

RICHARD C. LACEY
Attorney-At-Law
FAIRHOPE, ALABAMA 36532

June 30, 1970

Mrs. Alice Duck
Circuit Clerk of
Baldwin County
Baldwin County Court House
Bay Minette, Alabama

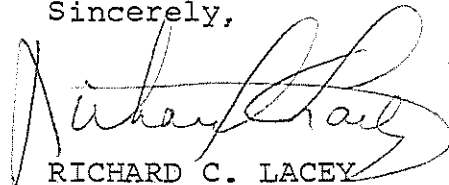
Re: Ernest T. Glennon v.
South Central Telephone Co., Inc.
MD. 8996

Dear Mrs. Duck:

The above captioned litigation has been amicably disposed of and I therefore request that this case be dismissed with prejudice, with the costs taxed against the plaintiff.

Thanking you, I am

Sincerely,



RICHARD C. LACEY

RCL:mp

Copy: Mr. James L. May, Jr.
Johnstone, Adams, May,
Howard & Hill,
9th Floor, Merchants
National Bank,
Mobile, Alabama 36601

ERNEST T. GLENNON,

Plaintiff,

vs.

SOUTH CENTRAL BELL TELEPHONE
COMPANY, INC., a corporation,
and RIVIERA UTILITIES COMPANY,
INC., a corporation, jointly
and severally,

Defendants.

) IN THE CIRCUIT COURT OF
)
) BALDWIN COUNTY, ALABAMA
)
)
)

AT LAW

CASE NO. _____

PLEA IN ABATEMENT

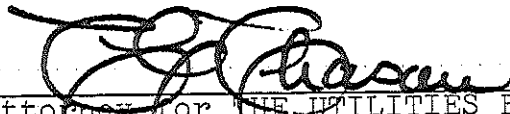
Comes the Defendant identified in the Summons and Complaint as RIVIERA UTILITIES COMPANY, INC., a corporation, and appearing specifically and for only the purpose of filing this plea and for no other purpose, and shows separately and severally the following:

1. That there is no corporation in Baldwin County, Alabama, known as RIVIERA UTILITIES COMPANY, INC., and that the company or corporation using the pole referred to in the complaint was THE UTILITIES BOARD OF THE CITY OF FOLEY, a corporation, which said Board was organized and existing under the authority of Act 175, as amended, and that its Articles of Incorporation are of record in the office of the Secretary of State and in the office of the Judge of Probate of Baldwin County, Alabama.

2. That the pole referred to in the complaint is located on the right-of-way of a public highway in the State of Alabama, and said highway and the location of poles thereon are under the jurisdiction and control of the Alabama State Highway Department. That at the time and place where Plaintiff allegedly struck the pole, the highway was under construction and repair, and the pole referred to in said complaint was located under the specific direction of the Project Engineer of the State of Alabama Highway Department and was, therefore, under the complete control of the said State of Alabama Highway Department during this period. Therefore, having been so located and placed at the specific direction of the Highway Department of the State of Alabama, Plaintiff's claim should not be maintained against the Defendants, but should be filed with the State of Alabama Board of Adjustments and Appeals.

c. g. c.

This Defendant says that for one or more of the reasons hereinabove stated, that this suit should be abated and not be allowed to proceed.

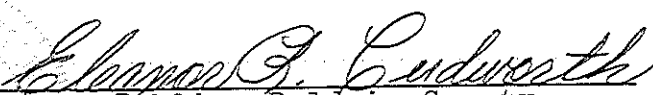

Attorney for THE UTILITIES BOARD OF
THE CITY OF FOLEY, a corporation

STATE OF ALABAMA
BALDWIN COUNTY

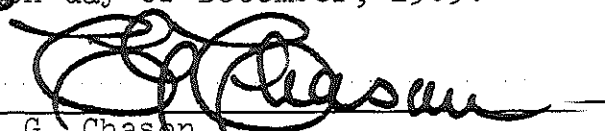
Before me, Eleanor R. Cudworth, a Notary Public in and for said County in said State, personally appeared C. G. Chason, who being by me first duly and legally sworn, deposes and says that he is the legally retained attorney for THE UTILITIES BOARD OF THE CITY OF FOLEY and has knowledge of the matters and facts above set out, and that the matters and facts set out in the foregoing Plea in Abatement are true and correct.


C. G. CHASON

Sworn to and subscribed before
me on this the 13th day of December, 1969.


Notary Public, Baldwin County
State of Alabama

I, C. G. Chason, Attorney at Law, hereby certify that I have sent a copy of the foregoing plea by United States Mail, postage prepaid, to Hon. Richard C. Lacey, attorney for plaintiff, Fairhope, Alabama, on this the 13th day of December, 1969.


C. G. Chason

FILED

DEC 15 1969

ALICE J. DUCK CLERK
REGISTER

C. G. C.

ERNEST T. GLENNON,)	
)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
vs.)	
)	AT LAW
SOUTH CENTRAL BELL TELEPHONE)	
COMPANY, INC., a corporation,)	
and RIVIERA UTILITIES COMPANY,)	CASE NO. <u>8996</u>
INC., a corporation, jointly)	
and severally,)	
)	
Defendants)	

DEMURRER

Comes now South Central Bell Telephone Company, Inc., a corporation, a Defendant in the above-styled cause, and demurs to Plaintiff's complaint, and as grounds for such demurrer, sets down and assigns, separately and severally, the following separate and several grounds:

1. For that the complaint is vague, uncertain and indefinite.
2. For aught that appears from the complaint, the allegation that the Defendants, through their agents, servants and employees negligently placed a power and telephone pole at the intersection of Alabama Highway 104 and U. S. Highway 98, is but a conclusion of the pleader.
3. For aught that appears from the complaint, there was no duty owed by this Defendant to the Plaintiff at the time and place complained of.
4. For aught that appears from the complaint, the Defendant had a lawful right to place the pole where it was at the time and place complained of.

5. For that the complaint fails to state how the alleged negligently placed power and telephone pole forced the Plaintiff onto the shoulder at the east side of U. S. Highway 98 at its intersection along County Highway 104.

6. For aught that appears from the complaint, the damages allegedly sustained by Plaintiff's automobile were not the proximate result of any negligence on the part of this Defendant.

7. For aught that appears from the complaint, Plaintiff's injuries were not the proximate result of any negligence on the part of this Defendant.

8. For aught that appears from the complaint, the allegation that the Defendants were guilty of negligence in allowing said power and telephone pole to be placed in close proximity with Public Highway 98 and Alabama Highway 104, is but a conclusion of the pleader.

9. For aught that appears, the allegation that the Defendants were negligent in not having a warning signal or device placed at or in close proximity with the power and telephone pole so that persons driving along U. S. Highway 98 at its intersection with Alabama Highway 104 could and would be appraised or informed of the presence of such power and telephone pole, is but a conclusion of the pleader.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By: *James H. May, Jr.*
Attorneys for South Central Bell
Telephone Company, Inc.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 10th day of December, 1969, 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.

FILED

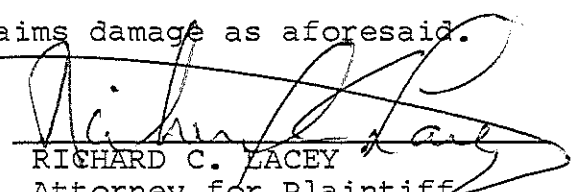
DEC 10 1969

James H. May, Jr.

[illegible]

ERNEST T. GLENNON,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
VS.)	AT LAW
SOUTH CENTRAL BELL TELEPHONE)	CASE NO. <u>8996</u>
COMPANY, INC., a corporation,)	
and RIVIERA UTILITIES COMPANY,)	
INC., a corporation, jointly)	
and severally,)	
Defendants)	

Plaintiff claims of the Defendants FIVE THOUSAND DOLLARS (\$5,000.00) as damages for that on, to-wit: the 16th day of November, 1968, the Defendants through their agents, servants and employees so negligently placed a power and telephone pole at the intersection of Alabama Highway 104 and U. S. Highway 98 in Baldwin County, Alabama along said public highways and on the shoulder of said public highways at a point where the public was accustomed to pulling off on the shoulder on the side of said public highway so that the Plaintiff traveling Northwardly on U. S. Highway 98 was forced on to the shoulder along the East side of U. S. Highway 98 at its intersection along County Highway 104 so that Plaintiff ran upon and onto said power and telephone pole which was placed in such a position on U. S. Highway 98 along its intersection with County Highway 104 so that the Plaintiff's automobile was bent and broken and totally destroyed and the Plaintiff was cut and bruised and suffered pain and anguish as a result of the negligence of the Defendants through their agents, servants and employees in allowing said power and telephone pole to be placed in close proximity with said public Highway 98 and Alabama Highway 104, and in that there was no warning signal or devise displayed at or in close proximity with the power and telephone pole so that persons driving along U. S. Highway 98 at its intersection with Alabama Highway 104 could and would be appraised or informed of the presence of such power and telephone pole. To all of which Plaintiff claims damage as aforesaid.


 RICHARD C. LACEY
 Attorney for Plaintiff

Defendants may be served at:
 South Central Bell - 328 De La Mare Ave., Fairhope, Ala.
 Riviera Utilities - Section Street, Fairhope, Ala.

NOV 14 1969

ALICE J. DICK
 CLERK
 REGISTER

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA
Baldwin County

Circuit Court, Baldwin County

No.....

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon South Central Bell Telephone Company,
Inc. and Riviera Utilities Company, Inc., 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 South Central
Inc.
Bell Telephone Company, Inc. and Riviera Utilities Company Defendant.....

by

Ernest T. Glennon....., Plaintiff.....

Witness my hand this.....

day of.....

1969

Clerk

No. 8996

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

Ernest J. Glennon

Plaintiffs

vs.

South Central Bell Telephone
& Riviera Utilities

Defendants

SUMMONS AND COMPLAINT

Filed 19.....

NOV 14 1969 Clerk

ALICE J. DUCK CLERK
REGISTER

R. Lacey

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED
Received in Office

NOV 18 1969 19.....

~~WILKINS~~ Sheriff

I have executed this summons

this NOV. 20 1969

by leaving a copy with

South Central Bell Telephone
~~Riviera Utilities~~
By Sumner on:

MR. PRIERS
(PLANT MANAGER)

Riviera Utilities
By Sumner on:

MR. SHEPHERD LEMMER
(Gen Manager)

Sheriff claims 140 miles at

Ten Cents per mile Total \$ 14.00

TAYLOR WILKINS, Sheriff

BY Crook Sheriff

W. Crook Deputy Sheriff

in F hope