

STATE OF ALABAMA

IN THE CIRCUIT COURT - AT LAW

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon The City of Fairhope, Alabama, a municipal corporation, to appear within thirty days from the service of this writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the complaint of Thomas W. Tolmie.

WITNESS my hand this 1 day of August, 1972.

Emmie B. Blackburn
Clerk

THOMAS W. TOLMIE,

Plaintiff,

vs.

THE CITY OF FAIRHOPE,
ALABAMA, A Municipal
Corporation,

Defendant.

X

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO: 10,522

COUNT ONE

The Plaintiff claims of the Defendant the sum of Fifty Thousand Dollars (\$50,000.00) as damages for that on, to-wit: the 11th day of January, 1972, the Defendant maintained a recreation or tourist center for elderly or retired persons, a public building in the City of Fairhope, operated by the City of Fairhope for the benefit of elderly persons or tourists; and Plaintiff avers

that on said date, Plaintiff was a man of, to-wit: 80 years of age, and was in the recreation center for the purpose of enjoying its benefits, and while in said place for said purpose and while walking into the entrance to the men's room, maintained by the Defendant for the use of persons in said place, Plaintiff slipped and fell to the floor and as a proximate consequence thereof, he was injured and damaged as follows: his knees were bruised, contused and injured, his forehead was cut, bruised and injured, one of his legs were broken or fractured two-thirds of the way up from the knee, and he was permanently injured and he was made sick and sore and his nervous system was impaired and shocked and is permanently injured and shocked and Plaintiff was caused to suffer great physical pain and mental anguish and continues to suffer such pain and anguish; he was hospitalized for a great length of time and was caused to incur medical, hospital and drug bills. And Plaintiff avers that all of his said injuries and damages were caused as the proximate consequence of the negligence of the Defendant, in this: Defendant negligently maintained said building or premises at the place where the Plaintiff slipped and fell in an unsafe condition for the use of patrons of the said public building.

COUNT TWO:

The Plaintiff claims of the Defendant, a municipal corporation, the sum of Fifty Thousand Dollars (\$50,000.00) as damages for that on, to-wit: the 11th day of January, 1972, the Defendant maintained a recreation or tourist center for elderly retired persons, a public building in the City of Fairhope, Alabama, where it conducted or operated said public building to which the elderly public was invited to come and enjoy its facilities; that the Plaintiff was an invitee of the Defendant, a municipal corporation, being there on the occasion complained of to enjoy said facilities and while in said place and on said premises, where

Plaintiff was invited on the occasion aforesaid, he slipped or fell or was caused to slip or fall onto a floor from a stairway or steps, which were then and there negligently maintained in said center by the Defendant, a municipal corporation, for the use of elderly persons in a dangerous condition, and that his knees were bruised, contused and injured, one of his legs was broken or fractured two-thirds of the way up from the knee, and his forehead was bruised, cut and injured, and Plaintiff was made sick and sore; he suffered great mental and physical pain and anguish, and was permanently injured and incapacitated, he was hospitalized for a great length of time and was caused to incur medical, hospital and drug bills. The Plaintiff, a man of, to-wit: 80 years of age, alleges that all of his said injuries and damages were proximately caused by reason of the negligence of the Defendant, a municipal corporation, in negligently failing to use due care to keep said premises reasonably safe for persons visiting the place by it's invitation, express or implied; hence this suit.

CHASON, STONE & CHASON

BY: Charles C. Parton
Attorneys for Plaintiff

The Plaintiff respectfully
demands a trial of this cause
by a jury.

CHASON, STONE & CHASON

BY: Charles C. Parton
Attorneys for Plaintiff

FILED

AUG 1 1972

EUNICE B. BLACKMON
C. CLERK

RECEIVED

AUG 3 1972

TAYLOR WILKINS
SHERIFF

Sheriff claims 70
Ten Cents per mile Total \$ 7.00
TAYLOR WILKINS, Sheriff
BY *W. C. Blackmon*
DEPUTY SHERIFF

Received *1 Aug 1972*

and on *3 day of Aug 1972*

I served a copy of the within *City of Fairhope*

on *City of Fairhope*

By service on *Marie Marie City Record*

TAYLOR WILKINS, Sheriff

BY *W. C. Blackmon*

D.S.

THOMAS W. TOLMIE,
Plaintiff,

vs.

THE CITY OF FAIRHOPE, ALABAMA,
A Municipal Corporation,
Defendant.

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO: *10522*

* * * * *

FILED

AUG 1 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

CHASON, STONE & CHASON
ATTORNEYS AT LAW
P. O. Box 120
BAY MINETTE, ALABAMA

THOMAS W. TOLMIE,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
CITY OF FAIRHOPE,	X	AT LAW
ALABAMA, A Municipal	X	
Corporation,	X	
Defendant.	X	

10,522

INTERROGATORIES

Comes now the Plaintiff in the above styled cause, by his attorneys, and propounds the following interrogatories to the Defendant, to be answered separately and severally in the manner and form provided by law, viz:

1. State your correct corporate name.
2. State the name of the person, and his or her address, that is answering this interrogatory.
3. (a) State the correct name for the recreation or tourist center for elderly or retired persons in Fairhope, Alabama.
- (b) State whether the above said building is a public building, owned, operated and maintained by the City of Fairhope, Alabama, the Defendant herein.
- (c) If the answer to the above question was yes, state the date on which the City of Fairhope first began the operation and maintenance of said building.
- (d) State the name of the contractor who constructed said building.
- (e) State the name of the architect who designed said building.
- (f) State the name of the person responsible for the upkeep and maintenance of said building.
- (g) State the purposes for which the City of Fairhope operates and maintains said building.

- (h) State whether the building is open to the members of the public in Fairhope, Alabama, who desire to use its facilities for the purposes for which it is maintained and operated.
- (i) What services are offered to the public in said building?
- (j) State the average number of persons using said building each day; and if you do not know the average, please state in your best judgment the number of persons using said building.

4. Was Thomas W. Tolmie a member of the class for which the above said building was operated and maintained.

- 5. (a) State whether there is a set of stairs, or staircase or stairway that a person attempting to proceed to the men's room of said building must negotiate.
- (b) If the answer to the above answer is yes, state the number of steps that such a person must walk down or up.
- (c) State the material or materials from which such steps are made.
- (d) State whether there is a handrail to assist elderly persons when they attempt to negotiate such steps.
- (e) State whether there were on the 11 day of January, 1972 any signs, notices, or other warning devices to inform invitees in the recreation center that they were approaching steps.
- (f) State the distance, in feet and inches, of the location of the nearest light bulb to the stairs, and the wattage of the electric light bulb in use on January 11, 1972.
- (g) State the type of material that comprises the floor of the building at the bottom of the steps.
- (h) State the height and width of any wooden sill that a person must step over before reaching the first step.
- (i) State the distance, if any, from the door nearest the steps to the outside edge of the first step.
- (j) State the height of the risers on said steps and the width of each step.

- 7. (a) State whether Mrs. Marie Moore, as Clerk of the City of Fairhope, received, on June 15, 1972, the sworn claim of Thomas W. Tolmie

against the City of Fairhope, wherein he claimed the sum of \$50,000.00 as damages proximately resulting from his fall on the steps leading to the men's room in said recreation center.

- (b) State what action, if any, the City of Fairhope has taken on said sworn claim of Thomas W. Tolmie.
- (c) Attach a copy of the sworn claim of Thomas W. Tolmie that the Clerk of the City of Fairhope received from Thomas W. Tolmie.
- (d) State the date on which the sworn claim of Thomas W. Tolmie, with regard to the above said accident, was denied.

CHASON, STONE & CHASON

BY: Charles C. Parton
Attorneys for Plaintiff

STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned authority, personally appeared Charles C. Parton, who is known to me and who, after being by me first duly and legally sworn, did depose and say under oath as follows:

That he is one of the attorneys of record for the Plaintiff in the above styled cause and that answer to the Interrogatories hereinabove propounded to the Defendant, The City of Fairhope, Alabama, A Municipal Corporation, will be material evidence in the cause.

Charles C. Parton

Sworn to and subscribed before me
this 1 day of August, 1972.

Lucia D. Davis
Notary Public, Baldwin County, Alabama

FILED

AUG 1 1972

EUNICE B. BLACKMON CIRCUIT CLERK

V

#10,525

Thomas W. Galmie

vs:

City of Fairhope, Ala.
A Municipal Corp.

RECEIVED

AUG 2 1972

TAYLOR WILKINS
SHERIFF

Interrogatories

FILED

AUG 1 1972

EUNICE B. BLACKMON
CIRCUIT CLERK

Chason, Stone & Chason

Sheriff claims 70
Ten Cents per mile Total \$ 7.00
TAYLOR WILKINS, Sheriff
BY DEPUTY SHERIFF

Received 2 day of Aug 1972
and on 3 day of Sept 1972
I served copy of the within
on City of Fairhope

By service on Marie Howell City Reader

TAYLOR WILKINS, Sheriff
By R. W. W. 2.2