

3399

STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon CHARLIE DLOUGHY 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 CECILE HARMS.

WITNESS my hand this 14 day of November, 1957.

Robert. Duck  
Clerk.

Defendant's address is  
Robertsdale, Alabama.

*Executed*  
*Nov. 15, 1957*

CECILE HARMS,  
Plaintiff,  
vs.  
CHARLIE DLOUGHY,  
Defendant.

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

COMPLAINT:

COUNT ONE

The Plaintiff claims of the Defendant TWENTY FIVE HUNDRED DOLLARS (\$2500.00) as damages for that heretofore on, to-wit, the 17th day of November, 1956, the Defendant, at a point approximately two miles South and one-half mile East of Robertsedale in Baldwin County, Alabama, was conducting a sale of livestock, including dairy cattle and farm equipment, which sale was being held at or near the residence of the Defendant at the point mentioned above, at which time the Plaintiff, for the purpose of buying one or more of the articles which were being offered for sale by the Defendant at the said time and place, visited the said premises and while there the Defendant's agent, servant or employee, whose name is otherwise unknown to the Plaintiff, and while acting within the line and scope of his authority, negligently allowed one of the cows which were being offered for sale to get out from under his control, which said cow ran into, on or against the Plaintiff, injuring her face, legs and left shoulder; caused the Plaintiff to be made sick and sore, to suffer great mental and physical pain and anguish and to incur expenses by way of doctor bills, hospital bills and other expenses incident to the treatment of the said injuries.

Plaintiff further avers that all of her damages and injuries as aforesaid, were caused as a proximate consequence of the said agent's, servant's or employee's negligence while acting within the line and scope of his authority.

J. B. Blackburn  
Attorney for Plaintiff.

Plaintiff demands a trial of said cause by Jury.

J. B. Blackburn  
Attorney for Plaintiff.

3379

STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon CHARLIE DLOUGHY 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 CECILE HARMS.

WITNESS my hand this 14 day of November, 1957.

Richard Duck  
clerk.

Defendant's address is  
Robertsdale, Alabama.

*Executed*  
*Nov. 15, 1957*

M. 3399 ✓  
COMPLAINT

CECILE HARMS,

Plaintiff,

VS.

CHARLIE DLOUGHY,

Defendant.

Served on 14 day of Nov 1957  
on 15 day of Nov 1957  
Served a copy of the within to  
Charlie Dloughy  
service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff  
By Edleigh Steadham

Robertsdale, Ala.

Sheriff claims 50 miles at

Ten Cents per mile Total \$ 5.00

TAYLOR WILKINS, Sheriff  
BY Steadham  
DEPUTY SHERIFF

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

FILED  
NOV 14 1957  
ALICE J. DUCK, Clerk

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

CECILE HARMS,

Plaintiff,

vs.

CHARLIE DLOUGHY,

Defendant.

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

DEMURRER

Comes the Defendant in the above styled cause and demurs to the complaint filed in said cause and assigns the following separate and several grounds, viz:

1. That said complaint does not state a cause of action.
2. That said complaint does not allege any duty owing by the Defendant to the Plaintiff.
3. That said complaint is vague and indefinite as to where the injury occurred.
4. For aught that appears from said complaint the Plaintiff voluntarily placed herself in a position of peril.
5. For aught that appears from said complaint the Plaintiff was where she did not have a right to be at the time she was injured.
6. That said complaint does not sufficiently set out where on the premises of the Defendant that the Plaintiff was injured.
7. That said Complaint does not allege that the agent, servant or employee of the Defendant was acting within the line and scope of his authority as such agent, servant or employee at the time the Plaintiff was injured.
8. That said complaint does not allege that the Defendant negligently injured the Plaintiff.
9. That said complaint does not allege that the cow which injured the Plaintiff was the property of the Defendant.
10. That said complaint attempts to set out the negligence of the Defendant and having done so does not set out sufficiently the facts relating to how the injury occurred.
11. That the allegations in said complaint "which said cow ran into, on or against the Plaintiff" is but a conclusion of the pleader, and does not set out sufficient facts to allege how the in-

jury occurred.

12. That the allegation in the complaint "which said cow rant into, on or against the Plaintiff" is vague and indefinite.

*Filed Dec. 6, 1957*  
*Alice J. Luck*  
*Clerk*

*Harold Stone*  
Attorneys for Defendant

CECILE HARMS,

Plaintiff,

vs.

CHARLIE DLOUGHY,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

AMENDED COMPLAINT

COUNT ONE:

The Plaintiff claims of the Defendant TWENTY FIVE HUNDRED DOLLARS (\$2500.00) as damages for that heretofore on, to-wit, the 17th day of November, 1956, the Defendant, at a point approximately two miles South and one-half mile East of Robertsdale in Baldwin County, Alabama, was conducting a public sale of livestock, including dairy cattle and farm equipment, which sale was being held at or near the residence of the Defendant at the point mentioned above, at which time the Plaintiff, for the purpose of buying one or more of the articles which was being offered for sale by the Defendant at the said time and place, visited the said premises and while there the Defendant's agent, servant or employee, whose name is otherwise unknown to the Plaintiff, and while acting within the line and scope of his authority, as such agent, servant or employee, negligently allowed one of the cows which were being offered for sale to get out from under his control, which said cow ran into, on or against the Plaintiff, injuring her face, legs and left shoulder; caused the Plaintiff to be made sick and sore, to suffer great mental and physical pain and anguish and to incur expenses by way of doctor bills, hospital bills and other expenses incident to the treatment of the said injuries.

Plaintiff further avers that all of her damages and injuries as aforesaid, were caused as a proximate consequence of the said agent's, servant's or employee's negligence while acting within the line and scope of his authority.

*Filed*  
*Dec. 19, 1957*

4

*J. B. Blackburn*  
Attorney for Plaintiff.

CECILE HARMS,

Plaintiff,

vs.

CHARLIE DLOUGHY,

Defendant.

I  
I  
I  
I  
I  
I

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

DEMURRER

Comes the Defendant in the above styled cause and demurs to the amended Bill of Complaint filed in said cause and assigns the following separate and several grounds, viz:

1. That said amended complaint does not state a cause of action.
2. That said amended complaint does not show any duty owing by the Defendant to the Plaintiff.
3. That said amended complaint does not allege that the Defendant negligently injured the Plaintiff.
4. That said amended complaint is vague and indefinite as to where the injury occurred.

*Filed*  
*Dec. 20, 1957*  
*Alice J. Luck, Clerk*

*Sharon A. Stone*

Attorneys for Defendant



CECILE HARMS,	X	
	X	IN THE CIRCUIT COURT OF
Plaintiff,	X	
	X	BALDWIN COUNTY, ALABAMA
vs.	X	
	X	AT LAW
CHARLIE DLOUGHY,	X	
	X	
Defendant.	X	

Comes the Defendant in the above styled cause and for plea to the amended complaint filed in said cause and says:

1. Not guilty.

2. For further plea to the complaint the Defendant says that the Plaintiff ought not to recover in this suit, for that at the time and place complained of in the complaint the Plaintiff was herself guilty of negligence which proximately contributed to her alleged injuries and damages in this: That the Plaintiff voluntarily placed herself in or near an enclosure where one or more cows were located and the Plaintiff knew that such cows were not tied or confined other than by the enclosure and while the Plaintiff was in this position of peril a cow ran toward the gate of the enclosure and someone, whose name is unknown, and who was not employed by the Defendant as his agent, servant or employee, attempted to close the gate and the gate struck the Plaintiff and caused her alleged injuries or damages, hence the Plaintiff ought not to recover in this suit.

3. For further plea to the complaint the Defendant says that the Plaintiff ought not to recover in this suit for that, at the time and place complained of in the complaint the sale which was being held was conducted by an auctioneer who was not an agent, servant or employee of the Defendant but who was employed by the Cattlemen's Association in Robertsedale, Alabama, and that such association had full and complete charge of the sale and the manner in which it was conducted and neither the Defendant nor any agent, servant or employee of the Defendant had control over the livestock which was being sold or over the manner in which such sale was being

conducted, hence the plaintiff ought not to recover in this suit.

*Filed Jan. 20, 1958*  
*Alice G. Duck,*  
*clerk*

*Sharon & Stone*  
Attorneys for Defendant