,
separately and severally, as follows:

1. For aught appearing therein defendant owed
plaintiff no duty at the time and place and with respect
to the matters and things complained of.
2. That said complaint is vague, indefinite and
uncertain in that it fails to apprise this defendant
of the nature and things it is expected to defend against.
3. That said complaint fails to state a cause of
action against this defendant.
4. That said negligence is merely a conclusion
of the plaintiff without facts alleged in support
thereof.
5. That the alleged agency is merely a conclusion
of the plaintiff.
6. That no facts are alleged to show the existence
of any agency.
7. No facts are alleged to show a duty owed by this
defendant to the plaintiff which proximately contributed
to the damages complained of.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 29
day of MARCH, 1968, 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.

FOREMAN & BROWN, ATTORNEYS FOR THE DEFENDANT

BY Peter V. Sintz
APR 1 1968

Peter V. Sintz
CLERK

GEORGE T. FOWLER,)
Plaintiff,)
vs.)
WISE TILE COMPANY, INC.,)
a corporation,)
Defendant.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW
8038

Plaintiff claims of the Defendant the sum of EIGHT HUNDRED SIXTY-THREE AND 26/100 (\$863.26) DOLLARS as damages, for that heretofore on, to-wit: the 15th day of March, 1967, the Defendant by and through its agent, servant or employees, while acting within the line and scope of their authority, so negligently made repairs in the Plaintiff's home at 406 Fairwood Blvd., Fairhope, Alabama, and as a proximate consequence thereof, Plaintiff's house suffered damages in that his refrigerator caught fire and was extensively damaged, that the carpet in his hallway was burned and had to be replaced, all of which was proximately caused by the negligent acts of the agent, servants or employees of the Defendant while acting within the line and scope of their authority, hence this suit.


ATTORNEY FOR PLAINTIFF

Plaintiff respectfully demands a trial by jury.


ATTORNEY FOR PLAINTIFF

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA
Baldwin County

Circuit Court, Baldwin County

No. 8038

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon WISE TILE COMPANY

.....
.....
.....
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.....

..... WISE TILE COMPANY, Defendant.....

by GEORGE T. FOWLER

....., Plaintiff.....

Witness my hand this.....

..... day of.....

13 March 1968

Alice J. Luck Clerk

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

GEORGE T. FOWLER

Plaintiffs

19 vs. *will*
Mr WISE TILE COMPANY, INC. a
Corporation
owner Defendants

SUMMONS AND COMPLAINT

Filed **FILED** 19.....

MAR 13 1968

Clerk

ALICE J. DUCK

CLERK
REGISTER

AB
99. IV 12 0 Plaintiff's Attorney

MOBILE COUNTY, ALA. Sheriff DEPT. Defendant's Attorney

Defendant lives at

461 South Broad Street
Mobile, Alabama

Received In Office

MAR 13 1968 19.....

JOHN WILKINS

Sheriff

I have executed this summons

this *3-19* 19 *68*

by leaving a copy with

*Mr. Wise, as owner of
Wise Tile Company, Inc.*

Ray H. Bridges Sheriff

L. L. Lillman Deputy Sheriff

O me