

HUGH M. CAFFEY, JR.

ATTORNEY AT LAW

P. O. BOX 867

BREWTON, ALABAMA 36426

ASSOCIATE
KIRTLEY W. BROWN

May 11, 1971

AREA CODE 205
PHONE 867-6041

Mrs. Eunice Blackmon
Circuit Clerk, Court House
Bay Minette, Alabama

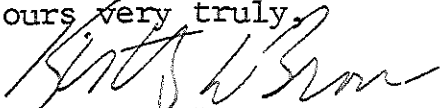
RE: Grand Hotel Development Corp.

Dear Mrs. Blackmon:

I am enclosing a summons and complaint and interrogatories which I ask that you please file in the case entitled Jessie B. McAlister vs. Grand Hotel Development Corporation, in Point Clear, Alabama. Please call me collect if any questions arise regarding this matter.

Also enclosed is our check in the amount of \$25.50, representing advanced court costs. If any additional amount is required, please notify me immediately.

Yours very truly,


Kirtley W. Brown

KWB/mca

Enclosures

9835

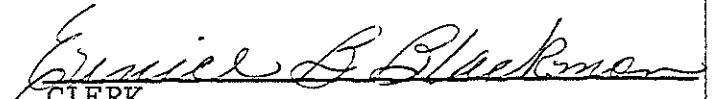
STATE OF ALABAMA)

BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA-GREETINGS:

You are hereby commanded to summon Grand Hotel Development Corporation, and Grand Hotel Company, and the following fictitious defendants whose names are otherwise unknown, but which will be supplied by amendment when discovered: A B C Company, a corporation; D. E. & F, a partnership; G H & I, Partners, d/b/a JKL Company, a partnership; M and N, Individuals; and O, an individual, to appear in the Circuit Court of Baldwin County, Alabama, at the place of holding the same and plead, answer or demur, within thirty days from service hereof to the complaint of Jessie B. McAlister.

Witness this 12th day of May, 1971.


CLERK

JESSIE B. McALISTER,

PLAINTIFF

VS.

GRAND HOTEL DEVELOPMENT CORPORATION,
AND GRAND HOTEL COMPANY, AND THE
FOLLOWING FICTITIOUS DEFENDANTS WHOSE
NAMES ARE OTHERWISE UNKNOWN, BUT
WHICH WILL BE SUPPLIED BY AMENDMENT
WHEN DISCOVERED: A B C COMPANY, A
CORPORATION; D. E. & F, A PARTNERSHIP;
G H & I, PARTNERS, d/b/a JKL COMPANY,
A PARTNERSHIP; M AND N, INDIVIDUALS;
AND O, AN INDIVIDUAL,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. 9835

COUNT ONE

The Plaintiff claims of the defendants, Grand Hotel Development Corporation, and Grand Hotel Company, and the following fictitious defendants whose names are otherwise unknown, but which will be supplied by amendment when discovered; a b c Company, a corporation; D. E. & F, a partnership; G H & I Partners, d/b/a JKL Company, a partnership; M and N, Individuals; and O, an individual, (hereinafter referred to as defendants,) the sum of \$25,000.00, as damages for that on to-wit, the 17th day of May, 1970, the Defendants were the owners and proprietors of a hotel and surrounding premises at Point Clear in Baldwin County, Alabama, and on said date the Plaintiff was present on said premises as a guest and invitee of the Defendants and was walking on the premises of the defendants near the dock where she had a right to be, and on said occasion, Plaintiff stepped into an open, unprotected hole or rough place in a sidewalk, which hole or rough place the defendants negligently permitted or allowed to exist, and as a proximate consequence thereof, Plaintiff was injured as follows:

The muscles and connective tissues in her right foot and ankle were severely torn and bruised; she suffered acute pain, swelling and tenderness in the lateral malleoli and ankle of her right foot, resulting in diminished endurance for weight-bearing, standing and walking; she suffered reflex dystrophy of her right

foot and ankle and was and is unable to freely flex and extend her right foot; she was forced to undergo painful injections to treat such injuries and to submit to treatment of physicians; she was made to incur drug, medical and related expenses; she suffered and continues to suffer mental and physical pain and her health and physical stamina have been permanently impaired; and the Plaintiff avers that said injuries were the proximate result of the negligence of the Defendants, as alleged above, hence this suit.

COUNT TWO

The Plaintiff claims of the Defendants, Grand Hotel Development Corporation, and Grand Hotel Company, and the following fictitious defendants whose names are otherwise unknown, but which will be supplied by amendment when discovered; A B C Company, a corporation; D. E. & F, a partnership; G H & I Partners, d/b/a JKL Company, a partnership; M and N, Individuals; and O, an individual, (hereinafter referred to as defendants), the sum of \$25,000.00, as damages, for that on to-wit, the 17th day of May, 1970, the Defendants were the owners and proprietors of a hotel and surrounding premises at Point Clear in Baldwin County, Alabama, and that on said date, the Plaintiff was present on said premises as a guest and invitee of the defendants, and that the Plaintiff was walking near the dock on said premises, where she had a right to be, and where the defendants knew or ought to have known that its guests and invitees would be walking or travelling, and the Plaintiff did then and there step into an open, unprotected hole or rough place in a sidewalk, which hole or rough place the defendants negligently permitted or allowed to exist, and as a proximate consequence of the negligence of the defendants the Plaintiff was injured in the following particulars:

The muscles and connective tissues in her right foot and ankle were severely torn and bruised; she suffered acute pain,


swelling and tenderness in the lateral malleoli and ankle of her right foot, resulting in diminished endurance for weight-bearing, standing and walking; she suffered reflex dystrophy of her right foot and ankle and was and is unable to freely flex and extend her right foot; she was forced to undergo painful injections to treat such injuries and to submit to treatment of physicians; she was made to incur drug, medical and related expenses; she suffered and continues to suffer mental and physical pain and her health and physical stamina have been permanently impaired; and the Plaintiff avers that said injuries were the proximate result of the negligence of the defendants, as alleged above, hence this suit.

HUGH M. CAFFEY, JR.

BY: 

KIRTLEY W. BROWN,
ATTORNEY FOR PLAINTIFF

Plaintiff requests a trial by jury.


KIRTLEY W. BROWN

FILED

MAY 12 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

JESSIE B. McALISTER,

PLAINTIFF

VS.

GRAND HOTEL DEVELOPMENT CORPORATION,
AND GRAND HOTEL COMPANY, AND THE
FOLLOWING FICTITIOUS DEFENDANTS WHOSE
NAMES ARE OTHERWISE UNKNOWN, BUT
WHICH WILL BE SUPPLIED BY AMENDMENT
WHEN DISCOVERED; A B C COMPANY, A
CORPORATION; D. E. & F, A PARTNERSHIP;
G H & I, PARTNERS, d/b/a JKL COMPANY,
A PARTNERSHIP; M AND N, INDIVIDUALS;
AND O, AN INDIVIDUAL,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. _____

Comes the Plaintiff in the above styled cause and desiring the testimony of the Defendant, Grand Hotel Development Corporation, and Grand Hotel Company, and the following fictitious defendants whose names are otherwise unknown, but which will be supplied by amendment when discovered; A B C Company, a corporation; D. E. & F, a partnership; G H & I Partners, d/b/a JKL Company, a partnership; M and N, Individuals; and O, an individual,, herein-after referred to as the defendant, propounds to the defendant the following interrogatories, separately and severally, pursuant to Title 7, Section 477 et seq, Code of Alabama, as recompiled in 1958:

1. The person answering these interrogatories under oath should please state his full name, present business address and position of employment with the Defendant.

2. Please state whether the defendant is a corporation, partnership, or individual, and the correct and complete name of such legal entity.

HUGH M. CAFFEY, JR.

BY: 

KIRTLEY W. BROWN,
ATTORNEYS FOR PLAINTIFF

FILED

VOL 69 PAGE 812

MAY 12 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

STATE OF ALABAMA)

ESCAMBIA COUNTY)

Before me, Marion C. Allen, a Notary Public in and for the State of Alabama at Large, personally appeared Kirtley W. Brown, who having been by me first duly sworn, deposes and says that he is one of the attorneys for the Plaintiff in the above styled cause and that the defendant's answers to the foregoing interrogatories, if well and truly made, will constitute evidence for the Plaintiff on the trial of her case.

Kirtley W. Brown
KIRTLEY W. BROWN

Sworn to and subscribed before me on this the 10th day of May, 1971.

Marion C. Allen
NOTARY PUBLIC

FILED

MAY 12 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

9835-

Jessie B. McAlister

vs
Grand Hotel Development
Corp. + Grand Hotel Co

Summons + Complaint
Interrogatories

Hugh M. Caffey, Jr.
Brewton, Atty

Sheriff claims 80 miles at
Ten Cents per mile Total \$ 8.
TAYLOR WILKINS, Sheriff
BY D. J. Brock
DEPUTY SHERIFF

Received 13 day of May 1974
and on 14 day of MAY 1974
I served a copy of the within Set & Interrogatories
on Grand Hotel Development Corp.
By service on Mr. Michaelaune (Hud 1/6)

TAYLOR WILKINS, Sheriff
By D. J. Brock D. S.

JESSIE B. McALISTER,	:	IN THE CIRCUIT COURT OF
Plaintiff,	:	BALDWIN COUNTY,
vs.	:	ALABAMA
GRAND HOTEL DEVELOPMENT CORPORATION, AND GRAND HOTEL COMPANY, AND THE FOLLOWING FICTITIOUS DEFENDANTS WHOSE NAMES ARE OTHERWISE UNKNOWN, BUT WHICH WILL BE SUPPLIED BY AMENDMENT WHEN DISCOVERED;	:	AT LAW
A B C COMPANY, A CORPORATION; D E & F, A PARTNERSHIP; G H & I, PARTNERS, d/b/a JKL COMPANY, a PARTNERSHIP; M AND N, INDIVIDUALS; AND O, AN INDIVIDUAL,	:	
Defendants.	:	CASE NO. 9835

D E M U R R E R

Comes now Grand Hotel Development Corporation and Grand Hotel Company, defendants in the above cause, separately and severally, and demurs to the plaintiff's complaint, and each count thereof, separately and severally, and for separate and several grounds of demurrer, sets down and assigns, separately and severally, the following:

1. That it does not state facts sufficient to constitute a cause of action against this defendant.
2. For that negligence is therein alleged merely as a conclusion of the pleader, insufficient facts being averred in support thereof.
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 to defend.
4. For that it does not appear with sufficient certainty what duty, if any, this defendant may have owed to the plaintiff.

5. For that it does not appear with sufficient certainty wherein this defendant violated any duty owed by this defendant to the plaintiff.

6. For that it does not sufficiently appear that this defendant owed any duty to the plaintiff which this defendant negligently failed to perform.

7. For that the averments set up, if true, do not show any liability on the part of this defendant.

8. For that the pleader sets out in what said negligence consisted, and the facts so set out do not show any negligence.

9. For that there does not appear sufficient causal connection between this defendant's alleged breach of duty and plaintiff's injuries and damages.

10. No facts are alleged to show that the plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of this defendant.

11. It is not alleged with sufficient certainty where said accident occurred.

12. It is not alleged that the negligence complained of proximately caused the accident and the injuries and damages complained of.

13. For that the conduct of this defendant as described therein does not amount to negligence.

14. For that proximate causation is not sufficiently alleged.

15. For that proximate causation is alleged therein merely as a conclusion of the pleader.

16. For that the plaintiff does not sufficiently aver that the alleged negligence on the part of the defendant was the proximate cause of the alleged injuries and damages allegedly sustained by the plaintiff.

17. For aught appearing the plaintiff did not have a right to be where she was at the time and place of this accident.

18. For aught appearing any defect was open and obvious and of such a nature that the plaintiff is charged with knowledge of the existence thereof.

19. For that it is vague, indefinite and uncertain for that it is impossible for this defendant to determine whether or not this defendant is charged with having negligently permitted an open, unprotected hole in a sidewalk to exist, or whether the defendant is charged with negligently permitting a rough place in a sidewalk to exist.

20. For that there is no allegation that this defendant knew or had any reason to know of the existence of any defect in the sidewalk.

21. For aught appearing any alleged defects which may have existed was not such as to constitute a hazardous and dangerous condition.

22. For aught appearing the sidewalk in question was not so defective as to constitute an unsafe condition for persons exercising reasonable diligence for their own safety.


23. For aught appearing the walkway in question was reasonably safe for persons entitled to use the same.

24. For aught appearing the sidewalk in question was reasonably safe for persons entitled to use the same who were exercising reasonable diligence for their own safety.

25. For that the allegation that the defendants negligently permitted or allowed to exist an open, unprotected hole or rough place in a sidewalk constitutes a mere conclusion on the part of the pleader, insufficient facts being averred in support thereof.

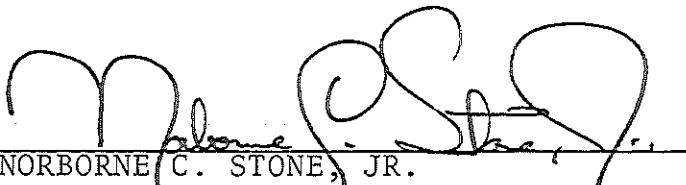
26. For that the alternative allegation that the defendants negligently permitted or allowed to exist an open, unprotected hole or rough place in a sidewalk does not charge this defendant with negligence.

27. For aught appearing the alleged hole or rough place in the sidewalk was of such a nature that the same could not have been discovered by a reasonable inspection.


JERRY A. McDOWELL
Trial Attorney for Demurring Defendants

Of Counsel:

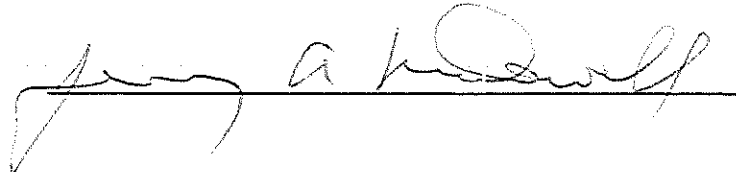
HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON


NORBORNE C. STONE, JR.
Trial Attorney for Said Demurring Defendants

Of Counsel:

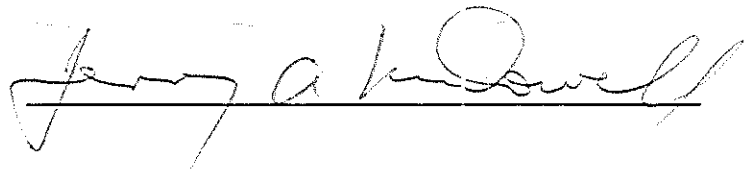
CHASON, STONE & CHASON

Defendants demand trial of this cause by jury.



CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing demurrer to Hugh M. Caffey, Jr., Esq., Attorney for Plaintiff, by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Brewton, Alabama on this 9th day of June, 1971.



FILED

JUN 10 1971

EUNICE B. BLACKMON CIRCUIT CLERK

VOL 69 PAGE 817

JESSIE B. McALISTER, X
Plaintiff, X IN THE CIRCUIT COURT OF
vs. X
BALDWIN COUNTY, ALABAMA
GRAND HOTEL DEVELOPMENT X
CORPORATION and GRAND
HOTEL COMPANY, et. al., X AT LAW CASE NO. 9835
Defendants. X

NOTICE OF TAKING OF DEPOSITION
UPON ORAL EXAMINATION

TO: HONORABLE KIRTLEY BROWN
C/O Honorable Hugh M. Caffey, Jr.
Attorney at Law
P. O. Box 867
Brewton, Alabama 36426

PLEASE TAKE NOTICE that the Defendants, Grand Hotel Development Corporation and Grand Hotel Company, in the above styled cause, will take the deposition of Jessie B. McAlister, whose address is Auburn, Alabama, upon oral examination pursuant to Title 7, Section 474(1) of the Code of Alabama of 1940, as amended, beginning at 1:00 o'clock P.M. Central Daylight Savings Time, on Wednesday, September 29, 1971, at the office of Louise Dusenbury, Courthouse, Bay Minette, Alabama, before Louise Dusenbury, a Notary Public, in and for the State of Alabama, At Large, who is authorized to take depositions and swear witnesses. The examination will continue from day to day until completed.

Witness my hand this the 1 day of September, 1971
at Bay Minette, in Baldwin County, Alabama.


Eberhard E. Ball

OF COUNSEL:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON
Attorneys at Law
30th Floor, First National Bank Building
Mobile, Alabama 36601

CHASON, STONE & CHASON
Attorneys at Law
Bay Minette, Alabama 36507

CERTIFICATE

I, the undersigned Eberhard E. Ball, one of the Attorneys for the Plaintiff in the above styled cause, do hereby certify that I have this day served a copy of the foregoing Notice of Taking of Deposition Upon Oral Examination on Honorable Kirtley Brown by mailing to him a copy of said Notice by United States Mail, postage prepaid and properly addressed to him at his office.

WITNESS my hand this 1 day of September, 1971.


Eberhard E. Ball

FILED

SEP 1 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

JESSIE B. McALISTER, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY,
vs. : ALABAMA

GRAND HOTEL DEVELOPMENT : AT LAW
CORPORATION, and GRAND
HOTEL COMPANY, AND THE FOL-:
LOWING FICTITIOUS DEFEN-
DANTS WHOSE NAMES ARE :
OTHERWISE UNKNOWN, BUT WHICH
WILL BE SUPPLIED BY AMEND- :
MENT WHEN DISCOVERED;
A B C COMPANY, A CORPORA- :
TION; D E & F, A PARTNER-
SHIP; G H & I, PARTNERS, :
d/b/a JKL COMPANY, A PART-
NERSHIP; M AND N, INDIVI- :
DUALS; AND O, AN INDIVIDUAL,

Defendants. : CASE NO. 9835

~~U. S. DISTRICT COURT
SOUT. DIST. ALA.
FILED IN CLERK'S OFFICE
SEP 8 1971
WILLIAM J. O'CONNOR
CLERK~~

ANSWERS TO INTERROGATORIES

Comes now the defendant and for answer to the interro-
gatories heretofore propounded by the plaintiff, says as
follows:

- Molony
1. Gladys ~~Maloney~~, Grand Hotel, Point Clear, Alabama,
Secretary.
 2. Corporation, Grand Hotel Company, ~~Inc.~~, a corporation.

GRAND HOTEL COMPANY, ~~INC.~~

By: Gladys G. Molony
Secretary

STATE OF ALABAMA:
COUNTY OF BALDWIN:

Personally appeared before me, the undersigned Notary
Public, in and for said County in said State, Gladys ~~Maloney~~
Secretary of the Grand Hotel Company, who is known to me, and
who, after first being duly sworn, does state that the fore-
going answers to interrogatories are true and correct to the
best of her knowledge.

Gladys G. Molony
Gladys ~~Maloney~~, Secretary
Molony

Sworn to and subscribed before me this the _____ day
of 8/4/71, 1971.

H. L. Hardy
Notary Public, Baldwin County, Alabama

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing Answers to Interrogatories to Hugh M. Caffey, Jr., Esq., Attorney for Plaintiff, by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Brewton, Alabama, on this, the 8th day of September, 1971.

J. A. Russell

FILED

SEP 14 1971

UNICE B. BLACKMON CIRCUIT
CLERK

CHASON, STONE & CHASON

ATTORNEYS AT LAW

P. O. BOX 120

BAY MINETTE, ALABAMA 36507

JOHN CHASON
NORBORNE C. STONE, JR.
JOHN EARLE CHASON
EBERHARD E. BALL

September 1, 1971

TELEPHONE 937-2191

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

Dear Mrs. Blackmon:

Re: McAlister vs. Grand
Hotel Development Corpora-
tion, et. al.
Case No. 9835

We hand you herewith a Notice of Taking of Deposi-
tion upon Oral Examination of the following named person:

Jessie B. McAlister
Auburn, Alabama.

Would you please file this Notice in the above styled cause?

Would you please also issue a subpoena to Mrs.
McAlister requiring her to appear at the office of Louise
Dusenbury at the Courthouse, Bay Minette, Alabama at 1:00
o'clock P.M. Central Daylight Savings Time on the 29th day
of September, 1971.

Thanking you very much for your attention to this
request, we are

Yours very truly,

CHASON, STONE & CHASON

BY:

Done
9-2-71
Eberhard E. Ball

EEB:lp

JESSIE B. McALISTER,	Ø	
		IN THE CIRCUIT COURT OF
PLAINTIFF	Ø	BALDWIN COUNTY, ALABAMA
VS.	Ø	AT LAW
GRAND HOTEL DEVELOPMENT CORPORATION	Ø	
AND GRAND HOTEL COMPANY, ET AL,		CASE NO.9835
DEFENDANTS	Ø	

Comes the Plaintiff by one of her attorneys of record, Kirtley W. Brown, and respectfully shows unto the Court as follows:

1. That at the direction of the defendants, Plaintiff was served with subpoena to appear at the Courthouse, Bay Minette, Alabama, at 1:00 P. M. on September 29, 1971, for the purpose of deposing her pursuant to Title 7, Section 474, et seq., Code of Alabama, as recompiled in 1958.
2. That attorneys of record for Plaintiff will be engaged in the trial of jury cases in Escambia County, Alabama, during the week beginning September 27, 1971, this being the date of commencement of the Civil Jury Termin Escambia County, Alabama.
3. That no reason exists why the deposing of the Plaintiff cannot be continued to a date suitable to attorneys for both parties in the above styled cause.
4. That to require Plaintiff to travel the considerable distance from Auburn, Alabama, to Bay Minette, Alabama, for the sole purpose of taking her deposition will work an unreasonable and unjustifiable physical and financial burden upon her, when the ends of justice would as well be served by the taking of said deposition in Auburn, Alabama.
5. That the attorneys for the Defendants set the taking of said deposition without consultation with the attorneys for the Plaintiff and arbitrarily set said date without taking into consideration the schedule of the attorneys representing the Plaintiff in said cause.

Wherefore, the Plaintiff respectfully moves that her deposition scheduled to be taken on September 29, 1971, be continued to a suitable time and place to be agreed upon between attorneys for

the parties.

HUGH M. CAFFEY, JR.

BY:

Kirtley W. Brown
KIRTLEY W. BROWN
ATTORNEYS FOR JESSIE B.
McALISTER, PLAINTIFF

STATE OF ALABAMA)

COUNTY OF ESCAMBIA)

Before me, the undersigned authority in and for said State and County, personally appeared, Kirtley W. Brown, who being by me first duly sworn on oath, deposes and says: That he is of counsel for the Plaintiff in the above styled cause, and the facts stated in the foregoing motion are true to the best of his information, knowledge and belief.

Kirtley W. Brown
KIRTLEY W. BROWN

Sworn to and subscribed before me on this the 16th day of
September, 1971.

Ann K. Heiff
NOTARY PUBLIC

FILED

SEP 16 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

HUGH M. CAFFEY, JR.

ATTORNEY AT LAW

P. O. BOX 867

BREWTON, ALABAMA 36426

September 23, 1971

ASSOCIATE
KIRTLEY W. BROWN

AREA CODE 205
PHONE 867-6041

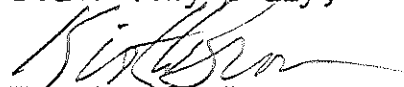
Mrs. Eunice Blackmon
Circuit Clerk
Bay Minette, Alabama

RE: McAlister - Case No. 9835

Dear Mrs. Blackmon:

Please present this order for signature to Judge Mashburn
and return two certified copies of the order to me. Give
Judge Mashburn my regards.

Yours very truly,


Kirtley W. Brown

KWB/mca

Enclosures

1 copy
C.S. + C

JESSIE B. McALISTER,

PLAINTIFF

VS.

GRAND HOTEL DEVELOPMENT
CORPORATION AND GRAND HOTEL
COMPANY, ET AL,

DEFENDANTS

§

§

§

§

§

§

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9835

Upon the verified motion of Kirtley W. Brown, Attorney of record for the Plaintiff, said motion seeking a continuance of the taking of Plaintiff's deposition now scheduled to be taken in Bay Minette, Alabama, on September 29, 1971, and the Court taking knowledge of the facts stated in said motion, and it appearing to the Court that Plaintiff is entitled to have said motion granted:

It is therefore ORDERED, ADJUDGED and DECREED by this Court that the deposition of the Plaintiff in the above styled cause scheduled for September 29, 1971, be and the same is hereby continued to a future date agreeable to attorneys for both parties, and if said attorneys are unable to agree upon said date, a date fixed by this Court.

It is further ORDERED that copies of said motion and of this order granting said motion be mailed to the attorneys of record.

Done this the 24th day of September, 1971.

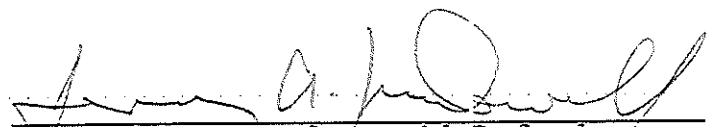
Telfair J. Masheburn
TELFAIR J. MASHEBURN
JUDGE OF THE CIRCUIT COURT

JESSIE B. McALISTER, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY,
vs. : ALABAMA
GRAND HOTEL DEVELOPMENT : AT LAW
CORPORATION and GRAND
HOTEL COMPANY, et al., :
Defendants. : CASE NO. 9835

N O T I C E

TO: Kirtley W. Brown, Esq.
2410 First National Bank Bldg.
Mobile, Alabama

Please take notice that on the 23rd day of February, 1972, in the offices of Hand, Arendall, Bedsole, Greaves & Johnston, 3000 First National Bank Building, Mobile, Alabama, the defendants, Grand Hotel Development Corporation and Grand Hotel Company, will take the deposition of Mrs. Jessie B. McAlister at 10:00 a.m. upon oral examination pursuant to an Act of the Legislature of the State of Alabama, designated as Act No. 375, Regular Session 1955, approved September 8, 1955, before Walter W. Wise, or another officer duly authorized to take depositions and swear witnesses in said County in said State. The oral examination will continue from day to day until completed and you are invited to attend and cross-examine.


Trial Attorney for said Defendant
3000 First National Bank Building
Mobile, Alabama

Of Counsel

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

FILED

FEB 15 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

SEALE, MARSAL, SEALE & DUKE

LAWYERS

2410 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

36601

HARRY SEALE

M. A. MARSAL

A. J. SEALE

LEON G. DUKE

MAILING ADDRESS
POST OFFICE BOX 1746
432-6666

March 18, 1972

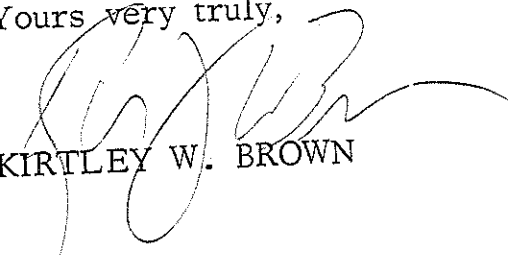
Clerk of the Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama

Re: McAlister vs Grand Hotel
Case No. 9835

Gentlemen:

Enclosed is an amended complaint to be filed in the above-styled cause. Please advise of trial date or your estimation of such date.

Yours very truly,


KIRTLEY W. BROWN

KWB/mav

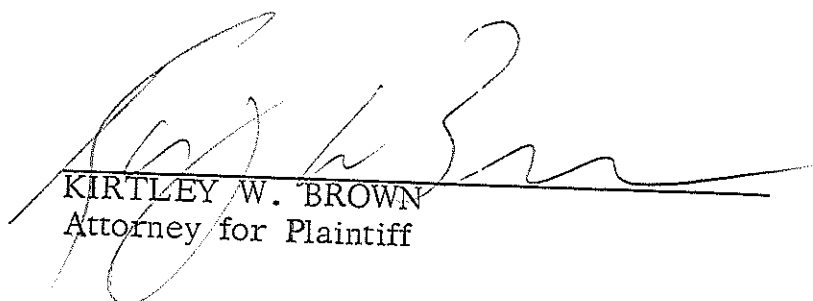
Enc.

PS: Please note upon the record that I am now practicing law in Mobile as an associate with the above firm, and am no longer associated with Mr. Hugh Gaffey in Brewton.

JESSIE B. McALISTER,	X	IN THE CIRCUIT COURT
Plaintiff,	X	OF BALDWIN COUNTY
VS	X	ALABAMA
GRAND HOTEL DEVELOPMENT	X	AT LAW
CORPORATION and GRAND	X	
HOTEL COMPANY, ET AL.,	X	
Defendants.	X	CASE NO. 9835

NOTICE

Please take notice that on the 7th day of April, 1972, at the office of Dr. Nathan Bograd, Atlanta Highway, Montgomery, Alabama, the plaintiff will take the deposition of Dr. Nathan Bograd, at 2:00p.m. upon oral examination pursuant to an Act of the Legislature of the State of Alabama, designated as Act No. 375, Regular Session 1955, Approved September 8, 1955, before an officer authorized to take depositions and swear witnesses in said County and State. The oral examination will continue from day to day until completed and you are invited to attend and cross-examine.


KIRTLEY W. BROWN
Attorney for Plaintiff

OF COUNSEL:

SEALE, MARSAL, SEALE & DUKE

Please issue a subpoena duces tecum to Dr. Nathan Bograd, Atlanta Highway, Montgomery, Alabama, to bring with him all records, memoranda, correspondence, x-rays, etc. with regard to his treatment of Jessie B. McAlister.

FILED

APR 5 1972

EUNICE B. BLACKMON CIRCUIT CLERK

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 3rd day of April, 1972

Attorney for Plaintiff
VOL 109 PAGE 820

JESSIE B. McALISTER, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY,
vs. : ALABAMA
GRAND HOTEL DEVELOPMENT : AT LAW
CORPORATION and GRAND
HOTEL COMPANY, et al., :
Defendants. : CASE NO. 9835

D E M U R R E R

Comes now Grand Hotel Company, Inc., a corporation, incorrectly described herein as Grand Hotel Development Corporation, and Grand Hotel Company, and demurs to the plaintiff's complaint, and each count thereof, separately and severally, as amended, and for separate and several grounds of demurrer, sets down and assigns, separately and severally, the following:

1. That it does not state facts sufficient to constitute a cause of action against this defendant.
2. For that negligence is therein alleged merely as a conclusion of the pleader, insufficient facts being averred in support thereof.
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, this defendant may have owed to the plaintiff.
5. For that it does not appear with sufficient certainty wherein this defendant violated any duty owed by this defendant to the plaintiff.

6. For that it does not sufficiently appear that this defendant owed any duty to the plaintiff which this defendant negligently failed to perform.

7. For that the averments set up, if true, do not show any liability on the part of this defendant.

8. For that the pleader sets out in what said negligence consisted, and the facts so set out do not show any negligence.

9. For that there does not appear sufficient causal connection between this defendant's alleged breach of duty and plaintiff's injuries and damages.

10. No facts are alleged to show that the plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of this defendant.

11. It is not alleged with sufficient certainty where said accident occurred.

12. It is not alleged that the negligence complained of proximately caused the accident and the injuries and damages complained of.

13. For that the conduct of this defendant as described therein does not amount to negligence.

14. For that proximate causation is not sufficiently alleged.

15. For that proximate causation is alleged therein merely as a conclusion of the pleader.

16. For that the plaintiff does not sufficiently aver that the alleged negligence on the part of the defendant was the proximate cause of the alleged injuries and damages allegedly sustained by the plaintiff.

17. For aught appearing the plaintiff did not have a right to be where she was at the time and place of this accident.

18. For aught appearing any defect was open and obvious and of such a nature that the plaintiff is charged with knowledge of the existence thereof.

19. For that there is no allegation that this defendant knew or had any reason to know of the existence of any defect in the sidewalk.

20. For aught appearing any alleged defects which may have existed was not such as to constitute a hazardous and dangerous condition.

21. For aught appearing the sidewalk in question was not so defective as to constitute an unsafe condition for persons exercising reasonable diligence for their own safety.


22. For aught appearing the walkway in question was reasonably safe for persons entitled to use the same.

23. For aught appearing the sidewalk in question was reasonably safe for persons entitled to use the same who were exercising reasonable diligence for their own safety.

24. For that the allegation that she was caused to fall to the ground by the unsafe condition of the walkway constitutes a mere conclusion on the part of the pleader, insufficient facts being averred in support thereof.

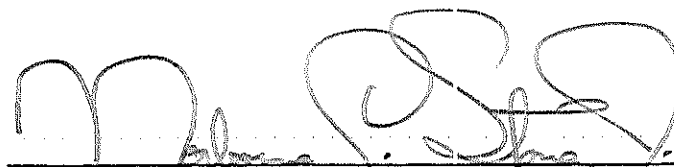
25. For that the allegation that the defendants negligently caused or allowed the aforesaid concrete walkway near or abutting the yacht basin to be cracked and uneven and remain in a condition not reasonably safe for persons walking upon the premises of the defendant constitutes a mere conclusion on the part of the pleader, insufficient facts being averred in support thereof.

26. For that the allegation that the walkway was not reasonably safe for persons walking upon the premises constitutes a mere conclusion on the part of the pleader, insufficient facts being averred in support thereof.


JERRY A. McDOWELL
Trial Attorney for Demurring Defendants

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

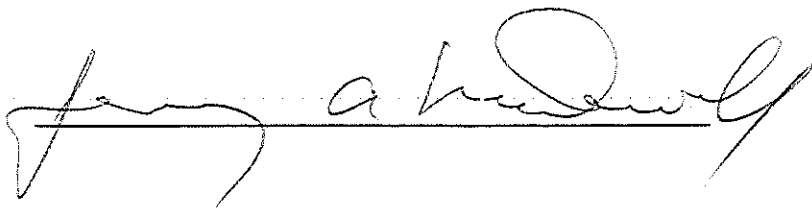

NORBORNE C. STONE, JR.
Trial Attorney for Said Demurring Defendants

Of Counsel:

CHASON, STONE & CHASON

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing demurrer to Kirtley W. Brown, Esq., Attorney for Plaintiff, by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Mobile, Alabama on this 6 day of April, 1972.



FILED

APR 7 1972

EUNICE B. BLACKMON CIRCUIT CLERK

JESSIE B. McALISTER,	X	IN THE CIRCUIT COURT
Plaintiff,	X	
VS	X	OF BALDWIN COUNTY
GRANT HOTEL DEVELOP-	X	
MENT CORPORATION and	X	ALABAMA
GRAND HOTEL COMPANY,	X	
and the following fictitious	X	
defendants whose names are	X	
otherwise unknown, but	X	
which will be supplied by amend-	X	AT LAW
ment when discovered: ABC	X	
COMPANY; D.E. & F., a	X	
partnership; G.H. & I.,	X	
partners, d/b/a JKL COM-	X	
PANY, a partnership; M	X	
and N, individuals,	X	
Defendants.	X	CASE NO. <u>9835</u>

AMENDED COMPLAINT

Comes now the plaintiff in the above-styled cause and amends her complaint heretofore filed to read as follows:

Plaintiff claims of the defendants, jointly and severally, the sum of \$25,000.00 as damages for that on to-wit, the 17th day of May, 1970, the defendants were the owners or proprietors having charge of the maintenance or condition of certain premises at Point Clear, Baldwin County, Alabama, to-wit, a hotel and surrounding grounds including walkways near and abutting a yacht basin, which walkways were used by business invitees of said hotel and the plaintiff avers that at the aforesaid time and place, to-wit, a concrete walkway near or abutting the yacht basin, the plaintiff was upon said premises as a paying guest and invitee of said hotel belonging to the defendants and the plaintiff further

avers that in walking upon the aforesaid walkway near or abutting the yacht basin she was caused to fall to the ground by the unsafe condition of the aforesaid walkway and as a proximate result thereof sustained the following injuries: the muscles and connective tissues in her right foot and ankle were severely torn and bruised; she suffered acute pain, swelling and tenderness in the lateral malleoli and ankle of her right foot, resulting in diminished endurance for weight-bearing, standing or walking; she suffered reflex dystrophy of her right foot and ankle and was and is unable to freely flex and extend her right foot; she was forced to undergo painful injections to treat such injuries and to submit to treatment of physicians; she was made to incur drug, medical and related expenses; she suffered and continues to suffer mental and physical pain and her health and physical stamina have been permanently impaired, all for which she claims damages.

Plaintiff further avers that on the occasion complained of the defendants negligently caused or allowed the aforesaid concrete walkway near or abutting the yacht basin to be cracked and uneven and remain in a condition not reasonably safe for persons walking upon the premises of the defendants and as a proximate result of the aforesaid negligence of the defendants, the plaintiff, being a business invitee of the defendants, was caused to fall to the ground causing the aforesaid personal injuries and damages, all such injuries and damages being proximately caused by the aforesaid negligence of the defendants, wherefore plaintiff sues and seeks to recover in the amount of \$25,000.00 for such injuries and damages.

M.A. MARSAL, NICHOLAS KEARNEY,
KIRTLEY W. BROWN, Attorneys for
Plaintiff,

By: _____

Kirtley W. Brown

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 18th day of March, 1972

Attorney for _____

FILED

MAR 20 1972

EUNICE B. BLACKMON CIRCUIT CLERK

PLAINTIFF DEMANDS TRIAL BY JURY.

JESSIE B. McALISTER,	:	IN THE CIRCUIT COURT OF
Plaintiff,	:	BALDWIN COUNTY,
vs.	:	ALABAMA
GRAND HOTEL DEVELOPMENT	:	AT LAW
CORPORATION and GRAND	:	
HOTEL COMPANY, et al.,	:	
Defendants.	:	CASE NO. 9835

A N S W E R

Comes now Grand Hotel Company, Inc., a corporation, incorrectly described herein as Grand Hotel Development Corporation and Grand Hotel Company, and for answer to the plaintiff's complaint, and each count thereof, separately and severally, as amended, sets down and assigns the following, separate and several pleas:

1. Not Guilty.

2. At the time and place complained of in the plaintiff's complaint, to-wit, the 17th day of May, 1970, the plaintiff herself was guilty of contributory negligence which proximately contributed to her own injuries and damages, in that, at said time and place she was walking along a walkway or sidewalk on the premises of the defendant, and she saw the cracked and uneven condition of the walkway or sidewalk prior to the time of reaching same, that she attempted to step over the cracked or uneven area in the walkway and in the exercise of reasonable care could have done so with safety, but nevertheless the plaintiff negligently placed her foot on the cracked or uneven portion of the sidewalk, having seen the same before reaching it and having knowledge of the fact that there was a crack or uneven condition exist-

FILED

SEP 29 1970


EUNICE B. BLACKMON CIRCUIT
CLERK

ing in the walkway, and as a proximate result of the plaintiff's negligence as aforesaid, plaintiff's foot was caused to turn and caused her to fall, and plaintiff proximately contributed to her own injuries and damages; hence, plaintiff ought not recover.


Attorney for Grand Hotel Company, Inc.

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON
3000 First National Bank Building
Mobile, Alabama

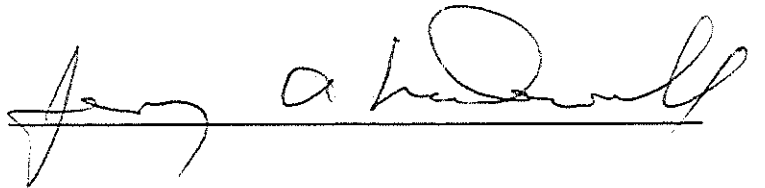

Attorney for Grand Hotel Company, Inc.

Of Counsel:

CHASON, STONE & CHASON
Bay Minette, Alabama

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing answer to Kirtley W. Brown, Esq., Attorney for Plaintiff, by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Mobile, Alabama on this 28 day of September, 1972.



FILED

SEP 29 1972

EUNICE B. BLACKMON CIRCUIT CLERK

JESSIE B. McALISTER,

Plaintiff,

VS

GRAND HOTEL DEVELOP-
MENT CORPORATION, et al,

Defendants.

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

AT LAW

CASE NO. 9835

AMENDMENT TO STYLE

Comes now the plaintiff in the above-styled cause and herewith amends only the style thereof by correctly naming the defendant as Grand Hotel Company, Inc, which plaintiff inadvertently named as Grand Hotel Development Corporation, the Amended Style of said Complaint to read as follows:

JESSIE B. McALISTER,

Plaintiff,

VS

GRAND HOTEL COMPANY,
INC., a Corporation,

Defendant..

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

AT LAW

CASE NO. 9835

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This _____ day of _____, 19____

Attorney for _____

M. A. MARSAL, NICHOLAS KEARNEY
KIRTLEY W. BROWN, Attorneys for
Plaintiff,

By: _____

KIRTLEY W. BROWN

FILED

OCT 6 1972

EUNICE B. BLACKMON CIRCUIT
CLERK