
Marion B. Nellis,

Plaintiff,

vs.

W. J. Noonan, doing business
under the name and style of
Noonan Construction Company,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

1. The plaintiff claims of the defendant \$427.75 damages for this: that heretofore on, to-wit, the 1st day of October, 1938, on the Silverhill-Fairhope Road, about one mile east of Fairhope, in Baldwin County, Alabama, the defendant, by his agent, servant or employee, acting within the line and scope of his employment, negligently and unlawfully stopped or parked a truck on the said highway, which is a public highway in Baldwin County, Alabama, during the period of from one-half hour after sunset to one-half hour before sunrise, without the same being equipped with lighted rear lamps, and without putting out flares, as required by law; and as a proximate result thereof, plaintiff's automobile, while being driven along said highway at said time, at about the hour of 9:45 P.M. ran into said truck, and as a proximate result thereof plaintiff's automobile was wrecked and practically destroyed; both front fenders, the radiator together with its grill and supports, both headlamps, the complete hood, and other parts of the said automobile were bent, broken, and mutilated; and plaintiff alleges that said damages were proximately caused by defendant's negligence and his unlawful act in stopping or parking said truck on said highway.

2. Plaintiff claims of the defendant \$427.75 for that heretofore on, to-wit, the 1st day of October, 1938, the defendant, through his agents, servants, or employees, acting within the line and scope of their employment, negligently and unlawfully parked a truck belonging to the

defendant on the north side of the Silverhill-Fairhope highway, said truck being headed west, and defendant, through another or different agent, servant or employee, acting within the line and scope of his employment, stopped or parked another truck belonging to the defendant on the south side of said highway a few yards east of the truck hereinabove mentioned on said highway, the said second truck being headed east, with its headlights brightly burning, the first of said trucks hereinabove mentioned being negligently and unlawfully parked on the said highway in Baldwin County, Alabama, about one mile east of Fairhope, Alabama, during the period of from one-half hour after sunset to one-half hour before sunrise, without the same being equipped with lighted rear lamps, and without putting out flares, as required by law; and as a proximate result thereof, plaintiff's automobile, while being driven along said highway at said time, at about the hour of 9:45 P. M. ran into said truck, and as a proximate result thereof plaintiff's automobile was wrecked and practically destroyed; both front fenders, the radiator together with its grill and supports, both headlamps, the complete hood, and other parts of the said automobile were bent, broken, and mutilated; and plaintiff alleges that said damages were proximately caused by defendant's negligence and his unlawful act in stopping or parking said truck on said highway.

3. The plaintiff claims of the defendant \$427.75 damages for that heretofore, on, to-wit, the first day of October, 1938, the defendant through its agents, servants, or employees, acting within the line and scope of their employment, wilfully, wantonly or intentionally parked a truck on the said highway, which is a public highway in Baldwin County, Alabama, during the period of from one-half hour after sunset to one-half hour before sunrise, without the same being equipped with lighted rear lamps, and without putting out flares, as required by law; and as a proximate result thereof, plaintiff's automobile, while

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being driven along said highway at said time, at about the hour of 9:45 P. M. ran into said truck, and as a proximate result thereof plaintiff's automobile was wrecked and practically destroyed; both front fenders, the radiator together with its grill and supports, both headlamps, the complete hood, and other parts of the said automobile were bent, broken, and mutilated; and plaintiff alleges that said damages were proximately caused by defendant's negligence and his unlawful act in stopping or parking said truck on said highway.

4. Plaintiff claims of the defendant \$427.75 for that heretofore, on, to-wit, the 1st day of October, 1938, the defendant, through his agents, servants, or employees, acting within the line and scope of their employment, negligently and unlawfully operated a truck belonging to the defendant on the north side of the Silverhill-Fairhope highway, said truck being headed west, and defendant, through another or different agent, servant or employee, acting within the line and scope of his employment, stopped or parked another truck belonging to the defendant on the south side of said highway a few yards east of the truck hereinabove mentioned on said highway, the said second truck being headed east, with its headlights brightly burning, the first of said trucks hereinabove mentioned being negligently and unlawfully operated on the said highway in Baldwin County, Alabama, about one mile east of Fairhope, Alabama, during the period of from one-half hour after sunset to one-half hour before sunrise, without the same being equipped with lighted rear lamps, as required by law; and as a proximate result thereof, plaintiff's automobile, while being driven along said highway at said time, at about the hour of 9:45 P. M. ran into said truck, and as a proximate result thereof plaintiff's automobile was wrecked and practically destroyed; both front fenders, the radiator together with its grill and supports, both headlamps, the complete hood, and other parts of the said automobile were bent, broken, and mutilated; and plaintiff alleges that

said damages were proximately caused by defendant's negligence and his said unlawful act.

M. Corry, M. Lest, James O. Ryan
Attorneys for Plaintiff.

Plaintiff demands a trial by jury.

M. Corry, M. Lest, James O. Ryan
Attorneys for Plaintiff.

Summons & Complaint.

192

June

After diligent search
this party could not
be found in
Baldwin County
W. H. Williams Sheriff
By John R. Davis.

Filed December 28, 1925

R. S. DUCK

clerk - register

By *Walter Thompson*
Deputy

McCORVEY, McLEOD, TURNER & ROGERS

ATTORNEYS AT LAW

NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION B. NELLIS,
Plaintiff,

VS.

W. J. NOONAN, doing business
under the name and style of
NOONAN CONSTRUCTION COMPANY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW,

NO. 493.

And now comes the Defendant and demurs to Counts 1, 2, 3 and 4 of the Plaintiff's complaint filed in this cause, and to each count separately and severally and for ground of said demurrer says:

1st: That said count does not state a cause of action.

2nd: That said count is vague, indefinite and uncertain, and does not advise the Defendant with sufficient certainty against what acts of negligence the Defendant is called upon to defend.

3rd: That said count does not allege any negligence on the part of the Defendant.

4th: That said count does not show or allege any duty owing by the Defendant to the Plaintiff.

5th: That said count does not show or allege wherein Defendant violated any duty it owed to the Plaintiff.

6th: That said count affirmatively shows that the damages suffered by the Plaintiff were the proximate result of the negligence of the Plaintiff, or the party driving the Plaintiff's automobile.

7th: That said count attempts to charge the Defendant with negligence in the alternative without showing any sufficient causal connection.

8th: That said count affirmatively shows that the Plaintiff's damages were not the proximate result of the alleged negligence on the part of the Defendant.

9th: That said count affirmatively shows that the Plaintiff, by the exercise of reasonable care or of caution, could have avoided the injuries.

10th: That said count shows that the Plaintiff, finding himself in a place of danger, proceeded wrecklessly and without proper caution.

11th: That said count affirmatively shows that the Plaintiff was guilty of negligence, which proximately contributed to the damages complained of.

12th: That the facts set out in said count show no liability on the part of the Defendant.

Reuben V. Becke
Attorneys for Defendant.

DEMURRER

MARION B. WELLS,

PLAINTIFF,

VS.

W. J. NOOMAN, doing
business under the
name and style of
NOOMAN CONSTRUCTION
COMPANY,

DEFENDANT.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW,

NO. 493.

Filed January 14, 1954

R. S. DUCK

clerk, - register

By *Amelia Duggan*
Deputy

MARION B. WELLS,

Plaintiff,

VS.

W. J. NOONAN, doing business
under the name and style of
NOONAN CONSTRUCTION COMPANY,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW,

NO. 495.

And now comes the Defendant, and for answer to the Plaintiff's complaint and to each count thereof, separately and severally, says:

1. That he is not guilty.

2. That the facts therein alleged are untrue.

3. That the Plaintiff was guilty of negligence, which proximately contributed to the alleged damages, in that at the time and place of accident, he, while under the influence of liquor, was operating an automobile along said highway.

4. That the Plaintiff was guilty of negligence, which proximately contributed to the alleged damages, in that he was at the time and place of the alleged accident operating a motor vehicle upon the said highway carelessly and heedlessly in wilful disregard of the rights or safety of other persons upon said highway.

5. That the Plaintiff was guilty of negligence, which proximately contributed to the damages complained of, in that he was operating a vehicle, at the time and place of said accident, upon the highway carelessly and heedlessly without due caution and circumspection and at a speed so as to endanger or be likely to endanger persons or property upon said highway.

6. That the Plaintiff was guilty of negligence, which proximately contributed to the alleged damages, in that at the time and place of the said accident, there was an automobile traveling on said highway in an opposite direction from the Plaintiff and that the lights of the approaching automobile blinded the Plaintiff, and that the Plaintiff proceeded without bringing his car under such control that he could stop it immediately, and that as a result thereof he ran into the rear of the Defendant's truck.

7. That the Plaintiff was guilty of negligence, which proximately contributed to his alleged damages, in that at the time and place of the accident there was an automobile or automobile truck traveling along said highway in an opposite direction from the Plaintiff; that the lights of the said approaching

automobile or truck obscured the vision of the Plaintiff and that the Plaintiff proceeded along said highway and ran into the rear of the Defendant's automobile truck which was then and there traveling along said highway.

8. That the Plaintiff was guilty of negligence, which proximately contributed to his alleged damages, in that at the time and place of said accident the car driven by the Plaintiff was meeting a car coming from the opposite direction; that the lights of the approaching automobile blinded the Plaintiff; that the Plaintiff notwithstanding this fact proceeded without slacking his speed until he crashed into the rear end of the Defendant's automobile truck, thereby causing the damages complained of.

9. That the Plaintiff was guilty of negligence, which proximately contributed to his alleged damages, in that at the time and place of the said accident his vision was obscured by the headlights of an automobile approaching from the opposite direction; that the Plaintiff notwithstanding his vision was obscured proceeded without brining his automobile under control permitting stopping within distance illuminated by his headlights and as a result thereof ran into the rear of the Defendant's automobile truck, which was then and there proceeding along said highway.

Beberfeld & Beber
Attorneys for Defendant.

RECORDED

MARION B. WELLS,
Plaintiff,

VS.

W. J. NOONAN, ET AL.
Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW,

NO. 493.

*Filed March 2, 1939
R.S. Duff, Clerk
By Arthur Thompson,
Deputy Clerk.*