

B. R. KIDD, : IN THE CIRCUIT COURT OF
 Plaintiff, : BALDWIN COUNTY, ALABAMA
 -VS- : AT LAW
 ALBERT DEAN KING and HERMAN :
 LESTER BOYINGTON, jointly :
 and severally, : CASE NUMBER 6853
 Defendants. :

COUNT ONE

Plaintiff claims of the Defendants the sum of TWENTY THOUSAND AND NO/HUNDREDTHS DOLLARS (\$20,000.00) as damages for that heretofore and on, to-wit, July 13, 1965, Plaintiff was operating his motor vehicle westwardly on Winn Road at a point approximately 7.6 miles north of Jackson, Alabama, and at a point where the said Winn Road was a public highway within Clarke County, Alabama, and Defendant Albert Dean King, an agent, servant or employee of Defendant Herman Lester Boyington, while acting in the line and scope of his employment as such, was driving a logging truck of said Defendant Herman Lester Boyington eastwardly on the said Winn Road, and at such time and place, Defendant Albert Dean King so negligently operated the said motor vehicle of Defendant Herman Lester Boyington as to cause or allow the same to get out of control and to completely block the eastward and westward lane of the said Winn Road and to cause Plaintiff's automobile which he was operating to collide with it. Plaintiff avers that as a direct and proximate consequence and result of the negligence of the Defendant Herman Lester Boyington acting by and through his agent, servant or employee, Defendant Albert Dean King, while acting in the line and scope of his employment as such, Plaintiff's motor vehicle was broken, battered and destroyed; Plaintiff was bruised and battered; he suffered contusions and abrasions to his left knee and abrasions to his face and

forehead; he was caused to be hospitalized for a long period of time and to incur medical, hospital and nursing obligations for his treatment, and will likely in the future incur further such hospital and nursing obligations; he was caused to lose time from his employment and will likely in the future be caused to lose further time from his employment; and he has suffered great pain and mental anguish and will likely in the future suffer further great pain and mental anguish; all to the Plaintiff's damage in the amount aforesaid.

WHEREFORE, this suit.


COUNT TWO

Plaintiff claims of the Defendants the sum of TWENTY THOUSAND AND NO/HUNDREDTHS DOLLARS (\$20,000.00) as damages for that heretofore and on, to-wit, July 13, 1965, Plaintiff was operating his motor vehicle westwardly on Winn Road at a point approximately 7.6 miles north of Jackson, Alabama, and at a point where the said Winn Road was a public highway within Clarke County, Alabama, and Defendant Albert Dean King, an agent, servant or employee of Defendant Herman Lester Boyington, while acting in the line and scope of his employment as such, was driving a logging truck of said Defendant Herman Lester Boyington eastwardly on the said Winn Road, and at such time and place Defendant Albert Dean King willfully or wantonly injured Plaintiff by willfully or wantonly causing the said motor vehicle of Defendant Herman Lester Boyington to get out of control and to completely block the eastward and westward lane of the said Winn Road and to cause Plaintiff's automobile which he was operating to collide with it. Plaintiff's willful or wanton injuries consisted of the following: Plaintiff's motor vehicle was broken, battered and destroyed; Plaintiff was bruised and battered; he suffered contusions and abrasions to his left

knee and abrasions to his face and forehead; he was caused to be hospitalized for a long period of time and to incur medical, hospital and nursing obligations for his treatment, and will likely in the future incur further such hospital and nursing obligations; he was caused to lose time from his employment and will likely in the future be caused to lose time from his employment; and he has suffered great pain and mental anguish and will likely in the future suffer further great pain and mental anguish; all to the Plaintiff's damage in the amount aforesaid.

WHEREFORE, this suit.



ERNEST M. BAILEY


MICHAEL J. SALMON

Attorneys for the Plaintiff

Plaintiff respectfully demands trial by jury.


ERNEST M. BAILEY


MICHAEL J. SALMON

Attorneys for the Plaintiff

Defendants may be served at:

Albert Dean King
Route 1
Jackson, Alabama

Herman Lester Boyington
1805 Hand Avenue, North
Bay Minette, Alabama

1935
CLERK
REGISTER

B. R. KIDD,)	IN THE CIRCUIT COURT OF
	:	
Plaintiff,)	BALDWIN COUNTY, ALABAMA
	:	
vs)	
	:	AT LAW
ALBERT DEAN KING and HERMAN)	
LESTER BOYINGTON, jointly	:	
and severally,)	
	:	
Defendants.)	CASE NO. 6853

DEMURRER

Comes now ALBERT DEAN KING, one of the Defendants in the above styled cause and demurs to the complaint heretofore filed herein, and to each count thereof, separately and severally, and for grounds of demurrer sets down and assigns, separately and severally as follows:

1. That it does not state facts sufficient to constitute a cause of action against this Defendant.

2. For that negligence is therein alleged merely as a conclusion of the pleader.

3. For that it is vague, indefinite and uncertain, in that it does not apprise this Defendant with sufficient certainty against what act or acts of negligence Defendant is called on to defend.

4. For that it does not appear with sufficient certainty what duty, if any, this Defendant may have owed to the Plaintiff.

5. For that it does not appear with sufficient certainty wherein this Defendant violated any duty owed by Defendant to the Plaintiff.

6. For that it does not sufficiently appear that this Defendant owed any duty to the Plaintiff which Defendant negligently failed to perform.

7. For that the averments set up, if true, do not show any liability on the part of this defendant.

8. For that the pleader sets out in what said negligence consisted, and the facts so set out do not show negligence.

9. For that there does not appear sufficient causal connection between this defendant's said breach of duty and plaintiff's injuries and damages.

10. No facts are alleged to show that Plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of this Defendant.

11. It is not alleged with sufficient certainty where said accident occurred.

12. For aught that appears, plaintiff had no right to be where plaintiff was at the time and place of said accident.

13. It is not alleged that the negligence complained of proximately caused the accident and the injuries and damages complained of.

14. For that there is a misjoinder of causes of action.

15. For that there is a misjoinder of parties Defendant.

16. It is not alleged that the wanton conduct complained of proximately caused the accident, the injuries and the damages complained of.

17. For that the pleader sets out in what the

alleged wanton act consisted, and the facts so set out do not show wantonness.

VICKERS, RIIS, MURRAY AND CURRAN

BY

Marion R. Vickers

Attorneys for Defendant, Albert
Dean King

FILED
MAR 18 1966
U.S. DISTRICT COURT
CLERK
REGISTER

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 17th
day of March, 1966, 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.

Marion R. Vickers

B.R. KIDD, : IN THE CIRCUIT COURT OF
 Plaintiff, : BALDWIN COUNTY, ALABAMA
 v. : AT LAW
 ALBERT DEAN KING and HERMAN : CASE NO. 6853
 LESTER BOYINGTON, jointly :
 and severally, :
 Defendants. :

A N S W E R

Come now the defendants in the above styled cause, separately and severally, and for answer to the complaint heretofore filed in said cause, and to each count thereof, separately and severally, say, separately and severally, as follows:

1. Not guilty.

2. The matters alleged in the complaint are untrue.

3. At the time and place complained of, the plaintiff so negligently operated his motor vehicle, which he was then and there driving, as to contribute proximately to the injuries and damages complained of, wherefore plaintiff ought not to recover.

VICKERS, RIIS, MURRAY & CURRAN

By Marion R. Vickers
 Attorneys for Defendants.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 16th day of August, 1966, 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.

Marion R. Vickers

FILED

AUG 17 1966

MADE J. BUCK, CLERK
 REGISTRY

B. R. KIDD,

PLAINTIFF,

VS

ALBERT DEAN KING AND HERMAN
LESTER BOYINGTON, JOINTLY
AND SEVERALLY,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 6853

DEMURRER

COMES NOW THE PLAINTIFF AND DEMURS TO THE ANSWER NUMBERED
THREE OF THE DEFENDANTS HERETOFORE FILED, AND AS GROUNDS THEREFOR
SETS FORTH AND ASSIGNS THE FOLLOWING:

1. FOR THAT THE SAME FAILS TO SET FORTH A DEFENSE.
2. FOR THAT THE SAME CONSISTS OF THE CONCLUSIONS OF THE
PLEADER AND NO FACTS ARE ALLEGED IN SUPPORT THEREOF.
3. FOR THAT THE SAME FAILS TO SET OUT WITH SUFFICIENT
PARTICULARITY WHAT ACTS IT IS ALLEGED THAT PLAINTIFF COMMITTED OR
OMITTED PROXIMATELY CONTRIBUTING TO THE DAMAGES COMPLAINED OF.

MICHAEL J. SALMON
ERNEST M. BAILEY

BY: Ernest M. Bailey
ONE OF THE ATTORNEYS FOR THE
PLAINTIFF

CERTIFICATE OF SERVICE

I, DO HEREBY CERTIFY THAT I HAVE ON THIS 30th
DAY OF Sept, 1969, SERVED A COPY OF THE
FOREGOING DEMURRER ON COUNSEL FOR ALL PARTIES TO
THIS PROCEEDING MY MAILING THE SAME BY UNITED
STATES MAIL, PROPERLY ADDRESSED, AND FIRST CLASS
POSTAGE PREPAID.

Ernest M. Bailey

FILED

OCT 1 1969

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW CASE NO: 6853

B. R. KIDD,

PLAINTIFF

VS

ALBERT DEAN KING AND HERMAN
LESTER BOYINGTON, JOINTLY
AND SEVERALLY,

DEFENDANTS

VICKERS, RIIS, MURRAY AND CURRAN

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
ERLING RIIS, JR.
J. MANSON MURRAY
EDWIN J. CURRAN, JR.
MARION R. VICKERS, JR.

MAILING ADDRESS:
P.O. BOX 990-36601
PHONE 432-9772

August 16, 1966

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

Re: Cases No. 6853, 6854,
6855, 6856 and 6921

Dear Mrs. Duck:

We are enclosing herewith the answers in each of the cases referred to above.

We would appreciate it if you would acknowledge receipt of these answers on the enclosed copy of this letter and return the same to us in the enclosed envelope.

Very truly yours,

VICKERS, RIIS, MURRAY & CURRAN

Marion R. Vickers Jr.
Marion R. Vickers, Jr.

MRV.jz
Enc.

VICKERS, RIIS, MURRAY AND CURRAN

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
ERLING RIIS, JR.
J. MANSON MURRAY
EDWIN J. CURRAN, JR.
MARION R. VICKERS, JR.

MAILING ADDRESS:
P. O. BOX 980-36601
PHONE 432-9772

August 19, 1966

Hon. Telfair Mashburn
Circuit Judge, Baldwin County
Baldwin County Courthouse
Bay Minette, Alabama

Re: Cases No. 6853, 6854, 6855,
6856 and 6921

Dear Judge Mashburn:

We represent the defendants in each of the above numbered cases which have been set for trial on Friday, September 16, 1966. We respectfully request that these cases be continued.

We have discussed this proposed continuance with the attorneys for the plaintiff and they have informed us that in view of the crowded docket, they would not oppose the granting of the continuance.

Very truly yours,

VICKERS, RIIS, MURRAY & CURRAN

MARION R. VICKERS, JR.

Marion R. Vickers, Jr.

MRV.jz

CC: Mrs. Alice Duck
Mr. Michael J. Salmon
Mr. Ernest M. Bailey
Mr. Tolbert M. Brantley

FILED

AUG 22 1966

ALICE J. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No.

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon

.....~~Albert Dean King and Herman Lester Boyington~~, jointle and severally.....

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.....

.....~~Albert Dean King and Herman Lester Boyington~~....., Defendant.....

by B. R. Kidd

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

Witness my hand this.....9.....day of.....Feb..... 19.....66

.....*W. J. Smith*....., Clerk

Ex 12-16-66

No. 6853

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

B. R. KIDD

Plaintiffs

vs.

ALBERT DEAN and

HERMAN LESTER BOYINGTON

Defendants

SUMMONS AND COMPLAINT

Filed 2-9-66 19.....

..... Clerk

THE SHERIFF CLAIMS 10

MILES AT 10¢ PER MILE FOR

A TOTAL OF \$ 1.00

H. D. Paul, Sheriff

E. Bailey

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED
Received in Office

FEB 9 1966 19.....

TAYLOR WILKINS, Sheriff

I have executed this summons

this 2-11-1966

by leaving a copy with

Herman Lester Boyington

Executed by serving copy of within on

THE SHERIFF CLAIMS 10

MILES AT 10¢ PER MILE FOR

A TOTAL OF \$ 1.00

H. D. Paul, Sheriff

E. Bailey

Plaintiff's Attorney

Defendant's Attorney

Executed by serving copy of within on

Albert Dean King
Name
This the 16 day of Feb. 1966

H. D. Paul, Sheriff

By W. H. Knight, D.

Taylor Wilkins, Sheriff
D. A. Talbot, Deputy Sheriff