

MINNIE S. McGUIRE,
PLAINTIFF.

VS.

E. G. MILLER,
DEFENDANT.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

NOW COMES E. G. MILLER, THE DEFENDANT IN THE ABOVE STYLED CAUSE, AND MOVES THE COURT TO SET ASIDE THE VERDICT AND JUDGMENT IN THE ABOVE STATED CAUSE, AND BASES THIS MOTION UPON THE FOLLOWING SEPARATE GROUNDS:

1. Because the court erred in refusing written charge 1, requested by the defendant, in words as follows:

"Gentlemen of the jury, if you believe the evidence in this case, you must find for the defendant."

2. Because the court erred in refusing to give written charge 2, requested by the defendant as follows:

"Gentlemen of the jury, if you believe the evidence in this case, you cannot find for the plaintiff under the second count of plaintiff's complaint."

3. Because the court erred in refusing to give written charge 3, requested by the defendant as follows:

"Gentlemen of the jury, if you believe the evidence in this case, you cannot find for the plaintiff under the third count of plaintiff's complaint."

4. Because the court erred in refusing to give written charge 6, requested by the defendant as follows:

"Gentlemen of the jury, if you are reasonably satisfied from the evidence that the defendant, E. G. Miller, notified the plaintiff, Minnie McGuire, to stay away from his dance at Magnolia Beach, Baldwin County, Alabama, and that, notwithstanding said notice, the plaintiff entered the said hall, the defendant was justified in ejecting her, without further notice from the defendant, and if you are further reasonably satisfied from the evidence that the defendant used only sufficient force in ejecting the plaintiff from said hall, and did not use excessive force, your verdict must be for the defendant, E. G. Miller."

5. Because the court erred in refusing to give written charge "A", requested by the defendant as follows:

"Gentlemen of the jury, the plaintiff cannot recover for suffering or injuries sustained on account of the defendant striking or kicking her ankle."

6. Because the court erred in refusing to give written charge "B", requested by the defendant as follows:

"Gentlemen of the jury, the plaintiff cannot recover for physical suffering in this case or for physical injuries sustained by her."

7. Because the court erred in refusing to give written charge "C", requested by the defendant as follows:

"Gentlemen of the jury, the plaintiff cannot recover for physical pain caused by the assault and battery in this."

8. Because the court erred in refusing to give written charge "D", requested by the defendant as follows:

"Gentlemen of the jury, the defendant had a right to refuse admission to any one he cared to, and if he did not want the plaintiff to enter the said dance hall, he had a perfect right to refuse admission to her, and if you are reasonably satisfied from the evidence that prior to August 26th. 1916, the defendant notified the plaintiff to stay away from his dance hall, but notwithstanding said notice, the plaintiff entered the hall after being so notified, the defendant could eject her, and if you are further reasonably satisfied from the evidence that the defendant did not use excessive force in ejecting her from the said dance hall, the defendant is not liable."

9. Because the court erred in refusing to give written charge "E", requested by the defendant as follows:

"Gentlemen of the jury, if you are reasonably satisfied from the evidence that the plaintiff is entitled to recover the only damages she can recover are nominal."

10. Because the verdict was not supported by the evidence.

11. Because the verdict was excessive.

12. Because the verdict of the jury, was contract to the undisputed evidence in the case.

The foregoing charges were separately requested in writing before the jury retired to consider its verdict.

W. B. McKinney & Co.
As Attorneys for Defendant.

I accept service of the copy of the foregoing motion, and waive further notice of same, and agree that this motion may be set down for hearing on November 27th. 1917.

J. E. Wicks
As Attorneys for Plaintiff.

11/27/17.

Motion overruled & Dis. except.

A. E. Gamble
Judge

MINNIE S. MCGUIRE, PLAINTIFF.

VS.

E. G. MILLER.

DEFENDANT.

MOTION FOR NEW TRIAL.

*Filed 11/29/919
J. McKeen
Clerk*

WEBB, McALPINE & GROVE,
ATTORNEYS FOR DEFENDANT