

3669

MRS. MAZIE McMILLIAN, as
the mother and next friend
of EDWARD McMILLIAN, a minor,

Plaintiff,

vs.

FORREST LEE BOYLES and THOMAS
E. SMITH,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

COUNT ONE:

The Plaintiff claims of the Defendants the sum of Twenty-five Thousand Dollars (\$25,000.00) as damages for that on heretofore, to-wit: September 4, 1958, at a point approximately five miles Northwest of Bay Minette, Alabama, on Alabama Highway 59, in Baldwin County, Alabama, the Defendants so negligently operated two motor vehicles at said time and place as to cause the pickup truck in which Edward McMillian was riding to run off the blacktop surface of the road and to collide with the truck driven by the Defendant Thomas E. Smith, at which time and place, the truck driven by the Defendant Forrest Lee Boyles was on the wrong side of such highway and as a proximate consequence and result of the negligence of such Defendants as aforesaid the said Edward McMillian was injured in this: the distal end of his right femur was fractured or broken, he was badly bruised, he was caused to suffer much pain and anguish, he is permanently injured, he was caused to have his right knee placed in a cast and was confined to bed for several weeks, he was caused to incur large medical and hospital expenses, he was caused to lose several months from his employment, and his ability to walk will be seriously impaired, all to the damage of the Plaintiff in the sum aforementioned, hence this suit.

COUNT TWO:

The Plaintiff claims of the Defendants the sum of Twenty-five Thousand Dollars (\$25,000.00) as damages for that on heretofore, to-wit: September 4, 1958, at a point approximately five miles Northwest of Bay Minette, Alabama, on Alabama Highway 59, in Baldwin County, Alabama, the Defendants willfully or wantonly injured the

said Edward McMillian by willfully or wantonly causing the pickup truck in which Edward McMillian was riding to run off the blacktop surface of the road and to collide with the truck driven by the Defendant Thomas E. Smith, at which time and place, the truck driven by the Defendant Forrest Lee Boyles was on the wrong side of such highway and as a proximate consequence and result of the willfull and wanton negligence of such Defendants as aforesaid the said Edward McMillian was injured in this: the distal end of his right femur was fractured or broken, he was badly bruised, he was caused to suffer much pain and anguish, he is permanently injured, he was caused to have his right knee placed in a cast and was confined to bed for several weeks, he was caused to incur large medical and hospital expenses, he was caused to lose several months from his employment, and his ability to walk will be seriously impaired, all to the damage of the Plaintiff in the sum aforementioned, hence this suit.


Attorneys for Plaintiff

3669

RECORDED

MRS. MAZIE MCMILLIAN, as the
mother and next friend of
EDWARD MCMILLIAN, a minor,

Plaintiff,

vs.

FORREST LEE BOYLES and THOMAS
E. SMITH,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

FILED

OCT 3 1958

ALICE J. DUCK, CLERK
REGISTER

LAW OFFICES
CHASON & STONE
BAY MINETTE, ALABAMA

Received 3 day of Oct 1958
and on 8 day of Oct 1958
served a copy of the within A & C
on Forrest Lee Boyles
Thomas E. Smith
By service on _____

TAYLOR WILKINS, Sheriff
By W. A. Albert D. S.
8 mi

MRS. MAZIE McMILLIAN, as)	IN THE CIRCUIT COURT OF
the Mother and Next Friend of)	
EDWARD McMILLIAN, a Minor,)	BALDWIN COUNTY, ALABAMA
)	
Plaintiff,)	
)	AT LAW
Vs)	
)	
FORREST LEE BOYLES AND THOMAS)	
E. SMITH,)	
)	
Defendants.)	NO _____

Come now the defendants Forrest Lee Boyles and Thomas E. Smith, and demur to the plaintiff's complaint, and to each count thereof, and as grounds for said demurrer set down and assign the following separately and severally:

1. Said count fails to allege facts showing any duty owed by the defendants to the plaintiff.
2. Said count fails to allege the violation of any duty owed by the defendants to the plaintiff.
3. Said count fails to allege facts showing the violation of any duty owed by the defendants to the plaintiff.
4. For aught that appears from said count, the accident did not occur on a public street.
5. For aught that appears from said count, the plaintiff was not at a place where he had a legal right to be at the time and place complained of.
6. For aught that appears from said count, the injuries and damages suffered by the plaintiff were not the proximate result of any act or failure to act on the part of the defendants.
7. For that said count fails to allege any casual connection between the alleged negligence of the defendants and the alleged injuries and damages of the plaintiff.
8. For that said count attempts to allege the negligence of the defendants but does not allege facts which as a matter of law constitutes negligence.

9. For that no facts are alleged to show joint liability on the part of the defendants.

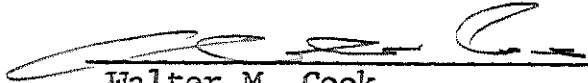
10. For that no facts are alleged to show any individual liability on the part of these defendants.

11. For that said count fails to allege facts to show negligence with sufficient certainty against either defendant.

12. For that there is a misjoinder of causes of action.

13. For that there is a misjoinder of parties.

LYONS, PIPES AND COOK
Attorneys for Defendants Forrest Lee
Boyles and Thomas E. Smith



Walter M. Cook

APPEARANCE

BALDWIN

State of Alabama - - = ~~Mobile~~ County

CIRCUIT COURT --- CIVIL DIVISION

MRS. MAZIE McMILLIAN, as the
Mother and Next Friend of
EDWARD MxMILLIAN, a Minor,
Plaintiff

vs

FORREST LEE BOYLES AND THOMAS
E. SMITH,

Defendants

CASE NO.

Mobile, Ala., October 28 19 58

LYONS, PIPES & COOK appear for

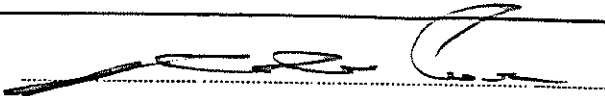
Forrest Lee Boyles and
Thomas E. Smith Defendants

in the above entitled cause and reserve the right to demur or plead specially.

FILED

Filed NOV 11 1958, 19

ALICE J. DUCK CLERK
REGISTER
Clerk


Attorney for Defendants

MRS. MAZIE McMILLIAN, as the
MOTHER AND NEXT FRIEND OF
EDWARD McMILLIAN, a Minor,

Plaintiff,

Vs

FORREST LEE BOYLES AND THOMAS
E. SMITH,

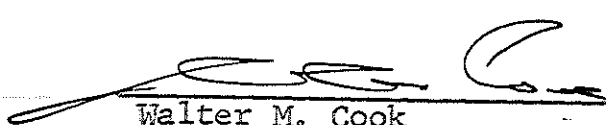
Defendants.

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

Come now the defendants and for answer to the plaintiff's
complaint, say as follows:

1. They deny the material allegations of the complaint.
2. That they are not guilty.

LYONS, PIPES AND COOK
Attorneys for Defendants


Walter M. Cook