

JAMES L. STRICKLAND

PLAINTIFF

Vs.

THE UTILITIES BOARD OF
THE CITY OF FOLEY, A/K/A
RIVIERA UTILITIES

DEFENDANT

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IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 10,317

COMES NOW THE PLAINTIFF IN THE ABOVE STYLED CAUSE AND
AMENDS HIS COMPLAINT HERETOFORE FILED IN SAID CAUSE SO THAT THE
SAME SHALL READ AS FOLLOWS:

COUNT ONE

PLAINTIFF CLAIMS OF THE DEFENDANT THREE THOUSAND DOLLARS
(\$3,000.00) FOR THAT ON, TO-WIT, APRIL 17, 1971, THE DEFENDANT, THE
UTILITIES BOARD OF THE CITY OF FOLEY, ALABAMA, A/K/A RIVIERA
UTILITIES THEN AND THERE ACTING BY AND THROUGH ITS DULY AUTHORIZED
AGENT OR SERVANT, WHO WAS THEN AND THERE ACTING WITHIN THE LINE AND
SCOPE OF HIS EMPLOYMENT, NEGLIGENTLY CAUSED OR ALLOWED A VEHICLE,
TO-WIT, A UTILITY TRUCK USED FOR THE TRANSPORT OF LONG UTILITY
POLES, WHICH WAS THEN AND THERE BEING OPERATED BY THE DEFENDANT, OR
ITS AUTHORIZED AGENT OR SERVANTS, TO OBSTRUCT AND BLOCK A PUBLIC
ROADWAY, OTHERWISE BEING DESCRIBED AS U. S. HIGHWAY 104, A PUBLIC
HIGHWAY, AT OR NEAR THE EAST BOUNDARY OF THE TOWN OF SILVERHILL,
ALABAMA AND APPROXIMATELY TWO MILES WEST OF THE CITY OF ROBERTSDALE,
ALABAMA, AND AS A PROXIMATE RESULT OF WHICH NEGLIGENCE THE PLAINTIFF'S
AUTOMOBILE, TO-WIT, A 1965 ONE-HALF TON, CHEVROLET PICK-UP TRUCK,
WAS BENT AND BROKEN, ON AND ABOUT THE FENDER, GRILL AND HEADLIGHTS,
AND THE PLAINTIFF MUST SPEND LARGE SUMS IN AND ABOUT THE REPAIR OF
THE SAME.

PLAINTIFF FURTHER AVERS THAT ALL OF THE SAID DAMAGES AND
INJURIES WERE AS A PROXIMATE RESULT OF THE NEGLIGENCE OF THE DEFEN-
DANT FOR ALL OF WHICH HE SUES.

COUNT TWO

PLAINTIFF CLAIMS FROM THE DEFENDANT THREE THOUSAND DOLLARS
(\$3,000.00), FOR THAT ON, TO-WIT, APRIL 17, 1971, THE DEFENDANT,

THE UTILITIES BOARD OF THE CITY OF FOLEY, ALABAMA, A/K/A RIVIERA UTILITIES, DID OWN AND POSSESS A LARGE UTILITY TRUCK USED FOR THE PURPOSE OF TRANSPORTING LARGE UTILITY POLES, WHICH WAS THEN AND THERE BEING OPERATED BY AN AGENT OR SERVANT OF THE DEFENDANT, ACTING WITHIN THE LINE AND SCOPE OF HIS DUTIES AT A POINT NEAR THE EAST BOUNDARY LINE OF THE TOWN OF SILVERHILL, ALABAMA, UPON U. S. HIGHWAY 104, A PUBLIC HIGHWAY, WHICH POINT IS APPROXIMATELY TWO (2) MILES WEST OF THE CITY OF ROBERTSDALE, ALABAMA; AND THE AGENT OR SERVANT OF THE DEFENDANT WHO WAS THEN AND THERE OPERATING SUCH VEHICLE, WITHIN THE LINE AND SCOPE OF HIS EMPLOYMENT, DID NEGLIGENTLY PERMIT THE LOG MOVING TRUCK TO BLOCK THE PUBLIC HIGHWAY, AT A POINT HEREINABOVE DESCRIBED, CAUSING THE PLAINTIFF'S MINOR DAUGHTER WHO WAS THEN DRIVING ALONG U. S. HIGHWAY 104, TO COLLIDE OR IMPACT UPON SAID LOG TRUCK, WHICH WAS THEN AND THERE BEING SO CARELESSLY, NEGLIGENTLY AND IMPROPERLY OPERATED BY THE AGENT OR SERVANT OF THE DEFENDANT, AS PROXIMATE RESULT OF WHICH NEGLIGENCE, THE PLAINTIFF'S AUTOMOBILE, TO-WIT, ONE 1965 CHEVROLET PICK-UP TRUCK WAS GREATLY DAMAGED IN AND ABOUT THE FRONT END, CAUSING THE FENDER AND GRILL TO BE BENT AND BROKEN, AND THE PLAINTIFF MUST SPEND LARGE SUMS ABOUT THE REPAIR OF SAID AUTOMOBILE; ALL TO THE PLAINTIFF'S DAMAGE AS AFORESAID, HENCE THIS SUIT.

COUNT THREE

PLAINTIFF CLAIMS FROM THE DEFENDANT, THE UTILITIES BOARD OF THE CITY OF FOLEY, A/K/A RIVIERA UTILITIES, THE SUM OF THREE THROUSAND DOLLARS (\$3,000.00) FOR THAT ON, TO-WIT, APRIL 17, 1971, THE DEFENDANT WAS THE OWNER OF A MOTOR TRUCK OF TREMENDOUS WEIGHT AND POWER WHICH IT HAD ALLOWED AN AGENT OR SERVANT TO OPERATE. THE SAID AGENT OR EMPLOYEE, WHOSE NAME IS UNKNOWN TO THE PLAINTIFF WAS, AND LONG HAD BEEN A CARELESS, INCOMPETENT, INDIFFERENT, HEEDLESS AND RECKLESS DRIVER OF SUCH TRUCK SO THAT SAID TRUCK, IN HIS HANDS WAS A DANGEROUS AND DEADLY AGENCY, OF WHICH FACT, THE DEFENDANT, THE UTILITY BOARD OF THE CITY OF FOLEY, ALABAMA, A/KA/ RIVIERA

UTILITIES HAD BEEN DULY INFORMED; YET WITH FULL INFORMATION OF SUCH FACTS, IT HAD ALLOWED SAID AGENT OR EMPLOYEE TO PROPEL AND OPERATE SAID TRUCK, ON AND ALONG U. S. HIGHWAY 104, A PUBLIC HIGHWAY, IN THE COUNTY OF BALDWIN, ALABAMA, NEAR THE TOWN OF SILVERHILL, ALABAMA, AT WILL, AND ENTRUSTED ITS MANAGEMENT AND CONTROL OF ITS OPERATION TO HIM, ON THE DAY AND AT SAID POINT WHERE SAID ROAD IS INTERSECTED BY A DRIVE-WAY LEADING INTO THE OSCAR JOHNSON MEMORIAL PARK, IN OR NEAR THE TOWN OF SILVERHILL, ALABAMA, BALDWIN COUNTY; THAT THE SAID AGENT OR EMPLOYEE SO NEGLIGENTLY, HEEDLESSLY, INCOMPETENTLY, RECKLESSLY, WRONGFULLY AND INDIFFERENTLY CONDUCTED HIMSELF WITH THE OPERATION OF THE TRUCK, THAT HE BLOCKED THE ROAD MAKING IT IMPOSSIBLE FOR THE PLAINTIFF'S AUTOMOBILE TO PASS UPON THE PUBLIC ROAD WHICH IT WAS LAWFULLY ENTITLED TO DO, AND AS A DIRECT AND PROXIMATE CONSEQUENCE OF THE DEFENDANTS NEGLIGENCE AFORESAID, PLAINTIFF'S AUTOMOBILE WAS GREATLY DAMAGED IN THAT THE FRONT END, GRILL AND FENDER WERE BENT AND BROKEN, AND THE PLAINTIFF MUST SPEND LARGE SUMS IN AND ABOUT THE REPAIR OF THE SAME, TOGETHER WITH DAMAGES RESULTING IN FAILURE TO HAVE ACCESS AND USE OF SAID VEHICLE DURING THE TIME OF ITS REPAIRS FOR USE IN HIS BUSINESS.

PLAINTIFF FURTHER AVERS THAT ALL OF SAID DAMAGES AND INJURIES WERE AS AN APPROXIMATE RESULT OF THE NEGLIGENCE OF THE DEFENDANT, FOR ALL OF WHICH HE SUES.

BAILEY & TAYLOR

BY: *Harold E. Taylor*
ATTORNEY FOR PLAINTIFF

FILED

NOV 30 1972

EUNICE B. BLACKMON CIRCUIT CLERK

STATE OF ALABAMA
COUNTY OF BALDWIN

X

X

IN THE CIRCUIT COURT OF
BALDWIN COUNTY - AT LAW

TO ANY SHERIFF OF THE STATE OF ALABAMA:

YOU ARE HEREBY COMMANDED TO SUMMON THE UTILITIES BOARD OF THE
CITY OF FOLEY, A/K/A RIVIERA UTILITIES, TO APPEAR AND ANSWER,
PLEAD OR DEMUR, WITHIN THIRTY DAYS FROM THE DATE HEREOF OF THIS
SERVICE, TO THE BILL OF COMPLAINT FILED AGAINST IT IN THE CIRCUIT
COURT, AT LAW, FOR SAID COUNTY AND SAID STATE BY JAMES L. STRICKLAND

HEREIN FAIL NOT, DUE RETURN MAKE OF THIS WRIT AS THE LAW
DIRECTS.

WITNESS MY HAND THIS 27 DAY OF March, 1972.

Emmie B. Blackmon
CLERK

JAMES L. STRICKLAND

PLAINTIFF

VS.

THE UTILITIES BOARD OF
THE CITY OF FOLEY, A/K/A
RIVIERA UTILITIES

DEFENDANT

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IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 10,317

COUNT ONE

PLAINTIFF CLAIMS OF THE DEFENDANTS THREE THOUSAND DOLLARS (\$3,000.00) FOR THAT ON, TO-WIT, APRIL 17, 1971, THE DEFENDANT, THE UTILITIES BOARD OF THE CITY OF FOLEY, ALABAMA, A/K/A RIVIERA UTILITIES THEN AND THERE ACTING BY AND THROUGH ITS DULY AUTHORIZED AGENT OR SERVANT, WHO WAS THEN AND THERE ACTING WITHIN THE LINE AND SCOPE OF HIS EMPLOYMENT, NEGLIGENTLY CAUSED OR ALLOWED A VEHICLE, TO-WIT, A UTILITY TRUCK USED FOR THE TRANSPORT OF LONG UTILITY POLES, WHICH WAS THEN AND THERE BEING OPERATED BY THE DEFENDANT, OR ITS AUTHORIZED AGENTS OR SERVANTS, SO AS TO OBSTRUCT AND BLOCK THE PUBLIC ROADWAY, OTHERWISE BEING DESCRIBED AS U. S. HIGHWAY 104, A PUBLIC HIGHWAY, AT OR NEAR THE EAST BOUNDARY OF THE TOWN OF SILVERHILL, ALABAMA AND APPROXIMATELY TWO MILES WEST OF THE CITY OF ROBERTSDALE, ALABAMA, AND AS AN APPROXIMATE RESULT OF WHICH NEGLIGENCE THE PLAINTIFF'S AUTOMOBILE, TO-WIT, A 1965 ONE-HALF TON, CHEVROLET PICKUP TRUCK, WAS BENT AND BROKEN, ON AND ABOUT THE FENDER, GRILL, AND HEADLIGHTS, AND THE PLAINTIFF MUST SPEND LARGE SUMS IN AND ABOUT THE REPAIR OF THE SAME.

PLAINTIFF FURTHER AVERS THAT ALL OF THE SAID DAMAGES AND INJURIES WERE AS AN APPROXIMATE RESULT OF THE NEGLIGENCE OF THE DEFENDANT FOR ALL OF WHICH HE SUES.

COUNT TWO

PLAINTIFF FURTHER CLAIMS FROM THE DEFENDANTS THREE THOUSAND DOLLARS (\$3,000.00), FOR THAT ON, TO-WIT, APRIL 17, 1971, THE DEFENDANT, THE UTILITIES BOARD OF THE CITY OF FOLEY, ALABAMA, A/K/A RIVIERA UTILITIES, DID OWN AND POSSESS A LARGE UTILITY TRUCK USED FOR THE PURPOSE OF TRANSPORTING LARGE UTILITY POLES, WHICH WAS THEN AND THERE BEING OPERATED BY AN AGENT OR SERVANT OF THE DEFENDANT,

ACTING WITHIN THE LINE AND SCOPE OF HIS DUTIES AT A POINT NEAR THE EAST BOUNDARY LINE OF THE TOWN OF SILVERHILL, ALABAMA UPON U. S. HIGHWAY 104, A PUBLIC HIGHWAY, WHICH POINT IS APPROXIMATELY TWO (2) MILES WEST OF THE CITY OF ROBERTSDALE, ALABAMA; AND THE AGENT OR SERVANT OF THE DEFENDANT WHO WAS THEN AND THERE OPERATING SUCH VEHICLE, WITHIN THE LINE AND SCOPE OF HIS EMPLOYMENT, DID NEGLIGENTLY PERMIT THE LOG MOVING TRUCK TO BLOCK THE PUBLIC HIGHWAY, AT A POINT HEREINABOVE DESCRIBED, CAUSING THE PLAINTIFF'S MINOR DAUGHTER TO COLLIDE OR IMPACT UPON SAID LOG TRUCK, WHICH WAS THEN AND THERE BEING SO CARELESSLY, NEGLIGENTLY AND IMPROPERLY OPERATED BY THE AGENT OR SERVANT OF THE DEFENDANT, AS APPROXIMATE RESULT OF WHICH NEGLIGENCE, THE PLAINTIFF'S AUTOMOBILE, TO-WIT, ONE 1965 CHEVROLET PICK-UP TRUCK WAS GREATLY DAMAGED IN AND ABOUT THE FRONT END, CAUSING THE FENDER AND GRILL TO BE BENT AND BROKEN, AND THE PLAINTIFF MUST SPEND LARGE SUMS ABOUT THE REPAIR OF SAID AUTOMOBILE; ALL TO THE PLAINTIFF'S DAMAGE AS AFORESAID, HENCE THIS SUIT.

COUNT THREE

PLAINTIFF CLAIMS FROM THE DEFENDANT, THE UTILITIES BOARD OF THE CITY OF FOLEY, A/K/A RIVIERA UTILITIES, THE SUM OF THREE THOUSAND (\$3,000.00) DOLLARS FOR THAT ON TO-WIT, APRIL 17, 1971, THE DEFENDANT WAS THE OWNER OF A MOTOR TRUCK OF TREMENDOUS WEIGHT AND POWER WHICH IT HAD ALLOWED AN AGENT OR SERVANT TO OPERATE. THE SAID AGENT OR EMPLOYEE, WHOSE NAME IS UNKNOWN TO THE PLAINTIFF WAS, AND LONG HAD BEEN, A CARELESS, INCOMPETENT, INDIFFERENT, HEEDLESS AND RECKLESS DRIVER OF SUCH TRUCK SO THAT SAID TRUCK, IN HIS HANDS WAS A DANGEROUS AND DEADLY AGENCY, OF WHICH FACT, THE DEFENDANT, THE UTILITY BOARD OF THE CITY OF FOLEY, ALABAMA, A/K/A RIVIERA UTILITIES HAD BEEN DULY INFORMED; YET WITH FULL INFORMATION OF SUCH FACTS, IT HAD ALLOWED SAID AGENT OR EMPLOYEE TO PROPEL AND OPERATE SAID TRUCK, ON AND ALONG U. S. HIGHWAY 104, A PUBLIC HIGHWAY, IN THE COUNTY OF BALDWIN, ALABAMA, NEAR THE TOWN OF SILVERHILL, ALABAMA, AT WILL, AND ENTRUSTED ITS MANAGEMENT AND CONTROL OF ITS OPERATION TO HIM, ON THE DAY AND AT SAID POINT WHERE SAID ROAD IS INTERSECTED

BY A DRIVE-WAY LEADING INTO THE OSCAR JOHNSON MEMORIAL PARK, IN OR NEAR THE TOWN OF SILVERHILL, ALABAMA, BALDWIN COUNTY; THAT THE SAID AGENT OR EMPLOYEE SO NEGLIGENTLY, HEEDLESSLY, INCOMPETENTLY, RECKLESSLY, WRONGFULLY AND INDIFFERENTLY CONDUCTED HIMSELF WITH THE OPERATION OF THE TRUCK, THAT HE BLOCKED THE ROAD MAKING IT IMPOSSIBLE FOR THE PLAINTIFF'S AUTOMOBILE TO PASS UPON THE PUBLIC ROAD WHICH IT WAS LAWFULLY ENTITLED TO DO, AND AS A DIRECT AND APPROXIMATE CONSEQUENCE OF THE DEFENDANTS NEGLIGENCE AFORESAID, PLAINTIFF'S AUTOMOBILE WAS GREATLY DAMAGED IN THAT THE FRONT END, GRILL AND FENDER WERE BENT AND BROKEN, AND THE PLAINTIFF MUST SPEND LARGE SUMS IN AND ABOUT THE REPAIR OF THE SAME, TOGETHER WITH DAMAGES RESULTING IN FAILURE TO HAVE ACCESS AND USE OF SAID VEHICLE DURING THE TIME OF ITS REPAIRS FOR USE IN HIS BUSINESS.

PLAINTIFF FURTHER AVERS THAT ALL OF SAID DAMAGES AND INJURIES WERE AS AN APPROXIMATE RESULT OF THE NEGLIGENCE OF THE DEFENDANT, FOR ALL OF WHICH HE SUES.

BAILEY & TAYLOR

BY: *[Signature]*
ATTORNEY FOR PLAINTIFF

FILED

MAR 27 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

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CASE NO: 10,312

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

JAMES L. STRICKLAND

PLAINTIFF

v. s.

THE UTILITIES BOARD OF
THE CITY OF MOBILE, A/K/A
MOBILE UTILITIES

TO ANY SHERIFF OF THE
STATE OF ALABAMA

FILED

MAR 27 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

MAR 27 1972

TAYLOR WILKINS
SHERIFF

Shirley Adams, Treasurer
Ten Cents per mile Total \$ 730
TAYLOR WILKINS, Sheriff
BY *[Signature]*
DEPUTY SHERIFF

Received *March 19 72*
and on *2* day of *April* 1972
I served a copy of the within *OTC*
on *Utilities Bd. of the City*
of Mobile, Ala.
By services on *Bureau of Police*
[Signature]
TAYLOR WILKINS, Sheriff
[Signature]

JAMES L. STRICKLAND,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
THE UTILITIES BOARD OF	X	
THE CITY OF FOLEY, a/k/a	X	
RIVIERA UTILITIES,	X	AT LAW NO: <u>10,317</u>
Defendant.	X	

DEMURRER

Comes the Defendant in the above styled cause and demurs to the Complaint filed in said cause and to each and every Count thereof separately and severally and assigns the following separate and several grounds, viz:

1. That said Complaint does not state a cause of action.
2. That Count One of the Complaint fails to allege that the Defendant negligently allowed its truck to obstruct and block the public highway.
3. That said Complaint attempts to allege the quo modo of the negligence of the Defendant but does not allege facts which would constitute negligence under the laws of the State of Alabama.
4. That said Complaint is vague and indefinite.
5. The place where the accident occurred is not sufficiently set out in the Complaint.
6. That Count One of the Complaint fails to state in what manner the Defendant obstructed or blocked the public highway.
7. That Count One of the Complaint does not allege that the Defendant negligently obstructed and blocked the public highway.
8. The allegation in Count One of the Complaint that the Plaintiff's automobile was damaged "as an approximate result

of negligence" is but a conclusion of the pleader and does not state that the damages were the proximate result of the negligence of the Defendant.

9. The damages to the automobile of the Plaintiff are not sufficiently set out in any Count of the Complaint.

10. That the allegation in the last paragraph of Count One of the Complaint is vague and indefinite in that it states that the injuries and damages of the Plaintiff "were as an approximate result of the negligence of the Defendant".

11. Count One of the Complaint claims damages of the Defendants where only one Defendant is being sued in the Complaint.

12. Count Two of the Complaint claims damages from the Defendants where only one Defendant is being sued in the Complaint.

13. Count Two of the Complaint fails to allege in what manner the Defendant negligently permitted a log moving truck to block the public highway.

14. That Count Two of said Complaint fails to allege that the automobile owned by the Plaintiff was being driven on or along U. S. Highway 104 at the point where the accident occurred at the same time that the Defendant's truck was at such point.

15. The allegation in Count Two of the Complaint in regard to the Defendant "causing the Plaintiff's minor daughter to collide or impact upon said log truck is vague and indefinite and is but a conclusion of the pleader.

16. The allegation in Count Two of the Complaint that the Plaintiff's damages occurred as "approximate result of the negligence of the Defendant" does not state any proper claim for damages against such Defendant.

17. That Count Three of the Complaint is vague and indefinite.

18. The allegation in Count Three of the Complaint that the Defendant owned a truck of tremendous weight and power and that its driver whose name is unknown to the Plaintiff was a reckless driver is but a conclusion of the pleader and does not state a cause of action.

19. Count Three of the Complaint only states conclusions of the pleader and fails to allege negligence on the part of the Defendant, it fails to allege that the automobile of the Plaintiff was damaged at the point where the accident is said to have occurred, and fails to state that any negligent conduct of the Defendant or its agents, servants or employees was responsible for the damage to the automobile owned by the Plaintiff.

CHASON, STONE & CHASON

BY: _____

John Chason
Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 11th day of April, 1972.

John Chason

FILED

APR 11 1972

EUNICE B. BLACKMON CIRCUIT CLERK

JAMES L. STRICKLAND,	X		
Plaintiff,	X		
	X	IN THE CIRCUIT COURT OF	
vs.	X		
	X	BALDWIN COUNTY, ALABAMA	
THE UTILITIES BOARD OF	X		
THE CITY OF FOLEY,			
a/k/a RIVIERA UTILITIES,	X	AT LAW	NO. 10,317
Defendant.	X		

DEMURRER

Comes the Defendant in the above styled cause and demurs to the Amended Complaint filed in said cause and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said Amended Complaint does not state a cause of action.
2. That said Amended Complaint does not allege any duty owing by the Defendant to the Plaintiff.
3. That said Amended Complaint attempts to set out the quo modo of the Defendant's negligence but the facts, as alleged therein, do not constitute negligence under the laws of the State of Alabama.
4. That said Amended Complaint is vague and indefinite.
5. That Count One of said Amended Complaint alleges that the Defendant, acted through an agent or servant without naming such agent or servant and without any allegation that the name of such agent or servant was unknown to the Plaintiff.
6. That Count One of said Amended Complaint alleges that the Defendant "negligently caused or allowed a vehicle" but does not allege that the Defendant negligently allowed such vehicle to cause the damages to the Plaintiff.
7. That Count One of said Amended Complaint alleges

that a motor vehicle was being operated by the Defendant or its authorized agents or servants without alleging who actually operated such motor vehicle.

8. The allegation in Count One of said Amended Complaint that the Defendant or its authorized agents or servants obstructed and blocked a public highway is but a conclusion of the pleader and does not allege in what manner such highway was blocked.

9. That Count Two of the Amended Complaint alleges

that the motor vehicle owned by the Defendant was being operated by an agent or servant of the Defendant without alleging who

operated such vehicle or that the name of such operator was unknown to the Plaintiff.

10. That Count Two of the Amended Complaint alleges

that the Defendant blocked a public highway without alleging in

what manner such highway was blocked.

11. The allegation in Count Two of the Amended Complaint

alleges that the blocking of the highway by the Defendant caused the

injury to the Plaintiff's vehicle does not allege that such

blocking was the proximate cause of the collision between the

motor vehicles.

12. The allegations in Count Two of the Amended Complaint

alleges that the motor vehicle driven by an agent or servant of

the Defendant was carelessly, negligently and improperly operated

is but a conclusion of the pleader and does not charge such Defendant

with negligence as a matter of law.

13. The allegation in Count Three of the Amended Complaint

alleges that the vehicle owned by the Defendant was of tremendous

weight and power is but a conclusion of the pleader and does

not allege that such vehicle was not properly upon the highway

at the time and place the accident occurred.

14. The allegation in Count Three of the Amended Complaint

alleges that the agent or employee of the Defendant who was driving

its motor vehicle at the time the accident occurred had long been a careless, incompetent, indifferent, heedless and reckless driver of such truck is but a conclusion of the pleader and fails to state negligence of the Defendant as a matter of law.

15. The allegation in Count Three of the Amended Complaint that the truck of the Defendant which was being driven by its agent or servant at the time of the accident complained of was a dangerous and deadly agency in the hands of such agent is but a conclusion of the pleader and does not allege negligence of the Defendant as a matter of law.

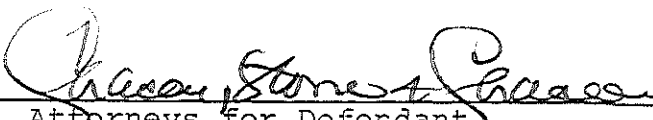
16. The allegation in Count Three of the Amended Complaint that the Defendant had been duly informed as to the type of driver that it was employing is but a conclusion of the pleader and does not allege who informed the Defendant of such fact and when it was informed.

17. The allegation in Count Three of the Amended Complaint that with full information of the incompetency of its driver, the Defendant allowed him to propel and operate its truck on and along a public highway at will is but a conclusion of the pleader and does not allege negligence of the Defendant as a matter of law.

18. The allegation in Count Three of the Amended Complaint that the Defendant permitted its agent or employee to operate its vehicle and that such agent or employee so negligently, heedlessly, incompetently, recklessly, wrongfully and indifferently conducted himself with the operation of the truck and he blocked the road making it impossible for the Plaintiff's automobile to pass upon the public road is but a conclusion of the pleader and does not allege negligence of the Defendant as a matter of law nor does he allege which road was blocked or that he did not have the right to drive the truck in the manner in which he was driving it.

19. The allegation in Count Three of the Amended Complaint that the agent of the Plaintiff was lawfully entitled to pass the truck at the time and place she attempted to do so is but a conclusion of the pleader and fails to state facts sufficient to constitute negligence on the part of the Defendant at the time and place the accident occurred.

20. Count Three of the Amended Complaint claims damages for the use of the vehicle owned by the Plaintiff in connection with his business but fails to allege that he was operating any business at the time his vehicle was damaged.


Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 4th

of Dec, 1972



FILED

DEC 4 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

JAMES L. STRICKLAND,

Plaintiff,

vs.

THE UTILITIES BOARD OF THE
CITY OF FOLEY, a/k/a RIVIERA
UTILITIES,

Defendant.

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 10,317

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DEMURRER

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