

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

ROY WHITTINGTON,

*

Plaintiff,

*

vs.

*

AT LAW NO. 9393

RICKY DARNELL PAUL, a minor
17 years of age, and HAROLD G.
JORDAN,

*

*

Defendants.

*

COMPLAINT

Count One. Plaintiff claims of RICKY DARNELL PAUL, a minor, 17 years of age, and HAROLD G. JORDAN, Defendants, the sum of, to-wit, \$25,000.00 as damages, for that on, to-wit, the 15th day of March, 1970, while Plaintiff's wife was operating Plaintiff's motor vehicle northwardly on County Road No. 47 in Baldwin County, Alabama, a public highway, at a point about 3.5 miles north of Bay Minette city limits, and 1.5 miles north of Jack Springs Road, and just before reaching the intersection of said County Road with Interstate Highway 65,

(a) The Defendant Paul while operating a motor vehicle southwardly on said County Road at said time and place, so operated said motor vehicle as to cause it to crash head-on into the vehicle operated by Plaintiff's wife, and as a proximate consequence thereof, Plaintiff's wife was injured and damaged as hereinafter set out;

(b) The Defendant Jordan while operating a motor vehicle on said County Road at said time and place, backed the motor vehicle operated by him from a private driveway onto said County Highway as to cause the motor vehicle operated by Defendant Paul to crash head-on into the vehicle operated by Plaintiff's wife, and as a proximate consequence thereof, Plaintiff's wife was injured and damaged as hereinafter set out.

(c) And Plaintiff avers that said injury and damages to Plaintiff's wife were the proximate result of the combined and concurring negligence of the Defendants in and about the operations of the respective motor vehicles at said time and place, and Plaintiff's wife was caused to and did sustain injuries and damages, as follows:

(d) Plaintiff's wife was grievously and painfully injured and damaged in her person, and was required to spend much time in the hospital and under the care of surgeons, physicians and nurses as an in-patient and out-patient, and as a proximate result of the injuries and damages to Plaintiff's wife, Plaintiff was caused much expense for ambulance and hospital services, doctors' nurses' and surgeons' services, medical, drug and pharmaceutical bills, and other usual and ordinary charges in and about treating, healing and curing his wife for the said injuries inflicted on her; Plaintiff was caused to employ others to assist in the care, maintenance and treatment of his home and children; Plaintiff was caused to lose time from his work and regular job, and was caused much trouble and inconvenience in attending, nursing and caring for his wife; Plaintiff lost the services of his wife and her companionship or consortium for a long period of time extending over several months; all to his hurt and damage, as aforesaid.

Count Two. Plaintiff adopts all of the words and figures of Count One as and for the words and figures of this Count through the section designated "(c)", and in addition thereto, Plaintiff avers:

(d) Plaintiff's minor child Sandra A. Whittington, less than one year of age, was grievously and painfully injured and damaged in her person, and she was permanently disabled, and was required to spend much time in the hospital and under the care of surgeons, physicians and nurses, as an in-patient and out-patient, and as a proximate result of the injuries and damages to Plaintiff's said minor child:

Plaintiff was caused much expense for ambulance and hospital services, doctors', surgeons' and nurses' services, medical, drug and pharmaceutical bills, and other usual and ordinary charges in and about treating, healing and attempting to cure his minor child for the said injuries so inflicted; Plaintiff was caused to employ others to assist in the care, maintenance and treatment of his said minor child; Plaintiff was caused to lose time from his work and regular job, and was caused much trouble and inconvenience in attending, nursing and caring for his said child; Plaintiff lost the services and society of his said minor child for a long time, and will likely for a long time continue to lose said services and society, and the services of said child will be rendered less valuable to Plaintiff until said child reaches the age of 21 years. All to Plaintiff's hurt and damage, as aforesaid.

Count Three. Plaintiff adopts all of the words and figures of Count Two as and for the words and figures of this Count, except that for the minor child of Plaintiff named therein, there is substituted in place thereof the following:

"Rebecca Mae Whittington, a minor, 8 years of age"

Count Four. Plaintiff adopts all of the words and figures of Count Two as and for the words and figures of this Count, except that for the minor child of Plaintiff named therein, there is substituted in place thereof the following:

"Teresa Lynn Whittington, a minor, 7 years of age"

Count Five. Plaintiff adopts all of the words and figures of Count Two as and for the words and figures of this Count, except that for the minor child of Plaintiff named therein, there is substituted in place thereof the following:

"Claude Stephen Whittington, a minor, 5 years of age"

Count Six. Plaintiff adopts all of the words and figures of Count One as and for the words and figures of this Count through the section designated "(c)", and in addition thereto, Plaintiff avers:

(d) Plaintiff's automotive vehicle, a 1967 4-door Rambler station wagon, was totally and completely destroyed and demolished and a total loss to Plaintiff, and Plaintiff was deprived of the use of said vehicle, all of which was proximately caused by the combined and concurring negligence of Defendants, as aforesaid.

Thomson McYarrow

John Earle Chason

Attorneys for Plaintiff

The Plaintiff demands a jury trial of the issues in this cause.

John Earle Chason

Serve on:

Ricky Darnell Paul
Star Route
Bay Minette, Alabama

Harold G. Jordan
Frisco City, Alabama

(Monroe County, Alabama)

FILED

JUL 21 1970

ALICE J. DUCK

CLERK
REGISTER

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 9393

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Ricky Darnell Paul, a minor 17 years of age and
HAROLD G. JORDAN,

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 Ricky Darnell
a minor 17 years of age and HAROLD G. JORDAN, Defendant.

by ROY WHITTINGTON

Plaintiff.

Witness my hand this 21st day of July 19 70

Alise J. Luck, Clerk

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

ROY WHITTINGTON

Plaintiffs

vs.

RICKY DARNELL PAUL, a minor 17
years of age & HAROLD G. JORDAN Defendants

SUMMONS AND COMPLAINT

Filed July 21, 1970

Alice J. Duck Clerk

Sheriff claims 2.2 miles at
Ten Cents per mile Total \$2.20

TAYLOR WILKINS, Sheriff

W A Zolbert
DEPUTY SHERIFF

THORNTON & MCCORMAN

CHASON, STONE & CHASON

Plaintiff's Attorney

Defendant's Attorney

Deputy Sheriff

Defendant lives at

SERVE: Ricky Darnell Paul and
Father or mother or guardian
and HAROLD G. JORDAN.....address.
on on Received In Office

July 22, 1970

Taylor Wilkins Sheriff

I have executed this summons

this 19.....

by leaving a copy with

Ricky D Paul
7-22-1970

2.2 miles
Harold B. Jordan, Friend
City, Ala. 7-27-70

E.C. Watson, Sheriff
Monroe County

Taylor Wilkins Sheriff

W A Zolbert Deputy Sheriff

IN THE CIRCUIT COURT

BALDWIN COUNTY, ALABAMA

AT LAW

NUMBER: 9393

Y

Comes now Defendant, Ricky Darnell Paul by his Attorney,

1. The complaint states no cause of action.

2. The complaint effects a misjoinder of actions.

3. The Plaintiff attempts to join the action of trespass

Wilson Hayes
Attorney for Defendant

I do hereby certify that I have on this 13th day of August, 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, with first class postage prepaid.

FILED

AUG 14 1970

ALICE J. DUCK
CLERK
REGISTER

ROY WHITTINGTON,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA,
VS)	TWENTY-EIGHTH JUDICIAL
)	CIRCUIT
RICKY DARNELL PAUL, a minor)	
17 years of age, and HAROLD)	AT LAW
G. JORDAN,)	
Defendants.)	CASE NO. 9393

MOTION TO STRIKE

Comes now the defendant, Harold G. Jordan, in the above styled cause and files this, his Motion to Strike those portions of the plaintiff's complaint, separately and severally, as set out in the body of his motion:

The defendant moves to strike that portion of the plaintiff's complaint designated Count One (d) in which the plaintiff alleges as follows:

"Plaintiff was caused to employ others to assist in the care, maintenance and treatment of his home and children;..."

and for grounds of his motion, the defendant assigns, the following separate and several grounds:

1. For that the said allegation is unnecessarily prolix.
2. For that the said allegation is irrelevant to the plaintiff's cause of action.
3. For that the said allegation is unnecessarily repetitious in that the plaintiff also claims in the same lettered count for the "lost the services of his wife and her companionship or consortium"...
4. For that the said allegation is not a proper item of damages recoverable by the plaintiff.

The defendant moves to strike that portion of the plaintiff's complaint designated Count One (d) in which the plaintiff alleges as follows:

"Plaintiff was caused to lose time from his work and regular job,..."

and for grounds of his motion, the defendant assigns, the following separate and several grounds:

1. That such item of damage is not legally recoverable under the law of the State of Alabama.

2. For it affirmatively appears from the allegations of the said count that the plaintiff did not sustain any personal injury and that the cause of action stated by the plaintiff is derivative and he is not entitled to a recovery for the time lost from his regular work and regular job under the allegations of the said count.

3. For that the said allegation is irrelevant to the plaintiff's cause of action.

The defendant moves to strike that portion of the plaintiff's complaint designated Count Two (d) in which the plaintiff alleges as follows:

"Plaintiff was caused to lose time from his work and regular job..."

and for grounds of his motion, the defendant assigns, the following separate and several grounds:

1. For that such item of damage is not legally recoverable under the law of the State of Alabama.

2. For it affirmatively appears from the allegations of the said count that the plaintiff did not sustain any personal injury and that the cause of action stated by the plaintiff is derivative and he is not entitled to a recovery for the time lost from his regular work and regular job under the allegations of the said count.

3.

3. For that the said allegation is irrelevant to the plaintiff's cause of action.

The defendant moves to strike that portion of the plaintiff's complaint designated Count Two (d) in which the plaintiff alleges as follows:

"Plaintiff lost the ... society of his said minor child for a long time, and will likely for a long time continue to lose said ... society..." and for grounds of his motion, the defendant assigns, the following separate and several grounds:

1. For that the said allegation is irrelevant.

2. For that the claim for loss of society of the plaintiff's minor child is not an item of damages legally recoverable under the law of the State of Alabama.

The defendant moves to strike that portion of the plaintiff's complaint designated Count Six (d) in which the plaintiff alleges as follows:

"Plaintiff was deprived of the use of said vehicle..." and for grounds of his motion, the defendant assigns, the following separate and several grounds:

1. For that it affirmatively appears from the allegations of Count Six (d) that the plaintiff claims damages for his automobile which he further alleges was "totally and completely destroyed and demolished and a total loss to the plaintiff"... and under such allegations the plaintiff would not be entitled to recover for loss of use of the vehicle wherein he is claiming damages for a total loss.

2. For that it affirmatively appears from the allegations of the said count that the plaintiff is claiming damages from the defendants for the total destruction of his automobile and therefore he would be entitled to no loss of use of the said vehicle under the law of the State of Alabama.

3. For that the said allegation is irrelevant wherein the plaintiff further alleges that his vehicle was totally demolished and destroyed.

Richard W. Vollmer, Jr.
Richard W. Vollmer, Jr.

Victor T. Hudson
Victor T. Hudson
Attorneys for Defendant, Harold G. Jordan
P. O. Box 2245
Mobile, Alabama, 36601

STATE OF ALABAMA
COUNTY OF MOBILE

Before me, the undersigned Notary Public, personally appeared Victor T. Hudson, who being first duly sworn, deposes and says that he has read the allegations set forth in the foregoing motion to strike, that he is informed of the contents of said motion and they are true and correct to the best of his knowledge, information and belief.

Victor T. Hudson
Victor T. Hudson

Subscribed and sworn to before me this 18th day of August, 1970.

Judith P. Williams
Notary Public, Mobile County, Alabama

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 18 day of Aug, 1970

Victor T. Hudson

FILED

AUG 19 1970

ALICE J. DUCK CLERK
REGISTER

SANDRA A. WHITTINGTON,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
	X		
vs.	X	BALDWIN COUNTY, ALABAMA	
	X		
RICKY DARNELL PAUL,	X	AT LAW	NO. 9391
et al.,	X		
Defendants.	X		
	X		
CAROLYN E. WHITTINGTON,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
	X		
vs.	X	BALDWIN COUNTY, ALABAMA	
	X		
RICKY DARNELL PAUL, et al.,	X	AT LAW	NO. 9392
Defendants.	X		
	X		
ROY WHITTINGTON,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
	X		
vs.	X	BALDWIN COUNTY, ALABAMA	
	X		
RICKY DARNELL PAUL, et al.,	X	AT LAW	NO. 9393
Defendants.	X		

ORDER

This day came the attorneys of record for the parties in the above styled cases and it appearing to the Court that since the filing of the above styled cases, the same have been continued at each term that they were set for trial at the request of the Defendant, Ricky Darnell Paul, by reason of his being in military service and out of this State; and it appearing to the Court that the Defendant has had sufficient time in which to arrange his affairs so as to be present for trial and that the cases should be tried at the next available term of court and in consideration of the above; it is, therefore,

ORDERED, ADJUDGED and DECREED that the above styled cases will stand for trial on the first day of the next regularly scheduled term at which a civil jury shall be empaneled and that a copy of this Order be furnished the attorney for the Defendant in order that he may have his client present and in the event that the Defendant shall fail to appear and be ready for trial, the Plaintiff will be permitted to go to trial in each case without the presence of the Defendant.

Done this 10th day of April, 1972.

/s/ Telfair D. Mashburn
Circuit Judge

FILED

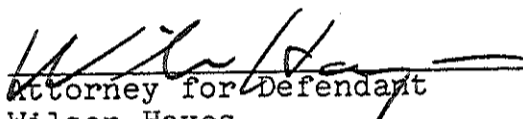
APR 10 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

ROY WHITTINGTON,	§	IN THE CIRCUIT COURT OF
Plaintiff,	§	BALDWIN COUNTY, ALABAMA
Vs.	§	AT LAW
RICKY DARNELL PAUL, a minor	§	
Defendant.	§	NUMBER: 9393


Comes now Defendant in the above styled cause and shows to the Court that the Defendant is a member of the Armed Forces and is presently on active duty with the United States Air Force and is unable to attend the setting of the cause.

Defendant does claim his exemption from trial under the Soldiers and Sailors Civil Relief Act.



 Attorney for Defendant
 Wilson Hayes

STATE OF ALABAMA
 BALDWIN COUNTY

Before me, Mary C. Stiers McGuff, a Notary Public in and for said County in said State, this day personally appeared Wilson Hayes, who is known to me and who being by me first duly sworn to speak the truth, deposes and says he has read the foregoing instrument and knows the facts therein stated are true to the best of his information and belief.

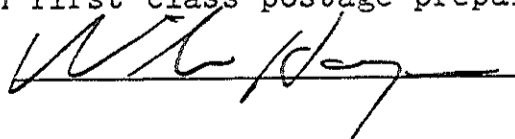

 Wilson Hayes

Sworn to and subscribed before me this the 6th day of October, 1971.


 Mary C. Stiers McGuff, Notary Public
 Baldwin County, Alabama

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 6th day of Oct, 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, with first class postage prepaid.



FILED

OCT 7 1971

EUNICE B. BLACKMON CIRCUIT CLERK

WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

October 6, 1971

Mrs. Eunice B. Blackmon, Clerk
Circuit Court, Baldwin County
Bay Minette, Alabama 36507

Re: Whittington v Paul
Cases 9391, 9392, 9393

Dear Eunice:

Please file the enclosed instruments for
the above noted cases.

With kind regards, I am

Yours very truly,


Wilson Hayes

WH/mm
Encs.