

643
STATE OF ALABAMA,
BALDWIN COUNTY.

} IN THE CIRCUIT COURT - LAW SIDE.
}

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon L. L. NOBLE, HORACE W. THURBER and J. R. ATKINS, individually and as partners doing business under the name of FRUIT DISTRIBUTING COMPANY, to appear within thirty days from the service of this writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the complaint of Minnie Mae Washington, as Administratrix of the Estate of Andrew Lee Washington, deceased.

WITNESS my hand this 15th day of February, 1941.

R. S. Dush
Clerk.

C O M P L A I N T:

MINNIE MAE WASHINGTON, as
ADMINISTRATRIX OF THE ESTATE
OF ANDREW LEE WASHINGTON,
Deceased,

Plaintiff,

VS.

L. L. NOBLE, HORACE W. THURBER,
and J. R. ATKINS, Individually and
as Partners doing business under the
name of FRUIT DISTRIBUTING COMPANY,

Defendants.

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.
AT LAW.

COUNT ONE:

The Plaintiff claims of the Defendants the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) as damages for in this: That on or about, to-wit: the 15th day of November, 1940, the defendants, by their agent, servant or employee, while acting within the line and scope of his employment, negligently and unlawfully parked a truck on the public highway leading from Foley, Alabama, to Gulf Shores,

(page two)

Alabama, in Baldwin County, Alabama, at a point about one and seven tenths miles south of the traffic light in Foley, Alabama, during the period of time from one half hour after sun-set to one-half hour before sun-rise, or at a time when there was not sufficient light to render clearly discernible any person on the highway at that time and place at a distance of two hundred feet ahead, without the truck being equipped with lighted rear lamp, and as a proximate result thereof, an automobile in which Plaintiff's intestate, Andrew Lee Washington, was then and there riding along said highway at or about the hour of 5:45 o'clock P. M., was run into and against the rear of said truck and as a proximate result thereof Plaintiff's intestate, Andrew Lee Washington, was killed. And Plaintiff alleges that the death of her said intestate, Andrew Lee Washington, was proximately caused by the defendants' negligence and unlawful act in parking said truck in said highway at said time and place without being equipped with lighted rear lamp.

COUNT TWO:

The Plaintiff claims of the defendants the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) as damages for in this: That on or about, to-wit: the 15th day of November, 1940, the defendants, by and through their agent, servant or employee, acting within the line and scope of his employment, negligently and unlawfully operated a truck on the highway leading from Foley, Alabama, to Gulf Shores, Alabama, in Baldwin County, Alabama, at a point about one and seven tenths miles south of the traffic light in Foley, Alabama, during the period of time from one-half hour after sun-set to one-half hour before sun-rise, or at a time when there was not sufficient light to render clearly discernible any person on said highway at said time and place at a distance of two hundred feet ahead without the truck being equipped with lighted rear lamp, and as a proximate result thereof an automobile in which Plaintiff's intestate, Andrew Lee Washington, was then and there riding along said highway at said time and place ran into the rear of said truck and as a proximate result

(page three)

thereof, Plaintiff's intestate, Andrew Lee Washington, was killed. And Plaintiff alleges that the death of her said intestate, Andrew Lee Washington, was proximately caused by the defendants' negligence and unlawful act in operating said truck on said highway at said time and place without it being equipped with lighted rear lamp.

COUNT THREE:

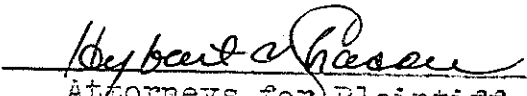
The Plaintiff claims of the defendants the sum of ^{Dollars} FIFTEEN THOUSAND (\$15,000.00) as damages for in this: That on, to-wit: the 15th day of November, 1940, the defendants, through their agent, servant, or employee, acting within the line and scope of his employment, willfully and wantonly parked a truck on the public highway leading from Foley, Alabama, to Gulf Shores, Alabama, in Baldwin County, Alabama, about one and seven tenths miles south of the traffic light in Foley, Alabama, during the period of time from one-half hour after sun-set to one-half hour before sun-rise or at a time when there was not sufficient light to render clearly discernible any person on said highway at said time and place at a distance of two hundred feet ahead without said truck being equipped with lighted rear lamp, and as a proximate result thereof the automobile in which Plaintiff's intestate, Andrew Lee Washington, was then and there riding along said highway at said time and place ran into said truck and as a proximate result thereof, Plaintiff intestate, Andrew Lee Washington was killed. And Plaintiff further avers that said highway, at said point where said truck was parked was frequently used by the public in automobiles. And Plaintiff alleges that the death of her said intestate, Andrew Lee Washington was proximately caused by the defendants' willful and wanton negligence in parking said truck in said road at said time and place without it being equipped with a lighted rear light.

(page four)

COUNT FOUR:

The Plaintiff claims of the defendant the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) as damages for in this: That on, to-wit: the 15th day of November, 1940, the defendants, through their agent, servant or employee, acting within the line and scope of his employment, willfully and wantonly operated a truck on the public highway leading from Foley, Alabama, to Gulf Shores, Alabama, in Baldwin County, Alabama, about one and seven tenths miles south of the traffic light in Foley, Alabama, during the period of time from one-half hour after sun-set to one-half hour before sunrise, or at a time when there was not sufficient light to render clearly discernible any person on said highway at said time and place at a distance of two hundred feet ahead, without said truck being equipped with lighted rear lamp, and as a proximate result thereof the automobile in which Plaintiff's intestate Andrew Lee Washington was then and there riding along said highway at said time and place, ran into said truck and as a proximate result thereof Plaintiff's intestate, Andrew Lee Washington, was killed. And Plaintiff further avers that said highway, at said point where said truck was being operated was frequently used by the public in automobiles. And Plaintiff alleges that the death of her said intestate, Andrew Lee Washington, was proximately caused by the defendants' willful and wanton negligence in operating said truck on said road at said time and place without it being equipped with a lighted rear light.

A trial by jury is demanded.


Attorneys for Plaintiff.

2/27
794
SUMMONS AND COMPLAINT.

MINNIE MAE WASHINGTON, as
ADMINISTRATRIX OF THE ESTATE
OF ANDREW LEE WASHINGTON,
Deceased,

Plaintiff,

X²⁶
VS.

X²¹
L. L. NOBLE, HORACE W. THURBER
and J. R. ATKINS, Individually
and as Partners doing business
under the name of FRUIT DISTRIB-
UTING COMPANY,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

FILED February 15, 1941.

R. S. Duck
Clerk.

LAW OFFICES
HYBART & CHASON
BAY MINETTE, ALABAMA

Received 21 Feb 1941
and on 21 Feb 1941
I served a Copy of the within Complaint & Summons
on J. R. Atkins, on Feb 26, 1941 on
L. L. Noble & Horace W. Thurber Individually
& as Partners. After the name of Fruit Distributing Company
on Feb 24, 1941. Fruit Distributing Company, by and on J. R. Atkins one
the Partners.
W. H. HOLCOMBE, Sheriff
By W. H. Holcombe & W. H. Holcombe, D.S.

CIRCUIT COURT

September Term, 1951

VS.

DEAR SIRs: At the

Term, 193.

of the Circuit Court of said County,

for the sum of _____ Dollars

besides _____ Dollars, cost of suit, and execution
was duly issued thereon, commanding any Sheriff of the State that he cause to be made of the goods and chattels, land and tene-
ments of said _____

the amount of the judgment and costs, and the Sheriff has returned said exception indorsed, "No Property Found," and the costs have never been paid. In order to save you the additional expense of an execution against you, I herewith inclose an itemized statement of the costs which have accrued in said cause, and respectfully request that you will, on receipt of this, remit the amount. If I do not hear from you in a few days I will forward the execution to the Sheriff of your County for collection.

Respectfully yours,

R. S. Dush, Clerk.

[illegible]

No. 643

Page _____

THE STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

Minnie Mae Washington
as Adm. et al.,

vs.

Plaintiff

L. L. Noble, et al.,

Defendant

Civil Cost Bill

(NOTICE)

Received of

_____ Dollars,

in payment of the above, this _____ day

of _____, 193_____

_____, Clerk.

Hypant & Chason

Plaintiff's Attorney.

Smith & Johnston

Defendant's Attorney

MINNIE MAE WASHINGTON, AS
ADMINISTRATRIX OF THE ESTATE
OF ANDREW LEE WASHINGTON,
DECEASED,

Plaintiff,

vs.

L. L. NOBLE, HORACE W. THURBER,
AND J. R. ATKINS, INDIVIDUALLY,
AND AS PARTNERS DOING BUSINESS
UNDER THE NAME OF FRUIT DIS-
TRIBUTING COMPANY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 642

Comes each of the defendants in the above entitled
cause, separately and severally, and demurs to each count of
the complaint, separately and severally, on the following
separate and several grounds, viz:

1. Said count fails to show that any act of the
defendant, its servants or agents, was the proximate cause
of the death of plaintiff's intestate.

2. Said count fails to show that the plaintiff's
intestate was killed as a proximate result of any unlawful
or negligent act of the defendant or its servants or agents.

3. Said count fails to aver that the defendant,
its servants or agents, wantonly or wilfully killed plaintiff's
intestate.

4. Because said count fails to show that the defen-
dant or its servants or agents wantonly killed plaintiff's
intestate.

5. Because it does not appear that the defendant
or its servants or agents wilfully and unlawfully killed
plaintiff's intestate.

6. Because it does not appear that the defendant or its servants or agents wilfully killed plaintiff's intestate.

7. Because it does not appear that the death of plaintiff's intestate was a proximate result of any wrongful act, omission, or negligence of the defendant, its servants or agents.


ATTORNEYS FOR DEFENDANT

RECORDED

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 643

MINNIE MAE WASHINGTON, AS
ADMINISTRATRIX OF THE ES-
TATE OF ANDREW LEE WASH-
INGTON, DECEASED,

Plaintiff,

VS.

L. L. NOBLE, HORACE W.
THURBER, AND J. R. ATKINS,
INDIVIDUALLY, AND AS
PARTNERS DOING BUSINESS
UNDER THE NAME OF FRUIT
DISTRIBUTING COMPANY,

Defendant.

Filed March 24, 1941.

R. S. Durr, Register-Clark

SMITH & JOHNSTON

LAWYERS

SIXTH FLOOR.

FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA