

CATHERINE L. COCKRELL,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
	X		
vs.	X	BALDWIN COUNTY, ALABAMA	
	X		
GEORGE CARROWAY, JUANITA	X	AT LAW	NO: 9192
LEE CARROLL and J. M.			
CARROLL,	X		
Defendants.	X		

Comes now the Defendant, George Carroway, and demurs to the Complaint filed in the above styled cause and each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:


1. That said Complaint does not state a cause of action.
2. That the place where the accident occurred is not sufficiently set out in the Complaint.
3. The allegation of Count One of the Complaint that the Defendant negligently parked his vehicle immediately behind the vehicle being driven by the Defendant, Juanita Lee Carroll, is vague and indefinite and is impossible as another allegation of such Count is to the effect that she was not driving her vehicle at that time and place but that the same was then parked.
4. That the allegations of Count One are vague and indefinite.
5. It is affirmatively shown by the allegations of Count One that the vehicle occupied by Juanita Lee Carroll was not being driven at the time the Defendant, George Carroway, parked his vehicle.
6. That such Complaint does not allege any duty owing by the Defendant, George Carroway, to the Plaintiff.
7. That there is a misjoinder of parties defendant.
8. That each Count of the Complaint attempts to set out the quo modo of the negligence of the Defendant, George Carroway, without setting out facts which would constitute negligence as a

matter of law.

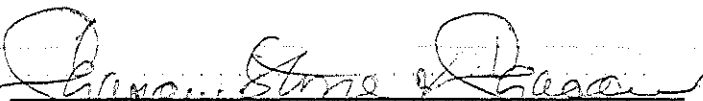
9. That said Complaint does not allege that the Plaintiff was gainfully employed at the time of her accident.

10. That Count Two of the Complaint claims damages of the Defendants but fails to allege any negligence on the part of all of such Defendants.

11. That said Complaint does not allege whether the Plaintiff was driving the vehicle in which she was riding.


Attorneys for Defendant, George Carroway

The Defendant, George Carroway,
demands a trial of this cause
by a jury.


Attorneys for such Defendant.

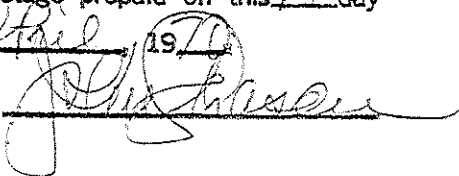
FILED

APR 14 1970

CERTIFICATE OF SERVICE

ALICE J. DUCK CLERK
REGISTER

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 14 day of April, 1970.



CATHERINE L. COCKRELL,

Plaintiff,

vs.

GEORGE CARROWAY, JUANITA LEE
CARROLL and J. M. CARROLL,

Defendants.

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO: 9192

* * * * *

DEMURRER

* * * * *

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summons George Carroway, Juanita Lee Carroll and J. M. Carroll, 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 Catherine L. Cockrell.

Witness my hand, this the 31st day of March, 1970.

Alice J. Duck
Alice J. Duck, Clerk

CATHERINE L. COCKRELL,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
GEORGE CARROWAY, JUANITA	X	AT LAW
LEE CARROLL and J. M.	X	CASE NO. <u>9192</u>
CARROLL,	X	
Defendants.	X	
	1.	

The Plaintiff claims of the Defendants, the sum of ONE HUNDRED FIFTY THOUSAND (\$150,000.00) DOLLARS, as damages, for that heretofore on, to-wit: January 22, 1970, at a point about 2.3 miles East of the intersection of U. S. Highway #90 and 31, said point being on U. S. Highway 90, a public highway in Baldwin County, Alabama, the Defendant, Juanita Lee Carroll, the agent, servant or employee of J. M. Carroll, who was then and there acting as such agent, servant or employee, at nighttime negligently parked her vehicle on the traveled portion of said highway without lights or other warning device. At said time and place, the Defendant, George Carroway, negligently parked his vehicle, without lights or other warning device, immediately behind the vehicle being driven by Juanita Lee Carroll, and as a direct and proximate consequence

and result of the concurring negligence of said Defendants, the Plaintiff was injured and damaged as follows: She was cut and bruised about the head and legs; bruised about the body and received permanent injuries. She was caused to lose time from her usual and customary duties and activities; that the Plaintiff was caused to incur great expenses in and about procuring doctors, medicine, medical aid and attention, and hospital care and treatment of said injuries, and that she will be required to do so indefinitely.

2.

The Plaintiff claims of the Defendants, the sum of ONE HUNDRED FIFTY THOUSAND (\$150,000.00) DOLLARS, as damages, for that heretofore, on, to-wit: the 22nd day of January, 1970, at a point approximately 2.3 miles East of the intersection of U. S. Highway 90 and 31, on U. S. Highway 90 in Baldwin County, Alabama, the Defendants Juanita Lee Carroll and George Carroway, negligently and carelessly and without due regard and caution for the traveling public, and at nighttime, parked their motor vehicles in the West bound lane of U. S. Highway #90, a public highway, without lights or other warning devices, and as the proximate result of said concurring negligence, the Plaintiff, while traveling on U. S. Highway #90, in a Westerly direction, collided with the motor vehicle of the Defendant, George Carroway, and as a direct, proximate result of the negligence aforesaid, the Plaintiff was injured and damaged as follows: She was cut and bruised about the head and legs; bruised about the body and received permanent injuries. She was caused to lose time from her usual and customary duties and activities; that the Plaintiff was caused to incur great expenses in and about procuring doctors, medicine, medical aid and attention, and hospital care and treatment of said injuries,

and that she will be required to do so indefinitely.

WILTERS & BRANTLEY

BY: *Larry J. Wilters*
Attorneys for the Plaintiff

Defendants address:

George Carroway
1590 Dublin Street
Mobile, Alabama

Juanita Lee Carroll
529 Highway 43
Chickasaw, Alabama

J. M. Carroll
529 Highway 42
Chickasaw, Alabama

FILED

MAR 31 1970

ALICE J. DUCK CLERK
REGISTER

EXECUTED
This 3 day of April, 1970
by serving a copy of the within on
George Carroway
RAY D. BRIDGES, Sheriff
By W. C. Lewis D.S.

EXECUTED
This 14 day of April, 1970
by serving a copy of the within on
Juanita Lee Carroll
RAY D. BRIDGES, Sheriff
By Barnes & Harber D.S.

EXECUTED
This 14 day of April, 1970
by serving a copy of the within on
J. M. Carroll
RAY D. BRIDGES, Sheriff
By Barnes & Harber D.S.

Lewis
Harber 8087
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW
CASE NO. 9192

CATHERINE L. COCKRELL,

Plaintiff,

vs.
3/14/70 *14/1/70*
GEORGE CARROWAY, JUANITA
LEE CARROLL and J. M. *14/1/70*
CARROLL, *13+H*

Defendants.

SUMMONS AND COMPLAINT

WILTERS & BRANTLEY
Attorneys at Law
Bay Minette, Alabama

FILED

MAR 31 1970

ALICE J. DUCK CLERK
REGISTER

COPIES OF THIS DOCUMENT ARE BEING FURNISHED TO THE FOLLOWING OFFICES:
SHERIFF'S OFFICE
CLERK OF COURT
PROSECUTOR
DEFENSE COUNSEL
JAIL
COURT REPORTER
NOTARY PUBLIC
RECORDS & CLERK
COUNTY COMMISSIONER
COUNTY BOARD OF HEALTH
COUNTY BOARD OF EDUCATION
COUNTY BOARD OF SUPERVISORS
COUNTY BOARD OF AGENCIES
COUNTY BOARD OF SOCIAL SERVICES
COUNTY BOARD OF DEVELOPMENTAL SERVICES
COUNTY BOARD OF MENTAL HEALTH SERVICES
COUNTY BOARD OF SUBSTANCE ABUSE SERVICES
COUNTY BOARD OF SENIOR SERVICES
COUNTY BOARD OF YOUTH SERVICES
COUNTY BOARD OF COMMUNITY DEVELOPMENT
COUNTY BOARD OF ECONOMIC DEVELOPMENT
COUNTY BOARD OF ENVIRONMENTAL SERVICES
COUNTY BOARD OF FIRE SERVICES
COUNTY BOARD OF HEALTH SERVICES
COUNTY BOARD OF HUMAN SERVICES
COUNTY BOARD OF JUVENILE SERVICES
COUNTY BOARD OF LABOR SERVICES
COUNTY BOARD OF LEGAL SERVICES
COUNTY BOARD OF LIBRARY SERVICES
COUNTY BOARD OF MUSEUM SERVICES
COUNTY BOARD OF PARKS & RECREATION
COUNTY BOARD OF PLANNING
COUNTY BOARD OF PUBLIC WORKS
COUNTY BOARD OF REAL ESTATE SERVICES
COUNTY BOARD OF TRANSPORTATION SERVICES
COUNTY BOARD OF UTILITIES SERVICES
COUNTY BOARD OF VETERANS SERVICES
COUNTY BOARD OF VOLUNTEER SERVICES
COUNTY BOARD OF WOMEN'S SERVICES
COUNTY BOARD OF YOUTH SERVICES
COUNTY BOARD OF ZONING SERVICES

07 APR 30 1970

1970 VOL

68 PAGE 117

CATHERINE L. COCKRELL,	:	IN THE CIRCUIT COURT
Plaintiff,	:	OF BALDWIN COUNTY,
-vs-	:	ALABAMA
GEORGE CARROWAY, JUANITA	:	AT LAW
LEE CARROLL and J. M.	:	
CARROLL,	:	
Defendants,	:	CASE NO. 9192

Come now the Defendants, JUANITA LEE CARROLL and J. M. CARROLL, and demur to the Plaintiff's complaint and to each and every count thereof, separately and severally, and for themselves, separately and severally, assign as grounds for said demurrer the following, separately and severally, to-wit:

- 1) Plaintiff's complaint fails to state a cause of action on which relief can be granted.
- 2) Plaintiff's complaint is but a conclusion of the pleader.
- 3) Plaintiff's complaint fails allege any duty owed to the Plaintiff by these Defendants.
- 4) Plaintiff's complaint fails to state any breach of any duty owed by these Defendants to the Plaintiff.
- 5) For aught appearing from the Plaintiff's complaint, this Court has no jurisdiction over this action.
- 6) For aught appearing from the Plaintiff's complaint, the Plaintiff was no where around the scene of the alleged accident.
- 7) For aught appearing from the Plaintiff's complaint, it is impossible to determine what these Defendants are to defend against.
- 8) For aught appearing from the Plaintiff's complaint, there is no way of knowing where the Plaintiff's vehicle was at the time of this accident.
- 9) Plaintiff's allegation that the Defendants' vehicle was parked without any lights or warning devices is but a conclusion of the pleader.
- 10) Plaintiff's complaint fails to bring into play by proper averment the statute requiring lights on vehicles parked on a highway.

7/1/70
4-24-70
Rec'd Clerk
Register

[Signature]
 JOHN A. COURTNEY
 Attorney for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 11th
day of April, 1970, 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.

.....
JLB

CATHERINE L. COCKRELL,	:	IN THE CIRCUIT COURT
Plaintiff,	:	OF BALDWIN COUNTY,
-vs-	:	ALABAMA
GEORGE CARROWAY, JUANITA	:	AT LAW
LEE CARROLL and J. M.	:	
CARROLL,	:	
Defendants,	:	CASE NO. 9192

Come now the Defendants, JUANITA LEE CARROLL and J. M. CARROLL, and demur to the Plaintiff's complaint and to each and every count thereof, separately and severally, and for themselves, separately and severally, assign as grounds for said demurrer the following, separately and severally, to-wit:

- 1) Plaintiff's complaint fails to state a cause of action on which relief can be granted.
- 2) Plaintiff's complaint is but a conclusion of the pleader.
- 3) Plaintiff's complaint fails allege any duty owed to the Plaintiff by these Defendants.
- 4) Plaintiff's complaint fails to state any breach of any duty owed by these Defendants to the Plaintiff.
- 5) For aught appearing from the Plaintiff's complaint, this Court has no jurisdiction over this action.
- 6) For aught appearing from the Plaintiff's complaint, the Plaintiff was no where around the scene of the alleged accident.
- 7) For aught appearing from the Plaintiff's complaint, it is impossible to determine what these Defendants are to defend against.
- 8) For aught appearing from the Plaintiff's complaint, there is no way of knowing where the Plaintiff's vehicle was at the time of this accident.
- 9) Plaintiff's allegation that the Defendants' vehicle was parked without any lights or warning devices is but a conclusion of the pleader.
- 10) Plaintiff's complaint fails to bring into play by proper averment the statute requiring lights on vehicles parked on a highway.


 JOHN A. COURTNEY
 Attorney for Defendants

FILED

CATHERINE L. COCKRELL,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
vs.	X		
GEORGE CARROWAY, JUANITA	X	BALDWIN COUNTY, ALABAMA	
LEE CARROLL and J. M.			
CARROLL,	X		
Defendants.	X	AT LAW	NO. 9192

Comes the Defendant, George Carroway, and for plea to the Complaint heretofore filed in said cause and each and every count thereof, separately and severally, and says:

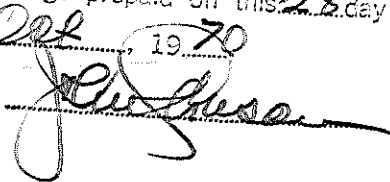
1. Not guilty.
2. That the allegations of the Complaint are untrue.
3. That at the time and place complained of in the Complaint the Plaintiff herself was guilty of negligence which was the proximate cause of her injuries and damages in that she so negligently operated a motor vehicle as to cause the same to run into or against the automobile owned by the Defendant, George Carroway, hence she cannot recover in this suit.
4. For further plea to the Complaint, and by way of recoupment, the Defendant, George Carroway, claims of the Plaintiff, Catherine L. Cockrell, the sum of Three Thousand Dollars (\$3,000.00) as damages for that on, to-wit: January 22, 1970, at a point about 2.3 miles East of the intersection of U. S. Highway No. 90 and U. S. Highway No. 31, said point being on U. S. Highway 90, a public highway in Baldwin County, Alabama, the Plaintiff so negligently operated a motor vehicle as to cause the same to run into or against the automobile owned by the Defendant, George Carroway, causing the same, or the Plaintiff's automobile, to strike such Defendant who was then and there standing by his automobile and as a proximate result of the negligence of such Plaintiff, the Defendant, George Carroway, was injured in this:

he sustained a cervical and lumbar spine sprain; he sustained a stretch and contusion of the erector spinae musculature on the right at its attachments to the posterior rib margin, he suffered severe pain and mental anguish, he was caused to lose time from his employment and was caused to expend money for medical expenses, all to his damage in the sum above mentioned.


Attorneys for Defendant, George
Carroway

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 28 day of Oct, 19 70



FILED

OCT 28 1970

ALICE J. DUCK CLERK
REGISTER

CATHERINE L. COCKRELL,	X	
Plaintiff,	X	
vs.	X	IN THE CIRCUIT COURT OF
GEORGE CARROWAY, JUANITA	X	BALDWIN COUNTY, ALABAMA
LEE CARROLL and J. M.		AT LAW
CARROLL,	X	
Defendants.	X	CASE NO. 9192

Comes now the Plaintiff, Catherine L. Cockrell, and amends her Complaint, and each count thereof, by striking therefrom, as a Defendant, George Carroway, and amends the style to read as follows:

CATHERINE L. COCKRELL,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
JUANITA LEE CARROLL and	X	AT LAW
J. M. CARROLL,	X	
Defendants.	X	CASE NO. 9192

WILTERS & BRANTLEY

BY: *Ray J. Wilters*
Attorneys for the Plaintiff

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 27 day of January, 1971, served a copy of the foregoing pleading in counsel for all parties to this proceeding by sending the same by United States Mail, properly addressed, and first class postage prepaid.

WILTERS & BRANTLEY

By: *Ray J. Wilters*

JAN 26 1971

Ernie B. Blackman
Clerk

CATHERINE L. COCKRELL,	§	IN THE CIRCUIT COURT
Plaintiff,	§	OF BALDWIN COUNTY,
VS.	§	ALABAMA
GEORGE CARROWAY, JUAN-	§	
ITA LEE CARROLL and		
J. M. CARROLL,	§	AT LAW
Defendants.	§	CASE NO. 9192

ANSWER

Come now the Defendants, Juanita Lee Carroll and J. M. Carroll, for themselves, separately and severally, and for answer to the Plaintiff's complaint as exhibited against them, and to each and every count thereof, separately and severally, say as follows, separately and severally, to-wit:

1. Not guilty.

2. The allegations of the Plaintiff's complaint are untrue.

3. For at the time and place complained of by the Plaintiff, the Plaintiff herself so negligently operated her automobile as to proximately contribute to the injuries and damages of which she complains, wherefore she ought not to recover of these Defendant in this cause.

4. For further separate and several plea on their behalf, the Defendants say that on or about the 30th day of April, 1970, the Defendants in this cause filed an action in the Court of General Sessions of Mobile County, Alabama against the Plaintiff in this cause, being Case No. 86,010 for injuries to their personal property caused by the negligence of the Plaintiff in this cause arising out of the same accident complained of by the Plaintiff herein, which said case came on for trial and the Defendant in said Court of General Sessions, the Plaintiff herein, upon a full hearing thereof while represented by

counsel with testimony taken in open court, had a judgment rendered against her for the damages to the Plaintiff's vehicle, the Defendants herein, in the amount of Six Hundred And Eighty-Three (\$683.00) Dollars, which said judgment was appealed by the Defendant, the Plaintiff herein, to the Circuit Court of Mobile County, Alabama, being Case No. 32,942, which said cause came on for hearing on the 29th day of June, 1971 in the Circuit Court of Mobile County, Alabama and after a full hearing in open court thereof while the Plaintiff herein was represented by counsel, these Defendants once again recovered a judgment and verdict for the damages sustained to their vehicle arising out of the same accident of which the Plaintiff herein complains, and therefore these Defendants for each of them say that said verdict and judgment acts as res judicata in bar in the Plaintiff's right herein to maintain this action and said action of the Plaintiff herein ought to be dismissed and a judgment rendered for these Defendants.


JOHN A. COURTNEY
Attorney for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 7th

day of July, 1971, 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 7 1971

EUNICE B. BLACKMON CIRCUIT CLERK