

MARGIE GIAFAGLIONE,

Plaintiff,

-VS-

J. R. MONTGOMERY and J. R.
MONTGOMERY, doing business
as J. R. MONTGOMERY CAFE,
and MRS. J. R. MONTGOMERY,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

NO. 2320


Comes the Defendants in the above styled cause and demurrs
to the Bill of Complaint heretofore filed that and as grounds
for demurrer shows the following.

1. Said Bill of Complaint does not state a cause of action.

FILED

Aug. 25, 1954

ALICE J. DUCK, Clerk


Solicitor for Defendants

MARGIE GIAFAGLIONE,
Plaintiff,

VS:

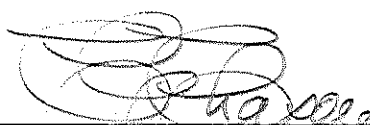
J. R. MONTGOMERY and J. R.
MONTGOMERY, doing business
as J. R. MONTGOMERY CAFE,
and MRS. J. R. MONTGOMERY,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW.
NO. _____

The Defendants for answer to the Complaint sayeth that they are not guilty of the matters alleged therein.

For further answer to the said Complaint the Defendants say that the Plaintiff ought not to recover in this case for that on the occasion complained of the Plaintiff acting by and through a companion, who was at that time acting as the agent, servant or employee of the Plaintiff, was guilty of negligence proximately contributing to the alleged injury and damage in that the said companion while acting as such agent, servant, or employee caused the fuel to run from the tank of said motor cycle and caused said motor cycle to catch fire and burn, hence the Plaintiff ought not to recover in this suit.

FILED
Jul 15, 1955
ALICE J. DUCK, Clerk



Attorney for Defendants

ANSWER

2328

MARGIE GIACCLIONE,

Plaintiff

VS:

J. R. MONTGOMERY and J. R.
MONTGOMERY, doing business
as J. R. MONTGOMERY CAFE, and
MRS. J. R. MONTGOMERY,

Defendants

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

NO. _____

FILED

FEB 16 1955

ALICE L. BUCK, Clerk

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

STATE OF ALABAMA, 0
 0 TO ANY SHERIFF OF THE STATE OF ALABAMA:
 COUNTY OF BALDWIN. 0

You are hereby commanded to summon J. R. MONTGOMERY AND J. R. MONTGOMERY, doing business as J. R. MONTGOMERY CAFE, AND MRS. J. R. MONTGOMERY, 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 the same, then and there to answer the complaint of MARGIE GIAFAGLIONE.

Witness my hand this 21st day of July, 1954.

Alice J. Duck
 C L E R K.

C O M P L A I N T

MARGIE GIAFAGLIONE,

Plaintiff,

VS:

J. R. MONTGOMERY and J. R. MONTGOMERY, doing business as J. R. MONTGOMERY CAFE, and MRS. J. R. MONTGOMERY,

Defendants.

IN THE CIRCUIT COURT OF
 BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. _____

C O U N T O N E.

Plaintiff claims of the Defendant ONE THOUSAND AND NO/100 (\$1,000.00) DOLLARS for that on to-wit, the 9th day of October, 1953, Mrs. J. R. Montgomery, a servant, agent or employee of the J. R. Montgomery Cafe, of which the Defendant J. R. Montgomery is the owner, negligently overran the fuel tank of the Plaintiff's motorcycle with gasoline while the Plaintiff was purchasing gasoline from the said J. R. Montgomery's Cafe located in Foley, Alabama as a customer of said Filling Station and as a direct and proximate result of the said negligence on the part of the said Mrs. J. R. Montgomery while acting within the line and scope of her employment as such servant, agent or employee of the said J. R. Montgomery Plaintiff's motorcycle caught fire and burned to the extent that same is worth only scrap value, all to her damages as aforesaid.

J. R. Montgomery, Jr.
 Attorney for Plaintiff.

Plaintiff respectfully requests a jury trial.

FILED

July 21, 1954

ALICE J. DUCK, Clerk

J. R. Montgomery, Jr.
 Attorney for Plaintiff.

Received 22 day of July 1954
and on 23 day of July 1954
I served a copy of the within
on J.R. Montgomery
Mrs Montgomery
By service on _____

TAYLOR WILKINS, Sheriff
By [Signature] D.S.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 2320

MARGIE GIAFAGLIONE,

Plaintiff,

Vs:

J. R. MONTGOMERY and J. R.
MONTGOMERY, doing business
as J. R. MONTGOMERY CAFE,
and MRS. J. R. MONTGOMERY,

Defendants.

SUMMONS AND COMPLAINT.

FILED

JUL 21 1954

ALICE J. DUCK, Clerk

TELFAIR J. MASHBURN, JR.

ATTORNEY-AT-LAW

BAY MINETTE, ALABAMA

We the jury find for the
defendant J.R. Montgomery
B.M. Simmons

We the jury find for the
plaintiffs and assess the damages
at \$300.00 against Mrs. J.R. Montgomery
B.M. Simmons

CECIL G. CHASON

ATTORNEY AT LAW
FOLEY, ALABAMA


August 23, 1954

Mrs. Alice J. Duck, Clerk
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith is demurrer in the case of Margie
Giafaglione -vs- J. R. Montgomery, et al. A copy is
being sent to Mashburn.

Yours very truly,



C. G. Chason

CGC:fm

encls. 1

JURY LIST

Spring Term, March 14, 1955

NO. NAME OCCUPATION ADDRESS

~~1 Thomas V. Abercrombie, Jr., butcher, Robertsdale~~

~~2 Lavigne Berglin, creamery, Fairhope~~

~~3 J. Carlisle Childress, merchant, Foley~~

~~4 J. J. Jurkiewicz, merchant, Summerdale~~

~~5 Joseph L. Lucassen, auto dealer, Foley~~

6 Iriving Kamper, merchant, Fairhope

~~7 Vernon Wheat, reserve fleet, Bay Minette~~

~~8 Laudie L. Langham, Newport, Bay Minette~~

9 Jesse Stewart, laborer, Robertsdale

~~10 Roger Barnhill, farmer, Loxley~~

~~11 Robert L. Teem, farmer, Foley~~

~~12 Barnard Laurendine, laborer, Foley~~

13 Edward McDaniel, farmer, Robertsdale

14 Robert F. Helton, carpenter, Foley

~~15 David Golden, merchant, Foley~~

~~16 Edward W. Engel, farmer, Summerdale~~

17 Joseph Kral, farmer, Robertsdale

18 Grover McBride, mechanic, Foley

19 F. L. Soesbe, mechanic, Foley

~~20 Carl Slaughter, farmer, Tensaw~~

21 Brad Neimier, merchant, Fairhope

22 Robert T. Cowles, laborer, Fairhope

~~23 Marshall N. Harris, farmer, Foley~~

~~24 Charles C. Hand, Jr., real estate, Bay Minette~~

~~25 Quinten Cooper, veteran, Bon Secour~~

26 John A. Ebert, clerk, Foley

~~27 Elmer G. Anderson, contractor, Fairhope~~

~~28 Max Griffin, oil distributor, Foley~~

29 George Hertel, farmer, Elberta

~~30 John E. Flowers, farmer, Bon Secour~~

~~31 Frank Knowles, electrician, Bay Minette~~

~~32 I. Hilary Brown, cobbler, Bay Minette~~

33 Martin Simmons, surveyor, Bay Minette

~~34 Herman Pau, butane work, Foley~~

~~35 Elroy McKenzie, Sr., farmer, Fairhope~~

36 William Gullede, farmer, Robertsdale

~~37 Aaron O. Weaver, merchant, Bay Minette~~

~~38 Arthur Stenzil, furniture, Fairhope~~

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