

1. Lage, Bernard K., Forman Chevron Asphalt, 324 Belrose Av. Daphne,
2. ~~Wright, J. Hamilton, Sls Eng. J. H. Wright & Assoc., Bay Hill Dr. Daphne, Mobile D12~~
3. ~~Jones, Milton, Gen. International Paper, 327 Sowell Av. Bay Minette P1~~
4. ~~Hollingsworth, Katherine Q., Housewife, 503 1st St. Bay Minette~~
5. ~~Dunn, Althea N., Clk. SCB Tele, 1801 Armstrong Av. Bay Minette, Mobile P10~~
6. ~~Ealum, Evelyn, Smstrs. Bay Slacks, 906 Pleasant, Av. Bay Minette~~
7. ~~Pagerstrom, Sylvia M., Housewife, 1 Confederate Dr., Spanish Fort D11~~
8. ~~Parrell, Louis L., Supv. Scott Paper Co., 9 Lancer Lane, Spanish Fort, Mobile P14~~
9. ~~Parrell, Cory P., D&R Gulf Serv. Sca., 1410 Mand Av. Bay Minette P3~~
10. ~~Folmer, W. A., Accountant, 1907 Elaine Av. Bay Minette P2~~
11. ~~Fosberg, Joe, Vanity Fair, P. O. Box Silverhill, Silverhill D9~~
12. ~~Frakes, Harry L., Civil Service, Box 212, Foley, Pensacola, Fla.~~
13. ~~Casper, Laverne G., Typist, Bay Minette, Alabama P13~~
14. ~~Jordan, James L., 601 E. 5th St. Bay Minette D10~~
15. ~~Milegall, A. G., Jr., Supv. Mobile Beverage, 1212 2nd St. Daphne D1~~
16. ~~Alamirano, Norma J., Housewife, 600 Gayfer Av. Fairhope D7~~
17. ~~Anderson, Warren D., Jr., Pipe Ftr. L&N Rkt 8 Lee Circle Spanish Fort, Mobile P4~~
18. ~~Averette, Charles E., Mach. Opr. International Paper Co., 411 A. W. Magnolia St. Bay Minette P5~~
19. ~~Barr, Judy H., Secretary Bell Ins. Agency, 1604 Armstrong Av. Bay Minette~~
20. ~~Barr, Judy H., Secretary Bell Ins. Agency, 1604 Armstrong Av. Bay Minette~~
21. ~~Belaire, Mrs. Lousie, Housewife, 901 W. 7th St. Bay Minette~~
22. ~~Belfield Donald J., Salesman, 58 Fels Ave. Fairhope~~
23. ~~Bemis, Margaret S., Collator Poser Printing, 124 Rig St. Fairhope D8~~
24. ~~Bishop, David E., Clk. G.M.&O RR, 404 Barkley Av. Fairhope, Mobile~~
25. ~~Blackmon, Agness, Clk. West Bros, Pine Grove Rd. Bay Minette P7~~
26. ~~Bryers, Mac R., Bryers Cleaners, 905 McMillan Av. Bay Minette D4~~
27. ~~Cabanis, Evelyn, Supv. Bay Slacks, Rt. 2 Bay Minette~~
28. ~~Caldwell, Sam. Carpenter, 701 N. Cedar St. Foley~~
29. ~~McKay, Alice Mae, Secretary 305 E. 12th Bay Minette P11~~
30. ~~Mitchell, Annie, Presser Eastern Shore Laundry, P. O. Box 630 Fairhope~~
31. ~~Moore, Anna, Mold Tansaw, Bay Minette P6~~
32. ~~Poser, Richard, Printer, 604 Bellangee, Fairhope D13~~
33. ~~Reeves, James C., Bus Mgr. Carpenters Local 89, 1416 Main St. Daphne D7~~
34. ~~Smith, James C., Eng. S. H. Dept. 1003 Belmore Rd. Daphne~~
35. ~~Smith, Mrs. Doris, Clk. West Bros. Rt. 2 Box 90 Bay Minette~~
36. ~~Holland, Louis Dr., Civil Service, Box 927, Foley~~
37. ~~Wilgore, James B., Electn. Scott Paper Co., 7 Spanish Main St. Spanish Fort D6~~
38. ~~Bryant, Delores, 67 Brownwood Av. Bay Minette P9~~
39. ~~Haddock, Mrs. Alton B., Housewife, 1 Mershon, Fairhope D3~~
40. ~~Coudy, Evie, Maid Hill Newport Pky. Bay Minette P8~~
41. ~~Naese, Teridon, W., Ins. US. Agrl Dept. 6 Signal Hill Rd. Spanish Fort P12~~
42. ~~Naese, Teridon, W., Ins. US. Agrl Dept. 6 Signal Hill Rd. Spanish Fort~~

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ROBIN COLETTE LANCASTER, A MINOR Ø
SUIING BY HER FATHER AND NEXT
FRIEN, KENNETH D. LANCASTER, Ø

PLAINTIFF Ø

VS Ø

DAVID MITCHELL AND ALVIN RAYBREN, Ø

DEFENDANTS Ø

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 9838

COUNT ONE:

THE PLAINTIFF, A MINOR CHILD, TWO (2) YEARS OF AGE, WHO
SUES BY HER FATHER AND NEXT FRIEND, KENNETH D. LANCASTER, CLAIMS
OF THE DEFENDANTS THE SUM OF SEVENTY-FIVE THOUSAND DOLLARS,
(\$75,000.00) AS DAMAGES FOR THAT ON, TO-WIT, DECEMBER 1, 1970, THE
PLAINTIFF WAS ON HER PREMISES IN FAIRHOPE, BALDWIN COUNTY, ALABAMA
WHERE SHE HAD A RIGHT TO BE; THAT THE DEFENDANTS PREMISES IS LO-
CATED AT 27 PIER ST., FAIRHOPE, BALDWIN COUNTY, ALABAMA AND ADJA-
CENT TO THE PREMISES OF THE PLAINTIFF; THAT AT THE TIME COMPLAINED
OF, AND PRIOR THERETO, THE DEFENDANTS ERECTED OR ALLOWED TO BE E-
RECTED AN ELECTRICAL WIRING PARALLEL TO THE PROPERTY LINE OF THE
PLAINTIFF'S PREMISES, WHICH WIRING WAS UN-INSULATED AND CHARGED
WITH ELECTRICITY OF APPROXIMATELY 110 VOLTAGE.

PLAINTIFF FURTHER AVERS THAT THE ELECTRICAL WIRING IN-
STALLED BY THE DEFENDANT WAS EXCEEDINGLY DANGEROUS AND WAS KNOWN,
AND MADE KNOWN TO THE DEFENDANTS TO BE DANGEROUS; THAT PLAINTIFF
CAME IN CONTACT WITH SAID WIRE AT A POINT NOT UPON THE PREMISES OF
THE DEFENDANTS AND WAS INJURED AS FOLLOWS: PLAINTIFF WAS BURNED
ABOUT HER ARM AND HAND AND HER NERVOUS SYSTEM WAS SHOCKED AND WAS
PERMANENTLY AFFECTED BY COMING IN CONTACT WITH SAID WIRE AND SHE
SUFFERED GREAT MENTAL PAIN AND ANGUISH AND STILL SUFFERS.

PLAINTIFF AVERS THAT DEFENDANTS NEGLIGENTLY ERECTED THE
ELECTRICAL WIRING AND PERMITTED THE SAME TO BE MAINTAINED WITH A
CURRENT OF ELECTRICITY FAR IN EXCESS OF THAT PERMITTED BY LAW AND
GREATLY DANGEROUS TO HUMAN LIFE, AND AS A PROXIMATE RESULT AND
CONSEQUENCE OF THE NEGLIGENCE OF THE DEFENDANTS, THE PLAINTIFF WAS

INJURED AND DAMAGED AS AFORESAID; HENCE THIS SUIT.

COUNT TWO:

THE PLAINTIFF, A MINOR CHILD TWO YEARS OF AGE, WHO SUES BY HER NEXT FRIEND AND FATHER, KENNETH D. LANCASTER, CLAIMS OF THE DEFENDANTS THE SUM OF SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) AS DAMAGES FOR THAT HERETOFORE ON, TO-WIT, DECEMBER 1, 1970, THE PLAINTIFF WAS A MINOR CHILD TWO YEARS OF AGE, AND THE DEFENDANTS HAD AT AND BEFORE SAID DATE ON THEIR PREMISES AT 27 PIER ST., IN THE CITY OF FAIRHOPE, BALDWIN COUNTY, ALBAMA, ERECTED OR ALLOWED THE ERECTION OF ELECTRICAL WIRING LOCATED ADJACENT TO AND PARALLEL WITH THE PROPERTY LINE OF THE PLAINTIFF'S HOMESITE, WHICH WAS CONSTRUCTED TO ENCLOSE DOGS AND IN SUCH A MANNER THAT IT WAS ATTRACTIVE TO CHILDREN OF PLAINTIFF'S AGE, AND WAS EXCEEDINGLY DANGEROUS IN THAT SAID WIRING WAS CHARGED WITH ELECTRICITY WITH A VOLTAGE OF APPROXIMATELY 110 VOLTS, AND WHICH WIRING WAS NOT INSULATED OR CONSTRUCTED IN ORDER TO PREVENT ELECTROCUTION UPON CONTACT WITH SAID WIRING. PLAINTIFF AVERS THAT THE DEFENDANTS NEGLIGENTLY ERECTED AND PERMITTED THE SAID ELECTRICAL WIRES TO BE MAINTAINED IN SUCH A MANNER THAT A CHILD OF THE PLAINTIFF'S AGE WOULD COME IN CONTACT WITH SAID WIRING CAUSING GREAT INJURIES, AND THAT THE DEFENDANTS WELL KNEW THAT PLAINTIFF, WHO WAS THEN AND THERE BELOW THE AGE OF DISCRETION, RESIDED UPON THE ADJACENT PREMISES, WAS CONSTANTLY PLAYING ABOUT SAID PREMISES IN A CLOSE PROXIMITY TO THE ELECTRICAL WIRES, AND THAT SAID WIRING WAS OF SUCH A CHARACTER TO ATTRACT A CHILD OF PLAINTIFF'S AGE, AND SERIOUS INJURIES WOULD RESULT. PLAINTIFF AVERS THAT THE DEFENDANTS HAD ON NUMEROUS OCCASIONS PRIOR TO THE INJURIES RECEIVED BY THE PLAINTIFF ON THE AFORESAID DATE SEEN THE PLAINTIFF AND OTHER CHILDREN OF TENDER AGES PLAYING ABOUT IN CLOSE PROXIMITY TO SAID ELECTRICAL WIRING, AND THAT THE DEFENDANTS HAD BEEN NOTIFIED OF THE DANGER OF MAINTAINING THE ELECTRICAL WIRING ADJACENT TO THE PLAINTIFF'S HOME AND YARD, WHEREIN THE PLAINTIFF RESIDED. PLAINTIFF FURTHER AVERS THAT ON THE DATE AFORESAID THE PLAINTIFF MADE CONTACT WITH THE ELECTRICAL WIRING WHILE STAND-

ING IN HER OWN YARD AND AS A PROXIMATE RESULT OF THE DEFENDANT'S NEGLIGENCE IN MAINTAINING THE ELECTRICAL WIRING, THE PLAINTIFF SUSTAINED SEVERE INJURIES TO AND ABOUT HER LEFT HAND AND ARM; HER HAND AND ARM WAS SEVERELY BURNED; HER NERVOUS SYSTEM WAS SHOCKED AND WAS PERMANENTLY AFFECTED BY COMING IN CONTACT WITH SAID WIRE AND SHE SUFFERED GREAT MENTAL PAIN AND ANGUISH AND STILL SUFFERS.

PLAINTIFF AVERS THAT ALL OF SAID DAMAGES AND INJURIES WERE A PROXIMATE RESULT AND CONSEQUENCE OF THE NEGLIGENCE OF THE DEFENDANTS FOR ALL OF WHICH SHE SUES.

COUNT THREE:

PLAINTIFF, A MINOR CHILD TWO YEARS OF AGE, WHO SUES BY HER NEXT FRIEND AND FATHER, KENNETH D. LANCASTER, CLAIMS OF THE DEFENDANTS SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) AS DAMAGES FOR THAT HERETOFORE ON, TO-WIT, DECEMBER 1, 1970, THE DEFENDANTS DID WILLFULLY OR WANTONLY ERECT, ALLOW OR MAINTAIN AN ELECTRICAL WIRING PARALLEL TO THE PROPERTY LINE OF THE PLAINTIFF'S PREMISES, WHICH WIRING WAS UN-INSULATED AND CHARGED WITH ELECTRICITY OF APPROXIMATELY 110 VOLTAGE, BEING CONSCIOUS AT THE TIME THAT THEIR CONDUCT IN SO DOING WOULD PROBABLY RESULT IN INJURY TO THE PLAINTIFF WHOSE PREMISES IS LOCATED ADJACENT TO THE DEFENDANTS IN THE CITY OF FAIRHOPE, BALDWIN COUNTY, ALABAMA.

PLAINTIFF FURTHER AVERS THAT THE ELECTRICAL WIRING INSTALLED BY THE DEFENDANT WAS EXCEEDINGLY DANGEROUS AND WAS KNOWN, AND MADE KNOWN TO THE DEFENDANT, THAT THE SAME WAS EXCEEDINGLY DANGEROUS AND PLAINTIFF CAME IN CONTACT WITH SAID WIRING AT A POINT NOT UPON THE PREMISES OF THE DEFENDANTS AND WAS INJURED AS FOLLOWS: PLAINTIFF WAS BURNED ABOUT HER ARM AND HAND AND HER NERVOUS SYSTEM WAS SHOCKED AND WAS PERMANENTLY AFFECTED BY COMING IN CONTACT WITH SAID WIRE AND SHE SUFFERED GREAT MENTAL PAIN AND ANGUISH AND STILL SUFFERS.

PLAINTIFF AVERS THAT ALL OF SAID INJURIES AND DAMAGES HEREIN SET OUT ARE THE PROXIMATE RESULT AND CONSEQUENCE OF THE WILLFUL OR WANTON CONDUCT OF THE DEFENDANTS AT THE TIME AND IN THE

MANNER HEREIN SET OUT. THEREBY PROXIMATELY CAUSING THE INJURIES AND DAMAGES COMPLAINED OF AND HENCE THIS SUIT.

COUNT FOUR:

THE PLAINTIFF, A MINOR CHILD TWO YEARS OF AGE, WHO SUES BY HER FATHER AND NEXT FRIEND, KENNETH D. LANCASTER, CLAIMS OF THE DEFENDANTS THE SUM OF SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) AS DAMAGES FOR THAT ON, TO-WIT, DECEMBER 1, 1970, THE DEFENDANTS DID WILLFULLY OR WANTONLY ERECT OR ALLOW TO BE ERECTED AND MAINTAIN ON THEIR PREMISES, LOCATED AT 27 PIER STREET, IN THE CITY OF FAIRHOPE, BALDWIN COUNTY, ALABAMA AND ADJACENT TO THE PREMISES OF THE PLAINTIFF AN ELECTRICAL WIRING PARALLEL TO THE PROPERTY LINE OF THE PLAINTIFF'S PREMISES, WHICH WIRING WAS UNINSULATED AND CHARGED WITH ELECTRICITY OF APPROXIMATELY 110 VOLTAGE, BEING CONSCIOUS AT THAT TIME THAT THEIR CONDUCT IN INSTALLING AND MAINTAINING THE ELECTRICAL WIRING WAS EXCEEDINGLY DANGEROUS AND IN SO DOING WOULD PROBABLY RESULT IN DISASTER AND GREAT INJURY TO PLAINTIFF.

PLAINTIFF FURTHER AVERS THAT ON THE DATE COMPLAINED OF THERE WAS AN ORDINANCE IN THE CITY OF FAIRHOPE, ALABAMA, TO-WIT, CHAPTER EIGHT, SECTION EIGHT, 1-11, PASSED BY THE CITY COUNCIL OF SAID CITY ON AUGUST 8, 1955, WHICH PROHIBITED THE ACTION AND CONDUCT OF THE DEFENDANTS IN INSTALLING OR ALLOWING TO BE INSTALLED AND MAINTAINING SUCH ELECTRICAL WIRING ON THE PREMISES OF THE DEFENDANTS.

PLAINTIFF AVERS THAT AS A DIRECT AND PROXIMATE CONSEQUENCE OF THE DEFENDANTS WILLFUL OR WANTON MISCONDUCT, PLAINTIFF CAME IN CONTACT WITH THE UNINSULATED ELECTRICALLY CHARGED WIRING AT A POINT NOT UPON THE PREMISES OF THE DEFENDANT AND WAS INJURED AND DAMAGED AS FOLLOWS; THE PLAINTIFF WAS BURNED ABOUT HER ARM AND HAND AND HER NERVOUS SYSTEM WAS SHOCKED AND WAS PERMANENTLY AFFECTED BY COMING IN CONTACT WITH SAID WIRE AND SHE SUFFERED GREAT MENTAL PAIN AND ANGUISH AND STILL SUFFERS, HENCE THIS SUIT.

BAILEY & TAYLOR

BY: Eunice B. Bailey
ATTORNEY FOR PLAINTIFF

FILED

MAY 14 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

CASE No; 9838

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

KENNETH D. LANCASTER, AS NEXT
FRIEND OF ROBIN COLETTE LANCASTER,
A MINOR,

PLAINTIFF

VS.

DAVID MITCHELL AND
ALVIN RAYBREN

DEFENDANTS

TO ANY SHERIFF OF THE STATE
OF ALABAMA

DEFENDANTS MAY BE SERVED AT:

27 PIER STREET,
FAIRHOPE, ALABAMA 36532

FILED

MAY 14 1971

EUNICE B. BLACKMON
CIRCUIT CLERK

Received 14 day of MAY 1971
and on 15 day of MAY 1971
I served a copy of the within 24C
on David Mitchell
Alvin Raybren
By service on David Mitchell
Alvin Raybren
TAYLOR WILKINS, Sheriff
By W. Black D.S.

Sheriff claims 140 miles at
Ten Cents per mile Total \$ 14.00
TAYLOR WILKINS, Sheriff
By W. Black
DEPUTY SHERIFF

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 9838

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon David Mitchell and Alvin Raybren

.....
.....
.....
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.....

David Mitchell & Alvin Raybren....., Defendant.....

by Robin Colette Lancaster, a minor suing by her Father and next friend

Kenneth D. Lancaster....., Plaintiff.....

Witness my hand this 14th day of May 19 71

Emmie B. Blackburn Clerk

No.....

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THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

ROBIN COLETTE LANCASTER, a minor suing

by & her Father & next Friend, KENNETH

D. LANCASTER

Plaintiffs

vs.

DAVID MITCHELL & ALVIN RAYBREN

Defendants

SUMMONS AND COMPLAINT

Filed 5/14/71 19.....

Eunice B. Blackmon Clerk

Bailey & Taylor

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

27 Pier Street, Fairhope, Ala.

Received In Office

19.....

Sheriff

I have executed this summons

this 18 May 1971

by leaving a copy with

Sheriff

Deputy Sheriff

ROBIN COLETTE LANCASTER, A MINOR
SUIING BY HER FATHER AND NEXT
FRIEND, KENNETH D. LANCASTER,

PLAINTIFF

VS

DAVID MITCHELL AND ALVIN RAYBREN,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 9838

COMES NOW THE PLAINTIFF IN THE ABOVE STYLED CAUSE
AND RESPECTFULLY DEMANDS A TRIAL BY JURY.

BAILEY & TAYLOR,

By: Charles H. Bailey
ATTORNEYS FOR THE PLAINTIFF

FILED

MAY 21 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

The Defendant is guilty of a Wanton act. The Plaintiff should be awarded \$500.⁰⁰ (Five hundred dollars). Based on Court favor

Foreman
David E. Bishop

We feel sure such a thin are trying up our
Judicial System.
we, the jury find for the Plaintiff, under
count 7 over, and assess her damages at
\$500.00
David E. Bishop

David E. Bishop
Foreman

ROBIN COLLETTE LANCASTER, A MINOR
SUIVING BY HER FATHER AND NEXT
FRIEND, KENNETH D. LANCASTER,

PLAINTIFF

VS

DAVID MITCHELL & ALVIN RAYBREN,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 9838

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ROBIN COLETTE LANCASTER, A	*	IN THE CIRCUIT COURT OF
Minor suing by her father and next	*	
friend, KENNETH D. LANCASTER,	*	BALDWIN COUNTY, ALABAMA
	*	
Plaintiff,	*	AT LAW
	*	
VS.	*	
	*	
DAVID MITCHELL and	*	
ALVIN RABREN,	*	
	*	
Defendants.	*	CASE NO. 9838

TRIAL BRIEF

I

A PROPERTY OWNER OWES NO DUTY TO A TRESPASSER EXCEPT NOT TO WANTONLY OR WILLFULLY INJURE HIM.

Alabama Great Southern R. R. v. Green, 276 Ala. 120, 159 So. 2d 823

City of Dothan v. Gulledege, 276 Ala. 433, 163 So. 2d 217

II

A TRESPASS MAY BE COMMITTED BY TOUCHING OR REACHING THROUGH THE FENCE ON ANOTHER'S PROPERTY EVEN THOUGH THE PARTY TRESPASSING DOES NOT ACTUALLY PLACE HER FOOT ON THE PROPERTY ON WHICH SHE TRESPASSES.

L & N R. R. Co. v. Higginbotham, 153 Ala. 334, 44 So. 872

Garnett v. Sewell, 108 Ala. 521, 18 So. 737

III

A PROPERTY OWNER IS NOT LIABLE FOR INJURY RESULTING FROM THE CONDITION OF PREMISES TO ONE WHO HAS NO INVITATION TO COME ON THE PROPERTY AND NEITHER SUFFERANCE NOR PASSIVE ACQUIESCENCE IS EQUIVALENT TO AN INVITATION.

Cox v. Alabama Water Co., 112 So. 352, 216 Ala. 35

Atlantic Coast Line v. Carter, 214 Ala. 254, 107 So. 218

IV

A CHILD MAY BE A TRESPASSER JUST AS WELL AS AN ADULT.

Mullins v. Pannell, 6 A.B.R. 2546 (Ala. 1972)

Ford v. Planters Chemical & Oil Co., 220 Ala. 669, 126 So. 866

Moseley v. Alabama Power Co., 246 Ala. 21 So. 2d 305

Luallen v. Woodstock Iron & Steel Corp., 236 Ala. 621, 184 So. 182

V

A PROPERTY OWNER IS NO MORE RESPONSIBLE TO A TRESPASSING CHILD THAN A TRESPASSING ADULT, EXCEPT WHERE A PROPERTY OWNER MAINTAINS AN ATTRACTIVE NUISANCE ON HIS PROPERTY.

Alabama Great Sou. R.R. Co. v. Green, 276 Ala. 120, 159 So. 2d 823

VI

TO CONSTITUTE AN ATTRACTIVE NUISANCE A DEVICE MUST BE SUCH AS WILL NATURALLY AND NORMALLY BE ALLURING TO CHILDREN, AND AN ELECTRIC WIRE IS NOT AN "ATTRACTIVE NUISANCE" AS A MATTER OF LAW.

Moseley v. Alabama Power Co., 246 Ala. 416, 21 So. 2d 305

Alabama Power Co. v. Kirkpatrick, 268 Ala. 338, 105 So. 2d 855

ARMBRECHT, JACKSON & DeMOUY
Attorneys for Defendants.

By: Broox G. Holmes
BROOX G. HOLMES

ROBIN COLLETTE LANCASTER, A	*	IN THE CIRCUIT COURT OF
Minor Suing By Her Father and Next		
Friend, KENNETH D. LANCASTER,	*	BALDWIN COUNTY,
Plaintiff,	*	ALABAMA
VS.	*	AT LAW
DAVID MITCHELL and	*	
ALVIN RAYBREN,		
Defendants.	*	CASE NO. 9838

D E M U R R E R

Come now each of the Defendants in the above styled cause, separately and severally, and demurs to Plaintiff's Complaint as a whole, and to each and every count thereof, separately and severally, upon the following separate and several grounds:

1. Said count wholly fails to state a cause of action.
2. The allegations contained in said count are vague, uncertain and indefinite.
3. The allegations in said count are vague, misleading and confusing and do not apprise this Defendant of what he is called upon to defend.
4. For aught that appears from the allegations of said count, there was no legal duty owing from this Defendant to said Plaintiff.
5. For aught that appears from the allegations of said count, there was no breach of any legal duty owing from this Defendant to said Plaintiff.
6. Said count does not aver sufficient facts to state a cause of action.
7. Said count seeks to set out the quo modo constituting the negligence of this Defendant without alleging sufficient facts in support thereof.

8. There is no characterization of any alleged act of this Defendant as a negligent act.

9. There is no characterization of any act of this Defendant as a wanton act.

10. For that there is no characterization of any alleged act of this Defendant as a wrongful act.

11. For that negligence, as averred, is a mere conclusion of the pleader.

12. For that wantonness, as averred, is a mere conclusion of the pleader.

13. For aught appearing from the allegations of said count, said Plaintiff was not at a place where she had a right to be at the time and place of said accident.

14. For aught appearing from the allegations of said count, there was no proximate cause between the alleged negligence of this Defendant and the alleged injuries to said Plaintiff.

15. For aught appearing from the allegations of said count, there was no proximate cause between the alleged wantonness of this Defendant and the alleged injuries to said Plaintiff.

16. For that there is a misjoinder of parties defendant.

17. For that there is a misjoinder of causes of action.

18. For that there is an insufficient allegation of the place of the alleged accident in said count.

19. For that it is impossible to tell from the allegations of the Complaint whether the said wire which Plaintiff allegedly came in contact with was on the Defendant's premises or premises of others.

20. For that Plaintiff fails to allege the whereabouts of said accident.

21. For that it affirmatively appears that the said Plaintiff was a trespasser on the premises of the Defendant at the time she came in contact with said wire.

22. That said electrical wiring does not constitute an instrument which is attractive to children as a matter of law.

23. That the facts averred do not constitute negligence as a matter of law.

24. For that the facts averred do not constitute wantonness as a matter of law.

25. For that the location of said electrical wiring is not alleged with sufficient particularity.

26. That said ordinance of the City of Fairhope, Alabama, to-wit, Chapter Eight, Section Eight, 1-11 is not alleged with sufficient particularity.

27. For that it is not alleged that both Defendants knew of the danger of the electrical wiring.

28. Insufficient facts are set out to justify the conclusion that said electrical wiring was dangerous or unsafe.

29. The location of said electrical wiring is not alleged with sufficient certainty to show a duty on the part of this Defendant to said Plaintiff.

30. For aught that appears the said electrical wiring was installed and maintained by the other Defendant.

31. For aught appearing, the said electrical wiring in question was so placed that no one could be reasonably expected to come in dangerous proximity thereto.

32. For that no facts are averred showing a likelihood of peril to one situated as the said Plaintiff was on the occasion complained of.

CHASON, STONE & CHASON

By: Norborne C. Stone, Jr.
NORBORNE C. STONE, JR.

ARMBRECHT, JACKSON & DeMOUY

By: Brook G. Holmes
BROOK G. HOLMES

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 11th day of June, 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

JUN 11 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

Re-Filed: Oct 16, 1972.
J. J. G. Madsen
Jed

BAILEY & TAYLOR
ATTORNEYS AT LAW
61 NORTH SECTION STREET
P. O. BOX 361
FAIRHOPE, ALABAMA 36532

DECEMBER 22, 1971

MRS. EUNICE BLACKMON
CLERK OF CIRCUIT COURT
BAY MINETTE, ALABAMA, 36507

RE: LANCASTER VS MITCHELL & RAYBREN
CASE # 9838

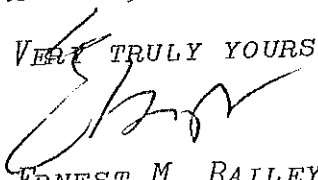
DEAR EUNICE:

I WOULD APPRECIATE YOU FILING THE ATTACH-
ED AMENDED COMPLAINT IN THE ABOVE CAUSE.

I HAVE THIS DATE FORWARDED A COPY TO
NORBORNE C. STONE, JR., ATTORNEY FOR DE-
FENDANTS.

THANKING YOU FOR YOUR ASSISTANCE IN THIS
MATTER, I AM

VERY TRULY YOURS,



ERNEST M. BAILEY

EMB/w
INCL: AS NOTED

ROBIN COLLETTE LANCASTER, A MINOR
SUING BY HER FATHER AND NEXT FRIEND,
KENNETH D. LANCASTER,

PLAINTIFF

VS

DAVID MITCHELL AND ALVIN RAYBREN,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 9838

AMENDED COMPLAINT

COMES NOW THE PLAINTIFF IN THE ABOVE STYLED CAUSE AND
AMENDS THE CAPTION TO READ IN THIS CAUSE AS FOLLOWS:

ROBIN COLLETTE LANCASTER, A MINOR
SUING BY HER FATHER AND NEXT FRIEND,
KENNETH D. LANCASTER,

PLAINTIFF

VS

DAVID MITCHELL AND ALVIN RAYBREN,
A/K/A ALVIN RABREN,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 9838

FILED

DEC 23 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

BAILEY & TAYLOR

By: Ernest M. Bailey

ERNEST M. BAILEY
ATTORNEYS FOR THE PLAINTIFF

CERTIFICATE OF SERVICE

I do hereby certify that I have on this Dec 22, 1971
served a copy of the foregoing on NORBORNE C. STONE SR
By mailing the same by United States First Class Postage Prepaid.

BAILEY & TAYLOR

By: Charles M. Taylor

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ROBIN COLETTE LANCASTER,	:	IN THE CIRCUIT COURT OF
A minor suing by her father and next	:	
friend, KENNETH D. LANCASTER,	:	BALDWIN COUNTY,
	:	
Plaintiff,	:	ALABAMA
	:	
VS.	:	
	:	AT LAW
DAVID MITCHELL and	:	
ALVIN RAYBREN,	:	
	:	
Defendants.	:	CASE NO. 9838

INTERROGATORIES TO THE PLAINTIFF

Come now the Defendants, DAVID MITCHELL and ALVIN RAYBREN, and desiring the testimony of the Plaintiff, herein propound to the Plaintiff the following interrogatories, answers to which under oath are requested from KENNETH D. LANCASTER, father and next friend of the Plaintiff, a minor, in this cause:

1. Please state in detail the nature of the injury or injuries you allege that you suffered as a result of the incident referred to in the complaint.

2. The name and address of each doctor or medical practitioner of any type whatsoever who has examined, treated, conferred or consulted with you or either of your parents concerning the incident referred to in the complaint and the dates of the same.

(a) The condition for which said care or treatment or attention was rendered.

3. If you have incurred any medical bills or other expenses in connection with the alleged injuries, please state:

- (a) The total amount of each such bill.
- (b) The person to whom each such amount was paid or is owed.
- (c) The service or thing for which the bill was rendered.

4. If you are still receiving medical services or treatment of any nature whatsoever, state:

- (a) The name or names of the person or persons attending you.
- (b) The approximate frequency of said treatment or service.
- (c) The date you last received said treatment or service.

ARMBRECHT, JACKSON & DeMOUY

By: *Broox G. Holmes*
BROOX G. HOLMES

Attorneys for the Defendants.

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before me, the undersigned authority, personally appeared BROOX G. HOLMES who, being by me first duly sworn, deposes and says that he is attorney for the Defendants, David Mitchell and Alvin Raybren, and as such is authorized to make this affidavit and he further says that the Plaintiff's answers to the foregoing interrogatories, if well and truly made, will be material testimony for the Defendants on the trial of the above case.

Broox G. Holmes
BROOX G. HOLMES

SWORN TO and SUBSCRIBED before

me this 22nd day of March,

1972.

Helen Suzanne Harrington
Notary Public, Mobile County, Alabama

FILED

MAR 23 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 22nd day of March, 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.

ROBIN COLETTE LANCASTER,
A MINOR SUING BY HER FATHER AND
NEXT FRIEND, KENNETH D. LANCASTER,

PLAINTIFF,

VS

DAVID MITCHELL AND
ALVIN RAYBREN,

DEFENDANTS.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

AT LAW

CASE NO. 9838

ANSWER TO INTERROGATORIES

COMES NOW KENNETH D. LANCASTER, FATHER AND NEXT FRIEND OF
THE PLAINTIFF, A MINOR, IN THE ABOVE STYLED CAUSE AND FOR ANSWER
TO THE INTERROGATORIES HERETOFORE PROPOUNDED BY THE DEFENDANTS,
SAYS AS FOLLOWS:

1. THE PLAINTIFF SUFFERED FIRST AND SECOND DEGREE BURNS
ON THE HAND OF THE LEFT ARM AND BURNS ON THE LEFT FOREARM. ON THE
LEFT FOREARM THE BURNS APPEARED TO BE SCABBY LOOKING SORES AND
BLUE KNOTS THAT REMAINED ABOUT TWO WEEKS. THE SKIN WAS BURNED FROM
THE PALM OF THE LEFT HAND.

2. DR. FERD DIETZ, BAY MEDICAL CLINIC, P. O. DRAWER 509,
FAIRHOPE, ALABAMA, 36532. DR. DIETZ TREATED THE PLAINTIFF ON
DECEMBER 1, 1970 AND ON DECEMBER 3, 1970.

(A) THE CARE AND TREATMENT WAS FOR THE PLAINTIFF,
ROBIN COLETTE LANCASTER, AS STATED ABOVE.

3. (A) SIX DOLLARS.

(B) DR. DIETZ.

(C) FOR TREATMENT OF FIRST AND SECOND DEGREE BURNS OF
THE LEFT HAND AND FOREARM.

4. NONE.

Kenneth D. Lancaster

KENNETH D. LANCASTER, FATHER
AND NEXT FRIEND OF THE PLAINTIFF,
A MINOR

STATE OF ALABAMA
COUNTY OF BALDWIN

)
)

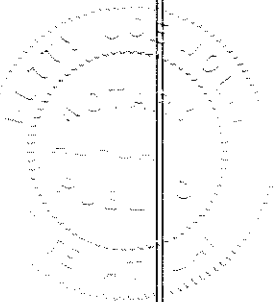
BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE
STATE OF ALABAMA, AT LARGE, PERSONALLY KENNETH D. LANCASTER, WHO
BEING KNOWN TO ME, STATED UNDER OATH THAT HE IS FATHER AND NEXT
FRIEND OF THE PLAINTIFF, ROBIN COLETTE LANCASTER, THE PLAINTIFF IN
THIS CAUSE, AND THAT HE HAS READ THE FOREGOING ANSWERS TO INTERROGA-
TORIES, AND THAT THE MATTERS STATED THEREIN ARE CORRECT TO THE
BEST OF HIS KNOWLEDGE, INFORMATION, AND BELIEF.

Kenneth D. Lancaster
KENNETH D. LANCASTER

SWORN AND SUBSCRIBED TO BEFORE ME THIS

11th DAY OF APRIL, 1972.

Betty J. Wreft
NOTARY PUBLIC
STATE OF ALABAMA
AT LARGE



FILED

APR 12 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

BAILEY & TAYLOR
ATTORNEYS AT LAW
61 NORTH SECTION STREET
P. O. BOX 361
FAIRHOPE, ALABAMA 36532

ERNEST M. BAILEY
LLOYD E. TAYLOR

PHONE
FAIRHOPE 928-2393

APRIL
11TH
1972

MRS. EUNICE BLACKMON
CLERK OF CIRCUIT COURT
BAY MINETTE, ALABAMA, 36507

RE: LANCASTER VS
MITCHELL & RAYBREN
AT LAW # 9838

DEAR EUNICE:

I WOULD APPRECIATE YOU FILING THE ATTACHED ANSWER TO
INTERROGATORIES IN THE ABOVE CAUSE.

I HAVE FORWARDED A COPY TO BROOK G. HOLMES AND NORBORNE
STONE, ATTORNEYS FOR THE DEFENDANTS.

THANKING YOU FOR YOUR ASSISTANCE IN THIS MATTER, I AM

VERY TRULY YOURS,


ERNEST M. BAILEY

EMB/w
INCLS; AS NOTED

ROBIN COLETTE LANCASTER, a
minor suing by her father and next
friend, KENNETH D. LANCASTER,

Plaintiff,

VS.

DAVID MITCHELL and
ALVIN RABREN,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA

AT LAW

CASE NO. 9838

A N S W E R

Come now DAVID MITCHELL and ALVIN RABREN, Defendants in
the above styled cause and for answer to each and every count, separately
and severally, of the Plaintiff's Complaint, file the following separate and
several plea:

1. Not guilty.

ARMBRECHT, JACKSON & DeMOUY
Attorneys for Defendants.

By: Brook G. Holmes
BROOK G. HOLMES

I do hereby certify that I have on
this 28th 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

AUG 2 9/2

EUNICE B. BLACKMON CIRCUIT
CLERK

Filed; Oct 11, 1972.

Jeffery M. Madliburn
Judge

ROBIN COLLETTE LANCASTER, A MINOR
SUING BY HER FATHER AND NEXT FRIEND,
KENNETH D. LANCASTER,

PLAINTIFF

VS

DAVID MITCHEL AND ALVIN RAYBREN,
A/K/A ALVIN RABREN,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 9838

AMENDED COMPLAINT

COMES NOW THE PLAINTIFF IN THE ABOVE STYLED CAUSE AND
AMENDS THE BILL OF COMPLAINT, AS AMENDED, AS FOLLOWS;

To DELETE COUNT TWO OF THE BILL OF COMPLAINT.

BAILEY & TAYLOR

By: 

ATTORNEYS FOR THE PLAINTIFF

FILED

OCT 11 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

HARRY D'OLIVE

PROBATE JUDGE

9838

Nº 2538

Bay Minette, Ala.,

11-7, 1972

Received of Eunice B. Blackmon, Circuit Clerk
Est. of Robin C. Lancaster, Judgt. #9838

FROM	TO	Deed Tax		Mortgage Tax		Mineral Documentary Tax		Recording Fees		Total	
		\$	Cts.	\$	Cts.	\$	Cts.	\$	Cts.	\$	Cts.
Robin C. Lancaster vs	David Mitchell, et al									500.00	
Fiduciary Bk. 2, Page 295											

FOR RECORD

Shantz

Harry D'Oliver
 TOTAL \$ 500
 JUDGE OF PROBATE.

Ernie Blackman