

B. R. KIDD,

Plaintiff,

Vs.

ALBERT DEAN KING and  
HERMAN LESTER BOYINGTON,  
jointly and severally,

Defendants.

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

6854

Comes now the Defendant, Herman Lester Boyington, and demurs to the Plaintiff's Complaint, and each count thereof, separately and severally, and as grounds therefor, says as follows:

1.

That the Complaint fails to state a cause of action.

WILTERS & BRANTLEY

BY:

S. Allen M. Brantley  
Attorney for the Defendant,  
Herman Lester Boyington

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 1 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.

WILTERS, BRANTLEY

By:

S. Allen M. Brantley

FILED

MAR 7 1968

ALICE A. WICK, CLERK  
RECEIVED

LORRAINE BURNS, : IN THE CIRCUIT COURT OF  
 Plaintiff, : BALDWIN COUNTY, ALABAMA  
 -vs- : AT LAW  
 ALBERT DEAN KING and HERMAN :  
 LESTER BOYINGTON, jointly :  
 and severally, : CASE NUMBER 6854  
 Defendants. :

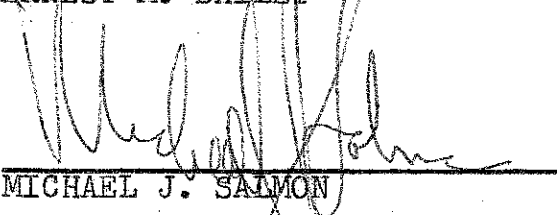
COUNT ONE

Plaintiff claims of the Defendants the sum of FIFTY THOUSAND AND NO/HUNDREDTHS DOLLARS (\$50,000.00) as damages for that heretofore and on, to-wit, July 13, 1965, Plaintiff was a passenger in a motor vehicle traveling 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 the automobile in which Plaintiff was riding as a passenger 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 within the line and scope of his employment as such, Plaintiff was bruised and battered; she suffered abrasions and contusions, and a fracture of her left thigh; she was caused to be hospitalized for a long period of time and to incur medical, hospital and nursing obligations for her

likely in the future incur further such hospital and nursing obligations; she has been caused to lose time from her employment and will likely in the future be caused to lose further time from her employment; she 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.

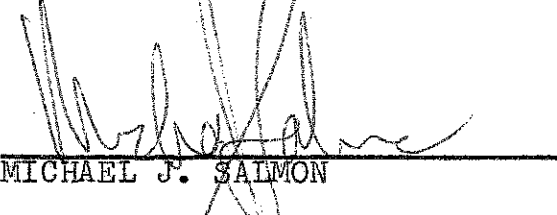
  
ERNEST M. BAILEY

  
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 North Hand Avenue  
Bay Minette, Alabama

FILED  
FEB 9 1935  
CLERK  
AUG 1 1935, REGISTER

LORRAINE BURNS,

Plaintiff,

Vs.

ALBERT DEAN KING and  
HERMAN LESTER BOYINGTON,  
jointly and severally,

Defendants.

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

Comes now the Defendant, Herman Lester Boyington, and demurs to the Plaintiff's Complaint and each count thereof, separately and severally, and for grounds therefor, says as follows:

1.

That the Complaint fails to state a cause of action.

WILTERS & BRANTLEY

BY:

Solomon M Brantley  
Attorney for the Defendant,  
Herman Lester Boyington

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 1 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.

WILTERS, BRANTLEY

BY:

Solomon M Brantley

FILED  
MAR 1 1966  
ALICE L. HARRIS, CLERK  
REGISTER

LORRAINE BURNS,	)	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. 6854

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.

LORRAINE BURNS, : IN THE CIRCUIT COURT OF  
 Plaintiff, : BALDWIN COUNTY, ALABAMA  
 v. : AT LAW  
 ALBERT DEAN KING and HERMAN : CASE NO. 6854  
 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 was engaged in a joint enterprise with B. R. Kidd, who was then and there operating the motor vehicle in which the plaintiff was riding, in that the plaintiff and B. R. Kidd were making a trip in said motor vehicle for their common and joint purpose, so that plaintiff had equal control over the operation of said motor vehicle, and the said B. R. Kidd did then and there so negligently operate said motor vehicle as to proximately contribute 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 16<sup>th</sup> day of Aug., 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

ALICE L. DICK, CLERK  
 REGISTER

LORRAINE BURNS,

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: 6854

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, ERNEST M. BAILEY, DO HEREBY CERTIFY THAT  
I HAVE ON THIS 30<sup>th</sup> DAY OF SEPTEMBER, 1969  
SERVED A COPY OF THE FOREGOING DEMURRER ON COUNSEL  
FOR ALL PARTIES TO THIS PROCEEDING BY 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: 6854

LORRAINE BURNS,

PLAINTIFF

VS

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

DEFENDANTS



SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA  
Baldwin County

Circuit Court, Baldwin County

No. 6854

6854

TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon .....

Albert Dean King and Herman Lester Boyington, jointly 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, jointly and severally, Defendant.....

by Lorraine Burns

Plaintiff.....

Witness my hand this 9 day of February 19 66

*Lorraine Burns*, Clerk

Ex 12-11-66

No. 6854

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

LORRAINE BURNS

Plaintiffs

vs.

ALBERT DEAN KIND and

HERMAN LESTER BOYINGTON

Defendants

SUMMONS AND COMPLAINT

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

Alice J. Duck

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  
SHERIFF

I have executed this summons

this 2-11-66 19.....

by leaving a copy with

Herman Lester Boyington

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  
W. A. Zolbert, Deputy Sheriff