

J.E. BROWN,

Plaintiff

-VS-

AUTREY CONWAY,
FRANK HOLLINGSWORTH,
and CITY OF BAY MINETTE,
ALABAMA, a MUNICIPALITY,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 10,527

COUNT ONE

Plaintiff claims of the Defendants the sum of \$50,000.00, for damages for injury done to Plaintiff on August 21, 1971, said injury was done through the neglect, carelessness, or unskillfulness of some agent, officer, or employee of the Municipality of the City of Bay Minette, Alabama, to-wit, Autrey Conway and Frank Hollingsworth, engaged in work therefor, while the said agents, officers or employees were acting in the line of their duty for said Municipality.

COUNT TWO

Plaintiff claims of the City of Bay Minette, Alabama, a Municipality, and of each of the defendants, Autrey Conway and Frank Hollingsworth, while they were then and there engaged in work for the said City of Bay Minette, Alabama, \$50,000.00 damages for injury done to or wrong suffered by plaintiff through the neglect, carelessness or unskillfulness or unlawful act of some agent, officer or employee of the Municipality of the City of Bay Minette, Alabama, to-wit, defendants Autrey Conway and Frank Hollingsworth, while each were engaged in work therefor. Plaintiff alleges that the injury done to or wrong suffered by him through the neglect, carelessness or unskillfulness of each of aforementioned Autrey Conway and Frank Hollingsworth consisted of their wrongful hitting Plaintiff in his right eye with a black-jack, or slap-jack, causing

it to bleed profusely and necessitating it to be sewed up, and causing a loss of sight in Plaintiff's right eye; and Plaintiff further alleges that injury was done to him and wrong suffered by him through the neglect, carelessness, unskillfulness or unlawful acts of the defendants in causing Plaintiff's reputation for being a law-abiding citizen to be wrongfully damaged. Hence this suit in the amount sued for.

*Plaintiff requests
a trial by jury
in this case.*

*Kenneth Cooper
Attorney for Plaintiff*

Kenneth Cooper
ATTORNEY FOR PLAINTIFF

FILED

AUG 2 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

Service upon defendants
Autrey Conway and
Frank Hollingsworth
may be made at the City
jail.

Service upon defendant
City of Bay Minette, Alabama,
a Municipality may be made
upon Mayor Pruitt at City Hall.

CASE NO. 10,527

J.E. BROWN

Plaintiff

-VS-

AUTREY CONWAY,
FRANK HOLLINGSWORTH,
and CITY OF BAY MINETTE,
ALABAMA, a MUNICIPALITY,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

ATTORNEY FOR PLAINTIFF

KENNETH COOPER

SUMMONS AND COMPLAINT

MOORE PRINTING CO. BAY MINETTE ALA.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No. 10,527

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Autrey Conway, Frank Hollingsworth, and City of
Bay Minette, Alabama, a Municipality

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint

filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against Autrey Conway,
Frank Hollingsworth, and City of Bay Minette, Alabama, a Municipality Defendant

by J. E. Brown

Plaintiff

witness my hand this 2nd day of August 1972

Eunice B. Blackmer Clerk

No. 10,527

Page.....

STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

J. E. Brown

Plaintiffs

VS.

Autrey Conway, Frank Hollingsworth,
and City of Bay Minette, Alabama, a
Municipality Defendants

SUMMONS AND COMPLAINT

Filed ...8/2/72..... 19.....

Eunice B. Blackmon Clerk

FILED

AUG 2 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

Kenneth Cooper

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office
RECEIVED

AUG 3 1972

19.....

Sheriff

TAYLOR WILKINS
I have executed this summons

this Aug - 15 1972

by leaving a copy with

Autrey Conway
Frank Hollingsworth
City of Bay Minette
on Capt Steele

73-662

Sheriff's Office

Ten Cents per mile Total \$

TAYLOR WILKINS, Sheriff

BY DEPUTY SHERIFF

Taylor Wilkins Sheriff

W A Zollett Deputy Sheriff

1. Hadley, John T.; City of Foley, Rt. 1 Box 156, Foley, Ala. Foley, Ala. D2
2. Hagendofer, Sophie Mrs.; Housewife, St. Rt. Box 1100, Lillian, Ala. Lillian, Ala. D13
3. Bolder, J. B.; Sanitation Dept. City, 309 W. 5th Ave. Foley, Ala. Foley, Ala. D7
4. Bramlett, Clarence W.; Standard Furniture Co. 313 So. Hoyle Ave. Bay Minette D4
5. Pose, Mrs. Louise; Housewife, P. O. Box 715, Fairhope, Ala.
6. Carnahan, Catherine; Housewife, Rt. 1 Elberta, Ala.
7. Horne, Verda; Housewife, 708 Fairhope Ave. Fairhope, Ala. D12
8. Howard, Winnie Q.; Housewife, Rock Hill Rd. Bay Minette P2
9. Hunt, Chester; Ins. Agt. P. O. Box 735, Young St. Fairhope, Ala.
10. Johnson, Jackie; Secretary CMSD Railroad, Rt. 1 Bay Minette, Mobile, Ala. P2
11. Jones, Bertha B.; Housewife, 111 Ashley Dr. Fairhope, Ala. D11
12. Kelso, J. T.; Bay Slacks (Mgr.) 601 McMillan Ave. Bay Minette, Ala. Bay Minette, Ala. P1
13. Lassiter, W. P.; Retired, P. O. Box 177, Fairhope, Ala.
14. Lee, Charles; Bell Tele Co. Div. Spanish Fort, Ala. Daphne, Ala.
15. Little, Fred; Hd. Mech. County Garage, 5 Bouler Ave. Bay Minette, Ala. P3
16. Long, Polly Mrs.; Housewife, 217 W. Magnolia Ave. Foley, Ala.
17. Long, Fred; Mech NAS 216 Tensaw Ave. Fairhope, Ala. Pensacola, Fla.
18. McAliley, Guy; Riv. Utilities; Box 574, Foley, Ala. Foley, Ala.
19. McDaniel, Doyle; Farmer, Rt. 2 Box, Robertsdale, Ala. D10
20. McDonald, Eloise H.; Baldwin Co. Bank, 701 W. 7th St. Bay Minette, Ala. P4 P8 P10
21. McKinley, D. C.; International Paper Co., 703 Park Ave. Bay Minette
22. Milliean, Stanley T.; Millwright Scott Paper Co. 1605 Moog Ave. Bay Minette, Mobile, Ala.
23. Noonan, Edward D., Jr.; Newport Ind. 903 N. Hoyle Ave. Bay Minette, Ala. P6
24. Parker, Kathryn; Housewife, Rt. 1 Robertsdale, Ala.
25. Peterson, Al; Pat Car, Loxley, Ala. Loxley, Ala. P14
26. Bitto, John K.; Farmer, Rt. 1 Box 6, Elberta, Elberta, Ala. P13
27. Barnhill, David R.; Farmer, Robertsdale, Ala. Robertsdale, Ala. D1
28. Atkins, George H.; U.S. Eng. 9 Confederate Dr. Spanish Fort, Mobile, Ala. P12
29. Alms, John D.; Coop, Mgr. Rt. 1, Elberta, Ala. Elberta, Ala. P46
30. Dickman, Peggy T.; Housewife, Brady Rd. Bay Minette, Ala. P9
31. Fountain, Richard S.; Banker, P. O. Box 612, Robertsdale, Ala. P11
32. Godwin, Roy S.; Ins. Salesman, 214 Mitchell Ave. Bay Minette, Ala. P5
33. Guillot Joseph L.; Eng. Waterman Steamship, 8 Signal Hill, Spanish Fort, Ala. Mobile, Ala.
34. Pipkin, James E.; PNAS, Stockton, Ala. Pensacola, Fla.
35. Pitman, A. D.; Semi-Retired, Rt. 4 Box 183, Gateswood, Ala. D9
36. Powe, Elliot; Bricklayer, 461 Twin Beach Rd. Fairhope, Ala. Self Emp. D3
37. Prohazka Frank, Jr.; Mainside Cafe, Rt. 5 Box 26, Foley, Ala. D8
38. Thompson, Fred A.; Contractor, 204 E. Violet St. Foley, Ala. Foley, Ala.
39. Tucker, George; Mainside Cafe, 612 W. Rose Ave. Foley, Ala. D5

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IN THE CIRCUIT COURT FOR BALDWIN COUNTY,
ALABAMA

J. E. BROWN,

Plaintiff,

VS.

CIVIL ACTION NO. 10,527

AUTREY CONWAY, FRANK
HOLLINGSWORTH, and
CITY OF BAY MINETTE,
ALABAMA, a municipality,

Defendants.

MOTION TO DISMISS

The defendants, each separately and severally, move the court as follows:

1. To dismiss the action because the complaint fails to state a claim against each defendant upon which relief can be granted.
2. The defendants, each separately and severally, were engaged in doing a governmental act or performing a governmental function at the time and place of plaintiff's alleged injuries.

J. B. Blackburn
Attorney for Defendants

I hereby certify that I have on this date served a copy of the foregoing motion to dismiss on Kenneth Cooper, counsel of record for the plaintiff, by delivering a copy thereof to his office.

Dated this 25th day of September, 1973.

FILED

SEP 27 1973

J. B. Blackburn
Attorney for Defendants

EUNICE B. BLACKMON CIRCUIT
CLERK

J. E. BROWN

Plaintiff

-VS-

AUTREY CONWAY,
FRANK HOLLINGSWORTH,
and CITY OF BAY MINETTE,
ALABAMA, a MUNICIPALITY,

Defendants

Ø IN THE CIRCUIT COURT OF

Ø BALDWIN COUNTY, ALABAMA

Ø CIVIL ACTION

Ø NO. 10527

Ø

Ø

Ø

AMENDED COMPLAINT

Comes now Plaintiff in above-styled cause, and amends his complaint heretofore filed in this cause, as follows, to-wit:

1. Delete Count One and substitute the following Count One in lieu thereof:

COUNT ONE: Plaintiff claims of the Defendants the sum of \$50,000.00, for damages for injury done to plaintiff on August 21, 1971, on Hoyle Street, approximately twenty five feet south of where said street crosses the Louisville and Nashville Railroad, and near to where the said Louisville and Nashville Railway Depot is located, all within the corporate limits of the Town of Bay Minette, in Baldwin County, Alabama. Said injury was done through the neglect, carelessness, or unskillfulness of some agent, officer, or employee of the Municipality of the City of Bay Minette, Alabama, to-wit, Autrey Conway and Frank Hollingsworth, engaged in work therefor, while the said agents, officers or employees were acting in the line of their duty for said Municipality.

2. Delete Count Two and substitute the following Count Two in lieu thereof:

COUNT TWO: Plaintiff claims of the City of Bay Minette, Alabama, a Municipality, and of each of the defendants, Autrey


Conway and Frank Hollingsworth, while they were then and there engaged in work for the said City of Bay Minette, Alabama, \$50,000.00 damages for injury done to or wrong suffered by plaintiff through the neglect, carelessness or unskillfulness or unlawful act of some agent, officer or employee of the Municipality of the City of Bay Minette, Alabama, to-wit, defendants Autrey Conway and Frank Hollingsworth, while each were engaged in work therefor, on Hoyle Street, approximately twenty five feet south of where said street crosses the Louisville and Nashville Railroad, and near to where the said Louisville and Nashville Railway Depot is located, all within the corporate limits of the Town of Bay Minette, in Baldwin County, Alabama. Plaintiff alleges that the injury done to or wrong suffered by him through the neglect, carelessness or unskillfulness of each of aforementioned Autrey Conway and Frank Hollingsworth consisted of their wrongful hitting plaintiff in his right eye with a black-jack, or slap-jack, causing it to bleed profusely and necessitating it to be sewed up, and causing a loss of sight in Plaintiff's right eye; and plaintiff further alleges that injury was done to him and wrong suffered by him through the neglect, carelessness, unskillfulness or unlawful acts of the defendants in causing plaintiff's reputation for being a law-abiding citizen to be wrongfully damaged. Hence this suit in the amount sued for.

In all other respects the complaint remains unchanged.

FILED

OCT 10 1973

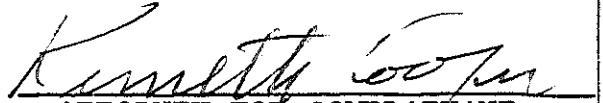
EUNICE B. BLACKMON CIRCUIT
CLERK


ATTORNEY FOR PLAINTIFF
Post Office Box 1000
Bay Minette, Alabama 36507

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the above and foregoing Amended Complaint on Honorable J. B. Blackburn, Post Office Box 248, Bay Minette, Alabama, counsel of record for the Defendants, by placing a copy of same in the United States Mail, postage prepaid and addressed to his regular mailing address.

This 10th day of October, 1973.


ATTORNEY FOR COMPLAINANT
Post Office Box 1000
Bay Minette, Alabama 36507

FILED

OCT 10 1973

EUNICE B. BLACKMON CIRCUIT
CLERK

IN THE CIRCUIT COURT FOR BALDWIN COUNTY,

ALABAMA

J. E. BROWN,

Plaintiff,

VS.

AUTREY CONWAY, FRANK
HOLLINGSWORTH, and
CITY OF BAY MINETTE,
ALABAMA, a municipality,

Defendants.

CIVIL ACTION NO. 10,527

MOTION TO DISMISS

The defendants, each separately and severally, move the court as follows:

1. To dismiss the action because the complaint as last amended fails to state a claim against the defendants, or any of them, upon which relief can be granted.

2. The defendants, Autrey Conway and Frank Hollingsworth, were police officers of the defendant City of Bay Minette, Alabama, a municipal corporation, at the time of the act or acts complained of and were acting in a governmental capacity on the said date, time and place.

FILED

NOV 27 1973

EUNICE B. BLACKMON CIRCUIT CLERK

J. T. Blackburn
Attorney for Defendants

I hereby certify that I mailed a copy of the foregoing motion to Kenneth Cooper, Esquire, by first class mail, postage prepaid and properly addressed, on this the 27 day of November, 1973.

FILED

73 PAGE 667

J. T. Blackburn
Attorney for Defendants

*Mr. Cooper
Says do not
serve def't
coming & Hollingsworth
(Hollingsworth Atty.)*

J. E. BROWN

Plaintiff

-VS-

AUTREY CONWAY, FRANK
HOLLINGSWORTH, and
CITY OF BAY MINETTE,
ALABAMA, a municipality,

Defendants,

2

Ø IN THE CIRCUIT COURT OF
Ø BALDWIN COUNTY, ALABAMA
Ø CIVIL ACTION
Ø CASE NO. 10,527
Ø
Ø
Ø

MOTION FOR PERMISSION TO AMEND

Comes now the plaintiff, and respectfully petitions this Honorable Court under the provision of Rule 15 (a) Alabama Rules of Court, 1973, Rules of Civil Procedure, for leave to amend his Amended Complaint heretofore filed in this cause, as shown on attached AMENDMENT TO AMENDED COMPLAINT, by adding COUNT THREE thereto.

Your plaintiff makes known that he contacted counsel for the defendants, and he suggested this motion be made to this Honorable Court for appropriate action.

Kenneth Cooper
COUNSEL FOR PLAINTIFF
Post Office Box 1000
Bay Minette, Alabama 36507

FILED

JAN 14 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

J. E. BROWN

Plaintiff

-VS-

AUTREY CONWAY, FRANK
HOLLINGSWORTH, and
CITY OF BAY MINETTE,
ALABAMA, a municipality,

Defendants,

Ø

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CIVIL ACTION

CASE NO. 10,527

AMENDMENT TO AMENDED COMPLAINT

Comes now the plaintiff, and acting under the provision of Rule 15, Alabama Rules of Court, 1973, Rules of Civil Procedure, amends his AMENDED COMPLAINT heretofore filed in this cause, by adding the following COUNT THREE:

"COUNT THREE: The plaintiff claims of the defendants \$50,000.00 as damages for injury done to plaintiff on August 21, 1971, on Hoyle Avenue, within the city limits of the Town of Bay Minette, Baldwin County, Alabama, by the defendants, Autrey Conway and Frank Hollingsworth, who, with knowledge that their action hereinafter described would wrongfully and unlawfully injure plaintiff, wilfully and wantonly hit plaintiff in his right eye with a blackjack, sometimes called a slap-jack, which cause plaintiff's face to be beaten which caused it to bleed profusely, and which necessitated the area around his said eye to have to be sewed up, and further causing a partial loss of sight in the said right eye, the said unlawful action by the said Autrey Conway and Frank Hollingsworth occurring while they were then and there engaged in work for the defendant, City of Bay Minette, Alabama. Hence this suit is in the amount sued for.

In all other respects the Amended Complaint remains unchanged.

FILED

JAN 14 1975

EUNICE B. BLACKMON CIRCUIT CLERK

Kenneth Cooper
ATTORNEY FOR PLAINTIFF

73

PAGE 669

J. E. BROWN

Plaintiff

-VS-

AUTREY CONWAY, FRANK
HOLLINGSWORTH, and
CITY OF BAY MINETTE,
ALABAMA, a municipality,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
CIVIL ACTION
CASE NO. 10,527

ORDER

The foregoing Motion having been duly presented to the Court,
and it being understood, the Court is of the opinion that it
should be granted. Therefore the

MOTION FOR PERMISSION TO AMEND is granted.

Dated this 7th day of February, 1975.

Julius A. Marshall
CIRCUIT JUDGE

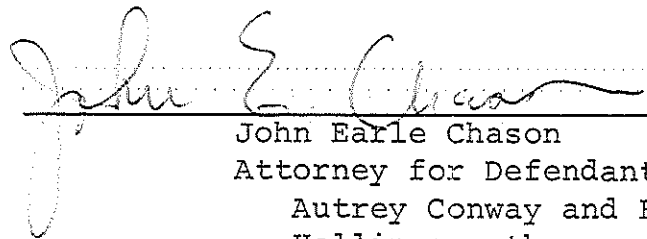
IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA

J. E. BROWN, X
Plaintiff, X
vs. X CIVIL ACTION NO. 10,527
AUTREY CONWAY, FRANK X
HOLLINGSWORTH, and CITY X
OF BAY MINETTE, ALABAMA, X
a municipality, X
Defendants. X

MOTION TO STRIKE

Come now the Defendants, Autrey Conway and Frank Hollingsworth, by and through their Attorney of Record and move to strike the following portions of the Amended Complaint heretofore filed in said cause as follows:

1. Said Defendants move to strike Count 1 of the Amended Complaint for that:
 - a. Said Count does not state a claim for which relief can be granted.
2. Said Defendants move to strike Count 2 of the Amended Complaint for that:
 - a. Said Count fails to state a claim for which relief can be granted.



John Earle Chason
Attorney for Defendants,
Autrey Conway and Frank
Hollingsworth
P. O. Box 120
Bay Minette, Alabama 36507

OF COUNSEL:

CHASON, STONE, CHASON & PARTIN
Attorneys At Law
Bay Minette, Alabama 36507

FILED

FEB 10 1975

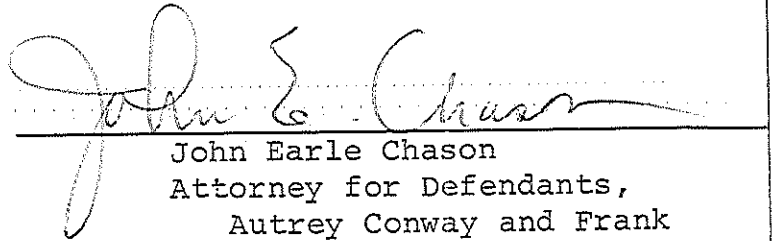
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73 PAGE 671

EUNICE B. BLACKMON CIRCUIT
CLERK

CERTIFICATE OF SERVICE

I, John Earle Chason, attorney for the Defendants, Autrey Conway and Frank Hollingsworth, in the above styled action, hereby certify that on the 10 day of February, 1975, I served the attached Motion to Strike upon Honorable Kenneth Cooper, attorney for Plaintiff, and upon Honorable J. B. Blackburn, attorney for Defendant, City of Bay Minette, Alabama, a municipality, by depositing a copy of same in the United States mails, postpaid, addressed to them at their offices in Bay Minette, Alabama.



John Earle Chason
Attorney for Defendants,
Autrey Conway and Frank
Hollingsworth
P. O. Box 120
Bay Minette, Alabama 36507

FILED

FEB 10 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

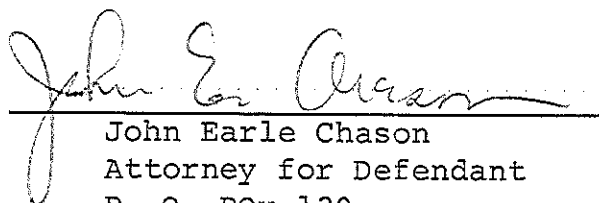
IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA

J. E. BROWN,	X	
Plaintiff,	X	
	X	
vs.	X	CIVIL ACTION NO. 10,527
	X	
AUTREY CONWAY, et al.,	X	
Defendants.	X	

MOTION FOR SUMMARY JUDGMENT BY
DEFENDANT, FRANK HOLLINGSWORTH

The Defendant, Frank Hollingsworth, moves the Court to enter, pursuant to Rule 56 of the Alabama Rules of Civil Procedure, the Summary Judgment in this Defendant's favor dismissing the action as to him on the ground that there is no genuine issue as to any material fact in that the Defendant is entitled to a judgment as a matter of law.

This Motion is based upon the pleadings, the affidavits of this Defendant and Alex McDowell, Jr.


John Earle Chason
Attorney for Defendant
P. O. Box 120
Bay Minette, Alabama 36507

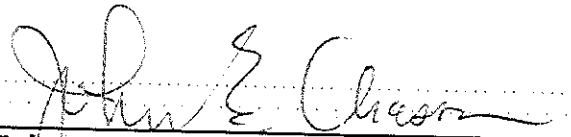
OF COUNSEL:

CHASON, STONE, CHASON & PARTIN
Attorneys at Law
Bay Minette, Alabama 36507

CERTIFICATE OF SERVICE

I, John Earle Chason, Attorney for the Defendant, Frank Hollingsworth, in the above styled action, hereby certify that on the 19 day of February, 1975, I served the attached Motion

For Summary Judgment upon J. B. Blackburn, Attorney for the City of Bay Minette, Alabama, and upon Honorable Kenneth Cooper, attorney for Plaintiff, by depositing a copy of the same in the United States Mails, postpaid, addressed to them at their offices in Bay Minette, Alabama, their last known address.



John Earle Chason
Attorney for Defendant, Frank
Hollingsworth
P. O. Box 120
Bay Minette, Alabama 36507

FILED

FEB 19 1975

EUNICE B. BLACKMON CLERK

IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA

J. E. BROWN, X
Plaintiff, X
vs. X CIVIL ACTION NO. 10,527
AUTREY CONWAY, FRANK X
HOLLINGSWORTH, and CITY X
OF BAY MINETTE, ALABAMA, X
a municipality, X
Defendants.

AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

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

My name is Alex McDowell, Jr. and I am a Lieutenant in the Police Department of the City of Bay Minette, where I have been employed for approximately nine (9) years.

Officer Kenneth Hall and I were on patrol on the night of August 21, 1971, when we received a call to investigate an automobile which was stalled on the Louisville & Nashville main line at the Hoyle Avenue crossing. When we arrived at the scene, Captain Frank Hollingsworth and Auxiliary Officer Autry Conway were already on the scene. While we were investigating the condition of the driver of that automobile, a disturbance broke out near the depot on the other side of the street from where we were standing. Officer Conway ran to the scene of the disturbance and I was the second officer to arrive on the scene. I was close enough to see Officer Conway attempt to stop a fight between Mr. J. E. Brown and Cathy Hollingsworth by grabbing Mr. Brown on the shoulder. When Officer Conway grabbed Mr. Brown, he attempted to hit Officer Conway who then hit Mr. Brown with his slap stick.

When I arrived on the scene, the incident had already happened
and Captain Frank Hollingsworth had not yet arrived on the scene.

Further deponent sayeth not.

Alex McDowell, Jr.
Alex McDowell, Jr.

Sworn to and subscribed before
me this 18 day of February,
1975.

John Earle Chason
Notary Public, Baldwin County, Alabama

FILED

FEB 19 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA

J. E. BROWN,

X

Plaintiff,

X

vs.

X

CIVIL ACTION NO. 10,527

AUTREY CONWAY, FRANK
HOLLINGSWORTH and CITY
OF BAY MINETTE, ALABAMA,
a municipality,

X

X

X

Defendants.

AFFIDAVIT IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

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

My name is Frank Hollingsworth and I am one of the Defendants in the above styled cause. I am a Captain in the Police Department of the City of Bay Minette, where I have been employed for twelve (12) years. On August 21, 1971, I was so employed. On August 21, 1971, between the hours of 9:45 and 10:00 p.m. Auxillary Policeman, Autry Conway and I were on routine patrol when we were called to investigate an automobile stalled on the railroad track at the Hoyle Avenue crossing of the L & N Railroad main line. When we arrived, the automobile had been removed from the tracks and we were investigating the incident when Officer Conway noticed a disturbance approximately 100 feet from where we were standing. Officer Conway immediately went to the site of the disturbance and I stopped to get my flashlight and proceeded to the scene of the difficulty arriving after Officer Conway. When I arrived at the scene of the disturbance I was informed that a fight had been in progress between Mr. J. E. Brown and Cathy Hollingsworth and in breaking up the fight, Officer Conway had been assaulted by Mr. Brown and that Officer

Conway had then struck Mr. Brown with his "slap-stick". At no time did I touch Mr. Brown except to examine the injury which Mr. Brown said was caused by Officer Conway. Although Officer Conway was an Auxillary Policeman and subject to my orders and directions at the time, he was not acting under my direct orders at the scene of this disturbance since I had not issued any orders to him in connection with handling this disturbance. The entire occurrence happened before I arrived at the scene and I did not see any difficulty between any of the parties present.

Further deponent sayeth not.

Frank Hollingsworth
Frank Hollingsworth

Sworn to and subscribed before me
on this the 13th day of February, 1975.

John Earle Chason
Notary Public, Baldwin County, Alabama

FILED

FEB 19 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

IN THE CIRCUIT COURT OF BALDWIN COUNTY
ALABAMA

J. E. BROWN,	X	
Plaintiff	X	
vs.	X	CIVIL ACTION NO. 10,527
AUTREY CONWAY, et. al.,	X	
Defendant	X	

ORDER GRANTING MOTION
FOR SUMMARY JUDGMENT

This cause came on to be heard on the motion of the Defendant, Frank Hollingsworth for a summary judgment pursuant to Rule 56 of the Alabama Rules of Civil Procedure and the Court having considered the Complaint, the Answer, the Deposition of J. E. Brown and the affidavits of Frank Hollingsworth and Alex McDowell, Jr., and having heard and considered argument of counsel for the parties finds that there is no genuine issue as to any material fact with respect to the liability of Frank Hollingsworth and the Court has concluded that such Defendant is entitled to a summary judgment as the matter of law. It is, therefore,

ORDERED, JUDGED and DECREED that the said Frank Hollingsworth be, and he is hereby, dismissed with prejudice as a party Defendant in the above and foregoing action and that the cost, if any, for such proceedings be taxed against the Plaintiff in the cause for which let execution issue.

Done this 24th day of March, 1975.

Justin H. Madole
Circuit Judge

IN THE CIRCUIT COURT FOR BALDWIN COUNTY,
ALABAMA

J. E. BROWN,	X	
Plaintiff,	X	
	X	
vs.	X	CIVIL ACTION NO. 10,527
	X	
AUTREY CONWAY, et al.,	X	
Defendants.	X	

ANSWER TO AMENDED COMPLAINT

Comes now the Defendant, Autrey Conway, and answers the Amended Complaint and the Amendment to the Amended Complaint heretofore filed in said cause and would show unto Your Honor and unto this HOnorable Court as follows:

1. This Defendant denies the allegations of Count One of the Complaint except wherein the same alleges the location of the incident and except wherein the same alleges that this Defendant, at said time and place, was the agent, officer or employee of the Municipality of the City of Bay Minette, engaged in work therefor in the line of his duty, which said allegations said Defendant admits.

2. This Defendant denies the allegations of Count Two of said Complaint except wherein the same alleges the location of the incident complained of and except whereinsaid Count alleges that such Defendant was then and there engaged in work for the City of Bay Minette, Alabama, which said allegations are admitted by the Defendant.

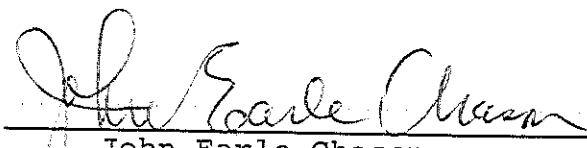
3. This Defendant denies the allegations of Count Three of the Amendment to Amended Complaint except wherein the same alleges the location of the incident complained of and except

wherein the same alleges that this Defendant was at said time and place engaged in work for the Defendant, City of Bay Minette, Alabama, which said allegations are admitted.

And now having fully answered the Complaint and its Amendments, this Defendant does set forth and assign the following specific defense to each Count of the Complaint and its Amendments.

SECOND DEFENSE

This Defendant says that on the occasion complained of by the Plaintiff that the Plaintiff and a third party were engaged in a difficulty on a public street in the City of Bay Minette, and that at said time and place, this Defendant was a Police Officer of the City of Bay Minette and acting within the line and scope of his authority as such police officer in attempting to break up such disturbance; that this Defendant was without fault in bringing on the difficulty and that in the act of breaking up the disturbance, acting on and under a bona fide belief that he was in danger of bodily harm from the Plaintiff, this Defendant attempted to repel or prevent an attack on him then being made by the Plaintiff, using no more force than was reasonably necessary therefor, and therefore, this Defendant is not guilty of the wrongs and grievances alleged.

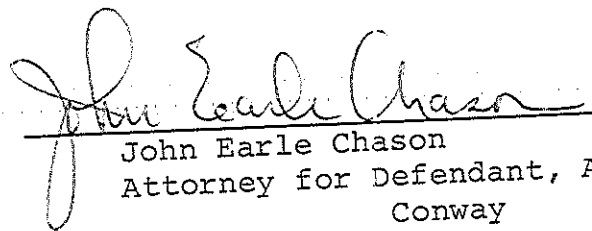

John Earle Chason
Attorney for Defendant, Autrey
Conway

OF COUNSEL:

CHASON, STONE, CHASON & PARTIN
Attorneys at Law
Bay Minette, Alabama

CERTIFICATE OF SERVICE

I, John Earle Chason, Attorney for the Defendant, Autrey Conway, in the above styled action, hereby certify that on the 3rd day of April, 1975, I served the attached Answer to Amended Complaint upon Honorable Kenneth Cooper, Attorney for the Plaintiff, and upon Honorable J. B. Blackburn, Attorney for Defendant City of Bay Minette, Alabama, by depositing a copy of the same in the United States mails, postpaid, addressed to them at Bay Minette, Alabama, their last know addresses.


John Earle Chason
Attorney for Defendant, Autrey
Conway

FILED

APR 3 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

IN THE CIRCUIT COURT FOR BALDWIN COUNTY,
ALABAMA

J. E. BROWN,

Plaintiff,

VS.

CIVIL ACTION NO. 10,527

AUTREY CONWAY and CITY OF
BAY MINETTE, ALABAMA, a
municipal corporation,

Defendants.

ANSWER OF CITY OF BAY MINETTE, ALABAMA

Now comes the City of Bay Minette, Alabama, a municipal corporation, and for answer to the plaintiff's complaint as last amended, and to each and every count thereof, separately and severally, says:

FIRST DEFENSE

Not guilty.

SECOND DEFENSE

The allegations of the complaint are untrue.

THIRD DEFENSE

At the time and place alleged in the plaintiff's complaint as last amended, the defendant Autrey Conway was then and there employed by the defendant City of Bay Minette, Alabama, as a police officer, at which time and place the City of Bay Minette, Alabama, was engaged in the exercise of a governmental function, to-wit, the operation of its police department, because of which the defendant City of Bay Minette, Alabama, is not liable for the said alleged injuries of the plaintiff.

J. B. Blackburn
J. B. Blackburn

Attorney for City of Bay Minette, Alabama,
a municipal corporation

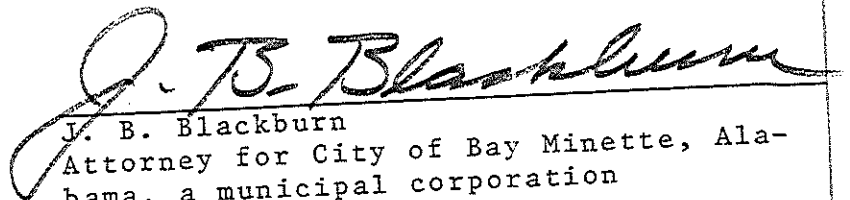
FILED

JUL 17 1975

EUNICE B. BLACKMON CIRCUIT
CLERK

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of the above and foregoing answer by first class mail, postage prepaid, to Kenneth Cooper, attorney for the plaintiff, at Bay Minette, Alabama, and to John E. Chason, attorney for the defendant Autrey Conway, at Bay Minette, Alabama, on this the 17th day of July, 1975.


J. B. Blackburn
Attorney for City of Bay Minette, Alabama, a municipal corporation

IN THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA

J. E. BROWN, X
Plaintiff, X
vs. X CIVIL ACTION NO. 10,527
AUTRY CONWAY and X
CITY OF BAY MINETTE, X
ALABAMA, a municipality, X
Defendants. X

MOTION FOR DIRECTED VERDICT

The Defendant, Autry Conway, moves the Court to direct a verdict in favor of this Defendant in this cause on the following grounds, to-wit:

1. There is a complete failure of evidence to support the allegations of Count One of the Complaint.
2. There is a complete failure of evidence to support the allegations of Count Two of the Complaint.
3. There is a complete failure of evidence to support the allegations of Count Three of the Complaint.

*Filed: July 21, 1975
Jeffrey J. Marshall
Judge*

John Earle Chason

John Earle Chason
Attorney for Defendant, Autry
Conway
P. O. Box 120
Bay Minette, Alabama 36507

*Denied: July 24, 1975
Jeffrey J. Marshall
Judge*

OF COUNSEL:

CHASON, STONE, CHASON & PARTIN
Attorneys At Law
Bay Minette, Alabama 36507

IN THE CIRCUIT COURT FOR BALDWIN COUNTY,
ALABAMA

J. E. BROWN,

Plaintiff,

VS.

AUTREY CONWAY and CITY OF
BAY MINETTE, ALABAMA, a
municipal corporation,

Defendants.

X
X
X
X
X
X
X
X
X
X

CIVIL ACTION NO. 10,527

MOTION FOR A DIRECTED VERDICT

Now comes the defendant, the City of Bay Minette, Alabama, a municipal corporation, by its attorney, and, pursuant to Rule 50(a) of the Alabama Rules of Civil Procedure, files this its motion for a directed verdict in its favor, and as grounds of said motion, says:

At the time and place alleged in the plaintiff's complaint as last amended, this defendant was engaged in a governmental function, to-wit, the operation of a municipal police department, and the defendant Autrey Conway was then and there a police officer of this defendant.

Respectfully submitted,

J. B. Blackburn
J. B. Blackburn
Attorney for defendant, City of Bay
Minette, Alabama, a municipal corporation

7-21-75 Filed.

Judge J. Maslowski

7-24-75 Granted. *Judge J. Maslowski*

Copy to Kenneth Cooper, Esquire, attorney for plaintiff. *Judge*

We, the jury, find the issues in favor of the Defendant, Autry Conway.

E. McGlinchey
Foreman