

LAWRENCE A. GRASS,  
Plaintiff,

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

v.

: AT LAW

DR. HENRY C. JORDAN,  
Defendant.

CASE NO. 8411

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:

Broox G. Holmes  
BROOX G. HOLMES

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 31<sup>st</sup> 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.

Broox G. Holmes

FILED

NOV 1 1969

ALICE J. DUCK CLERK  
REGISTER

LAWRENCE A. GRASS,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	BALDWIN COUNTY, ALABAMA
vs.	*	AT LAW
DR. HENRY C. JORDAN,	*	
Defendant.	*	CASE NO. 8411

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.

  
Attorney for Plaintiff  
WILLIAM H. SALIBA

Serve Y. D. Lott  
Vice President  
Merchants National Bank  
Mobile, Alabama

FILED

SEP 17 1969

ALICE J. BUCK CLERK  
REGISTER

Received 15 Day of Sept 1969  
and on 18 Day of Sept 1969

I served a Copy of the within Motion  
on Merchants National Bank of  
Mobile as executor  
by service on Mr Buckley  
Trust

RAY D. BRIDGES, Clerk

eg Fitzpatrick

SEP 12 1969

RECEIVED

John  
R. No. 8411  
6466

Lawrence C. Moore

13.

Mr. Henry C. Jordan  
181  
on Buckley - 18

Motion

FILED

SEP 22 1969

ALICE J. BERRY  
CLERK  
REGISTER

SEP 15 10 22 AM '69

Please return, Meadows  
on 9/24/69

LAWRENCE A. GRASS,  
Plaintiff,

§ IN THE CIRCUIT COURT OF  
§ BALDWIN COUNTY, ALABAMA

vs.

: AT LAW

DR. HENRY C. JORDAN, etc.,

§

Defendant.

§

CASE NO. 8411

MOTION TO STRIKE INTERROGATORIES

Comes now the Defendant and respectfully moves the Court to strike the interrogatories filed herein by the Plaintiff to the Defendant on the grounds that said interrogatories are incompetent, irrelevant, and immaterial to the matters and issues of this cause.

ARMBRECHT, JACKSON & DeMOUY  
Attorneys for Defendant

By:

Broox G. Holmes  
BROOX G. HOLMES

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 27 day  
of Feb, 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.

Broox G. Holmes

FILED

FEB 28 1969

ALICE J. DUCK

CLERK  
REGISTER

VOL.

63 PAGE 669

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 Lawrence A. Grass.

Witness my hand this 30<sup>th</sup> day of October, 1968.

Alice J. Duck  
CLERK.

COMPLAINT

LAWRENCE A. GRASS,	)	IN THE CIRCUIT COURT OF
	)	
Plaintiff,	)	BALDWIN COUNTY, ALABAMA.
	)	
-vs-	)	AT LAW. NO. <u>8411</u>
	)	
DR. H. C. JORDAN, whose correct name is otherwise unknown to the Plaintiff but will be supplied by amendment when ascertained,	)	
	)	
Defendant.	)	

COUNT ONE:

Plaintiff claims of the Defendant the sum of Two Thousand and no/100 (\$2,000.00) Dollars as damages, for that, heretofore and during, to-wit, the month of July, 1967, Defendant held himself out as a practicing physician in Baldwin County, Alabama, and as such physician was employed and retained to attend upon and treat the arm of Darnell

Marie Grass, the Plaintiff's minor daughter, which had been cut, and the Defendant entered upon such employment for a fee; and the Plaintiff alleges that the Defendant conducted himself in such an unskilled and negligent manner in and about the treatment of the said arm of Plaintiff's said minor daughter, that as a proximate consequence thereof, Plaintiff's said minor daughter was made sick and sore; was unable to use her arm for a long period of time; was permanently disabled in the use of her arm; required a subsequent operation to save said arm; will have large scars from said operation, or will have to undergo another operation to remove said scars; was and is disabled in the use of her arm; and suffered other injuries; and as a proximate consequence thereof, Plaintiff lost the services and society of said minor daughter for a long period of time and will likely for a long time continue to lose said services and society of said minor daughter; and the services of said minor daughter will be rendered less valuable to Plaintiff until said minor daughter reaches the age of twenty-one years; and Plaintiff was put to great trouble inconvenience, and expense for nursing care; doctor's care; hospital expenses, an operation; therapy; medicine; and other expenses in an effort to heal and cure said injuries of his said minor child; and will probably incur further bills and expenses in the future in treatment of said injuries; all to Plaintiff's damages in the sum aforesaid.

Keener T. Blackmarr  
ATTORNEY FOR PLAINTIFF

William H. Saliba  
ATTORNEY FOR PLAINTIFF

Plaintiff respectfully demands a trial by jury.

WILLIAM H. SALIBA and KEENER T. BLACKMARR

By: William H. Saliba  
ATTORNEYS FOR PLAINTIFF

Serve defendant:  
25 No. Section St.  
Fairhope, Alabama

FILED

OCT 30 1968

ALICE J. BUCK CLERK  
REGISTER

LAWRENCE A. GRASS,  
Plaintiff,

§ IN THE CIRCUIT COURT OF  
§ BALDWIN COUNTY, ALABAMA

vs.

:

AT LAW

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

Defendant.

§

CASE NO. 8411

### 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 or to Plaintiff's minor daughter.
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 or to Plaintiff's minor daughter.
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 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.

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

10. 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.

11. For that it is not alleged how or in what manner the Defendant treated the Plaintiff's minor daughter.

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

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

14. 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.

15. 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.

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

17. 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.

18. For that the Plaintiff attempts to allege a physician-patient relationship between Plaintiff's minor daughter and Defendant, but wholly fails to do so.

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

By: Broox G. Holmes

BROOX G. HOLMES  
Attorney for Defendant

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 15<sup>th</sup> day  
of Nov, 1968, served a copy of the  
for-going pleading on counsel for all parties to this  
proceeding, by mailing the same by United States mail,  
properly addressed, and first class postage prepaid.

Broox G. Holmes

FILED

NOV 16 1968

ALICE J. DUCK CLERK  
REGISTER

- 3 -

LAWRENCE A. GRASS,	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
vs.	)	AT LAW
DR. HENRY C. JORDAN,	)	CASE NO. 8411
Defendant.	)	

MOTION FOR JUDGMENT NIL DICIT  
WITH LEAVE TO PROVE DAMAGES

More than thirty days having passed since service of Plaintiff's Motion To Revive, being made on the Merchants National Bank of Mobile, and said Bank having failed to appear in this cause, Plaintiff moves for a Judgment by Default or a Judgment Nil Dicit with leave to prove damages 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

*the Honorable BROOK HOLMES*  
COPY SERVED ON ~~COUNSEL FOR ALL PARTIES~~ BY PROPERLY  
MAILING SAME IN U. S. MAIL THIS 30 DAY OF October  
19 67.  
*William H. Saliba*  
ATTORNEY FOR *Plaintiff*

**FILED**

OCT 31 1969

**ALICE J. DUCK** CLERK  
REGISTER

LAWRENCE A. GRASS,	)	IN THE CIRCUIT COURT
DARNELL MARIE GRASS, a	)	
minor suing by her next	)	
friend, Lawrence A. Grass.	)	OF BALDWIN COUNTY,
	)	
Plaintiffs.	)	ALABAMA.
VS	)	
	)	AT LAW
THE MERCHANTS NATIONAL	)	
BANK, as Executor of the	)	
Estate of Dr. Henry C.	)	CASES NO. 8410 and 8411
Jordan.	)	
Defendants.	)	

JOINT MOTION TO WITHDRAW

Come now Keener T. Blackmarr and William H. Saliba and ask leave of the Court to withdraw as attorneys for Plaintiff on the grounds that they have not received coporation from The Plaintiff in prosecution of the Suit.

Petitioners feel that the best interests of their clients can best be served if they are allowed to withdraw on 30 days notice and that their clients be allowed 60 days in which to obtain other counsel and proceed with these cases if they so desire.

  
 KEENER T. BLACKMARR

  
 WILLIAM H. SALIBA

FILED

JAN 19 1970

ALICE J. DUCK CLERK  
 REGISTER

I do hereby certify that a copy of this motion has been served on Mr. Broox Holmes as attorney for the Defendants, by mailing to his address at P. O. Box 290, Mobile, Alabama, and a copy served on the Plaintiff, Darnell Marie Grass, by serving her next friend and natural father, Lawrence A. Grass, and on Lawrence A. Grass individually, by mailing to him at the same address at Route 3, Box 663-3, Theodore, Alabama.

William H. Saliba  
WILLIAM H. SALIBA

FILED

JUN 10 1970

ALICE J. DICK

CLERK  
REGISTER

LAWRENCE A. GRASS,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	BALDWIN COUNTY, ALABAMA
VS.	*	AT LAW
DR. HENERY C. JORDAN, etc.	*	CASE NO. 8411

INTERROGATORIES FILED BY THE PLAINTIFF TO THE DEFENDANT

Now comes the Plaintiff and under the provisions of Code of Alabama Title 7, sections 477-486, files the following interrogatories to the Defendant.

1. State the names and office addresses of any doctors, optometrist, or nurses who have treated you within the last five (5) years for any defect, failure, or loss of vision in one or both of your eyes.

1A. Give the diagnosis, prognosis, and treatment given to you for your eyes by any other doctor or doctors.

1B. Give the date you began receiving treatment and the date of your last treatment.

2. State the names and addresses of any doctors or nurses who have treated you within the last five (5) years for any loss of equilibrium, nervous disorder, ulcers, or heart condition.

2A. State the diagnosis and prognosis and the treatment given to you by anyone described in 2. above for any of the conditions set out in question 2.

2B. Give the date you began receiving treatment for any of the conditions described in question 2.

3. If you are treating yourself for any long term illness or condition state the length of time you have suffered from this illness or condition, the diagnosis, prognosis, and treatment rendered.

3A. State whether the use of dope is involved in the treatment of any illness or condition inquired about in question 3.

4. State how long it has been necessary for you to use a flashlight for reading under normal lighting conditions.

4A. State whether your vision is any better or any worse at the present time than it was on July 12, 1967.

5. State whether you or an associate or employee of yours saw Darnell Marie Grass on July 13, 1967, whether at the Thomas Hospital or your office.

6. State whether Larry Grass was in or remained in the emergency room during all or part of the time you treated Darnell Marie Grass on the 12th of July 1967.

7. State how long you have been having other doctors or technicians read X-rays for you.

William H. Saliba  
ATTORNEYS FOR PLAINTIFF

STATE OF ALABAMA )

COUNTY OF MOBILE )

Before me, the undersigned Notary Public in and for said State and County, personally appeared WILLIAM H. SALIBA, known to me, who being first duly sworn, deposes and says that he is of counsel for the Plaintiff in the above styled cause, that the answers to the foregoing interrogatories truthfully made will be material evidence for the Plaintiff in the trial of said cause.

William H. Saliba  
WILLIAM H. SALIBA

Subscribed and sworn to before me on  
this 21 day of January, 1969.

Alice M. Meadows  
Notary Public, Mobile County, Ala.

COPY SERVED ON COUNSEL FOR ALL PARTIES BY PROPERLY  
MAILING SAME IN U. S. MAIL THIS 21 DAY OF \_\_\_\_\_

January, 1969.

William H. Saliba  
ATTORNEY FOR Plaintiff

**FILED**

JAN 23 1969

**ALICE J. DUCK** CLERK  
REGISTER

LAWRENCE A. GRASS,  
Plaintiff,

VS.

Dr. H. C. Jordan, etc.  
Defendant.

\* IN THE CIRCUIT COURT OF BALDWIN  
\* COUNTY, ALABAMA  
\* AT LAW  
\* CASE NO. 8411

Comes now the Plaintiff and amends his complaint heretofore  
filed in this cause by changing the name of the Defendant, as  
shown in the caption of the case, to read as follows:

Dr. Henry C. Jordan, also known as Dr. H. C. Jordan

ATTORNEY FOR PLAINTIFF,

*William H. Saliba*

WILLIAM H. SALIBA

COPY SERVED ON COUNSEL FOR ALL PARTIES BY PROPERLY  
MAILING SAME IN U. S. MAIL THIS 21 DAY OF \_\_\_\_\_

January, 19 69.  
*William H. Saliba*  
ATTORNEY FOR *Plaintiff.*

**FILED**

JAN 23 1969

**ALICE J. DUCK** CLERK  
REGISTER

ARMBRECHT, JACKSON & DEMOUY  
LAWYERS

MERCHANTS NATIONAL BANK BUILDING

P. O. BOX 290

MOBILE, ALABAMA

36601

TELEPHONE  
AREA CODE 205  
432-6751

CABLE ADDRESS  
SEALAW

WM. H. ARMBRECHT  
THEODORE K. JACKSON  
MARSHALL J. DEMOUY  
WM. H. ARMBRECHT, III  
RAE M. CROWE  
BROOK G. HOLMES  
W. BOYD REEVES  
JOHN GROW  
FRANK B. MCRIGHT  
Y. D. LOTT, JR.  
CLIFFORD FOSTER, III  
T. K. JACKSON, III  
E. B. PEEBLES, III  
F. M. KEELING  
GEOFFREY V. PARKER

October 31, 1969

Mrs. Alice J. Duck, Clerk  
Circuit Court of Baldwin County  
Baldwin County Court House  
Bay Minette, Alabama 36507

Re: Darnell Grass v. Dr. Henry C. Jordan  
Circuit Court of Baldwin County, Alabama  
Case No. 8410

Lawrence A. Grass v. Dr. Henry C. Jordan  
Circuit Court of Baldwin County, Alabama  
Case No. 8411

Dear Mrs. Duck:

We enclose herewith the original of a plea, which we wish to file in each of the above cases. We assume that this renders moot the Plaintiff's Motion for Judgment Nil Dicit in Case No. 8411 or that the motion will be withdrawn by the Plaintiff.

Best regards.

Sincerely yours,

  
Brook G. Holmes

BGH/mls

CC: Honorable Telfair J. Mashburn, Judge  
William H. Saliba, Esquire

**FILED**

NOV 1 1969

**ALICE J. DUCK** CLERK  
REGISTERED