

LEONARD B. PARKER,
as Administrator of the
Estate of ALTON ELVIE PARKER,
Deceased,

PLAINTIFF

-vs-

FRANK ARCHER KRICHOFF,

DEFENDANT

2746
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

DEMURRERS TO DEFENDANT'S PLEAS

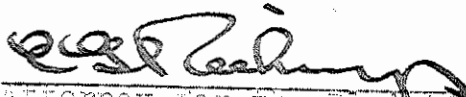
Comes the Plaintiff in the above styled cause and offers the following demurrers to the Defendant's Pleas Two and Three.

1.
That said pleas fail to show facts which constitute negligence.

2.
That said pleas do not show that the vehicle was parked in violation of Sections 25 or 46 of Title 36 of the 1940 Code of Alabama as last amended.

3.

Plaintiff especially demurs to said pleas as they apply to Count two of the complaint, in that contributory negligence is no defense to willful or wanton negligence.


Attorney for the Plaintiff

I hereby certify that on this the 20th day of December, 1955, I have handed a copy of the within demurrers to Messrs. Wilters & Brantley, Attorneys for the defendant.


E. G. Rickarby, Jr.
Attorney for the Plaintiff

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. 2741

Oct.

TERM, 1955

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon FRANK ARCHER KRICHOFF

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 FRANK ARCHER

KRICHOFF

Defendant

by LEONARD B. PARKER, as Administrator of the Estate of ALTON

ELVIE PARKER, deceased,

Plaintiff

Witness my hand this

71

day of

Oct

1955

Alice J. Duck

Clerk

LEONARD B. PARKER, as
Administrator of the
Estate of ALTON ELVIE
PARKER, deceased,

Plaintiff

-vs-

FRANK ARCHER KRICHOFF,

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

COUNT I.

The Plaintiff, LEONARD B. PARKER, as Administrator of the Estate of ALTON ELVIE PARKER, deceased, claims of the Defendant FIFTY THOUSAND DOLLARS (\$50,000.00) damages for, that, en-to-wit, the 1st day of October, 1955 the Plaintiff's intestate, ALTON ELVIE PARKER, was in Baldwin County, Alabama, on the side of a public road or highway known as U. S. Highway 98, about one-half mile west of the Fish River Bridge, and then and there the defendant, FRANK ARCHER KRICHOFF, driving a 1946 Packard car east on said highway struck a 1955 Chevrolet car parked by the side of said road, and negligently shoved, pushed or knocked said 1955 Chevrolet car upon, against and over said ALTON ELVIE PARKER, and thereby and as the proximate result thereof the said ALTON ELVIE PARKER received personal injuries from which, and as the proximate result of which he died on to-wit, the 1st day of October, 1955, to the plaintiff's damage as aforesaid, hence this suit.

COUNT II.

The Plaintiff, LEONARD B. PARKER, as Administrator of the Estate of ALTON ELVIE PARKER, deceased, claims of the defendant FIFTY THOUSAND DOLLARS (\$50,000.00) for that on, to-wit, the 1st day of October, 1955, the plaintiff's intestate, was on U. S. Highway 98 at a point approximately one-half mile west of the Fish River Bridge in Baldwin County, Alabama, and then and there the defendant, FRANK ARCHER KRICHOFF willfully or wantonly knocked, shoved or drove a 1955 Chevrolet car upon, against and over the said ALTON ELVIE PARKER, the plaintiff's intestate, and as a proximate result thereof, the said ALTON ELVIE PARKER received personal injuries, from which and as a proximate result of which he died, on, to-wit, the 1st day of October, 1955, which accident happened in Baldwin County, Alabama.

RICKARBY AND RICKARBY

BY



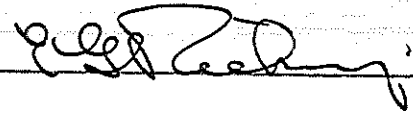
Attorney for the Plaintiff

Parker vs. Krichoff

Plaintiff demands a trial by jury.

RICKARBY AND RICKARBY

BY



RECEIVED

Ad dated 10/10/1914
to order of the
court, 10/10/1914

av

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LEONARD B. PARKER, AS
Administrator of the
Estate of ALTON ELVIE
PARKER, DECEASED,

PLAINTIFF

VS

FRANK ARCHER KRICHOFF

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW

PLEAS

Now comes the Defendant in the above styled cause and files the following Pleas to Count One and Two thereof. The said Pleas are being filed separately and severally to each of the aforesaid counts.

1.

Not Guilty.

2.

The Plaintiff is not entitled to recover in this cause for that on the occasion complained of the Plaintiff's intestate was himself guilty of negligence which proximately contributed to said alleged injuries and damages complained about, in that he negligently placed himself in a position of danger in the night time by staying at or near a vehicle parked partly on the traveled portion of the highway described in the complaint at said time and place; that parked vehicle had no lights burning at or near it nor were there any warning signals at or near the said parked vehicle to indicate its presence or location; well knowing or in the exercising of ordinary care on said occasion said Plaintiff's intestate should have known or appreciated the fact that staying in the position he did, at said time and place would result in danger to him from approaching automobiles upon or along said public highway, and as the proximate result of said intestate staying at or near the said vehicle parked as it was, on said highway, at said time and place complained of he was run upon or against by an automobile on said occasion, which said negligence of said intestate directly and proximately contributed to his death complained of.

3.

The Plaintiff is not entitled to recover in this cause for that Plaintiff's intestate was himself guilty of negligence in voluntarily exposing himself to danger, well known to him or which should have been known in the exercise

of reasonable and ordinary care and prudence on the occasion complained about, and placing himself, as a proximate result of his negligence, in a position of danger in the night time by staying at or near a vehicle parked on the traveled portion of the highway described in the complaint at said time and place; that said parked vehicle had no lights burning at or near it nor were there any warning signals at or near the said vehicle to indicate its presence or location, with full knowledge that so to do would place him in a position of peril and danger from all on coming automobiles along said public highway, and as a proximate result of his so placing himself in said dangerous and perilous position on said public highway his body was struck, or run upon or against by an automobile on said occasion, which negligence aforesaid of Plaintiff's ^{intent} on the occasion complained about proximately and directly contributed to his alleged injuries and death.

Wiltens & Brantley

BY:

John M Brantley
Attorneys for the defendant

STATE OF ALABAMA

BALDWIN COUNTY

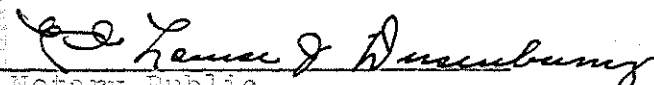
A F F I D A V I T

Before me, Louise J. Dusenbury, a Notary Public in and for said State and County, personally appeared E. G. RICKARBY, JR., who being duly sworn deposes and says that he is the attorney for LEONARD B. PARKER, as administrator of the Estate of ALTON ELVIE PARKER, deceased; that said LEONARD B. PARKER, as administrator of the Estate of ALTON ELVIE PARKER, deceased, has a just claim or demand against FRANK ARCHER KRICHOFF; that the said above named defendant is a nonresident of the State of Alabama, and that this attachment is not sued out for the purpose of vexing or harassing the said defendant or for any other improper motive, and that the Plaintiff is a resident of the State of Alabama.



Affiant, to,

Sworn to and subscribed before me this the 10th day of
October, 1955.



Notary Public
Baldwin County, Alabama

FILED

OCT 11 1955

ALICE I. DUCK, Clerk

STATE OF ALABAMA

COUNTY OF BALDWIN

TO ANY SHERIFF OF THE STATE OF ALABAMA-
CRESTING:

W R I T

Whereas, E. G. PICKARBY, JR., as attorney and agent for LEONARD B. PARKER, as administrator of the Estate of ALTON ELVIE PARKER, deceased, hath complained on oath to me, HUBERT HALL, Judge of the Circuit Court of Baldwin County, that FRANK ARCHER KRICHOFF is justly indebted to LEONARD B. PARKER, as administrator of the Estate of ALTON ELVIE PARKER, deceased, in the sum of FIFTY THOUSAND DOLLARS (\$50,000.00); and that said plaintiff having caused to be made affidavit as required by law in such cases: You are hereby commanded to attach so much of the estate of said FRANK ARCHER KRICHOFF as will be of value to satisfy the said debt and costs according to the complaint; and such estate, unless replevied so to secure that the same may be liable to further proceedings thereon, to be had at the present session of the Circuit Court of Baldwin County, to be held at the Court House thereof, when and where you must make known how you have executed this writ.

Witness my hand, this the 11 day of October, 1955,

Hubert M Hall
Judge

The defendants being nonresidents of Alabama, no bond is required of the plaintiff.

Hubert M Hall

FILED

OCT 11 1955

Alice L. Wick, Clerk

Executed this 20th day of October 1955 by serving a copy of the within on Frank Sanders, Vice President Farmers & Merchants Bank and by attaching the following property of Frank A. Kirchoff:

1- 1946 Packard
410 Davis Certinfillle Shot Gun
30 Cal. Jap. Army Rifle
32 Cal. Pistol, Johnson Arms and Cycle works 72984

Twenty (20) United States Savings Bonds Series G for \$1000.
each dated April 28th, 1947, Nos. M5 294 430, through M5 294 449

Certificates Nos. FC28504, FC28505 and FC28506 for 100 shares
each Florida Power Corporation, dated Nov. 4th 1949;

Certificate No. FA42975 for 60 shares of Florida Power Corporation
stock dated Dec. 12th 1949;

Certificate No. FA64011 for 72 shares of Florida Power Corporation
stock dated July 14th 1952;

Certificate No. FA85182 for 44 shares of Florida Power Corporation
stock dated Oct. 26th 1953;

All of the above securities registered in the name of Frank A.
Kirchoff; Notice of the above levy was given Frank A. Kirchoff.

Taylor Wilkins

Taylor Wilkins, Sheriff, Baldwin
County, Alabama

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

FRANK A. KIRCHOFF

VS

LEONARD B. PARKER, as
Administrator of the
Estate of ALTON BLAINE
PARKER, deceased

FILE

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