

STATE OF ALABAMA
COUNTY OF BALDWIN

Ø
Ø

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA - AT LAW

TO ANY SHERIFF OF THE STATE OF ALABAMA:

YOU ARE HEREBY COMMANDED TO SUMMON ALTON SCHERMER: SCHERMER PECAN COMPANY, A CORPORATION; ALFRED JAMES,; JOHN DOE, ABC, PERSONS, FIRMS OR CORPORATIONS, WHOSE TRUE NAMES ARE OTHERWISE UNKNOWN, BUT WILL BE ADDED BY AMENDMENT WHEN ASCERTAINED, JOINTLY AND SEPARATELY, TO APPEAR AND ANSWER, PLEAD OR DEMUR, WITHIN THIRTY DAYS FROM THE DATE HEREOF OF THIS SERVICE, TO THE BILL OF COMPLAINT FILED AGAINST THEM IN THE CIRCUIT COURT, AT LAW, FOR SAID COUNTY AND SAID STATE BY ELIE JACKSON, JR., A MINOR SUIING BY HIS FATHER, AND NEXT FRIEND, ELIE JACKSON, SR.

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

WITNESS MY HAND THIS 30 DAY OF May, 1972.

Ernie B. Blackmon
CLERK

ELIE JACKSON, JR., A MINOR SUIING
BY HIS FATHER, AND NEXT FRIEND,
ELIE JACKSON, SR.

PLAINTIFF

VS.

ALTON SCHERMER: SCHERMER PECAN COMPANY,
A CORPORATION; ALFRED JAMES, JOHN DOE,
ABC, PERSONS, FIRMS OR CORPORATIONS,
WHOSE TRUE NAMES ARE OTHERWISE UNKNOWN
BUT WILL BE ADDED BY AMENDMENT WHEN
ASCERTAINED, JOINTLY AND SEPARATELY.

DEFENDANTS

Ø

Ø

Ø

Ø

Ø

Ø

Ø

Ø

IN THE CIRCUIT COURT
OF

BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO: 10,428

COUNT ONE:

THE PLAINTIFF A MINOR CHILD, 15 YEARS OF AGE, WHO SUES BY HIS FATHER AND NEXT FRIEND, ELIE JACKSON, SR., CLAIMS OF THE DEFENDANTS, ALTON SCHERMER, SCHERMER PECAN COMPANY, A CORPORATION, ALFRED JAMES; JOHN DOE, ABC, PERSONS, FIRMS OR CORPORATIONS, WHOSE TRUE NAMES ARE OTHERWISE UNKNOWN, BUT WILL BE ADDED BY AMENDMENT WHEN ASCERTAINED, JOINTLY AND SEPARATELY, THE SUM OF ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) AS DAMAGES FOR THAT HERETOFORE ON TO-WIT: JUNE 1, 1971, THE PLAINTIFF WAS EMPLOYED BY ALTON SCHERMER AND SCHERMER PECAN COMPANY, A CORPORATION, DEFENDANTS, TO PICK UP POTATOES OWNED BY ALTON SCHERMER AND SCHERMER PECAN COMPANY, A CORPORATION, THE DEFENDANTS, AND LOAD SAID POTATOES ON A TRUCK OWNED AND OPERATED BY ALFRED JAMES, A DEFENDANT, IN A FIELD WHICH WAS OWNED BY THE DEFENDANTS IN BALDWIN COUNTY, ALABAMA. PLAINTIFF AVERS THAT AT SAID TIME AND PLACE, THE PLAINTIFF WAS BEING TRANSPORTED

ON THE TRUCK AFOREMENTIONED, WHILE SAID TRUCK WAS BEING MOVED TO ANOTHER LOCATION IN THE FIELD OF THE DEFENDANTS. PLAINTIFF AVERS THAT AT SAID TIME AND PLACE, JOHN DOE, AN EMPLOYEE OF THE DEFENDANTS WHOSE NAME IS UNKNOWN BUT WILL BE ADDED BY AMENDMENT WHEN ASCERTAINED, WHILE ACTING WITHIN THE LINE AND SCOPE OF HIS AUTHORITY AS THE AGENT, SERVANT OR EMPLOYEE OF THE DEFENDANTS, NEGLIGENTLY OPERATED THE TRUCK OR MOTOR VEHICLE, SO AS TO CAUSE OR ALLOW THE SAME TO JERK OR LUNGE FORWARD THROWING THE PLAINTIFF FROM THE VEHICLE AND THE SAID UNKNOWN EMPLOYEE STILL ACTING WITHIN THE LINE AND SCOPE OF HIS AUTHORITY AS THE AGENT, SERVANT, OR EMPLOYEE OF THE DEFENDANTS, NEGLIGENTLY ALLOWED THE MOTOR VEHICLE OR TRUCK TO RUN INTO OR AGAINST THE BODY OF THE PLAINTIFF AND AS A PROXIMATE CONSEQUENCE THEREOF THE PLAINTIFF WAS INJURED IN THIS: HE WAS RENDERED SICK, SORE, LAME AND NERVOUS; HE RECEIVED A SHOCK TO HIS ENTIRE BODY AND THE FLESH LIGAMENTS, TENDONS, CORDS, BLOOD VESSELS AND NERVES THEREOF WERE BRUISED, DISORDERED AND IMPAIRED; HE SUFFERED GREAT PHYSICAL AND MENTAL PAIN WHICH HAS BROUGHT ON EXTREME ANXIETY; HE WAS CONFINED TO THE HOSPITAL AS A RESULT THEREOF; HE RECEIVED CONTUSIONS AND ABRASIONS ON HIS HEAD, BACK, FACE, CHEST, LEGS AND ARMS; HE WAS CAUSED TO LOSE TIME FROM HIS WORK; HE WAS CAUSED TO LOSE TIME FROM HIS EDUCATION; AND HIS EARNING CAPACITY HAS BEEN GREATLY DIMINISHED; HE WAS PERMANENTLY INJURED; HE HAS INCURRED GREAT EXPENSES FOR DOCTOR'S TREATMENT, HOSPITAL BILLS, AMBULANCE BILLS, FOR DRUG AND OTHER MEDICINES, AND OTHER MEDICAL EXPENSES, AND HE WILL IN THE FUTURE INCUR DOCTOR BILLS, DRUG BILLS, HOSPITAL BILLS AND OTHER MEDICAL EXPENSES IN AND ABOUT THE TREATMENT AND CURING OF HIS INJURIES, HENCE THIS SUIT.

COUNT TWO:

THE PLAINTIFF, A MINOR CHILD, 15 YEARS OF AGE, WHO SUES BY HIS FATHER AND NEXT FRIEND, ELIE JACKSON, SR., CLAIMS OF THE DEFENDANTS, ALTON SCHERMER, SCHERMER PECAN COMPANY, A CORPORATION, ALFRED JAMES, JOHN DOE, ABC, PERSONS, FIRMS OR CORPORATIONS, WHOSE TRUE NAMES ARE OTHERWISE UNKNOWN BUT WILL BE ADDED BY AMENDMENTS

WHEN ASCERTAINED, JOINTLY AND SEPARATELY, ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS DAMAGES, FOR THAT ON, TO-WIT, JUNE 1, 1971, THE PLAINTIFF WAS EMPLOYED BY THE DEFENDANTS FOR THE PURPOSE OF PICKING UP POTATOES IN THE FIELDS OF THE DEFENDANTS IN BALDWIN COUNTY, ALABAMA; THAT AT THE TIME COMPLAINED OF, THE PLAINTIFF WAS WHERE HE HAD A RIGHT TO BE AND BY VIRTUE OF HIS EMPLOYMENT REQUIRED TO BE; THAT THE PLAINTIFF WAS THEN AND THERE IN THE PERFORMANCE OF HIS EMPLOYMENT, PICKING UP AND LOADING POTATOES ON A TRUCK, SAID TRUCK BEING OWNED BY ALFRED JAMES, A DEFENDANT; THAT THE DEFENDANT OR AN AGENT OR SERVANT, OR EMPLOYEE, WHO WAS THEN AND THERE ACTING WITHIN THE LINE AND SCOPE OF HIS AUTHORITY AS THE AGENT, SERVANT OR EMPLOYEE OF THE DEFENDANTS, WAS OPERATING A TRUCK IN THE FIELD OF THE DEFENDANTS, WHERE THE PLAINTIFF WAS THEN ENGAGED IN HIS EMPLOYMENT; AND AS A DIRECT AND PROXIMATE RESULT OF THE OPERATION OF SAID TRUCK BY JOHN DOE, WHOSE IDENTITY IS UNKNOWN, WHO WAS THEN AND THERE ACTING WITHIN THE LINE AND SCOPE OF HIS AUTHORITY, AS AFORESAID, NEGLIGENTLY ALLOWED THE TRUCK TO JERK OR LUNGE FORWARD CAUSING THE PLAINTIFF TO FALL FROM THE TRUCK AND THE AFORESAID EMPLOYEE, SERVANT OR AGENT OF THE DEFENDANTS, ACTING AS AFORESAID, CONTINUED TO NEGLIGENTLY OPERATE THE TRUCK AND ALLOWED THE TRUCK TO RUN UPON AND OVER THE PLAINTIFF.

PLAINTIFF AVERS THAT DEFENDANTS NEGLIGENTLY OPERATED THE TRUCK BY AND THROUGH THEIR OR ITS' EMPLOYEE, SERVANT OR AGENT, WHO WAS THEN AND THERE ACTING WITHIN THE LINE AND SCOPE OF HIS AUTHORITY AS THE AGENT, SERVANT OR EMPLOYEE OF THE DEFENDANTS, AND AS A PROXIMATE RESULT AND CONSEQUENCE OF THE DEFENDANTS NEGLIGENCE, THE PLAINTIFF WAS INJURED AND DAMAGED AS FOLLOWS: HIS RIGHT SHOULDER WAS BROKEN, HIS RIGHT ARM WAS BROKEN, HIS PELVIS BONE, HIP AND RIGHT LEG WERE BROKEN AND A LARGE HOLE WAS KNOCKED IN HIS RIB CAGE, ALL OF WHICH INJURIES CAUSED SEVERE AND PERMANENT DAMAGE TO THE PLAINTIFF; HE WAS CONFINED TO THE HOSPITAL AS A RESULT THEREOF; HE RECEIVED CONTUSIONS AND ABRASIONS ON HIS HEAD, BACK, FACE, CHEST, LEGS AND ARMS; HE WAS CAUSED TO LOSE TIME FROM HIS WORK; HE WAS

076 47

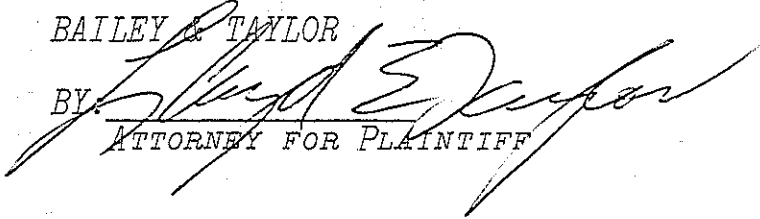
CAUSED TO LOSE TIME FROM HIS EDUCATION; AND HIS EARNING CAPACITY HAS BEEN GREATLY DIMINISHED; HE WAS PERMANENTLY INJURED; HE HAS INCURRED GREAT EXPENSES FOR DOCTOR'S TREATMENT, HOSPITAL BILLS, AMBULANCE BILLS, FOR DRUG AND OTHER MEDICINES, AND OTHER MEDICAL EXPENSES, AND HE WILL IN THE FUTURE INCUR DOCTOR BILLS, DRUG BILLS, HOSPITAL BILLS AND OTHER MEDICAL EXPENSES IN AND ABOUT THE TREATMENT AND CURING OF HIS INJURIES, HENCE THIS SUIT.

BAILEY & TAYLOR

BY: 
ATTORNEY FOR PLAINTIFF

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

BAILEY & TAYLOR

BY: 
ATTORNEY FOR PLAINTIFF

FILED

MAY 30 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

076 PAGE 48

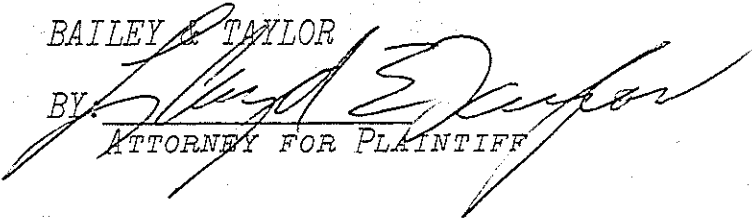
CAUSED TO LOSE TIME FROM HIS EDUCATION; AND HIS EARNING CAPACITY HAS BEEN GREATLY DIMINISHED; HE WAS PERMANENTLY INJURED; HE HAS INCURRED GREAT EXPENSES FOR DOCTOR'S TREATMENT, HOSPITAL BILLS, AMBULANCE BILLS, FOR DRUG AND OTHER MEDICINES, AND OTHER MEDICAL EXPENSES, AND HE WILL IN THE FUTURE INCUR DOCTOR BILLS, DRUG BILLS, HOSPITAL BILLS AND OTHER MEDICAL EXPENSES IN AND ABOUT THE TREATMENT AND CURING OF HIS INJURIES, HENCE THIS SUIT.

BAILEY & TAYLOR

BY: 
ATTORNEY FOR PLAINTIFF

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

BAILEY & TAYLOR

BY: 
ATTORNEY FOR PLAINTIFF

FILED

MAY 30 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

076 PAGE 48

5342

CASE NO: 10,428

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

ELIE JACKSON, JR., A MINOR SUING
BY HIS FATHER, AND NEXT FRIEND,
ELIE JACKSON, SR.

PLAINTIFF

VS.

ALTON SCHERMER: SCHERMER PECAN CO.
A CORPORATION; ALFRED JAMES, JOHN
DOE, ABC, PERSONS, FIRMS OR CORPOR-
ATIONS, WHOSE TRUE NAMES ARE OTHER-
WISE UNKNOWN ET WILL BE ADDED BY
AMENDMENT WHEN ASCERTAINED, JOINTLY
AND SEPARATELY.

DEFENDANTS

TO ANY SHERIFF OF THE STATE OF
ALABAMA:

DEFENDANTS MAY BE SERVED AT

FAIRHOPE, ALABAMA

MAY 30 1972

FILED

JOYCE WILKINS
SHERIFF

MAY 30 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

6-27-72 SERVICE ON ALFRED JAMES, JOHN DOE, ABC, PERSONS, FIRMS OR CORPORATIONS, WHOSE TRUE NAMES ARE OTHERWISE UNKNOWN ET WILL BE ADDED BY AMENDMENT WHEN ASCERTAINED, JOINTLY AND SEPARATELY.

11-14-72 Service on Elie Jackson, Jr., a minor suing by his father, and next friend, Elie Jackson, Sr.

Received day of 27 day of 10/10/72 and on day of 27 day of 10/10/72 I served a copy of the within

ELIE JACKSON, JR., a minor suing	)	IN THE CIRCUIT COURT OF
by his father and next friend,)	
ELIE JACKSON, SR.,	)	BALDWIN COUNTY, ALABAMA
Plaintiff,	)	AT LAW
VS.)	
ALTON SCHERMER: SCHERMER PECAN COMPANY,)	
a corporation; ALFRED JAMES, JOHN DOE,)	
ABC, persons, firms or corporations,)	
whose true names are otherwise unknown)	
but will be added by amendment when)	
ascertained, jointly and severally,)	
Defendants.	)	CASE NO: 10,428

DEMURRERS

COMES NOW Alton Schermer and Schermer Pecan Company, a corporation, defendants in the above styled cause, separately and jointly, and demur to the plaintiff's complaint, and to each count thereof, separately and jointly, and as grounds for said demurrer set down and assign the following, separately and jointly:

1. Said count fails to allege the violation of any duty owed by this defendant to the plaintiff.
2. Said count fails to allege facts showing the violation of any duty owed by this defendant to the plaintiff.
3. For aught that appears the accident did not occur on a public street.
4. For aught that appears from said count, the plaintiff was not at a place where he had a legal right to be at the time and place complained of.
5. For aught that appears from said count, the injuries and damages suffered by the plaintiff were not the proximate result of any act or failure to act on the part of this defendant.
6. For that said count fails to allege any causal connection between the alleged negligence of this defendant and the alleged damages of plaintiff.

7. For aught that appears defendant John Doe was not acting within the line and scope of his authority at the time of the conduct complained of in said count.

8. For aught that appears defendant John Doe was not an agent of this defendant working within the line and scope of his employment at the time of the accident complained of.

9. For aught that appears defendant John Doe was not acting within the line and scope of his employment at the time of the accident complained of.

10. For that the allegation that defendants "negligently operated the truck or motor vehicle" is alleged as a mere conclusion without sufficient facts averred to support same.

11. For aught that appears plaintiff was employed by a defendant other than this defendant.

12. For that the allegation that plaintiff "was where he had a right to be" is alleged as a mere conclusion of the pleader.

LYONS, PIPES AND COOK
Attorneys for Defendant
Alton Schermer and Schermer
Pecan Company, a corporation.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 24
day of June, 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.

Augustine Meaher, III

By:

Augustine Meaher, III
AUGUSTINE MEAHER, III

By:

Walter M. Cook
WALTER M. COOK

FILED

JUN 30 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

ELIE JACKSON, JR., a Minor suing
by his father and next friend,
ELIE JACKSON, SR.,

Plaintiff

-VS-

ALTON SCHERMER: SCHERMER PECAN
COMPANY, a Corporation; ALFRED
JAMES, JOHN DOE, ABC, persons,
firms or corporations, whose
true names are otherwise unknown
but will be added by amendment
when ascertained, jointly and
separately,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 10,428

ANSWER

Comes now the defendant Alfred James and for answer to the
complaint filed in this cause saith:

Not guilty.


ATTORNEY FOR DEFENDANT ALFRED JAMES

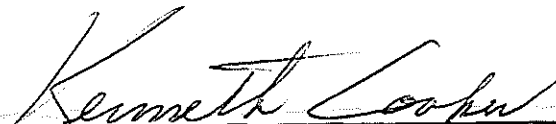
CERTIFICATE OF MAILING

I certify that I have mailed a copy of the foregoing answer
to:

Honorable Lloyd E. Taylor
Post Office Box 361
Fairhope, Alabama 36532

Lyons, Pipes and Cook
Post Office Drawer 2727
Mobile, Alabama 36601

by depositing the same in the United States mail, postage prepaid,
at Bay Minette, Alabama, on this the fourteenth day of July, 1972.


ATTORNEY FOR DEFENDANT ALFRED JAMES

FILED

JUL 14 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

ELIE JACKSON, et al
Plaintiff

Vs.

* IN THE CIRCUIT COURT OF
* MOBILE COUNTY, ALABAMA
* AT LAW

ALTON SCHERMER; SCHERMER PECAN COMPANY,
et al Defendant

* CASE NO: 10,428

NOTICE OF DEPOSITION

TO: Hon. Lloyd Taylor
P. O. Box 361
Fairhope, Ala. 36532

Hon. Kenneth Cooper
P. O. Box 1000
Bay Minette, Ala. 36507

Please take notice that at 4:00 P.M. on the 7th day of
September, 1972 in the office of Lloyd Taylor
situated at 61 North Section Street, Fairhope, Ala. the defendant
Alton Schermer & Schermer Pecan Co. will take the deposition of
Royce Jones whose address is Rt. 2, Box 213 A, Fairhope,
Alabama
upon oral examination pursuant to an Act of the Legislature of the
State of Alabama, designed as Act No. 375, Regular Session 1955,
Approved September 8, 1955, before WALTER WISE, an
officer authorized to administer oaths in the County of Mobile,
State of Alabama, 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 examine the witness.

LYONS, PIPES AND COOK
Attorneys for Defendant s
Alton Schermer & Schermer Pecan Co.

By: Augustine Meaher III
Augustine Meaher, III

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 28th day of August,
1972, served a copy of the foregoing Notice of Deposition on
counsel for all parties to this proceeding by mailing the same by
United States Mail, properly addressed, and first class postage
prepaid.

Augustine Meaher III
Augustine Meaher, III

NOTE TO CLERK:

Please issue a subpoena to the above-named witness to appear and the
time and place stated above.

FILED

AUG 31 1972

076 PAGE 54

EUNICE B. BLACKMON CIRCUIT
CLERK .

ELIE JACKSON, JR., et al

Plaintiff

Vs.

ALTON SCHERMER; SCHERMER PECAN COMPANY,

et al

Defendant

* IN THE CIRCUIT COURT OF
BALDWIN

* ~~MOBILE~~ COUNTY, ALABAMA

* AT LAW

* CASE NO: 10,428

NOTICE OF DEPOSITION

TO: Hon. Lloyd Taylor
P. O. Box 361
Fairhope, Ala. 36532

Hon. Kenneth Cooper
P. O. Box 1000
Bay Minette, Ala. 36507

Please take notice that at 3:30 P.M. on the 7th day of
September, 1972 in the office of Lloyd Taylor
situated at 61 North Section Street, Fairhope, Ala. the defendant
Alton Schermer & Schermer Pecan Co. will take the deposition of
Mrs. Eli Jackson, Sr. whose address is _____

upon oral examination pursuant to an Act of the Legislature of the
State of Alabama, designed as Act No. 375, Regular Session 1955,
Approved September 8, 1955, before WALTER WISE, an
officer authorized to administer oaths in the County of Mobile,
State of Alabama, 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 examine the witness.

LYONS, PIPES AND COOK
Attorneys for Defendant S
Alton Schermer & Schermer Pecan Co.

By: Augustine Meaker III
Augustine Meaker, III

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 28th day of August,
1972, served a copy of the foregoing Notice of Deposition on
counsel for all parties to this proceeding by mailing the same by
United States Mail, properly addressed, and first class postage
prepaid.

Augustine Meaker III
Augustine Meaker, III

FILED

AUG 31 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ELIE JACKSON, JR., a minor
suing by his father and next
friend, ELIE JACKSON, SR.,

Plaintiff,

v.

ALTON SCHERMER, SCHERMER
PECAN COMPANY, a corporation,
ALFRED JAMES, et al,

Defendants.

*
*
*
*
*
*
*
*
*
*
*
*

CASE NO. 10,428

NOTICE OF DEPOSITION

TO: Mr. Lloyd Taylor
P. O. Box 361
Fairhope, Alabama 36532

Mr. Kenneth Cooper
P. O. Box 1000
Bay Minette, Alabama 36507

Please take notice that at 2:30 P.M. on the 24th day of March, 1976 in the office of Lloyd Taylor situated at 61 North Section Street, Fairhope, Alabama, the Defendant, Alton Schermer and Schermer Pecan Company, will take the deposition of Elie Jackson, Jr. upon oral examination pursuant to the Alabama Rules of Civil Procedure, before Walter W. Wise, an officer authorized to administer oaths in the County of Baldwin, State of Alabama, 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 examine the witness.

LYONS, PIPES & COOK
Attorneys for Defendants.
Alton Schermer & Schermer Pecan Company

FILED

MAR 12 1976

ELUNICE B. BLACKMON CIRCUIT CLERK

BY:

Augustine Meaher III
AUGUSTINE MEAHER, III

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 9 day of March, 1976, 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.

Augustine Meaher III

~~**FILED**~~
~~**MAR 12 1976**~~
~~**ELUNICE B. BLACKMON**~~
~~**CIRCUIT CLERK**~~

FILED

MAR 12 1976

ELUNICE B. BLACKMON CIRCUIT CLERK

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ELIE JACKSON, JR., a minor
suing by his father and
next friend, ELIE JACKSON,
SR.,

Plaintiff,

v.

ALTON SCHERMER, SCHERMER
PECAN COMPANY, a corporation,
ALFRED JAMES, et al,

Defendants.

*
*
*
*
*
*
*
*
*
*
*
*
*
*

CASE NO. 10,428

ANSWER

COMES NOW Alton Schermer and Schermer Pecan Company, a corporation, separately and jointly, Defendants, and show that preparation of their Answer has been complicated as the Complaint was filed prior to the effective date of the Alabama Rules of Civil Procedure and therefore is not a form contemplated by the said rules but this case will be tried pursuant to said rules. For Answer to Plaintiff's Complaint, Defendants say as follows:

ANSWER TO COUNT ONE

1. Defendants admit that Elie Jackson, Jr. suffered an accident on June 1, 1971 which accident occurred on the property of Defendants in Baldwin County, Alabama and in which accident Elie Jackson, Jr. did fall while attempting to climb onto a moving truck and was then and there struck by said truck. These Defendants deny all other allegations in said Count One.

ANSWER TO COUNT TWO

2. Defendants admit that Elie Jackson, Jr. suffered an accident on June 1, 1971 which accident occurred on the property of Defendants in Baldwin County, Alabama and in which accident Elie Jackson, Jr. did fall while attempting to climb onto a moving truck and was then and there struck by said truck. These Defendants deny all other allegations in said Count Two.

SPECIAL DEFENSES TO
COUNT ONE AND COUNT TWO

1. Defendants aver that at the time and place complained of in each said Count Plaintiff himself was guilty of negligence which proximately contributed to his alleged injuries and damages in that at said time and place Elie Jackson, Jr. was negligently attempting to hang onto the side of a truck while the truck was riding across a potato field and that at the time and place complained of in the Complaint, Plaintiff did fall to the ground and was run over by said truck.

2. Defendants aver that at the time and place complained of in each said Count the Plaintiff was himself guilty of negligence which proximately contributed to his alleged injuries and damages in that at said time and place Elie Jackson, Jr. so negligently attempted to climb onto a truck which was then and there being operated across a potato field, that Plaintiff then and there fell from said moving truck onto the ground and was run over by said truck.

3. Defendants aver that at the time and place complained of Plaintiff Elie Jackson, Jr. was a minor over the age of fourteen years and knew and understood the danger of falling and being run over by a truck while attempting to climb onto a moving truck while the truck was being operated across a potato field, but he voluntarily attempted to climb onto a moving truck being operated across a potato field, wherefore he assumed the risk of falling and being run over by the moving truck while attempting to climb thereon.

4. Defendants aver that Plaintiff Elie Jackson, Jr. was an employee of Defendant Alfred James at the time and place complained of in the Complaint in this cause and that

an agent, servant or employee of Defendant Alfred James had prior to this accident instructed Plaintiff Elie Jackson, Jr. not to climb aboard moving trucks being operated in the potato field, but at the time and place complained of in this Complaint Elie Jackson, Jr. did disobey the aforesaid instructions and did attempt to climb aboard a moving truck being operated in a potato field and as a proximate result and consequence thereof, the Plaintiff suffered the injuries and damages complained of in this suit.

LYONS, PIPES & COOK
Attorneys for Defendants
Alton Schermer & Schermer
Pecan Company, a corporation

BY: Augustine Meaheer
AUGUSTINE MEAHER, III

FILED

JUN 3 1976

EUNICE B. BLACKMON CLERK
CLERK

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 2 day of June, 1976, 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.

Augustine Meaheer

076 PAGE 60

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ELIE JACKSON, JR., a minor
suing by his father and
next friend, ELIE JACKSON,
SR.,

Plaintiff

vs.

ALTON SCHERMER, SCHERMER
PECAN COMPANY, a corporation
ALFRED JAMES, et.al.

Defendants.

CIVIL ACTION NO. 10,428

NOTICE OF DEPOSITION

TO: Augustine Meaher, III
Attorney at Law
Post Office Drawer 2727
Mobile, Alabama 36601

Kenneth Cooper
Attorney at Law
Post Office Box 1000
Bay Minette, Alabama

You are hereby notified that Taylor, Benton & Irby
will take the pre-trial discovery deposition of Dr. Guy L.
Rutledge, Jr., on Friday, March 4, 1977, commencing at 4:00
P. M., in the office of Dr. Rutledge at 1761 Springhill
Avenue, Mobile, Alabama before Charles Howard or before
some other officer authorized by law to take depositions.
The deposition is to be taken in accordance with and pursuant
to the Rules of Civil Procedure, as amended, and will continue
from day to day until the completion of same.

Dated this 14th day of February, 1977.

FILED

FEB 15 1977

EUNICE B. BLACKMON CIRCUIT
CLERK

TAYLOR, BENTON & IRBY

BY:

W. Kenneth Gibson
W. KENNETH GIBSON

305 North Section Street
Fairhope, Alabama 36532

ELIE JACKSON, JR., a Minor suing
by his father and next friend,
ELIE JACKSON, SR.

Plaintiff

-VS-

ALTON SCHERMER: SCHERMER PECAN
COMPANY, a Corporation; ALFRED
JAMES

Defendants

) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA
) AT LAW

) CASE NO. 10,428

)

)

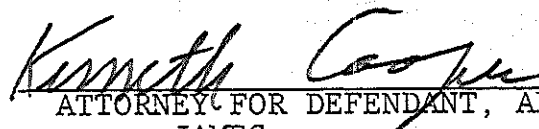
)

AMENDED ANSWER

Comes now the defendant, Alfred James, and amends his answer
heretofore filed in this cause, by adding the following special
pleas:

A. The plaintiff ought not to recover for the injuries and
damages he complains of because such injuries and damages suffered
by him were proximately caused by his own negligence.

B. If the injuries and damages complained of ^{by plaintiff} were the result
of contributory ^{negligence} ~~damage~~ by the plaintiff, then he cannot recover
against the defendant, Alfred James.


ATTORNEY FOR DEFENDANT, ALFRED
JAMES
KENNETH COOPER
POST OFFICE BOX 1000
BAY MINETTE, ALABAMA 36507

CERTIFICATE OF SERVICE

I certify that I have personally served a copy of the foregoing
AMENDED ANSWER on Honorable Kenneth Gibson and the law office of
Lyons, Pipes & Cook, by personally handing them a copy of same.

This 3rd day of April, 1977.


KENNETH COOPER

Jackson vs Schermie
JURY LIST - CIVIL - APRIL 4, 1977

PANEL NO. 1.

1. Davis, Ken.; Vulcan Signs; 1625 N. Alston; Foley, Ala.
2. Daniels, Juanita; Housewife; Rt. 1, Perdido, Ala.
3. Isbell, Florence; Housewife; Rt. 1, Fairhope, Ala.
4. Dean, Hillard; Farmer; Little River, Ala.
5. Zeanah, Grady H.; Banker; 211 3rd St.; Bay Minette, First Nat'l Bank, Bay Minette, Ala.
6. Davis, Wm. R.; Spl. Rep. GM&O RR; 108 Windsor Dr., Daphne, Ala. Mobile, Ala.
7. Ryder, Mary N.; Housewife; 207 Townsend Ave., Bay Minette, Ala.
8. Dean, John; Clk. Bald. Co. Tax Collector; Stapleton, Ala. Bay Minette, Ala.
9. Cox, C. James; City Employee; 906 Carroll St., Bay Minette, Bay Minette, Ala.
10. Schiob, Loretta; Housewife; St. Rt. Box 93 N.; Gulf Shores, Ala.
11. Shivers, James D.; Pulpwood; Rt. 2, Bay Minette, Ala.
12. Dent, Ann S.; Poser Printing Co. Rt. 1, Box 199; Fairhope, Ala.

PANEL NO. 2.

13. Smith, Brinda G.; Housewife; Rt. 2, Box 138 A.; Bay Minette, Ala.
14. Hanks, Bernadine A.; Mach Opr. So. Bald Mills; 110 Patrician Dr., Spanish Fort, Ala. R'Dale Ala
15. McGill, Dorothy R.; Housewife; 408 Armstrong Ave., Bay Minette, Ala.
16. Mills, Virginia B.; Sec. Bay Minette Bldg. Sup. 702 Hand Ave., Bay Minette, Ala.
17. Winston, Ward; Ingals Shipyard; White Ave., Bay Minette, Pascagouls, Miss.
18. Millican, Ruby; Housewife; 1605 Mooge Ave., Bay Minette, Ala.
19. Melton, Mary D.; Bay Slacks; Box 117 Stapleton, Ala. Bay Minette, Ala.
20. Herron, Doreen B.; Bald. Tax Assessor Ofc. 1800 Armstrong Ave., Bay Minette, Ala.
21. Lewis, Glenn M.; Vice-Pres. Lewis Yeager Tob.; 421 Fairwood Blvd. Fairhope, Ala.
22. Ruffin, John; Newport; Brady Rd., Bay Minette, Ala.
23. Price, Ernest; Newport Ind.; 1704 Clark St., Bay Minette, Ala.
24. Crumpton, Joe T.; Safety Insp. Addisco; 499 Belrose Ave., Daphne, Ala. Mobile, Ala.

PANEL NO. 3.

25. Southern, Acie; Lineman, Riv. Util. Box 513, Foley, Al. Foley, Al.
26. Steber, Wm. E.; Pres. Bill Steber Chev.; Box 392 Point Clear; Fairhope, Ala.
27. ~~Stejskal, Erma I.; Housewife; 60 N. Ingleside Dr., Fairhope, Ala. P3~~
28. ~~Strickland, Marvin; Supvr. St. Hwy. Dept.; 1804 Collier Ave. Bay Minette, Ala. P3~~
29. Styron, Ernest; Carpenter; Rt. 2, Bay Minette, Ala.
30. ~~Wainikainen, Roberta; Manner Slacks; 1604 Hand Ave Bay Minette, Ala. P4D2~~
31. ~~Watkins, Betty I.; BCHS Cafeteria; 513 Byrne St., Bay Minette, Ala. P4D2~~
32. Webb, Betty W.; Housewife; 6 Confederate Dr., Spanish Fort, Ala.
33. ~~Whidbee, Ellis; Shipyard Worker; Rt. 1, Perdido, Ala. D1-2~~
34. ~~White, Lawrence; P. O. Clerk; P. O. Box 56, Bay Minette, Ala. Bay Minette, Ala. D2-2~~
35. Winston, Charles; Laborer; Holy Cross Hgts. Daphne, Ala. Daphne, Ala.
36. Caudill, Johnny K.; Carpenter, Rt. 1, Elberta, Ala. Elberta, Ala.

PANEL NO. 4.

37. ~~Fosberg, Josephine; Vanity Fair; P. O. Box, Silverhill, Ala. Silverhill, Ala. P5~~
38. Eason, Ruby Powers; Housewife; P. O. Box 274, Foley, Ala.
39. Dyson, Nina H.; Housewife; 211 Gayfer Ct., Fairhope, Ala.
40. Doubrava, Peggy; Housewife; P. O. Silverhill, Silverhill, Ala.
41. Cole, Hugh; Self Emp. Gulf Bowl; Foley, Ala. Foley, Ala.
42. ~~Bryars, Claude L.; Pkr. Bay Slacks; 205 Bay St., Bay Minette, Ala. D2-3~~
43. ~~Brown, Daisy M.; Bay Slacks; 112 Station St., Bay Minette, Ala. D1-3~~
44. ~~Holk, David A.; Self Emp. Holk Stationary; 109 N. McKenzie; Foley, Ala. Foley, Ala. P2~~
45. Jones, Mary G.; Recpt. Jordan Clinic; Rt. 2, Box 116 E., Fairhope, Ala.
46. ~~Jurjevich, Frank I.; Car Washer Hadley Mtr. Co.; 206 Blackburn Ave. Bay Minette, Ala. D1-1~~
47. ~~Johnson, Claude; Ala. Hwy. Dept. 201 Dickman Rd., Bay Minette, Ala. Bay Minette, Ala. P1~~
48. Bradley, J. T., Jr.; V-Pres. Bradley's Hdw. 200 W. 12th St., Bay Minette, Ala.

PANEL NO. 5.

49. Boone, Marvin E.; Chemstrand; 1702 Armstrong Bay Minette, Pensacola, Fla.
50. Bishop, Joyce; Housewife; 414 Pattyn Drive; Fairhope, Ala.
51. Bell, Nobie C.; Co. Dept. of Pen. & Security; Spanish Fort, Mobile, Ala.
52. Atkinson, David C., Jr.; Sls. Rep. Sinclair Oil; 754 Coleman Blvd., Fairhope, Ala.
53. Ard, Willidean; Housewife; Rt. 1, Silverhill, Ala.
54. Antinerella, Mike; Mtr. Co.; 509 Fairhope, Ave. Fairhope, Ala.
55. Booth, Hester; Dept. of Pens. & Security; 404 Thomley Av. Bay Minette, Ala.
56. Boykin, Para Lee; Prsr. Bay Slacks; 803 S. Dobson, Bay Minette, Ala.
57. Keaton, Mildred J.; Smstrs. Bay Slacks; 10 Pensacola Hwy. Bay Minette, Ala.
58. Kaechele, Marilyn Mrs.; Housewife; Rt. 1 Box 3, Elberta, Ala.
59. Harville, Arthur, Jr.; Salesman Orkin Ext. Co. 1804 Armstrong Ave. Bay Minette, Mobile, Ala.
60. Brooks, Mamie; Counsilor Little River; P. O. Box 741, Foley, Ala. Foley, Ala.

PANEL NO. 6.

61. Allen, James E., Jr.; Ex.-Treas. Sars Inc.; 145 Fairway Dr., Daphne, Ala.
62. Morris, Peter Jack; Montsanto, Rt. 4, Box 151 Cantonment, Fla. Pensacola, Fla.
63. Adkins, Ira C.; Linesman City of F'hope; 4 Laraway La., Fairhope, Ala.
64. Rye, Jack; Sls. Solomon Bros. 105 W. 5th St., Bay Minette, Ala. Mobile, Ala.
65. Burt, Calvin C.; Mechanic; Bay Minette, Ala. Bay Minette, Ala.
66. Robinson, Odell; Contractor; Brady Rd., Bay Minette, Ala.
67. ~~Russell, Wm. J. Jr.; Acct. Int. Paper Co. Main St. Daphne, Ala. Mobile, Ala.~~
68. Corley, Roy C.; Kaiser Almn. 18 Boulder Ave. Bay Minette, Ala.
69. Reed, Wm. M.; Rep. St. Bd. of Health; 306 McMillan, Bay Minette, Ala.
70. Lyles, Willie F.; Slswn Avon Products; 715 Daphne Rd. Bay Minette, Ala.

71. Moore, Ack W.; Pres. Moore Eng.; Montrose Ala. Fairhope, Ala.
72. Murray, Andrew L.; Sec. Thomas Corte Pontiac; 943 Seacliff Dr., Fairhope, Ala.
PANEL NO. &
73. Peterson, David; Parts Mgr. Bob whtie Chev. Rabon Rd., Bay Minette, Ala.
74. Conway, Mary E.; Montsanto; 509 Brady Rd. Ext. Bay Minette, Aaa. Pensacola, Fla.

P - XXXXX - X

D' XXX

D- XXX

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ELIE JACKSON, JR., et al,	*	
Plaintiff,	*	
v.	*	CASE NO. 10,428
ALTON SCHERMER, et al,	*	
Defendants.	*	

DEFENDANT ALTON SCHERMER'S MOTION
FOR JUDGMENT NOTWITHSTANDING THE VERDICT OR IN THE
ALTERNATIVE FOR A NEW TRIAL

COMES NOW Alton Schermer and moves the Court to set aside the verdict and judgment heretofore entered in the above styled action on to-wit: the fifth day of April, 1977, and to enter judgment in favor of this Defendant in accordance with the Motion for Directed Verdict, or in the alternative, this Defendant moves the Court to set aside the verdict and judgment and grant this Defendant a new trial on the following grounds, separately and severally, to-wit:

1. The Court erred in restricting this Defendant's closing argument in refusing to allow this Defendant to comment upon the Court's ruling granting a Motion for Directed Verdict on behalf of Co-Defendant Schermer Pecan Company, a corporation.

2. The Court erred in giving Plaintiff's unnumbered requested charge which reads as follows: The Court charges the jury that in considering the question of negligence, if any, of the Defendants, Alfred James and Alton Schermer, you may properly consider the manner in which the vehicle involved was operated.

3. For that the verdict is contrary to the great preponderance of the evidence.

4. For that the verdict that the driver of the truck involved in this accident was an agent, servant or employee of this Defendant was contrary to the great preponderance of the evidence.

5. The Court erred in refusing this Defendant's requested charge no. 7.

6. The Court erred in refusing this Defendant's requested

charge no. 8.

7. The Court erred in refusing this Defendant's requested charge no. 9.

8. The Court erred in refusing this Defendant's requested charge no. 11.

9. The Court erred in refusing this Defendant's requested charge no. 12.

10. The Court erred in refusing this Defendant's requested charge no. 14.

11. The Court erred in refusing this Defendant's requested charge no. 15.

12. The verdict and judgment are against the weight of evidence in this case, and are contrary to the law and the evidence in this case.

LYONS, PIPES & COOK
Attorneys for Defendant
Alton Schermer

BY: Augustine Meaher III
AUGUSTINE MEAHER, III

FILED

MAY 2 1977

EUNICE B. BLACKMON ^{CIRCUIT} CLERK

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 2
day of May, 1977, 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.

Augustine Meaher III

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ELIE JACKSON, JR., et al, *
 Plaintiff, *
v. * CASE NO. 10,428
ALTON SCHERMER, et al, *
 Defendants. *

DEFENDANT ALTON SCHERMER'S MOTION TO
STAY EXECUTION PENDING A RULING ON POST-TRIAL MOTIONS

COMES NOW Defendant Alton Schermer and shows that contempo-
raneously herewith he has filed a Motion for Judgment Notwith-
standing Verdict and in the alternative for New Trial. Petitioner
prays that execution on the judgment heretofore entered in this
cause be stayed pending a ruling by the Court on said Motion
and until such time as this Defendant's right to appeal from
a ruling on said post-trial motions has expired.

LYONS, PIPES & COOK
Attorneys for Defendant
Alton Schermer

BY: Augustine Meaheer III
AUGUSTINE MEAHER, III

FILED

MAY 2 1977

EUNICE B. BLACKMON CIRCUIT
CLERK

CERTIFICATE OF SERVICE
I do hereby certify that I have on this 2d
day of May, 19 77, 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.

Augustine Meaheer III

ELIE JACKSON, JR., et al	)	IN THE CIRCUIT COURT OF
Plaintiff	)	BALDWIN COUNTY, ALABAMA
-VS-	)	AT LAW
ALTON SCHERMER, et al	)	CASE NO. 10,428
Defendants)	

DEFENDANT ALTON JAMES' MOTION
FOR JUDGMENT NOTWITHSTANDING THE VERDICT OR IN THE
ALTERNATIVE FOR A NEW TRIAL

Comes now Alton James and moves the Court to set aside the verdict and judgment heretofore entered in the above styled action on to-wit: the fifth day of April, 1977, and to enter judgment in favor of this defendant in accordance with the Motion for Directed Verdict, or in the alternative, this Defendant moves the Court to set aside the verdict and judgment and grant this defendant a new trial on the following grounds, separately and severally, to-wit:

1. The Court erred in restricting this defendant's closing argument in refusing to allow this defendant to comment upon the Court's ruling granting a Motion for Directed Verdict on behalf of Co-Defendant Schermer Pecan Company, a corporation.

2. For that the verdict is contrary to the great preponderance of the evidence.

3. The Court erred in refusing this defendant's requested charge no. 6.

4. The Court erred in refusing this defendant's requested charge no. 7.

5. The Court erred in refusing this defendant's requested charge no. 8.

~~6. The Court erred in refusing this defendant's requested charge no. 9. (R)~~

6. The verdict and judgment are against the weight of evidence in this case, and are contrary to the law and the evidence in this case.

FILED
MAY 5 1977

076 PAGE 69

Kenneth Cooper
KENNETH COOPER, ATTORNEY FOR
DEFENDANT, ALTON JAMES

EUNICE B. BLACKMON CLERK

ELIE JACKSON, JR., et al	)	IN THE CIRCUIT COURT OF
Plaintiff	)	BALDWIN COUNTY, ALABAMA
-VS-	)	AT LAW
ALTON SCHERMER, et al	)	CASE NO. 10,428
Defendants)	

DEFENDANT ALFRED JAMES' MOTION TO STAY
EXECUTION PENDING A RULING ON POST-TRIAL MOTIONS

Comes now defendant Alton James and shows that contemporaneously herewith he has filed a Motion for Judgment Notwithstanding Verdict and in the alternative for New Trial. Petitioner prays that execution on the judgment heretofore entered in this cause be stayed pending a ruling by the Court on said Motion and until such time as this Defendant's right to appeal from a ruling on said post-trial motions has expired.

Kenneth Cooper
 KENNETH COOPER
 ATTORNEY FOR DEFENDANT
 POST OFFICE BOX 1000
 BAY MINETTE, ALABAMA 36507
 PHONE (205) 937-7412

FILED

MAY 5 - 1977

EUNICE B. BLACKMON CIRCUIT CLERK

VOI 076 PAGE 70

We, the jury, find in favor of the Plaintiff and
against the Defendants, Alton Schermer and Alfred
James, and assess the Plaintiff's damages at \$ 18,000. ⁰⁰

M. Stew. J.
Foreman

FILED

APR 5 1977

EUNICE B. BLACKMON CIRCUIT
CLERK

070 PAGE

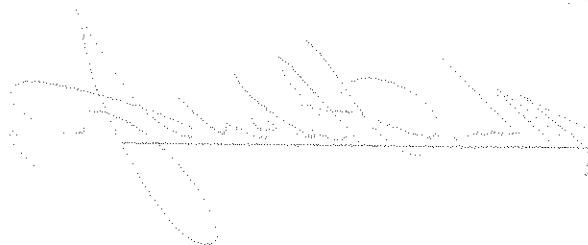
65

10,428

Jackson

vs
Schermer

The Plaintiff and the Defendant, the jury, find in favor of the Plaintiff and award to the Plaintiff the sum of \$10,428.00, with interest thereon from the date of the filing of the complaint until payment in full, and assess the Plaintiff's costs at \$1,000.00.



Plaintiff

FILED

1978

RECORDED & INDEXED

10-12-78

NOTICE ON MOTIONS

ELIE JACKSON, JR., a minor, et al

PLAINTIFF

VS:

ALTON SCHERMIER, et al

DEFENDANT

IN THE CIRCUIT COURT

OF BALDWIN COUNTY, ALABAMA

CASE NO. 10,428

Motions for Judgment Notwithstanding the Verdict, or in the
THE Alternative for a New Trial was on the 18th

day of May 19 77, Denied

All Execution is stayed pending appeal upon the Defendant's making bond as required by law.

EUNICE B. BLACKMON
CIRCUIT CLERK OF
BALDWIN COUNTY, ALABAMA

VOL 76 PAGE 75

cc: Lyons, Pipes & Cook

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ELIE JACKSON, JR., et al, *
Plaintiff, *
v. * CASE NO. 10,428
ALTON SCHERMER, et al, *
Defendants. *

MOTION FOR DIRECTED VERDICT
BY DEFENDANT SCHERMER PECAN COMPANY, A CORPORATION

Plaintiff having rested his case, Defendant Schermer Pecan Company, a corporation hereby files this Motion for Directed Verdict and requests the Court to direct a verdict in favor of Schermer Pecan Company, a corporation with respect to each cause of action of the complaint and as grounds for this motion sets down the following:

1. The evidence fails to show that Elie Jackson, Jr. was employed by this Defendant.
2. The evidence fails to show that this Defendant operated the truck involved in the accident made the basis of this suit.
3. The evidence fails to show that any agent, servant or employee of this Defendant operated the truck involved in the accident made the basis of this suit.
4. The evidence fails to show that this Defendant was guilty of any negligence at the time and place of the accident made the basis of this suit.
5. The evidence fails to show that Plaintiff has suffered any damages as the result of the conduct of this Defendant.
6. For that the evidence fails to show that this Defendant's conduct in any way contributed to Plaintiff's injuries and damages.
7. The evidence fails to show that this Defendant was guilty of negligence which caused or contributed to Plaintiff's injuries and damages.
8. For that the evidence shows that negligence on the part of Elie Jackson, Jr. caused or contributed to Plaintiff's injuries and damages made the basis of this suit.

LYONS, PIPES & COOK
Attorneys for Schermer Pecan
Company, a corporation

BY: Augustine Meaher III
AUGUSTINE MEAHER, III

ELIE JACKSON, JR., a Minor suing
by his father, and next friend,
ELIE JACKSON, SR.,

Plaintiff

-VS-

ALTON SCHERMER: SCHERMER PECAN
COMPANY, a Corporation; ALFRED
JAMES, JOHN DOE, ABC, persons,
firms or corporations, whose
true names are otherwise unknown
but will be added by amendment
when ascertained, jointly and
separately,

Defendants


IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. 10,428

DEMURRER

Comes now the defendant Alfred James and demurs to the
complaint heretofore filed in this cause and assigns as grounds
therefor the following, separately and severally, to each and
every count thereof:

1. The Complaint is vague.
2. The Complaint is uncertain.
3. The Complaint does not state a legal cause of action.
4. The Complaint fails to allege whether the operator of the
truck was an agent, servant or employee of the defendant Alfred
James or of the defendant Alton Schermer or Schermer Pecan
Company, a corporation.
5. The Complaint fails to allege which defendants' alleged
negligence caused the injury complained of.


ATTORNEY FOR DEFENDANT
ALFRED JAMES

CERTIFICATE OF MAILING

I certify that I have mailed a copy of the foregoing Demurrer
to HONorable Lloyd E. Taylor, Post Office Box 361, Fairhope,
Alabama 36532, by depositing the same in the United States Mail,
postage prepaid, at Bay Minette, Alabama, on this the twenty-sixth
day of June, 1972.

FILED

JUN 27 1972

EUNICE B. BLACKMON CIRCUIT
CLERK


ATTORNEY FOR DEFENDANT ALFRED JAMES

CASE NO. 10,428

* * * * *

ELIE JACKSON, JR., a
Minor suing by his father,
and next friend, Elie
Jackson, Sr.

Plaintiff

-VS-

ALTON SCHERMER: SCHERMER
PECAN COMPANY, a
Corporation; ALFRED JAMES,
JOHN DOE, ABC, persons,
firms or corporations,
whose true names are
otherwise unknown but
will be added by
amendment when
ascertained, jointly and
separately,

Defendants

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

* * * * *

ATTORNEY FOR DEFENDANT
ALFRED JAMES

KENNETH COOPER
Post Office Box 1000
Bay Minette, Alabama 36507

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ELIE JACKSON, JR., et al, *
Plaintiff, *
v. * CASE NO. 10,428
ALTON SCHERMER, et al, *
Defendants. *

MOTION FOR DIRECTED VERDICT
BY DEFENDANT ALTON SCHERMER

Plaintiff having rested his case, Defendant Alton Schermer hereby files this Motion for Directed Verdict and requests the Court to direct a verdict in favor of Alton Schermer with respect to each cause of action of the complaint and as grounds for this motion sets down the following:

1. The evidence fails to show that Elie Jackson, Jr. was employed by this Defendant.
2. The evidence fails to show that this Defendant operated the truck involved in the accident made the basis of this suit.
3. The evidence fails to show that any agent, servant or employee of this Defendant operated the truck involved in the accident made the basis of this suit.
4. The evidence fails to show that this Defendant was guilty of any negligence at the time and place of the accident made the basis of this suit.
5. The evidence fails to show that Plaintiff has suffered any damages as the result of the conduct of this Defendant.
6. For that the evidence fails to show that this Defendant's conduct in any way contributed to Plaintiff's injuries and damages.
7. The evidence fails to show that this Defendant was guilty of negligence which caused or contributed to Plaintiff's injuries and damages.
8. For that the evidence shows that negligence on the part of Elie Jackson, Jr. caused or contributed to Plaintiff's injuries and damages made the basis of this suit.

Dennis J. Justice
Attorney for Elie Jackson, Jr.

LYONS, PIPES & COOK
Attorneys for Alton Schermer

BY: *Augustine Meaher III*
AUGUSTINE MEAHER, III

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ELIE JACKSON, JR., et al, *
Plaintiff, *
v. * CASE NO. 10,428
ALTON SCHERMER, et al. *
Defendants. *

MOTION FOR DIRECTED VERDICT
BY DEFENDANT ALTON SCHERMER

All parties having rested their cases, Defendant Alton Schermer hereby files this Motion for Directed Verdict and requests the Court to direct a verdict in favor of Alton Schermer on the complaint of the Plaintiff and on each cause of action therein contained, separately and jointly, and as grounds for this motion sets down the following, separately and severally:

1. The evidence fails to show that Elie Jackson, Jr. was employed by this Defendant.
2. The evidence fails to show that this Defendant operated the truck involved in the accident made the basis of this suit.
3. The evidence fails to show that any agent, servant or employee of this Defendant operated the truck involved in the accident made the basis of this suit.
4. The evidence fails to show that this Defendant was guilty of any negligence at the time and place of the accident made the basis of this suit.
5. The evidence fails to show that Plaintiff has suffered any damages as the result of the conduct of this Defendant.
6. For that the evidence fails to show that this Defendant's conduct in any way contributed to Plaintiff's injuries and damages.
7. The evidence fails to show that this Defendant was guilty of negligence which caused or contributed to Plaintiff's injuries and damages.
8. For that the evidence shows that negligence on the part of Elie Jackson, Jr. caused or contributed to Plaintiff's injuries and damages made the basis of this suit.

Demetrius J. Walker, Jr.
Judge

LYONS, PIPES & COOK
Attorneys for Alton Schermer

BY: *Augustine Meaher*
AUGUSTINE MEAHER, III

ELIE JACKSON, JR. a minor
suing by his father and next
friend, ELIE JACKSON, SR.

IN THE CIRCUIT COURT
BALDWIN CONNTY, ALABAMA

PLANTIFF,
VS.

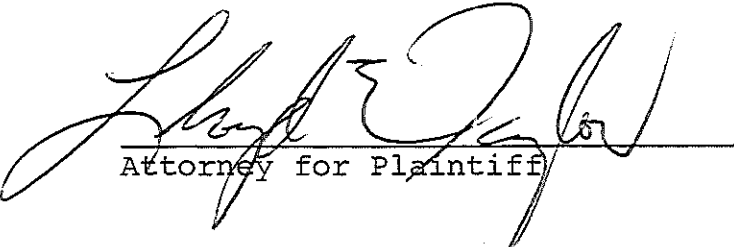
CASE NO. 10,428

ALTON SCHERMIER, et. al.
DEFENDANT

MOTION

Comes now the Plaintiff by his attorney and shows unto
the Court that the Plaintiff is now an adult and over the
age of nineteen years.

Wherefore, Plaintiff requests the Court order the Clerk
to pay over the proceeds of the Judgment in this cause to
Plaintiff and his attorney, Lloyd E. Taylor.


Attorney for Plaintiff

ORDER

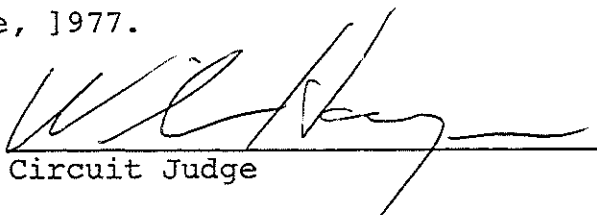
It appearing to the Court that the Plaintiff is now of
legal age as an adult, the Clerk of this Court is hereby
Ordered to disburse the judgment proceeds in this cause
payable to Elie Jackson, Jr., and Lloyd E. Taylor, his
attorney.

Done this 27th day of June, 1977.

76

PAGE

71


Circuit Judge

LYONS, PIPES & COOK

ATTORNEYS AT LAW
2510 FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA
36601

SAM W. PIPES
WALTER M. COOK
G. SAGE LYONS
AUGUSTINE MEAHER III
WESLEY PIPES
NORTON W. BROOKER, JR.
COOPER C. THURBER
MACK B. BINION
MARION A. QUINA, JR.
THOMAS F. GARTH
VICTOR H. LOTT, JR.

JOSEPH H. LYONS (1900-1957)

MAILING ADDRESS
P. O. DRAWER 2727

TELEPHONE 432-4481
AREA CODE 205

June 2, 1976

Mrs. Eunice Tindall
Clerk of Baldwin County Circuit Court
Baldwin County Court House
Bay Minette, Alabama 36507

Re: Elie Jackson, et al
vs. Alton Schermer, et al
Circuit Court Case No.: 10428

Dear Mrs. Tindall:

We enclose Answer in the above case which we request be filed
in the records of your Court.

Yours very truly,

LYONS, PIPES & COOK

Augustine Meaher, III

AM/clm

Enclosure

10,428

TAYLOR, BENTON & IRBY

ATTORNEYS AT LAW
305 NORTH SECTION STREET
P. O. BOX 471
FAIRHOPE, ALABAMA 36532
TELEPHONE (205) 928-0282

LLOYD E. TAYLOR
DANIEL A. BENTON
SAM W. IRBY
W. KENNETH GIBSON
THOMAS J. STEIN

February 11, 1977

ROBERTSDALE OFFICE
HIGHWAY 59 SOUTH
P.O. BOX 59
ROBERTSDALE, ALABAMA 36567
TELEPHONE (205) 947-7243

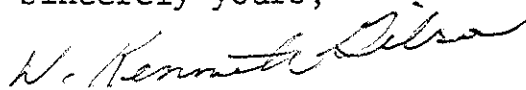
Mrs. Eunice Blackmon
Circuit Clerk
Baldwin County Court House
Bay Minette, Alabama 36507

Re: Jackson vs. Schermer Pecan Company
Civil Action No. 10,428

Dear Eunice:

Enclosed for filing is the notice of deposition with regard to the above referenced case.

Sincerely yours,



W. Kenneth Gibson

WKG/w
Enc.

LYONS, PIPES & COOK

ATTORNEYS AT LAW
2510 FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA

JOSEPH H. LYONS (1900-1957)
SAM W. PIPES
WALTER M. COOK
GORDON B. KAHN
G. SAGE LYONS
AUGUSTINE MEAHER, III.
WESLEY PIPES
NORTON W. BROOKER, JR.
COOPER C. THURBER

36601

AREA CODE 205
TEL. 432-4483
P. O. DRAWER 2727

June 23, 1972

CERTIFIED MAIL

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


Re: Elie Jackson, Jr., et al vs. Alton Schermer, et al
Circuit Court, Baldwin County Case No: 10,428

Dear Mrs. Blackmon:

We enclose our client's demurrers in the above cause.
We ask that same be filed in your Court, that you
stamp the extra copy as being a copy of a document
being filed in your Court, and then return it to
us for our files.

Very truly yours,

LYONS, PIPES AND COOK


Augustine Meaher, III
AM/bn

Encl. Original and one copy of Demurrer
Stamped, self-addressed envelope

LYONS, PIPES & COOK

ATTORNEYS AT LAW

2510 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

JOSEPH H. LYONS (1900-1957)

36601

SAM W. PIPES

WALTER M. COOK

GORDON B. KAHN

G. SAGE LYONS

AUGUSTINE MEAHER, III.

WESLEY PIPES

NORTON W. BROOKER, JR.

COOPER C. THURBER

AREA CODE 205

TEL. 432-4483

P. O. DRAWER 2727

August 29, 1972

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

Re: Elie Jackson, et al vs. Alton Schermer
and Schermer Pecan Company, et al
Baldwin County Circuit Court Case No. 10,428

Dear Mrs. Blackmon:

We enclose our Notices of three Depositions in the
above case and ask that they be filed in your Court.

Please issue a subpoena to Royce Jones to appear for
his deposition. Royce Jones is a colored male
teenager who lives at Route 2, Box 213A in Fairhope.

Very truly yours,

LYONS, PIPES AND COOK



Augustine Meaher, III

AM/bn

Encls.

183 possibilities

LYONS, PIPES & COOK

ATTORNEYS AT LAW
2510 FIRST NATIONAL BANK BUILDING
MOBILE, ALABAMA
36601

SAM W. PIPES
WALTER M. COOK
G. SAGE LYONS
AUGUSTINE MEAHER III
WESLEY PIPES
NORTON W. BROOKER, JR.
COOPER C. THURBER
MACK B. BINION
MARION A. QUINA, JR.
THOMAS F. GARTH
VICTOR H. LOTT, JR.

JOSEPH H. LYONS (1900-1957)

MAILING ADDRESS
P. O. DRAWER 2727

TELEPHONE 432-4481
AREA CODE 205

March 11, 1976

Mrs. Eunice ~~Tindall~~ *Blackman*
Clerk of Baldwin County Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama 36507

Re: Elie Jackson, et al v. Alton Schermer, et al
Case No. 10,428

Dear Mrs. Tindall:

We enclose Notice of Deposition in the above case which we request be filed in the records of your Court. It is not necessary to issue a subpoena for the witness.

Very truly yours,

LYONS, PIPES & COOK

Augustine Meaher III
Augustine Meaher, III

AM/mt

Enclosure