

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 15 day of February, 1941.

R 5. Duch Clerk.

COMPLAINT:

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, servent or employee, while acting with in the line and scope of his employment, negligently and unlawfully parked a truck on the public 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 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 highwat 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 proximateresult 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 FIFTEHN 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 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 shead 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 trucknand as a proximate result thereof. Plaintif 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 inparking said truck in said road at said time and place without it being equipped with a lighted rear light.

COUNT FOUR:

The Plaintiff claims of the defendant the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) as damages for in this: That on, towit: 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.

SUMMONS AND COMPLAINT.

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

Plaintiff,

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

Defendants.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

AT LAW.

FILED February 15, 1941.

R.S. Duch Clerk.

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LAW OFFICES HYBART & CHASON BAY MINETTE, ALABAMA

CIVIL COST BILL - NOTICE - Form 22 Baldwin Times, Bay Minette THE STATE OF ALABAMA CIRCUIT COURT BALDWIN COUNTY Judgment Ĭ of the Circuit Court of said County, DEAR SIRS: At the recovered a judgment against for the sum of 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. , Clerk. Respectfully yours, CLERK'S FEES @ Amount SHERIFF'S FEES @ Amount Levying Attachment,
Entering and returning Attachment,
Summoning garnishee and return,
Serving 7 Summons and Return,
Serving Subpoenas, $\frac{1}{2}$ 30 20 $\tilde{3}$ 1.50 1.5015 20 25 00 Serving Subpoenas,
Impaneling jury,
Making deed,
Serving Summons, forcible entry, etc.,
Executing writ of restitution or possession,
Collecting, execution for cost
Serving Sci. Fa. notices, etc.,
Serving any summons not provided for and 20 65 Docketing cause, to be charged but once,
Entering Appearance
Filing pleas, demurrer and other pleadings, for each,
Every trial, with or without jury, and its incidents, not including judgments by default, or nil dicit,
Entering Continuance, (each)
Entering Judgment, (each)
Entering any other order of Court (each)
Issuing Scire Facias, or notice in the 25 $\tilde{20}$ 2.50 1.50 5.00 1.50 1.50 10 20 8 10 11 12 75 return, attachment for contempt, 1.50 1.50 1.00 3.00 13 14 15 16 Serving attachment for contempt,
Taking and approving bond,
Seizing personal property in detinue.
Collecting money under execution, 5% first
\$200.00; 4% to \$500.00; 3% all over \$500.00,
Selling property attached, same for selling
under execution,
Former Sheriff's fees, 30 30 Issuing Scire Facias, or notice in the nature thereof, (each)
Issuing Execution or copy thereof; (each)
Entering return, or copy thereof, for each 100 words, 15 cents; but in no case less than 50 20 Recording award of arbitrators, referees, auditors, etc., for each 100 words,
Issuing execution or attachment thereon, and (رسي 15 1 Issuing execution or attachment thereon, and entering return,
Taking bond for certiorari supersedeas, or appeal, or copy thereof and filling same,
Issuing Subpoenas for Witness, (each)
Administering an oath, not relating to a trial pending and certifying the same,
Issuing Attachment and taking bond, (ea.)
Filing papers in attachment, (each)
Issuing Summons for garnishee, (each)
Swearing and taking examination for Garnishee and recording same, for each 100 words
15 cts; but not less than
Order to advertise, or order of survey, or 16 1.00 17 75 30 $\frac{25}{1.00}$ 15 cts; but not less than
Order to advertise, or order of survey, or copy thereof,
Certificate of Judgment,
Recording each surveyor and surveyor's report or copy thereof, each 100 words 15 cts; but not less than,
Issuing Commission to take depositions, or copy thereof,
Making copy of interrogatories accompanying commission. 50 24 Total Sheriff's Fees, RECAPITULATION 25 27 Clerk's Fees,
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Witness Fees in Circuit Court,
Justice of the Peace Fees,
Witness Fees, in Justice of the Peace Court
Commissioner's Fees,
Commissioner's Residence,
Constable's Fees
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Printer's Fees,
Stenographer's Fees,
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[Filing packages of depositions, (each) [Indorsing package of deposition, opened] 50 15 10 10 32 34 11 12 13 14 15 00 75 15 36 37 263 15 15 50 75 25 5.00 Judgment. money on executions, Interest, Damages, 90

Total Judgment,

Total Clerk's Fees.

Interest and Damages, Grand Total,

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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,

Defendant.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

AT LAW. NO. (143)

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:

- l. 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 defendant 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

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RECERDED

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 643

MINNIE MAE WASHINGTON, AS ADMINISTRATRIX OF THE ESTATE 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.

Fried Morch 24, 1941. R. S. Duch, Registre : Clark

SMITH & JOHNSTON

LAWYERS

SIXTH FLOOR.

FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA