

MAE GILLOM, X IN THE CIRCUIT COURT
Plaintiff, X

VS X

THOMAS HOSPITAL; THOMAS X OF MOBILE COUNTY
HOSPITAL, INC. and ABC
COMPANY, being the company X
or corporation engaged in the X
operation of a hospital at X
which the plaintiff's left foot X
was X-rayed in the City of X ALABAMA
Fairhope, Baldwin County, X
Alabama, on to-wit, the X
27th day of May, 1971, X
which name is otherwise X
unknown to the plaintiff X
but which will be supplied X AT LAW
by amendment when ascer-
tained, jointly and severally, X

Defendants. X CASE NO. 39049

COMPLAINT

Plaintiff claims of the defendants, jointly and severally, the sum of \$25,000.00 as damages for that heretofore and on to-wit, the 27th day of May, 1971, the defendants were engaged in the operation and conduct of a hospital in the city of Fairhope, Baldwin County, Alabama, for the diagnosis, care and treatment of physical ailments for hire and reward and that on to-wit, the 27th day of May, 1971, plaintiff submitted herself to the diagnosis, care and treatment of the defendants and plaintiff further avers that the defendants then and there undertook for hire and reward to be paid to them to diagnose, care and treat the plaintiff medically and to furnish the proper diagnosis, care and treatment for the physical injury which the plaintiff was then and there inflicted with, namely, to-wit, a broken or

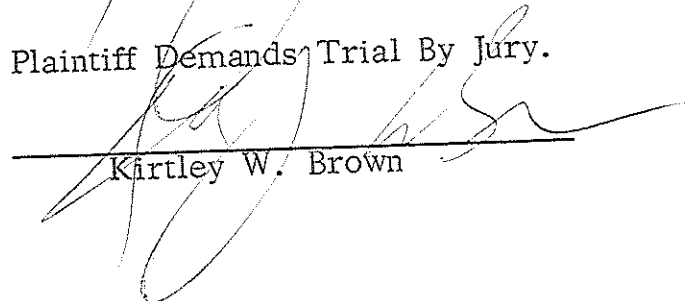
fractured foot, and while plaintiff was in said hospital on said occasion it then and there became and was the duty of the defendants to exercise reasonable care, skill and diligence in and about said diagnosis, care and treatment of plaintiff's physical injuries. Plaintiff further avers that defendants' agents, servants or employees, while acting within the line and scope of their employment with the defendants, negligently failed to use reasonable care in and about said diagnosis, care and treatment of the plaintiff in that they did not discover by an X-ray examination an existing break or fracture of plaintiff's left foot and as a direct and proximate consequence of the aforesaid negligence of the defendants the plaintiff suffered physical pain and mental anguish and was caused to incur medical expenses in and about efforts to cure said injury and was further caused to lose time from gainful employment, all for which plaintiff sues.

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

By: 

Kirtley W. Brown

Plaintiff Demands Trial By Jury.

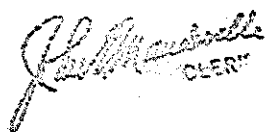

Kirtley W. Brown

Serve Defendants:

Morphy Avenue
Fairhope, Alabama

STATE OF ALA. MOBILE CD.
I CERTIFY THIS PLEADING
WAS FILED ON

MAY 25 4 49 PM '72


CLERK

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:
You are hereby commanded to summon

THOMAS HOSPITAL; THOMAS HOSPITAL, INC. and ABC COMPANY, being the
company or corporation engaged in the operation of a hospital at
which the plaintiff's left foot was X-rayed in the City of Fairhope,
Baldwin County, Alabama, on to-wit, the 27th day of May, 1971, which
name is otherwise unknown to the plaintiff but which will be supplied
by amendment when ascertained, jointly and severally

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,
at the place of holding the same, then and there to answer the complaint of

MAE GILLUM

WITNESS: John E. Mandeville, Clerk of said Court, this 25TH day of MAY, 19 72

Attest:

John E. Mandeville

Clerk

SHERIFF'S RETURN

Received _____ day of _____, 19____ and on _____ day
of _____, 19____, I served a copy of
the within _____ on _____

by service on _____

RAY D. BRIDGES, SHERIFF

By _____ D.S.

TAYLOR WILKINS, SHERIFF OF BALDWIN
COUNTY, ALABAMA, CLAIM ATTORNEY
FOR SERVING 2 PROCESSIONS AND
TRAVEL EXPENSE ON EACH OF \$11.50
PROCESSIONS OR A TOTAL OF \$17.00

REC'D SHERIFF DEPT.
MOBILE COUNTY, ALA.
MAY 20 4 05 PM '72
BY _____

Received 31 day of May 1972
and on 2 day of June 1972
I served a copy of the within 2
on Thomas Hospital
Thomas Hospital, Inc.
By service on Thomas Hospital, Inc.
Thomas Hospital, Inc.
TAYLOR WILKINS, Sheriff
BY [Signature] D.S.

No. 39047
JUDGE (2) DOCKET
CIVIL DIVISION
CIRCUIT COURT
MOBILE COUNTY

MAE GILLOM

VS. } Complaint and Summons

THOMAS HOSPITAL, ET AL

Issued 25TH day of MAY, 19 72

Defendant's Address
MORPHY AVENUE
FAIRHOPE, ALABAMA

MAY 31 1972

JAYLE WILKINS
SHERIFF

KIRTLEY W. BROWN

Plaintiff's Attorney

Extra

MAE GILLOM,	X	IN THE CIRCUIT COURT
Plaintiff,	X	
VS	X	
THOMAS HOSPITAL; THOMAS	X	OF MOBILE COUNTY
HOSPITAL, INC. and ABC	X	
COMPANY, being the company	X	
or corporation engaged in the	X	
operation of a hospital at	X	
which the plaintiff's left foot	X	ALABAMA
was X-rayed in the City of	X	
Fairhope, Baldwin County,	X	
Alabama, on to-wit, the	X	
27th day of May, 1971,	X	
which name is otherwise	X	
unknown to the plaintiff	X	AT LAW
but which will be supplied	X	
by amendment when ascer-	X	
tained, jointly and severally,	X	
Defendants.	X	CASE NO. <u>39047</u>

COMPLAINT

Plaintiff claims of the defendants, jointly and severally, the sum of \$25,000.00 as damages for that heretofore and on to-wit, the 27th day of May, 1971, the defendants were engaged in the operation and conduct of a hospital in the city of Fairhope, Baldwin County, Alabama, for the diagnosis, care and treatment of physical ailments for hire and reward and that on to-wit, the 27th day of May, 1971, plaintiff submitted herself to the diagnosis, care and treatment of the defendants and plaintiff further avers that the defendants then and there undertook for hire and reward to be paid to them to diagnose, care and treat the plaintiff medically and to furnish the proper diagnosis, care and treatment for the physical injury which the plaintiff was then and there inflicted with, namely, to-wit, a broken or

fractured foot, and while plaintiff was in said hospital on said occasion it then and there became and was the duty of the defendants to exercise reasonable care, skill and diligence in and about said diagnosis, care and treatment of plaintiff's physical injuries. Plaintiff further avers that defendants' agents, servants or employees, while acting within the line and scope of their employment with the defendants, negligently failed to use reasonable care in and about said diagnosis, care and treatment of the plaintiff in that they did not discover by an X-ray examination an existing break or fracture of plaintiff's left foot and as a direct and proximate consequence of the aforesaid negligence of the defendants the plaintiff suffered physical pain and mental anguish and was caused to incur medical expenses in and about efforts to cure said injury and was further caused to lose time from gainful employment, all for which plaintiff sues.

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

By: 

Kirtley W. Brown

Plaintiff Demands Trial By Jury.


Kirtley W. Brown

Serve Defendants:

Morphy Avenue
Fairhope, Alabama

MAE GILLOM,)	IN THE CIRCUIT COURT
Plaintiff)	OF MOBILE COUNTY,
vs.)	ALABAMA
THOMAS HOSPITAL; THOMAS)	AT LAW
HOSPITAL, INC., and ABC)	
COMPANY, being the company)	
or corporation engaged in)	
the operation of a hospital)	
at which the plaintiff's left)	
foot was X-rayed in the)	
City of Fairhope, Baldwin County,)	
Alabama, on to-wit, the)	
27th day of May, 1971, which)	
name is otherwise unknown to)	
the plaintiff but which will)	
be supplied by amendment)	
when ascertained, jointly)	
and severally,)	
Defendants.)	CASE NO. 39047 <i>21</i>

PLEA IN ABATEMENT

Comes now the defendant, Thomas Hospital, and appears solely and specially for the purpose of pleading in abatement, and for no other purpose, and, pleading in abatement, assigns the following separate and several pleas in abatement to each separate and several count of the complaint filed herein, separately and severally:

1. That the action filed herein for damages is based upon the alleged negligence of the defendant hospital which negligence occurred in the City of Fairhope, Baldwin County, Alabama, at the defendant's hospital; that this defendant, Thomas Hospital, is, and was at the time of the alleged negligent acts which caused plaintiff damage and for which plaintiff sues, a corporation organized and operated under the provisions of Act No. 46, Acts of the Legislature of Alabama of 1949, Regular Session, Page 64, Approved June 2, 1949, to operate a public hospital under the name of "Baldwin County Eastern Shore Hospital Board,"

located in Baldwin County, Alabama; that this defendant does business in Baldwin County, Alabama by agent but does not do business in Mobile County, Alabama within the meaning of Title 7, Section 60, Code of Alabama 1958 as recompiled; therefore, venue of this action is improperly placed in the Circuit Court of Mobile County, Alabama.

2. For that the action brought by the plaintiff against the defendant Thomas Hospital claims damages for personal injury of the plaintiff resulting directly and proximately from the negligence of the defendant and at the time and place alleged in the complaint, and prior thereto, and presently, the defendant is a domestic corporation whose correct name is "Baldwin County Eastern Shore Hospital Board", incorporated pursuant to Title 22, Section 204 (18, etc. Code of Alabama 1958, as revised) which operated a hospital known as "Thomas Hospital" in Baldwin County, Alabama, wherein it does business by agent, and plaintiff, at the time of the alleged negligence of the defendant resulting in the personal injury of the plaintiff, was a resident of Baldwin County, Alabama; therefore, as provided in Title 7, Section 60, Code of Alabama of 1958, as revised, the venue of this action is improper in the Circuit Court of Mobile County, Alabama and such action must be brought only in the Circuit Court of Baldwin County, Alabama.

3. That the true name of the named defendant "Thomas Hospital" is not as set forth in said complaint but that its true name is now, was at the time of the commencement of this suit and has been at all times

since then "Baldwin County Eastern Shore Hospital Board", and that it is now, was at the time of the commencement of this suit and has been at all times since then a corporation, all of which is hereby verified.

4. That there is not now, was not at the time of the commencement of this suit and has not been at any time since then any such defendant entity as "Thomas Hospital".

5. That the true name of said named defendant is "Baldwin County Eastern Shore Hospital Board", a corporation, and that said corporation is immune from suit under the doctrine of governmental immunity.

6. That the true name of said defendant is "Baldwin County Eastern Shore Hospital Board", a corporation, and that said corporation is immune from suit under the doctrine of governmental immunity in that said corporation was organized and is operated under the provisions of Act 46, Acts of the Legislature of Alabama of 1949, Regular Session, p. 64, approved June 2, 1949.

WHEREFORE, this defendant prays that this action shall be abated as to this defendant, and this defendant allowed its costs in making this plea in abatement.

Donald H. Greaves
Trial Counsel for the Defendant

OF COUNSEL:

HAND, ARENDALL, BEDSOLE, GREAVES AND JOHNSTON

STATE OF ALABAMA:
COUNTY OF BALDWIN:

Before me, CELIA WARREN, a Notary Public in and for said County in said State, comes Claud Clark, Jr., who, after first being duly sworn, deposes and says that he is the Administrator of the Thomas Hospital and has knowledge of the facts set forth in each of the above pleas in abatement, and that such facts are true and correct.

X Claud Clark, Jr.
CLAUD CLARK, JR.

Subscribed and sworn to before me on this the 19 day of JUNE, 1972.

Celia M. Warren
Notary Public, Baldwin County,
Alabama

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a true and correct copy of the foregoing pleading to Kirtley W. Brown, Esq., Attorney for Plaintiff by depositing a copy of same in the United States mail, postage prepaid, addressed to said attorney at his office in Mobile, Alabama on this, the 20 day of June, 1972.

Robert J. Brown

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

JUN 20 4 27 PM '72

Robert J. Brown
CLERK

STATE OF ALABAMA, }
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby
certify that the foregoing is a full, true and correct copy of ORDER OF COURT


as rendered by the said Circuit Court on the 28th day of June, 1972, in the cause
entitled No. 39047 - MAE GILLOM

_____, Plaintiff,
— versus — THOMAS HOSPITAL; THOMAS HOSPITAL, INC., etc.

Defendant, (~~THOMAS HOSPITAL; THOMAS HOSPITAL, INC., etc.~~), as the same remains of record in this office in
Minute Book No. 45, Page No. 708

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office
in the City of Mobile, Alabama, on this the 29th day of June, 19 72

ATTEST:


Clerk, Circuit Court, Mobile County, Alabama.

CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY

MAE GILLOM

Plaintiff

No. 39047

VS.

THOMAS HOSPITAL; THOMAS HOSPITAL, INC., etc.

Defendant

BILL OF COST

(Act No. 740, Reg. Session Ala. Legislature 1957
Appvd. Sept. 20, 1957)
(Amend Sec. 21, Title 11, Code Ala. 1940)

(Act No. 571, Reg. Ses. Leg. 1955)
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

CLERK'S FEES		Pltff.	Deft.	SHERIFF'S FEES		Pltff.	Deft.
Suits for \$100 or less	\$ 6.00			Mileage \$14.00			
Suits for over \$100 but less than \$1,000	10.00			Serving Summons & Complaints	\$ 3.00	17	00
Suits for \$1,000 and over	20.00	20	00	Serving Writ of Garnishment	3.00		
Suits in detinue, ejectment, etc.	10.00			Serving Sci Fa-Notices	3.00		
Suits not otherwise provided	10.00			Serving Writ of Discovery	3.00		
Writs, Mandamus, Prohibition, etc.	15.00			Levying Attachment & Return	12.00		
Appeals from Court General Sessions	15.00			Executing Writ Possession	10.00		
Appeals from Probate Court	20.00			Seizing personal property under Writ of Detinue	12.00		
Appeals from JP Courts	6.00			Serving subpoenas, each	1.50		
Appeals from State Dept of Pub. Safety, and other State Agencies	10.00			Impanelling Jury	.75		
Workmen's Compensation Settle.	10.00			Taking & Approving Bond	4.00		
Garnishment on Judgment	6.00			Collecting Costs Execution	3.00		
Order of Sale, Motions to sell.	6.00			Serving Contempt Writ	3.00		
Recording executions from State Agencies	3.00			Making Decd for Property Sold	5.00		
Cert. Copy of Record - per 100 words	.15	80		Commission, collecting money on executions, 1st \$500-5% \$500-\$1000-4%, over \$1000-3%			
Taking Appeal Bond	.75					17	00
Record for Supreme Court etc., per 100 words	.15			Total	\$		
Add'l Copies of Record for Supreme Court, per 100 words	.05						
Checking - including Reporters Transcript of Evidence	10.00			RECAPITULATION			
Certifying Abstract in lieu of Transcript on Appeal	5.00			Clerk		20	80
Collecting Money on Judgments over 30 days old; ½ the percentage allowed Sheriffs	\$			Sheriff		17	00
				Court			
				Witness Fees			
				Commissioner's Fees			
				Certificate of Judgment			
				Judgment			
				10% Damages			
				Interest			
				Stenographer's fees (\$10.00 day)			
				Hospital Records			
				Advertisement			
				Garnishee's fees			
				Library Fee	1.50	1	50
				Trial Tax (County)	1.50	1	50
				Trial Tax (State)	1.50	1	50
				Fair Trial Tax (State)	2.00	2	00
				Court Adm. Fund.	2.00	2	00
Total	\$	20	80				

I respectfully beg to advise that if this bill for costs is not paid before _____ 19____, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk