

| | | |
|---------------------------------|---|-------------------------|
| DARNELL MARIE GRASS, a |) | IN THE CIRCUIT COURT OF |
| minor suing by her next friend, |) | BALDWIN COUNTY, ALABAMA |
| |) | AT LAW |
| Plaintiff, |) | |
| vs. |) | |
| |) | CASE NO. 8410 |
| DR. HENRY C. JORDAN, |) | |
| |) | |
| Defendant. |) | |

SUGGESTION OF DEATH OF DEFENDANT AND
MOTION TO REVIVE

Plaintiff shows unto this Court that on to-wit, August 4, 1969, the Defendant, HENRY C. JORDAN, died and that on to-wit, August 12, 1969, Letters Testamentary were issued by the Probate Court of Baldwin County to the Merchants National Bank of Mobile, as Executor of the estate of the Defendant.

Therefore the Premises considered, Plaintiff moves this Honorable Court to enter an order reviving this cause against The Merchants National Bank of Mobile, as Executor of the estate of HENRY C. JORDAN.

William H. Saliba

Attorney for Plaintiff
WILLIAM H. SALIBA

Serve Mr. Kim Harris
at the Merchants National Bank
Mobile, Alabama

FILED

SEP 24 1969

ALICE J. DUCK CLERK
REGISTER

Ex 10-2-69

*Some on Kinshasa
Mulla Mulla
Mulla, etc*

RECEIVED
SEP 24 1969

EXECUTED

This 2 day of Oct, 19 69
by serving a copy of the within on
Mr. Ken Hanna
RAY D. BRIDGES, Sheriff
By Mr. Lawrence H. D.S.

*Wm
Paul 8410 6488*

Harrell Maurice Evans

10. vs

Dr. Henry Jordan

FILED

SEP 24 1969

SEP 23 9 28 AM '69
MOBILE COUNTY, ALA.
SHERIFF'S DEPT.

ALICE J. DICK CLERK REGISTER

DARNELL MARIE GRASS, a minor | IN THE CIRCUIT COURT OF
suing by her next friend, LAWRENCE |
A. GRASS, | BALDWIN COUNTY, ALABAMA

Plaintiff, | AT LAW

v. | :

DR. HENRY C. JORDAN, |

Defendant. | CASE NO. 8410

P L E A

Comes now THE MERCHANTS NATIONAL BANK OF MOBILE, as
Executor of the Estate of DR. HENRY C. JORDAN, Deceased, and for answer
to the Complaint and to each and every count thereof, says:

1. Not guilty.

ARMBRECHT, JACKSON & DeMOUY
Attorneys for The Merchants National Bank
of Mobile, as Executor of the Estate of Dr.
Henry C. Jordan, Deceased

By: Brook G. Holmes
BROOK G. HOLMES

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 31st day
of October, 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.

Brook G. Holmes

*7 filed 11-1-69
Chief Clerk
sent*

II.

Plaintiff moves this Honorable Court to subpoena Dr. Joe B. Ray of 179 Louiselle Street, Mobile, Alabama 36607, to appear as a witness for the Court in the trial of this cause, or in the alternative, that he be subpoenaed as a witness for the Plaintiff. Please issue a subpoena duces tecum commanding him to bring with him all of his records pertaining to Darnell Marie Grass, and all photographs, slides, or pictures which he may have of Darnell Marie Grass, or any part of her anatomy.

WILLIAM H. SALIBA

William H. Saliba

ATTORNEY FOR PLAINTIFF

I certify that I have this date, 13 May 1969, served a copy of these motions on the attorney for the Defendant and on Dr. Joe B. Ray, by mailing the same to their last known addresses postage prepaid.

William H. Saliba
William H. Saliba
Attorney for Plaintiff

FILED

MAY 13 1969

ALICE J. DUBK CLERK
REGISTER

| | | |
|-------------------------------|---|--------------------------|
| DARNELL MARIE GRASS, a minor |) | IN THE CIRCUIT COURT OF |
| suing by her next friend, |) | |
| LAWRENCE A. GRASS, |) | BALDWIN COUNTY, ALABAMA. |
| |) | |
| Plaintiff, |) | AT LAW. NO. 8410 |
| |) | |
| -vs- |) | |
| |) | |
| DR. H. C. JORDAN, whose cor- |) | |
| rect name is otherwise |) | |
| unknown to the Plaintiff but |) | |
| will be supplied by amendment |) | |
| when ascertained, |) | |
| |) | |
| Defendant. |) | |

NOTICE

To: Broox G. Holmes, Esquire
 Attorney at Law
 P. O. Box 290
 Mobile, Alabama 36601

Please take notice that on the 14th day of January, 1969, in the office of Dr. H. C. Jordan, 25 North Section Street, Fairhope, Alabama, the Plaintiff will take the deposition of Dr. H. C. Jordan, at 4:00 P. M., upon oral examination pursuant to Article 6A, Title 7, Code of Alabama, before Dorothy C. Leamy, or other officer authorized to take depositions and swear witnesses in ^{BALDWIN} ~~Mobile~~ County in said State. The oral examination will continue from day to day until completed and you are invited to attend and cross-examine.

WILLIAM H. SALIBA and KEENER T. BLACKMARR,
 Attorneys for Plaintiff

By: William H. Saliba

COPY SERVED ON COUNSEL FOR ALL PARTIES BY PROPERLY.
~~MAILED SAME IN THE~~ THIS 14 DAY OF January

William H. Saliba
 ATTORNEY FOR PLAINTIFF

FILED

JAN 16 1969

ALICE J. DECK CLERK REGISTER

DARNELL MARIE GRASS, a minor suing by her next friend, LAWRENCE A. GRASS,

Plaintiff,

vs.

DR. H. C. JORDAN, whose correct name is otherwise unknown to the Plaintiff but will be supplied by amendment when ascertained,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

:

§
§

§

CASE NO. 8410

DEMURRER

Comes now the Defendant in the above styled cause, and demurs to Plaintiff's Complaint, and to each and every count thereof, separately and severally, on the following separate and several grounds:

1. Said count wholly fails to state a cause of action.
2. The allegations contained in said count are vague, uncertain and indefinite.
3. For aught that appears from the allegations of said count, there was no legal duty owing from the Defendant to the Plaintiff.
4. For aught that appears from the allegations of said count, there was no breach of any legal duty owing from the Defendant to the Plaintiff.
5. Said count does not aver sufficient facts to state a cause of action.
6. There is no characterization of any alleged act of the Defendant as a negligent act.
7. For that negligence, as averred, is a mere conclusion of the pleader.

8. For that wantonness, as averred, is a mere conclusion of the pleader.

9. For that said count is vague, indefinite and uncertain in that the place where it is claimed by the Plaintiff that the Defendant entered upon said employment and treatment is not alleged with sufficient certainty.

10. It does not appear except by conclusion of the pleader that the relationship of physician and patient existed between the Plaintiff and the Defendant at the times and places complained of.

11. For aught that appears, there was no proximate cause between the alleged negligent conduct of the Defendant and the injuries and damages complained of by the Plaintiff.

12. For that it is not alleged how or in what manner the Defendant treated the Plaintiff.

13. For that the allegation "the Defendant conducted himself in such an unskilled and wantonly negligent manner in and about the treatment of said cut arm that as a proximate consequence of such unskillfulness and wanton negligence in and about the treatment of Plaintiff's said arm, Plaintiff was wantonly injured" is a mere conclusion of the pleader without facts alleged in support thereof.

14. For that the allegation "it then and there became and was the duty of the Defendant to exercise due care and diligence in said treatment of the Plaintiff" is a mere conclusion of the pleader without sufficient facts alleged in support thereof.

15. For that it is not the law of Alabama that physicians have a duty to patients to exercise due care and diligence in the treatment of patients.

16. There is a misjoinder of causes of actions for tort and contract in the same count.

17. For that said count is duplicitous in that it attempts to join wantonness and negligence in one and the same count.

18. For that the facts averred do not constitute negligence as a matter of law.

19. For that the facts averred do not constitute wantonness as a matter of law.

20. For aught that appears, the Defendant in performing the said treatment exercised such care and skill as physicians and surgeons in the Baldwin County, Alabama, area pursuing the same general line of practice ordinarily exercise in like cases.

21. For that there is no allegation that the Defendant negligently committed or omitted some act that he was under a duty to do or not to do.

22. For that it does not sufficiently appear how or in what manner this Defendant was guilty of negligence.

23. For that it does not sufficiently appear how or in what manner this Defendant was guilty of wantonness.

24. For that it is not averred or shown in said count that the Defendant did not exercise such care and skill as physicians and surgeons in the same general neighborhood and pursuing the same general line of practice ordinarily exercise in like cases.

25. For that the Plaintiff attempts to allege a physician-patient relationship between Plaintiff and Defendant, but wholly fails to do so.

ARMBRECHT, JACKSON & DeMOUY
Post Office Box 290, Mobile, Alabama 36601

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 15th day of Nov, 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.

By: Brook G. Holmes
BROOK G. HOLMES
Attorney for the Defendant

FILED

NOV 16 1968

LAW OFFICES
BLACKMARR, MEADOWS AND SALIBA
AIRPORT BOULEVARD IN THE BEL AIR MALL BUILDING
MOBILE, ALABAMA 36608

KEENER T. BLACKMARR
ALICE M. MEADOWS
WILLIAM H. SALIBA

February 12, 1970

P. O. BOX 16375
PHONE 471-2494
AREA CODE 205

Honorable Alice J. Duck
Circuit Court, Court House
Baldwin County.
Bay Minette, Ala. 36507

Re: Case No. 8410
Case No. 8411

Dear Mrs. Duck:

We have received notice from you that the suits filed by Darnell Grass and Lawrence A. Grass are set for trial in the Circuit Court on Wednesday, March 18, 1970.

Both Mr. Blackmarr and I were allowed to withdraw as counsel in each of these cases on January 22, 1970, and do not represent either party to this action. I am, by copy of this letter, forwarding the notice directly to Mr. Grass at Route 3, Box 663-B, Theodore, Alabama.

I presume that Mr. Grass will have his new attorney file an appearance in this cause.

Yours very truly,



William H. Saliba

WHS:ls
cc: Mr. Grass

SUMMONS

STATE OF ALABAMA)
)
BALDWIN COUNTY)

IN THE CIRCUIT COURT

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summons Dr. H. C. Jordan, whose correct name is otherwise unknown to the Plaintiff and whose correct name will be supplied by amendment when ascertained, to appear within thirty days from the date of service of this writ in the Circuit Court of said County, at the time of holding the same, and plead, answer, or demur to the complaint of Darnell Marie Grass, a minor, suing by her next friend, Lawrence A. Grass.

Witness my hand this 30th day of October,
1968.

Oliver J. Duck
CLERK.

DARNELL MARIE GRASS, a minor)
suing by her next friend,)
LAWRENCE A. GRASS,)
)
Plaintiff,)
)
-vs-)
)
DR. H. C. JORDAN, whose cor-)
rect name is otherwise un-)
known to the Plaintiff but)
will be supplied by amend-)
ment when ascertained,)
)
Defendant.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NO. 8410

COMPLAINT

COUNT ONE:

Plaintiff claims of the defendant the sum of One Hundred Thousand and no/100 (\$100,000.00) Dollars as damages, for that, heretofore and during, to-wit, the month of July, 1967, the Plaintiff cut her right arm, and the Defendant held himself out as a practicing physician in the County of Baldwin, State of Alabama, and as such physician was employed and retained

to attend upon and treat the cut arm of the Plaintiff, and the Defendant entered upon said employment for a reward; and the Plaintiff avers that the Defendant conducted himself in such an unskilled and wantonly negligent manner in and about the treatment of said cut arm that as a proximate consequence of such unskillfulness and wanton negligence in and about the treatment of Plaintiff's said arm, Plaintiff was wantonly injured in this, to-wit: pieces of broken glass were left in her arm; she was made sick and sore; she was unable to use her arm for a long period of time; she is and will be permanently disabled in the use of her arm; her ability to earn a living and hold a job has been reduced; she suffered physical pain and mental anguish; an infection occurred in her arm; her blood vessels and nerves were left in a lacerated, cut or severed condition; she had to undergo a dangerous operation and received additional scars from the said operation; she will have to undergo another operation; and she suffered other injuries, all to her damage; and Plaintiff asks punitive as well as special and general damages.

COUNT TWO:

Plaintiff, DARNELL MARIE GRASS, a minor, by her next friend, LAWRENCE A. GRASS, claims of the Defendant the sum of Fifteen Thousand and no/100 (\$15,000.00) Dollars as damages, for that, heretofore and during the month of, to-wit, July, 1967, the Defendant was a physician practicing in the County of Baldwin, State of Alabama; that the Plaintiff had a cut arm, and Defendant undertook to treat the Plaintiff's cut arm for hire or reward; that it then and there became and was the duty of the Defendant to exercise due care and diligence in said treatment of the Plaintiff, but notwithstanding said duty, the Defendant so negligently conducted himself that, as a proximate consequence thereof,

Plaintiff was greatly injured in this, to-wit: Pieces of broken glass were left in her arm; she was made sick and sore; she was unable to use her arm for a long period of time; she is and will be permanently disabled in the use of her arm; her ability to hold a job and earn a living has been and will be greatly impaired; she suffered great physical pain and mental anguish; her arm became infected; her blood vessels and nerves were left in a lacerated, cut or severed condition; she had to undergo a dangerous operation and received additional scars from the said operation; she will have to undergo another operation; and she suffered other injuries, all to her great damage in the sum aforesaid, hence this suit.

Keener T. Blackmarr
KEENER T. BLACKMARR

William H. Saliba
WILLIAM H. SALIBA

ATTORNEYS FOR PLAINTIFF

Plaintiff respectfully demands a trial by jury.

KEENER T. BLACKMARR and WILLIAM
H. SALIBA, ATTORNEYS FOR PLAINTIFF

BY: William H. Saliba

Defendant's address:
25 No. Section Street
Fairhope, Alabama

FILED

OCT 30 1968

ALICE J. DECK CLERK
REGISTER

Received 30 day of Oct 1968
and on 1 day of Nov 1968
I served a copy of the within etc
on Dr. H. C. Jordan
By service on above
to him
TAYLOR WILKINS, Sheriff
By Roy Randall D.S.

Sheriff claims 70 miles at
Ten Cents per mile Total \$ 7.00
TAYLOR WILKINS, Sheriff
BY Roy Randall
DEPUTY SHERIFF

8410

Lawrence M. Morris, Sheriff
a minor owing by her
with friend, Lawrence

Mr. H. C. Jordan
West

REC

OCT 30 1968

ALICE J. BERRY

ORIGINAL

Wanda J. Blackman