

GULF TELEPHONE COMPANY,
A CORPORATION

Plaintiff

VS.

BOAN CONSTRUCTION COMPANY,
INC. A CORPORATION
and
DAVID WOOD

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9628

1.

The Plaintiff claims of the Defendants the sum of ONE THOUSAND THREE HUNDRED SEVENTY EIGHT and 17/100 DOLLARS (\$1,378.17) as damages for that heretofore on to-wit, the 9th day of February, 1970, at or near highway #59 between highways 180 and 182, near the Meyer Real Estate Office in Gulf Shores, Alabama, the Defendant Boan Construction Company, Inc. a Corporation, acting by and through their agent, servant or employee, David Wood, who was then and there acting within line and scope of his employment as such, so negligently operated an earth excavator machine so as to cause or allow it to cut, sever, damage and destroy an underground telephone cable, the property of the Plaintiff, and as a direct and proximate consequence of said negligence, the Plaintiff was required to expend the aforesaid sum of money in repairing, replacing and reinstalling said cable; all to the loss of the Plaintiff in the aforesaid amount.

WILTERS, BRANTLEY & NESBIT

BY: *Charles S. Nesbit*
Attorneys for Plaintiff

The Defendant, Boan Construction Company, Inc. a Corporation can be served at River Falls Road in Andalusia, Alabama.

The Defendant, David Wood, is now working in Gulf Shores for the Boan Construction Company and can be served there.

FILED

JAN 7 1971

ALICE J. DUCK

CLERK
REGISTER

Executed the within

by serving a copy thereof on

as

Winford Boone
This *26* day of *Feb* 19 *71*

W. E. HARRELI, Sheriff

W. E. Harrel D. S.
Covington County, Alabama

Could not locate
David Wood

SUMMONS AND COMPLAINT

THE 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 Boan Construction Co., Inc. a Corporation
and David Wood

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.....

Boan Construction Co., Inc. a Corp. and David Wood DefendantS...

by Gulf Telephone Company, a Corporation

Plaintiff.....

Witness my hand this 7 day of January 19 71

Alice J. Iluek, Clerk

No. 9628

Page.....

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

Gulf Telephone Company, a

Corporation

Plaintiffs

vs.

Boan Construction Co., Inc.
a Corporation and David Wood

Defendants

SUMMONS AND COMPLAINT

FILED

Filed 19.....

JAN 7 1971

Clerk

ALICE J. DUCK

CLERK
REGISTER

WILTERS, BRANTLEY & NESBIT

BY:

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

Jan 7 1971

Taylor Wilkins Sheriff

I have executed this summons

this 19.....

by leaving a copy with

CH

Boan Constr. Co.

David Wood

Sheriff at the residence of

Ten Cents per mile Total \$

TAYLOR WILKINS, Sheriff

BY

DEPUTY SHERIFF

*Returned 21 day of Jan 1971
This found in my county after diligent search and in
Taylor Wilkins, Sheriff
Childress
Deputy Sheriff*

GULF TELEPHONE COMPANY,
A CORPORATION

Plaintiff

VS.

BOAN CONSTRUCTION COMPANY,
INC. A CORPORATION
and
DAVID WOOD

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. _____

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WILTERS, BRANTLEY & NESBIT

BY: 

Attorneys for Plaintiff

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FILED

JAN 7 1971

ALICE J. DICK

CLERK
REGISTER

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 9628

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Boan Construction Co., Inc. a Corp. and David Wood, Defendant^s.....

by Gulf Telephone Company, a Corporation

....., Plaintiff.....

Witness my hand this 7 day of January 19 71

Alice J. Luck Clerk

No.....

Page.....

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

.....**Gulf Telephone Company, a**.....
.....**Corporation**.....
Plaintiffs

vs.

Bean Construction Co., Inc.
.....**a Corporation and David Wood**.....
Defendants

SUMMONS AND COMPLAINT

Filed 19.....

..... Clerk

WILTERS, BRANTLEY & NESBIT

.....**BY:**.....
Plaintiff's Attorney

.....
Defendant's Attorney

Defendant lives at

Received In Office

..... 19.....

..... Sheriff

I have executed this summons

this 19.....

by leaving a copy with

..... Sheriff

..... Deputy Sheriff

INGE, TWITTY, DUFFY & PRINCE

LAWYERS

FRANCIS H. INGE (1902-1959)
THOS. E. TWITTY
RICHARD H. INGE
THOS. E. TWITTY, JR.
JAMES J. DUFFY, JR.
SYDNEY R. PRINCE, III
JOHN N. LEACH, JR.

MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA
36602

MAILING ADDRESS:
P. O. BOX 1109
MOBILE, ALA.
36601

CABLE ADDRESS:
TWINING
TELEPHONE
433-5441

March 8, 1971

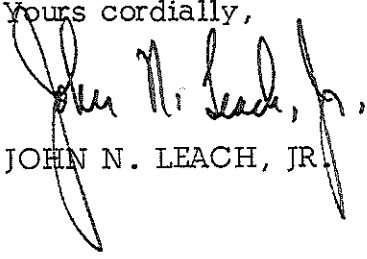
Clerk, Circuit Court of Baldwin County
Baldwin County Courthouse
Bay Minette, Alabama 36507

Re: Gulf Telephone Company vs. Boan
Construction Company, Inc. and David
Wood -- Circuit Court Case No. 9628

Dear Sir:

Enclosed please find demurrer which we would appreciate your
filing in the above referenced case.

Yours cordially,


JOHN N. LEACH, JR.

JNL, JR:bd
Enclosure

GULF TELEPHONE COMPANY,)	IN THE CIRCUIT COURT OF
a corporation,)	
)	
Plaintiff,)	BALDWIN COUNTY, ALABAMA
)	
vs.)	
)	AT LAW
BOAN CONSTRUCTION COMPANY,)	
INC., a corporation and DAVID)	
WOOD,)	
)	
Defendants)	CASE NO. 9628

DEMURRER

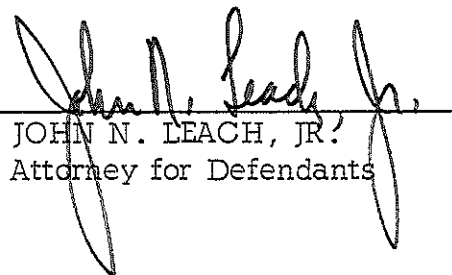
Come now Boan Contracting Company, Inc., a corporation, (incorrectly referred to in this lawsuit as Boan Construction Company, Inc.) and David Wood, defendants in the above captioned cause, and demur to the complaint heretofore filed against them in said cause, and to each count thereof, separately and severally, and for grounds of demurrer set down and assign the following, separately and severally, to-wit:

1. That it does not state facts sufficient to constitute a cause of action.
2. For that negligence is therein alleged merely as a conclusion of the pleader.
3. For that it is vague, indefinite and uncertain, in that it does not apprise this defendant with sufficient certainty against what act or acts of negligence this defendant is called on to defend.
4. For that it does not appear with sufficient certainty what duty, if any, defendant may have owed to the plaintiff.
5. For that it does not appear with sufficient certainty wherein defendant violated any duty it may have owed to the plaintiff.
6. For that it does not sufficiently appear that the defendant owed any duty to the plaintiff which defendant negligently failed to perform.
7. For that there does not appear sufficient causal connection between defendant's said breach of duty and plaintiff's injuries and damages.
8. No facts are alleged to show that plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of the defendant.

9. It is not alleged with sufficient certainty where said accident occurred.
10. It is not alleged that the negligence complained of proximately caused the accident, the injuries and damages complained of.
11. The averments thereof are conflicting and repugnant.
12. For that no causal connection appears between the defendant's alleged negligence and the injuries and damages complained of by the plaintiff.

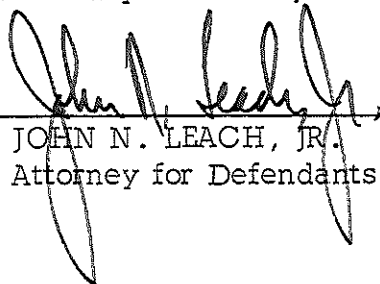
INGE, TWITTY, DUFFY & PRINCE

BY:


JOHN N. LEACH, JR.
Attorney for Defendants

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing demurrer has been served upon Messrs. Wilters, Brantley & Nesbit, Attorneys at Law, Bay Minette, Alabama, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 8th day of March, 1971.


JOHN N. LEACH, JR.
Attorney for Defendants

FILED

MAR 9 1971

EUNICE B. BLACKMON CIRCUIT
CLERK