

KATHERINE VRACHALUS,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	BALDWIN COUNTY, ALABAMA
VS.	*	AT LAW
STURGIS LEE LOWMAN, individ-	*	
ually and doing business as	*	
THE SEAGATE MOTEL,	*	
Defendant.	*	CASE NO. <u>10,001</u>

COUNT ONE

Plaintiff claims of the defendant the sum of FIFTEEN THOUSAND AND NO/100 (\$15,000.00) DOLLARS, damages, for that heretofore and on, to-wit, August 25, 1970, plaintiff was a paying guest in Unit Number Six of the public motel of the defendant, located at Orange Beach, Baldwin County, Alabama, in which unit was a gas oven placed therein for the use and benefit of the occupants of said room. Plaintiff avers that the defendant negligently maintained said gas oven in that the knob controlling the flow of gas into said oven would not completely cut off the flow of gas and as a proximate result thereof, gas flowed into said oven and ignited and injured and damaged the plaintiff as follows: her body was bruised and broken; she was made sick, sore and lame; she was caused to suffer mental and physical pain and anguish, still so suffers and will so suffer in the future; she was permanently scarred; she was caused to lose time from her work, hence this suit.

CUNNINGHAM, BOUNDS & BYRD
ATTORNEYS FOR PLAINTIFF

BY: Robert T. Cunningham
ROBERT T. CUNNINGHAM

Plaintiff demands a trial by jury.

FILED

AUG 24 1971

EUNICE B. BLACKMON CIRCUIT CLERK

VOL 70 PAGE 193

Trial Attorney: Robert T. Cunningham

Address of Defendant:
Sturgis Lee Lowman
The Seagate Motel
Orange Beach, Alabama

FILED

AUG 24 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA
Baldwin County

Circuit Court, Baldwin County

~~10,0001~~
No. ~~10,0001~~.....

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to SummonSturgis Lee Lowman, individually and doing.....
business as The Seagate Motel.....
.....
.....

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.....

.....Sturgis Lee Lowman, Ind. & d/b/a The Seagate Motel..... Defendant.....

byKatherine Vrachalus.....
....., Plaintiff.....

Witness my hand this.....24th.....day of August.....1971.....

Ernest B. Blackmon, Clerk

24-9-2-71

70-195

No. 10,001

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

KATHERINE VRACHALUS

Plaintiffs

vs.

STURGIS LEE LOWMAN, : Ind & d/b/a

Defendants

The Seagate Motel

SUMMONS AND COMPLAINT

Filed August 24, 1971

Eunice B. Blackmon Clerk

AUG 25 1971

Cunningham, Bounds & Byrd

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

August 25 1971
Taylor Wilkins Sheriff

I have executed this summons

this Sept. 2 1971

by leaving a copy with

Sturgis Lee Lowman, The Seagate Motel

Sheriff claims ¹²⁰ miles at

Ten Cents per mile Total \$ 12.00

TAYLOR WILKINS Sheriff

BY Roger Wynn Deputy Sheriff

Taylor Wilkins Sheriff

Roger Wynn Deputy Sheriff

KATHERINE VRACHALUS, : IN THE CIRCUIT COURT
Plaintiff, : OF BALDWIN COUNTY,
VS. : ALABAMA
STURGIS LEE LOWMAN, : AT LAW
individually and doing business :
as THE SEAGATE MOTEL, :
Defendant. : CASE NO. 10,001

DEMURRER TO COMPLAINT

Comes now the Defendant STURGIS LEE LOWMAN, individually and doing business as THE SEAGATE MOTEL, separately and severally, and demurs to the Plaintiff's complaint herein and each count thereof, separately and severally, on the following separate and several grounds, to-wit: /

1. Sufficient facts are not alleged therein to state a cause of action.
2. The allegations set forth therein are so vague, uncertain and indefinite that said Defendant is not sufficiently apprised of what it is called upon to defend against in this cause.
3. Sufficient facts are not alleged therein to show the existence of any legal duty owing from said Defendant to the Plaintiff at the time and place and with respect to the matters and things complained of therein.
4. For aught appearing therein, said Defendant did not breach any legal duty owed by said Defendant to the Plaintiff at the time and place complained of therein.
5. Sufficient facts are not alleged therein to show the breach of any legal duty owing by said Defendant to the Plaintiff at the time and place and with respect to the matters and things complained of therein.
6. For aught appearing therein, Plaintiff's damages complained of were not proximately caused by the breach on the part of said Defendant of any legal duty owing by said Defendant to the Plaintiff at the time and place and with respect to the matters and things complained of therein.

7. Sufficient facts are not alleged therein to show a sufficient causal connection between the Plaintiff's damages complained of therein and the breach of any legal duty owing by said Defendant to the Plaintiff at the time and place and with respect to the matters and things complained of therein.

8. It does not sufficiently appear therein that the Plaintiff's damages complained of therein were proximately caused by the breach of any legal duty owing by said Defendant to the Plaintiff at the time and place and with respect to the matters and things complained of therein.

9. Sufficient facts are not alleged therein to show as a matter of law that said Defendant breached any legal duty owed by said Defendant to the Plaintiff at the time and place complained of therein in negligently maintaining said gas oven.

10. For aught appearing therein, the Plaintiff's damages complained of therein did not proximately result from any negligence on the part of said Defendant alleged therein.

11. For aught appearing therein, the ignition of gas referred to therein did not proximately result from the breach on the part of said Defendant of any legal duty owed by said Defendant to the Plaintiff at the time and place complained of therein.

12. Sufficient facts are not alleged therein to show as a matter of law that said ignition of gas referred to therein proximately resulted from the breach on the part of said Defendant of any legal duty owed by said Defendant to the Plaintiff at the time and place complained of therein.

13. The averment in said complaint that the knob controlling the flow of gas into said oven would not completely cut off the flow of gas does not show as a matter of law that the said Defendant breached any legal duty owed by said Defendant to the Plaintiff at the time and place complained of.

14. Sufficient facts are not alleged therein to show as a matter of law that said Defendant breached any legal duty owed by said Defendant to Plaintiff at the time and place complained of therein because the knob controlling the flow of gas into said oven would not completely cut off the flow of gas.

15. The allegations set forth therein charge said Defendant with a higher degree of care to the Plaintiff at the time and place and with respect to the matters and things complained of therein than is imposed upon said Defendant by law.

16. The quo modo of the alleged negligence on the part of said Defendant charged therein is not sufficient to show as a matter of law that said Defendant was guilty of actionable negligence at the time and place and with respect to the matters and things complained of therein.

17. The quo modo of the alleged breach of legal duty on the part of said Defendant charged therein is not sufficient to show as a matter of law that said Defendant was guilty of the breach of any legal duty owed by said Defendant to Plaintiff at the time and place and with respect to the matters and things complained of therein.

18. It does not sufficiently appear from the allegations set forth therein how and in what respect said Defendant was negligent at the time and place complained of.

19. It does not sufficiently appear from the allegations set forth therein how and in what respect said Defendant breached any legal duty owing by said Defendant to the Plaintiff at the time and place complained of therein.

20. For aught appearing therein, said Defendant exercised a degree of care at the time and place and with respect to the matters and things complained of therein commensurate with the duty owed.

21. For aught appearing therein, Plaintiff's damages complained of therein were proximately caused by an act for which said Defendant was in no way legally responsible or liable to the Plaintiff at the time and place complained of therein.

22. Sufficient facts are not alleged therein to show as a matter of law that the Plaintiff's damages complained of were proximately caused by an act for which said Defendant was legally responsible or liable to the Plaintiff at the time and place complained of therein.

23. For aught appearing therein, some intervening act and not the alleged negligence of said Defendant proximately caused the Plaintiff's damages complained of therein.

24. For that it affirmatively appears from the complaint that the relationship of the Plaintiff to the Defendant at the time and place referred to therein was that of licensee and the averments of negligence in said complaint do not state a cause of action against this Defendant.

25. For that it affirmatively appears from the complaint that the relationship of the Plaintiff to the Defendant at the time and place stated in the complaint was that of licensee and the averments of said complaint do not show the breach of any legal duty owing by the said Defendant to the Plaintiff.

STURGIS LEE LOWMAN,
individually and doing
business as THE SEA GATE MOTEL
DEFENDANT

BY: *Kenneth Cooper*
Attorney For STURGIS LEE LOWMAN

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 20 day of Feb,
1973, 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.

Attorney For *Kenneth Cooper*
STURGIS LEE LOWMAN

FILED

FEB 20 1973

EUNICE B. BLACKMON CIRCUIT
CLERK

LAW OFFICES
Cunningham, Bounds and Byrd

1350 DAUPHIN STREET

P. O. BOX 4486

MOBILE, ALABAMA 36604

ROBERT T. CUNNINGHAM
RICHARD BOUNDS
ROBERT L. BYRD, JR.
WARREN L. HAMMOND, JR.

August 23, 1971

AREA CODE 205
TELEPHONE 438-6188

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

Re: Katherine Vrachalus vs.
Lowman, etc.

10,001

Dear Mrs. Duck:

Will you please file the enclosed bill of complaint. I would appreciate it very much if you would call me collect when you have done so inasmuch as the statute of limitations runs on this case on Wednesday, August 25.

I am placing this bill of complaint in the mail today, August 23, and I want to be absolutely certain it reaches you on Tuesday, August 24, and is filed on that date.

Very truly yours,

CUNNINGHAM, BOUNDS & BYRD

Robert T. Cunningham

ROBERT T. CUNNINGHAM

RTC.bcs

Enclosures

KATHERINE VRACHALUE

Plaintiff,

-VS-

STURGIS LEE LOWMAN,

individually and doing business

as THE SEAGATE MOTEL,

Defendant,

Ø

Ø

Ø

Ø

Ø

Ø

Ø

IN THE CIRCUIT COURT

OF BALDWIN COUNTY

IN ~~EQUIT~~ ^{LAW}

CASE NO. 10,001

ANSWER

Comes now the Plaintiff and for answer to the Complainant
heretofore filed in this cause, saith:

1. Not Guilty
2. General issue.

Kenneth Cooper

ATTORNEY FOR DEFENDANT

FILED

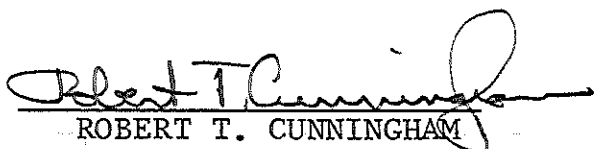
FEB 20 1973

EUNICE B. BLACKMON CIRCUIT
CLERK

KATHERINE VRACHALUS,)	IN THE CIRCUIT COURT
Plaintiff.)	OF BALDWIN COUNTY,
-vs-)	ALABAMA.
STURGIS LEE LOWMAN, indi-)	AT LAW.
vidually and doing business)	CASE NO. 10,001
as The Sea Gate Motel,)	
Defendant.)	

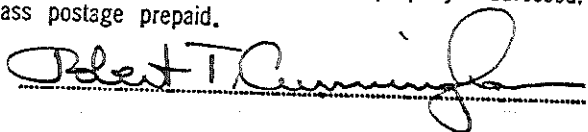
Comes now Robert T. Cunningham and withdraws as attorney
for the Plaintiff in the above cause.

CUNNINGHAM, BOUNDS & BYRD

BY: 
ROBERT T. CUNNINGHAM

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 10th
day of July, 1972, 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

JUL 11 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

VOL 70 ~~195~~

VOL 70 PAGE 196

BROWN, HUDGENS, FULFORD, SINTZ & RICHARDSON

ATTORNEYS AT LAW

SUITE 210 VAN ANTWERP BUILDING

MOBILE, ALABAMA

36602

Mr. Sturgis Lee Lowman
The Sea Gate Motel
9900 East Gulf Boulevard
Gulf Shores, Alabama 36542