IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

BARBARA FAYE PRICE, etc.,	:	
Plaintiff	:	
vs.	:	AT LAW NO. 2085
JACK MANN PONDER, JR.,	:	
Defendant	:	

Comes now J. EDWARD THORNTON, Guardian ad litem for JABEZ MANN PONDER III, a minor over the age of eighteen years, and appearing specially and solely for the purpose of filing this motion and for no other purpose, moves the Court to strike the purported amendment to the bill of complaint heretofore sought to be made in this cause on the ground that said purported amendment works a discontinuance in said cause.

Vickers Thornton
Attorneys for Guardian ad Litem

I hereby accept service of a copy of the foregoing motion on this the 10th day of February, 1954.

Holberg, Tullos & Aldridge
Attorney for Plaintiff.

FILED
2-10-54
ALICE L. BUCK, Clerk

IN THE CIRCUIT COURT FOR THE
TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

* * * * * * * * * * * * * * * * *

BARBARA FAYE PRICE, etc.,

Plaintiff

vs.

JACK MANN PONDER, JR.,

Defendant

* * * * * * * * * * * * * * * * *

AT LAW NO. 2085

* * * * * * * * * * * * * * * * *

MOTION TO STRIKE

FILED
FEB 10 1954
ALICE J. DUCK, Clerk

VICKERS AND THORNTON
ATTORNEYS AT LAW
MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

BARBARA FAYE PRICE, etc.,	:	
Plaintiff	:	
vs.	:	AT LAW NO. 2085
JACK MANN PONDER, JR.,	:	
Defendant	:	

DEMURRER

Comes now J. EDWARD THORNTON, Guardian ad litem for JABEZ MANN PONDER III, a minor over the age of eighteen years, and demurs to the complaint and each count thereof, separately and severally, and as grounds for such demurrer assigns, separately and severally, the following:

1. Sufficient facts are not alleged therein to state a cause of action.

2. Sufficient facts are not alleged therein to entitle plaintiff to the relief sought.

3. Sufficient facts are not alleged therein to show that the alleged conduct of the defendant constituted wantonness.

4. It affirmatively appears therefrom that the defendant was not guilty of wantonness.

5. The wanton or willful misconduct alleged therein is unsupported by a sufficient statement of facts to warrant the conclusion sought to be drawn.

6. The allegations as to wanton or willful misconduct are a mere conclusion of the pleader.

7. It does not appear that the defendant wantonly injured plaintiff.

8. Sufficient facts are not set up to show that the defendant wantonly injured the plaintiff.

9. It affirmatively appears therefrom that the defendant, if guilty of anything, committed a wanton act as distinguished from inflicting wanton injury.

10. Sufficient facts are not alleged therein to show that the defendant had knowledge of the likelihood of injury to the plaintiff.

11. It affirmatively appears therefrom that the defendant did not know, and was not chargeable with knowledge, that the plaintiff might be injured.

12. For aught appearing to the contrary therefrom, plaintiff's injury, if any, was consequential.

FILED
2-17-54
ALICE J. DUCK, Clerk

Richard Thornton
Attorneys for Guardian ad Litem.

IN THE CIRCUIT COURT FOR THE
TWENTY-EIGHTH JUDICIAL CIRCUIT OF
ALABAMA

* * * * * * * * * * * * * * * * * * *

BARBARA FAYE PRICE, etc.,

Plaintiff

vs.

JACK MANN PONDER, JR.,

Defendant

* * * * * * * * * * * * * * * * * * *

AT LAW NO. 2085

* * * * * * * * * * * * * * * * * * *

DEMURRER

VICKERS AND THORNTON
ATTORNEYS AT LAW
MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL

CIRCUIT OF ALABAMA

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	I	
Plaintiff,	I	AT LAW NO. 2085
-VS-	I	MOTION TO STRIKE
JACK MANN PONDER, JR., a minor,	I	
Defendant	I	

Now comes Plaintiff in the above-entitled cause and moves to strike the Plea in Abatement therein filed and as grounds for said motion separately and severally assigns the following:

1. Said plea was not timely filed.

2. Said plea was not filed within the time allowed for pleading.

3. Said plea was not filed within thirty (30) days from the service of process together with the original complaint in said cause.

4. It affirmatively appears that the complaint and summons in the above-entitled cause was served, on, to-wit, September 9, 1953 and that the Plea in Abatement herein was filed on December 14,1953 contrary to Rule 12 of the Circuit and Inferior Courts of the 1940 Code of Alabama.

5. It affirmatively appears from the Record in said cause that the complaint and summons herein was served on defendant on, to-wit, September 9, 1953, and that subsequent thereto and on, to-wit, October 6, 1953, defendant herein filed in said cause a Motion to Quash Process which was subsequently denied; and that, thereafter, on, to-wit, December 14, 1953, the instant Plea in Abatement was filed which is beyond the time allowed for pleading as set forth in Rule 12 of the Circuit and Inferior Court Rules in the 1940 Code of Alabama.

6. For that said plea sets forth no matter in abatement to the cause and process in the instant case.

7. It affirmatively appears that the instant suit was served on the proper party defendant irrespective of h s name or designation.

8. It affirmatively appears that the complaint and summons were properly served on the proper minor defendant irrespective of his name or designation.

9. It affirmatively appears that the only distinction allegedly set forth in the Plea of Abatement in the designation of the party defendant is mere decriptio personae and that the proper defendant has been served in the instant cause.

10. It affirmatively appears from the Record in said cause that said plea raises no matter not heretofore raised on Motion to Quash filed October 6, 1953 and denied by this Honorable Court on, to-wit, November 17, 1953 and therefore said plea is irrelevant and unnecessarily repetitious.

11. It affirmatively appears that said plea is unnecessarily irrelevant, prolix, frivolous, or repetitious, contrary to the provisions of Title 7, Section 213 of the 1940 Code of Alabama.

12. It affirmatively appears that the complaint in the instant cause was amended on November 17, 1953 to properly include and reflect the alleged correct name of this defendant as set forth in said plea in abatement.

13. It affirmatively appears that the Plea in Abatement herein was filed in this cause to the Complaint as last amended which, by amendment on November 17, 1953, correctly denominates this defendant under the name and designation as set forth in said plea.

14. It affirmatively appears from the Record in this cause that said complaint was amended on November 17, 1953 to set forth a cause of action against: "Jabez Mann Ponder, III, sometimes called Jack Ponder, and Jackie Ponder, and Jack Mann Ponder, Jr., a minor."

HOLBERG, TULLY & ALDRIDGE
Attorneys for Plaintiff

By H. W. Chandler
Member Appearing

I hereby certify that I have served a copy of the above and foregoing Motion to Strike on Hon. J. Edward Thornton, Guardian ad litem for Defendant, on this the 13th day of January, 1954.

FILED
1-14-54
ALICE L. DUCK, Clerk

H. W. Chandler
Of Counsel to Plaintiff

2085

FILED
JAN 14 1954
ALICE L. BUCK, Clerk

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT

OF ALABAMA

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	)	
Plaintiff,	)	
vs.	)	AT LAW NO. 2085
JACK MANN PONDER, JR., a minor,	)	
Defendant.	)	

Comes J. EDWARD THORNTON, Guardian Ad Litem for JABEZ MANN PONDER, III, a minor over the age of eighteen (18) years, and appearing solely and specially for the purpose of filing this Plea in Abatement and for no other purpose, and pleading in abatement to the Complaint, and each count thereof, separately and severally, says:

1. On, to-wit, the 9th day of September, 1953, there was served on Jabez Mann Ponder, III, a summons and complaint in the above styled cause by the Sheriff of Baldwin County, Alabama, and that said Sheriff made his return stating that said process had been executed by serving a copy on Jack Mann Ponder, Jr., when in truth and in fact, said process had not been served on Jack or Jabez Mann Ponder, Jr. but had been served on Jabez Mann Ponder, III; that Jabez Mann Ponder, III, is the minor son of Jack Mann Ponder, Jr.; that Jack Mann Ponder, Jr. is not a minor; and that said process was not served on the defendant in this cause but on Jabez Mann Ponder, III, who is not the defendant in this cause; that Jabez Mann Ponder, III, the party on whom process was served in this case, is not now known or called nor has he ever been known or called by the name of Jack Mann Ponder, Jr.; that the true and correct name of the party on whom the process was served in this case is Jabez Mann Ponder, III. It

is further alleged that there has been a misdescription of the party defendant in this cause, and a misnomer, in that the true and correct name of the party sought to be sued herein and against whom a cause of action has been sought to be stated, is Jabez Mann Ponder, III.

WHEREFORE, J. EDWARD THORNTON, Guardian Ad Litem for Jabez Mann Ponder, III, a minor over the age of eighteen (18) years, says that this suit should be abated and should not be allowed to proceed.

Attorneys for Guardian Ad Litem

STATE OF ALABAMA,

COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for said County in said State, JABEZ MANN PONDER, III, a minor over the age of eighteen (18) years, who being by me first duly sworn, deposes and says:

That he has read the foregoing Plea in Abatement and that the facts stated therein are true.

Jabez Mann Ponder III

JABEZ MANN PONDER, III

Subscribed and sworn to before me this the 10 day of December, 1953.

FILED
DEC 14 1953
ALICE J. DUCK, Clerk

Geo. S. Hyneman

Notary Public, Baldwin County, Alabama

FILED
12-14-53
ALICE J. DUCK, Clerk

AT LAW NO. 2085

* * * * * * * * * * * * * * * * * *

BARBARA FAYE PRICE, a minor,
suing by her mother and next
friend, LILLIE BELL PRICE
MALONE,

Plaintiff,

vs.

JACK MANN PONDER, JR.,
a minor

* * * * * * * * * * * * * * * * * *

PLEA IN ABATEMENT

* * * * * * * * * * * * * * * * * *

FILED
DEC 14 1955
ALICE A. DUCK, Clerk

VICKERS AND THORNTON
ATTORNEYS AT LAW
MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT

OF ALABAMA

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	I	
Plaintiff,	I	
vs.	I	AT LAW NO. 2085
JACK MANN PONDER, JR., a minor,	I	
Defendant.	I	

Comes now TAYLOR WILKINS, the duly elected, qualified and acting Sheriff of Baldwin County, Alabama, and an officer of this court and says that if the return made by him as such officer on the summons and complaint heretofore issued herein, does not speak the truth, then he, as such officer of this court, asks leave of the court to amend said return to make the return speak the truth.

Taylor Wilkins

TAYLOR WILKINS
Sheriff of Baldwin County, Alabama

FILED
11-17-53
ALICE J. DUCK, Clerk

RECORDED

FILED
NOV 17 1959
ALICE J. DUCK, Clerk

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT OF ALABAMA

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	I	
Plaintiff,	I	AT LAW NO. 2085
	I	MOTION TO STRIKE
vs.	I	
JACK MANN PONDER, JR., a minor,	I	
Defendant.	I	

Now comes the plaintiff in the above-entitled cause and respectfully moves this Honorable Court to strike the Motion to Quash filed in the above-entitled cause on, to-wit, October 6, 1953 and as grounds therefor respectfully represents and shows unto Your Honor as follows:

1. Said motion is contrary to Title 7, Section 102 of the 1940 Code of Alabama.

2. It affirmatively appears that said motion is executed and filed by a minor in propria persona contrary to the provisions of Title 7, Section 102 of the 1940 Code of Alabama.

3. It affirmatively appears that said motion is not filed by a guardian ad litem of the appointment of this Honorable Court.

4. Under the law said motion can only be filed on behalf of said minor movant and said cause must be defended by a guardian ad litem of the appointment of the Court.

5. For that this Honorable Court is without jurisdiction or authority to entertain the aforesaid Motion to Quash except that the same be filed in accordance with the provisions of Title 7, Section 102 of the 1940 Code of Alabama.

HOLBERG, TULLY & ALDRIDGE
Attorneys for Plaintiff

By H. W. Aldridge
Member Appearing

FILED
10-19-53
ALICE L. DUCK, Clerk

RECORDED
no 2085

Motion to Strike

FILED
OCT 19 1953
ALICE J. DUCK, Clerk

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT

OF ALABAMA

BOOK 001 PAGE 23

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	)	
Plaintiff,	)	
vs.	)	AT LAW NO. 2085
JACK MANN PONDER, JR., a minor,	)	
Defendant.	)	

MOTION TO QUASH PROCESS

Comes now ~~JACK~~ Jabez MANN PONDER, III, a minor over the age of eighteen (18) years, appearing specially for the sole purpose of making this Motion only, and shows unto the Court that heretofore, on, to-wit, the 9th day of September, 1953, there was served on him a summons and complaint in the above styled cause by the Sheriff of Baldwin County, Alabama and that said Sheriff made his return stating that said process had been executed by serving a copy on JACK MANN PONDER, JR., when in truth and in fact, said process had not been served on Jack or ~~JACK~~ Jabez MANN PONDER, JR., but had been served on ~~JACK~~ Jabez MANN PONDER, III; that ~~JACK~~ Jabez MANN PONDER, III, is the minor son of ~~JACK~~ Jabez MANN PONDER, JR.; that ~~JACK~~ Jabez MANN PONDER, JR., is not a minor; and that said process was not served on the defendant in this cause but on ~~JACK~~ Jabez MANN PONDER, III, who is not the defendant in this cause.

WHEREFORE, PREMISES CONSIDERED, ~~JACK~~ Jabez MANN PONDER, III, prays this Honorable Court:

1. That said process issued out of said Court and served on ~~JACK~~ Jabez MANN PONDER, III, be quashed.

2. That the return made by the Sheriff to said process be amended to speak the truth.

3. For such other, further or different relief to which he may be entitled in the premises.

Jack Mann Ponder III
~~JACK~~ Jabez MANN PONDER, III

Vickers & Thornton
VICKERS AND THORNTON
Attorneys

FILED
10-6-53
ALICE J. DUCK, Clerk

STATE OF ALABAMA,

COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for said County in said State, ~~JACK~~ Jabez MANN PONDER, III, who being by me first duly sworn deposes and says:

That he has read the foregoing motion and that the facts stated therein are true.

Jabez ~~Jack~~ Mann Ponder III

~~JACK~~ MANN PONDER, III
Jabez

Subscribed and sworn to before me
this the 6 day of October, 1953.

Geo. S. Higginson

Notary Public, Baldwin County, Alabama

RECORDED

AT LAW NO. 2085

* * * * * * * * * * * * * * * * * *

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,

Plaintiff,

vs.

JACK MANN PONDER, JR., a minor,

Defendant.

* * * * * * * * * * * * * * * * * *

MOTION TO QUASH PROCESS

* * * * * * * * * * * * * * * * * *

FILED

OCT 3 1959

ALICE J. GUCK, Clerk

VICKERS AND THORNTON
ATTORNEYS AT LAW
MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	)	IN THE CIRCUIT COURT
	)	OF BALDWIN COUNTY, ALABAMA
Plaintiff	)	AT LAW NO. 2085
-VS-	)	
JACK MANN PONDER, JR., a minor,	)	ANSWER TO DEFENDANT'S MOTION TO QUASH PROCESS AND MOTION FOR LEAVE TO AMEND ORIGINAL COMPLAINT
Defendant	)	

Now comes Plaintiff, a minor over the age of eighteen (18) years, who sues by her mother and next friend, LILLIE BELL PRICE MALONE, and for answer to the Motion to Quash Process in the above-entitled cause, and further as grounds for her hereinafter described Motion for Leave to Amend, represents and shows unto this Honorable Court as follows:

1. Having insufficient personal knowledge either to admit or controvert the allegations of said motion to quash to the effect that the full, true and legal name of the minor defendant, surnamed Ponder, charged with the wilfull and wanton injury to this Plaintiff in the original complaint, is "Jabez Mann Ponder, III" instead of "Jack Mann Ponder, Jr.", as denominated in the original complaint, Plaintiff respectfully denies the allegations of the said motion to quash and demands strict proof thereof.

2. Further answering Plaintiff saith that the fact, if it be a fact, that the said Defendant in this cause is misnamed in the original complaint or the summons issued thereon, has not altered, and does not alter, the fact that the said complaint and summons were correctly, properly and lawfully, personally served upon the individual to whom they were directed, and the individual upon whom they were intended to be served, said individual (the alleged signatory of the motion to quash) being the same person who is charged with wilfully or wantonly injuring this Plaintiff, all as more fully appears in the original complaint on file and served by copy on said Defendant, now alleged to be named "Jabez Mann Ponder, III".

3. Further answering, Plaintiff saith that if said individual Defendant, charged in the instant cause with wilfully or wantonly injuring this Plaintiff, and served with legal process thereon, is,

in truth and in fact, correctly and legally named "Jabez Mann Ponder, III" as set forth in said motion to quash, he is also known, and has for many years been commonly known, in the County of Baldwin, Alabama, and elsewhere, by the several other names of "Jack Ponder", "Jackie Ponder" and "Jack Mann Ponder, Jr."

4. Further answering, Plaintiff saith that the operator of the automobile who wilfully and wantonly injured this Plaintiff in Baldwin County, Alabama, on, to-wit, the 12th day of September, 1952, all as more fully appears in the original complaint on file in this cause is, himself, a minor and is surnamed Ponder, and is the only minor surnamed Ponder who was operating an automobile in which this Plaintiff was injured as described in said complaint, that he is the minor son of an individual also surnamed Ponder who was not operating said automobile at the time and place described in said complaint, and that the paternal grandfather of the said minor Ponder is dead, so that, notwithstanding said minor Defendant's election to describe himself as "III" and further notwithstanding said minor Defendant's election to describe his father as "Jr.", in truth and in fact there exists no individual surnamed "Ponder, Sr.", and therefore said minor Defendant is correctly surnamed and described in the original complaint, and the summons issued thereon, as "Ponder, Jr."

5. Further answering, Plaintiff saith that the Defendant, surnamed "Ponder" upon whom service of process was had in this cause on, to-wit, the 9th day of September, 1953, is, in truth and in fact, the same individual against whom this suit is filed, and none other, and the same person who was operating the automobile at the time and place described in the original complaint, and the same person by whom Plaintiff charges she was wilfully or wantonly injured, so that the summons and complaint were properly and lawfully served on the proper party Defendant, irrespective of any error or misnomer, if any there be, in describing him in said complaint and summons as "Jack Mann Ponder, Jr.", instead of "Jabez Mann Ponder, III", which is now alleged to be his full, complete and legal name in the aforesaid motion to quash.

6. Further answering Plaintiff saith that there is, and was, only one defendant who was operating an automobile wherein Plaintiff was riding, and who allegedly wilfully or wantonly injured Plaintiff at the time and place and under the circumstances described in the original complaint in this cause, and that such Defendant is, and was, the same person against whom this complaint was filed, and the same person upon whom was served the summons and original complaint herein, on, to-wit, the 9th day of September, 1953, in the Town of Fairhope, County of Baldwin, State of Alabama, and further, that these facts obtained, in truth and in fact, irrespective of whether said defendant's full, true and legal name is "Jack Mann Ponder, Jr.," as set forth in the original complaint, or "Jabez Mann Ponder, III" as alleged in said motion to quash.

WHEREFORE, Plaintiff having fully answered the said Motion to Quash Process, and it fully appearing from said answer that service of process has been properly and lawfully had upon the correct individual Defendant, notwithstanding the alleged misnomer, if any there be, in the original complaint and summons, plaintiff respectfully moves this Honorable Court as follows:

(1) To grant Plaintiff leave to amend her original complaint and summons, both as to caption and content, to correctly reflect and incorporate the alleged full, true and correct name of the said Defendant, all as more fully appears in the amended complaint which is filed contemporaneously with this answer and motion;

(2) Plaintiff further prays that the Sheriff's return on the process and all other pertinent Court records in this cause be corrected to reflect the aforesaid amendment including the alleged true and lawful name of said Defendant; and

(3) That the motion to quash process heretofore filed in this cause on the 6th day of October, 1953, be denied.

HOLBERG, TULLY & ALDRIDGE
Attorneys for Barbara Faye Price,
a minor, suing by her mother and
next friend, Lillie Bell Price Malone

By _____
Member Appearing

Barbara Faye Price
BARBARA FAYE PRICE,
Plaintiff

STATE OF ALABAMA)
COUNTY OF Lee)

Before me, the undersigned authority in and for the state and county aforesaid, personally appeared BARBARA FAYE PRICE who is known to me, and whose name is signed to the above and foregoing Answer and Motion and who, having been by me first duly sworn, on oath deposes and says that she is the plaintiff in the above-entitled cause, that she sues by and through her mother and next friend, LILLIE BELL PRICE MALONE, and that she has read the above and foregoing Motion, understands the contents thereof, and that the same are true and correct.

Barbara Faye Price
BARBARA FAYE PRICE

Subscribed and sworn to before me this 16 day of October, 1953.

Berta Dunn
NOTARY PUBLIC, ALABAMA

Lee
COUNTY,

FILED
11-17-53
ALICE L. BUCK, Clerk

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	)	IN THE CIRCUIT COURT
	)	OF BALDWIN COUNTY,
Plaintiff	)	ALABAMA
-VS-	)	AT LAW NO. 2085
JACK MANN PONDER, JR., a minor,	)	AMENDED COMPLAINT
Defendant	)	

Now comes the Plaintiff in the above-entitled cause and, with leave of the Court, first had and obtained, amends her Complaint in said cause, in manner and form, as follows:

a. By amending said caption to read as follows:

"BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	"IN THE CIRCUIT COURT
	OF BALDWIN COUNTY,
Plaintiff	ALABAMA
-VS-	AT LAW NO. 2085"
JABEZ MANN PONDER, III., sometimes called Jack Ponder and Jackie Ponder, and Jack Mann Ponder, Jr., a minor,	
Defendant"	

b. By amending Count One of said complaint by inserting after the word "Defendant" in the third line of said Count, a comma and the following words and figures: "a minor over the age of eighteen (18) years".

c. By amending Count Two of said complaint by inserting after the word "Defendant" in the third line, a comma and the following words and figures: "a minor over the age of eighteen (18) years".

d. By amending Count Three of said complaint by inserting after the word "Defendant" in the third line, a comma and the following words and figures: "a minor over the age of eighteen (18) years".

HOLBERG, TULLY & ALDRIDGE
Attorneys for Plaintiff

FILED
11-17-53
ALICE J. DUCK, Clerk

By [signature]
Member Appearing

RECORDED

FILED
NOV. 17 1992
[illegible]

BARBARA FAYE PRICE, a minor, suing by her mother and next friend, LILLIE BELL PRICE MALONE,	)	IN THE CIRCUIT COURT
	)	OF
	)	BALDWIN COUNTY,
Plaintiff,	)	ALABAMA
-VS-	)	AT LAW NO. _____
JACK MANN PONDER, JR., a minor, Defendant	)	

BOOK 001 PAGE 17

COUNT ONE

Plaintiff, a minor over the age of eighteen (18) years, suing by her mother and next friend, LILLIE BELL PRICE MALONE, claims of the defendant a minor over the age of 18 years the sum of SEVENTY-FIVE THOUSAND & No/100 ($75,000.00) DOLLARS, as damages, for that heretofore, and on, to-wit, the 12th day of September, 1952, the said defendant was in control of, and operating, an automobile in a Southerly direction on and along U. S. Highway 89 in the County of Baldwin, State of Alabama, said highway being a public highway in the County and State aforesaid, at a point, to-wit, 1.6 miles South of the Grand Hotel at Point Clear, Alabama, and plaintiff was riding in said automobile as a guest of the defendant and at his express invitation and request; and plaintiff further avers that said defendant, at the time and place aforesaid, wantonly or wilfully injured plaintiff by overturning said automobile, thereby violently projecting and throwing said plaintiff from said car to the ground, said car thereupon striking the body of the plaintiff, and as a direct and proximate consequence whereof plaintiff suffered the following severe and grievous injuries and damages, to-wit: a compound cominuted fracture of her right leg, including the mangling and disfigurement of the tissues, muscles and nerves thereof; multiple simple fractures of her pelvis; severe shock; multiple bruises, contusions and lacerations over and about her entire body; was, and continues to be, made nervous, sick and sore; suffered and suffers, great physical pain and mental anguish; was, and is, permanently injured,

scarred and disfigured; was confined to a hospital in and about the treatment of her said injuries for a long period of time, to-wit, two (2) WEEKS; was thereafter confined to her bed for a long period of time, to-wit, five (5) additional months, was thereafter confined to the use of a wheelchair, crutches, braces and casts for a long time, to-wit, a period of four (4) additional months; was compelled by reason of her confinement, treatment and convalescence to forfeit and abandon three-quarters (3/4) of her second school year in and about the pursuit of her college education; was forced to permanently forfeit and abandon her chosen major line of educational endeavor, viz., that of physical education; has continually been compelled to undergo prolonged and painful medical treatment and surgery, which will hereafter continue; all to plaintiff's damages as aforesaid, hence this suit.

COUNT TWO

Plaintiff, a minor over the age of eighteen (18) years, suing by her mother and next friend, LILLIE BELL PRICE MALONE, claims of the defendant, a minor over the age of 18 years, the further and additional sum of SEVENTY-FIVE THOUSAND & No/100 ($75,000.00) DOLLARS, for that, heretofore, and on, to-wit, the 12th day of September, 1952 plaintiff was an invited guest riding in an automobile operated by this defendant and being driven by him on and along U. S. Highway 89 at a point thereon at approximately 1.6 miles South of the Grand Hotel at Point Clear, Baldwin County, Alabama, said highway being a public highway in the County and State aforesaid; and plaintiff avers that defendant wantonly injured plaintiff by causing said automobile, which he was then and there driving, to overturn, thereby injuring plaintiff in the following particulars, that is to say: her right leg sustained a compound cominuted fracture, including the mangling and disfigurement of the tissues, muscles and nerves thereof; she underwent severe shock, multiple bruises, contusions and lacerations over and about her entire body; her pelvis sustained

multiple simple fractures; she was made sick, nervous and sore; she suffered, and continues to suffer, great physical pain and mental anguish; she was permanently injured, scarred and disfigured; she was confined to a hospital in and about the treatment of her said injuries for a long period of time, to-wit, two (2) WEEKS; she was thereafter confined to her bed for a long period of time, to-wit, five (5) additional months; she was thereafter confined to the use of a wheelchair, crutches, braces and casts for a long time, to-wit, a period of four (4) additional months; she was compelled by reason of her confinement, treatment and convalescence, to forfeit and abandon three-quarters (3/4) of her second college school year; she was forced to permanently forfeit and abandon her chosen major line of educational endeavor, viz., that of physical education, and can no longer pursue said course of education by reason of her permanent condition; she has continually been compelled to undergo prolonged and painful medical treatment and surgery, which will hereafter continue; and plaintiff avers that she suffered all of said injuries and damages aforesaid as a proximate result of the wanton act herein complained of, hence this suit.

COUNT THREE

Plaintiff, a minor over the age of eighteen (18) years, suing by her mother and next friend, LILLIE BELL PRICE MALONE, claims of the defendant a minor over the age of 18 years the further and additional sum of SEVENTY-FIVE THOUSAND & No/100 ($75,000.00) DOLLARS as damages, for that, she avers that, heretofore, and on, to-wit, the 12th day of September, 1952, the defendant was in charge and control, and was driving and operating an automobile in a Southerly direction on U. S. Highway 89 at a point approximately 1.6 miles South of the Grand Hotel at Point Clear, Baldwin County, Alabama, said highway being a public highway in the County and State aforesaid; and plaintiff was riding in said car as an invited guest of said defendant; and plaintiff further avers that at the time and place complained of this defendant wilfully or wantonly overturned, or permitted, or caused, to overturn, the said

automobile, thereby projecting and throwing said plaintiff from said automobile to the ground, and overturning the said automobile thereupon, upon the person of the said plaintiff, whereby and as a proximate result and consequence thereof, plaintiff received the following injuries and damages, to-wit: her right leg sustained a compound cominuted fracture, including the mangling and disfigurement of the tissues, muscles and nerves thereof; she underwent severe shock, multiple bruises, contusions and lacerations over and about her entire body; her pelvis sustained multiple simple fractures; she was made sick, nervous and sore; she suffered, and continues to suffer, great physical pain and mental anguish; she was permanently injured, scarred and disfigured; she was confined to a hospital in and about the treatment of her said injuries for a long period of time, to-wit, two (2) WEEKS; she was thereafter confined to her bed for a long period of time, to-wit, five (5) additional months; she was thereafter confined to the use of a wheelchair, crutches, braces and casts for a long time, to-wit, a period of four (4) additional months; she was compelled by reason of her confinement, treatment and convalescence, to forfeit and abandon three-quarters (3/4) of her second college school year; she was forced to permanently forfeit and abandon her chosen major line of educational endeavor, viz., that of physical education, and can no longer pursue said course of education by reason of her permanent condition; she has continually been compelled to undergo prolonged and painful medical treatment and surgery,

which will hereafter continue; all to plaintiff's damages as aforesaid, hence this suit.

Plaintiff respectfully demands a trial by jury.

HOLBERG, TULLY & ALDRIDGE
Attorneys for Plaintiff

By H. W. Aldridge
Member Appearing

Service of Process may be
had on the defendant
Jack Mann Ponder, Jr., at one
of the following addresses:

White Avenue (2nd West of
Summit), Fairhope, Alabama;
or Ponder Plumbing Company,
35 North Section St.,
Fairhope, Alabama

Pursuant to the terms of Title 7, Section 194 of the 1940 Code of Alabama, one copy of the foregoing summons and complaint must be served on the defendant, Jack Mann Ponder, Jr., and one copy of the summons and complaint on Jack M. Ponder, Sr., at one of the above addresses.

FILED
9-8-53
ALICE J. BUCK, Clerk

The State of Alabama
BALDWIN ~~MOBILE~~ COUNTY

CIRCUIT COURT

To any Sheriff of the State of Alabama:

You are hereby commanded to summon

JACK MANN PONDER, JR., a Minor over the age of 18 years,

to appear within thirty days from service of this process, in the Circuit Court of Baldwin ~~Mobile~~ County, Alabama, at the place of holding the same, then and there to answer the complaint of

BARBARA FAYE PRICE

Witness: Alice J. Duck ~~XXXXXXXXXXXX~~, Clerk of said Court, this 8th day of September, 19 53.

Attest: [illegible]
Clerk

* * * * * *

SHERIFF'S RETURN

Received _____ Day of _____, 19 ____, and on _____ Day of _____, 19 ____, I served a copy of the within _____ on _____ by service on _____

~~XXXXXXXXXXXX~~, SHERIFF

By _____ D. S.

T.B.

8 Sept 53

TAYLOR WILKINS

Received this 12 day of Sept 1953

Served this 9 day of Sept 1953

served a copy of the within Jack Mann Ponder Jr. 9-9-53

service on Jack Mann Ponder Sr. 9-12-53

TAYLOR WILKINS, Sheriff

By H F Hall D.S.

RECORDED

No. 2085

JUDGE HALLIS DOCKET

CIRCUIT COURT

BALDWIN ~~MOBILE~~ COUNTY

BARBARA FAYE PRICE, a Minor
pro ami LILLIE BELL PRICE MALONE

VS. { Complaint and Summons

JACK MANN PONDER, Jr., a Minor

Issued ..... day of ....., 19.....

FILED
SEP 8 1953
ALICE A. DUCK, Clerk

HOLBERG TULLY & ALDRIDGE
Plaintiff's Attorney

Pltfs Exh 4

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

BARBARA FAYE PRICE,	:	
Plaintiff	:	
vs.	:	AT LAW NO. 2085
JACK MANN PONDER, JR., a minor,	:	
	:	
Defendant	:	

ANSWER

Comes now J. EDWARD THORNTON, guardian ad litem for Jabez Mann Ponder III, a minor over the age of 18 years, and for pleas and answer to the complaint and each count thereof, separately and severally, avers:

1. The defendant for answer to the complaint saith that he is not guilty of the matters alleged therein.

2. The defendant for answer to the complaint saith that the allegations of the complaint are untrue.

Vickers Thornton
Attorneys for Guardian ad Litem.

I hereby accept service of a copy of the foregoing answer on this the 23 day of Mar, 1954.

H W Gardner
Attorney for Plaintiff.

FILED
3-24-54
ALICE J. DUCK, Clerk

* * * * * * * * * * * * * * * * * *

IN THE CIRCUIT COURT FOR THE
TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

* * * * * * * * * * * * * * * * * *

BARBARA FAYE PRICE

vs.

JACK MANN PONDER, JR.

* * * * * * * * * * * * * * * * * *

ANSWER

FILED
MAR 24 1954
ALICE L. DUCK, Clerk

VICKERS AND THORNTON
ATTORNEYS AT LAW
MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA