

2324

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Marshall Patterson and Bud Mason 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 Cecil Merritt suing by next friend and his father, Richard Merritt.

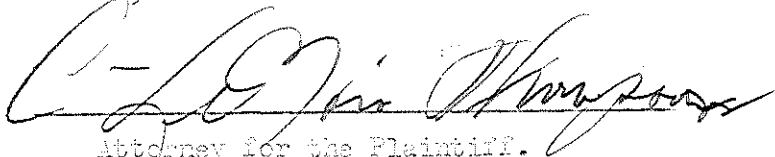
Witness my hand, this _____ day of July, 1954.

Clerk.

| | | |
|---|---|-------------------------|
| CECIL MERRITT, a minor, suing by next friend and father, RICHARD MERRITT, | { | |
| | { | IN THE CIRCUIT COURT OF |
| PLAINTIFF, | { | BALDWIN COUNTY, ALABAMA |
| VS | { | AT LAW |
| MARSHALL PATTERSON, and BUD MASON, | { | |
| DEFENDANTS. | { | |

The Plaintiff, a minor 12 years of age, who sues by his next friend and father, Richard Merritt, claim of the Defendants the sum of One Thousand (\$1,000.00) Dollars, as damages for that heretofore, on, to-wit, June 8, 1954, the Plaintiff was a minor 12 years of age and the Defendant Marshall Patterson had at and aforesaid date on his premises near Atmore, Escambia County, equipment or machinery that was attracted to children of the Plaintiff's age and was exceedingly dangerous to children; said machinery or equipment being known as a potato grader and chain conveyer. Plaintiff avers that the Defendants negligently permitted said machinery to become unwatched or unguarded or in some other manner, although the Defendant, Marshall Patterson, through his agent, servant or employee, Bud Mason, while acting within the line and scope of his employment as such, knew well that Plaintiff, a minor, who was then and there upon said premises with the permission of the Defendants' agent, servants or employees while acting within the line or scope of their employment as such, was playing about said premises in close vicinity of said machinery or equipment while in operation, and that said machinery or equipment was of such character that same was liable to attract a child of Plaintiff's age, and that Plaintiff was liable to receive serious injuries at some time as a result of same.

Plaintiff further avers that the Defendants, through their agents, servants, or employees, while acting within the line and scope of their employment as such on or prior to June 8, 1954, allowed Plaintiff to be in and around said premises and said machinery and equipment as aforesaid, and that on and prior to said date, to-wit, June 8, 1954, the Defendants through their agents, servants ^{for} employees, while acting within the line and scope of their employment as such, with the knowledge of the Plaintiff, a minor, 12 years of age, allowed said child to be and remain upon the said premises in the immediate vicinity of said machinery and equipment as aforesaid; and said Plaintiff was injured on the date of aforesaid by having his right foot caught in the conveyer chain and breaking the bone in the three smaller toes of said foot as well as causing bruises and contusions on the foot, causing the Plaintiff herein much pain and suffering, all to his great damage as aforesaid, hence this suit.


Attorney for the Plaintiff.

CECIL MERRITT, a minor, suing
by next friend and father,
RICHARD MERRITT,

PLAINTIFF,

VS.

MARSHALL PATTERSON, and
RUD WASON,

DEFENDANT.

IN THE JUDICIAL COURT OF

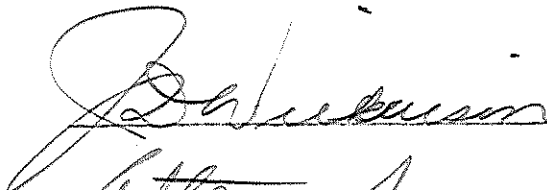
BALDWIN COUNTY, ALABAMA

AT LAW

Come the Defendants in the above styled cause and for answer to the
complaint filed in said cause, and each phase thereof shows unto this
Honorable Court as follows:

1.

Not guilty.


Attorney for
Defendants.

C. P. ST. AMANT, JR., M. D.
ATMORE, ALABAMA

July 16, 1951

Mr. Lenoir Thompson
Bay Minette,
Alabama.

Dear Mr. Thompson,

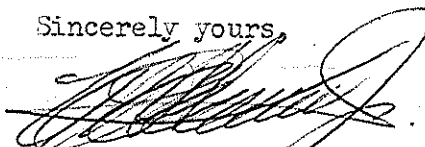
I have examined Master Cecal Merritt, 12 year old child of Mr. Richard Merritt, this date according to our telephone conversation.

X-ray examination shows one complete fracture through the distal third of the proximal phalanx of the right fourth toe. The fragments are in good position and healing has begun. No other fractures are demonstrable. There is some swelling of this area and the boy complains of moderate pain on walking.

This is a very common and benign type of fracture and I am certain that the resulting disability is temporary. This type of fracture is usually splinted by the patient's shoe and disability rarely lasts over six to eight weeks. I noticed that the boy was barefooted today. I believe that if he had worn shoes constantly since the injury he would have had much less trouble. I suggested to the father that he keep shoes on this boy constantly from now on.

I hope that this information is complete.

Sincerely yours,



C.P. St. Amant, Jr. M.D.

CPS/gs

That my name is Richard T. Merritt, I am the father of Cecil Merritt, I was employed by Marshall Patterson, my 12 year old son, Cecil Merritt, was allowed by the foreman to ~~go~~ around the machinery that was grading potatoes, and as I was busy I could not keep an eye on the boy and the man operating the machine was apparently not paying any attention to the boy, and his foot got entangled in the chain breaking three of his toes and bruising his foot. I carried him to Dr. Trehern in Atmore and also to Dr. St. Amant. The doctors statements speak for themselves. I was employed by Mr. Bud Mason, as foreman for Mr. Marshall Patterson, but the boy was not hired by Mr. Patterson, but was just around the machine.