

EDWARD H. NORTON and
HAZEL M. NORTON,

Plaintiffs,

vs.

SOUTHERN BELL TELEPHONE
& TELEGRAPH CO., a cor-
poration,

Defendant.

X
X
X
X
X
X
X
X
X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO.

3947

Now come the Plaintiffs in the above styled cause EDWARD H. NORTON and HAZEL M. NORTON, by their attorneys and demur to the Plea in Abatement heretofore filed by the Defendant herein, and as grounds for said demurrer, separately and severally, set down and assign the following:-

1. For that it affirmatively appears from the allegations of said Plea in Abatement that the suit heretofore filed in Mobile County, Alabama and the suit heretofore filed in Baldwin County, Alabama are not for the same cause of action.

2. For that it affirmatively appears from the allegations of said Plea in Abatement that the suit heretofore filed in Mobile County, Alabama and the suit heretofore filed in Baldwin County, Alabama are not for the same right of action.

3. For that it affirmatively appears from the allegations of said Plea in Abatement and further from the allegations of the attached copy of Complaint styled "EDWARD H. NORTON and HAZEL M. NORTON, Plaintiffs, vs. SOUTHERN BELL TELEPHONE & TELEGRAPH COMPANY, a corporation, Defendant, IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW, NO. 1178-Irvin", that the cause of action is based upon the malicious and false publication of Plaintiffs' business, "Norton Kiddie Kollege", by the Defendant in its October, 1958 issue of the telephone directory in Mobile County, Alabama; and that the suit that the Complainant filed in Baldwin County, Alabama, which is the subject of this Plea in Abatement, is based upon the false and malicious publication of Plaintiffs' business, "Norton Kiddie Kollege", by the Defendant in the October, 1958 issue of the telephone directory in Baldwin County, Alabama; hence said suits are not for the same

cause of action.

4. For that it affirmatively appears from the allegations of said Plea In Abatement and further from the allegations of the attached copy of Complaint styled "EDWARD H. NORTON and HAZEL M. NORTON, Plaintiffs, vs. SOUTHERN BELL TELEPHONE & TELEGRAPH COMPANY, a corporation, Defendant, IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW, NO. 1178-Irvin", that the right of action is based upon the malicious and false publication of Plaintiffs' business, "Norton Kiddie Kollege", by the Defendant in its October, 1958 issue of the telephone directory in Mobile County, Alabama; and that the suit that the Complainant filed in Baldwin County, Alabama, which is the subject of this Plea in Abatement, is based upon the false and malicious publication of Plaintiffs' business, "Norton Kiddie Kollege", by the Defendant in the October, 1958 issue of the telephone directory in Baldwin County, Alabama; hence said suits are not for the same right of action.

HOLBERG, TULLY, HODNETTE & MOBLEY

and

CHASON & STONE

FILED

FEB 12 1960

ALICE L. DUCK, CLERK
REGISTER

By:


Attorneys for Plaintiffs

PLEA IN ABATEMENT

* * * * *

EDWARD H. NORTON and HAZEL M.
NORTON,

Plaintiffs,

vs.

SOUTHERN BELL TELEPHONE & TELE-
GRAPH COMPANY, a corporation,

Defendant.

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 3947

* * * * *

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

EDWARD H. NORTON and)	
HAZEL M. NORTON,)	
)	
Plaintiffs,)	IN THE CIRCUIT COURT OF
VS.)	BALDWIN COUNTY, ALABAMA
)	
SOUTHERN BELL TELEPHONE &)	AT LAW
TELEGRAPH CO., a corporation,)	NO. 3947
)	
Defendant.)	

PLEA IN ABATEMENT

Now comes the defendant, which appears specially and only for the purpose of filing this plea in abatement, and for plea in abatement to the complaint and to each and every count thereof, separately and severally, it assigns the following:

On, to-wit, August 19, 1959, Edward H. Norton and Hazel M. Norton, who are the same persons as the plaintiffs in this suit, filed a suit in the Circuit Court of Mobile County, Alabama, Law Side, against the defendant, Southern Bell Telephone & Telegraph Co., a corporation, defendant, which is the same corporation as the defendant in this suit, as will appear from the summons and complaint, a copy of which is hereto attached and by reference made a part hereof as though fully incorporated herein, in which suit the summons and complaint was served on the defendant on, to-wit, August 25, 1959.

This suit was filed in the Circuit Court of Baldwin County, Alabama, on, to-wit, August 20, 1959, in which the summons and complaint were served on the defendant in this cause on September 9, 1959.

The two said suits are for the same cause of action and between the same parties.

WHEREFORE, defendant prays that this suit be abated and that the summons and complaint in it be quashed.

Dated this 6th day of October, 1959.

SOUTHERN BELL TELEPHONE & TELEGRAPH
CO., a corporation,
(Defendant)

By Elmer Long
As its District Manager

J. B. Blackburn

HOWELL, JOHNSTON AND LANGFORD

By Howell Johnston III

Attorneys for defendant

STATE OF ALABAMA)

*

MOBILE COUNTY)

Before me, the undersigned authority, within and for said County in said State, personally appeared E. A. Herlong, who, after being by me first duly and legally sworn, deposes and says: That he is District Manager of the above named defendant; that he has read over the above and foregoing plea in abatement and that the facts stated therein are true.

E. A. Herlong
(E. A. Herlong)

Sworn to and subscribed before me on
this the 6th day of October, 1959.

Howell Johnston III

Notary Public, Mobile County, Alabama

EDWARD H. NORTON & HAZEL *
M. NORTON, Plaintiffs *

IN THE CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA.

VS. *

SOUTHERN BELL TELEPHONE & *
TELEGRAPH CO., a corporation
Defendant *

LAW NO. 1178- Erwin

C O U N T O N E

The plaintiffs are now, and were at all times herein complained of, engaged in the business of the operation of a playground and an accredited school for white children six years of age and under. Said business is and was conducted at 1964 Hall's Mill Road, Mobile, Alabama, under the name and style of Norton Kiddie Kollege, advertised and known as such. The plaintiffs have enjoyed good reputation with the school authorities of Mobile County, Alabama, and they have enjoyed the good will, patronage and trade with all the members of the community, they having confidence in the character, integrity and reputation of the plaintiffs, both individually and in their operation of said playground and school. The success of the plaintiffs' business depends directly upon continued accreditation from the school authorities of Mobile County, Alabama, and upon the patronage and good will of the community.

The defendant is a corporation engaged in conducting and carrying on a telephone service or business in Mobile County, Alabama, and elsewhere, and in the publication of a telephone directory in connection therewith. Such telephone directory is circulated among and to telephone subscribers in Mobile County, Alabama, and elsewhere, and among the public generally and at public telephone booths.

On or about the first day of October, 1958, the defendant published, and did cause to be published, in said telephone directory, and in the section thereof described as the Classified Telephone Directory, a statement of and concerning the plaintiffs and their business herein above described, which said statement was in a conspicuous place in said Classified Telephone Directory, where it was read and seen by many thousands of subscribers of said telephones, and others who read said Classified Telephone Directory. Said statement was in the following words, that is to say;

"Norton Kiddie Kollege
For Colored Children"

The defendant well knew said publication was and is malicious and false, and that the same was intended to and did expose the plaintiffs to public ridicule and contempt, lower them in the estimation of the community, and deter others from associating or dealing with them; wherefore, plaintiffs were and are damaged and injured and are entitled to recover damages in the sum of, to-wit, SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

C O U N T T W O

The plaintiffs' claim of the defendant the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) damages, for falsely and maliciously publishing of and concerning them in a telephone directory published at Mobile, Alabama, the following with intent to defame the plaintiffs, viz; - that Norton Kiddie Kollege was for colored children; on or about the first day of October, 1958.

C O U N T T H R E E

Plaintiffs claim of the defendant the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), damages, for falsely and maliciously publishing the following matter of and concerning the plaintiffs, with intent to defame the plaintiffs, that is to say,-

The defendant at all times hereinafter mentioned was and still is a corporation doing business under the laws of the State of Alabama, engaged in the conduct of a telephone business in the County of Mobile, State of Alabama, and said defendant then was and now is the publisher of a telephone directory, issued in connection with said telephone business, which said telephone directory was then and is now widely read and known and was then and is now widely circulated throughout Mobile County, Alabama, and all of the towns and municipalities therein, and elsewhere in the United States of America.

The plaintiffs at all times hereinafter mentioned were and still are engaged in the business of the operation of a playground

and school for white children six years of age and under known and advertised as Norton Kiddie Kollege; and for the purposes of which the plaintiffs have expended large sums of money in lands, in playground equipment, in school buildings, in an auditorium, in school equipment and facilities, and in provision for a teaching staff. Said playground has been available for private rental by persons desiring to give parties for young children, and said school has been and is a private school providing kindergarten and pre-school training. The said school was and is duly accredited as a private school for white children.

The aforesaid playground and school now are and for all the times since the establishment of the same have been exclusively operated, maintained and used for and by white persons and white children only. The plaintiffs and their said playground and school have enjoyed good reputation and standing in the community and among the public generally.

In the October 1958 issue of the telephone directory, and on or about the first day of October, 1958, in Mobile County, Alabama, the said defendant, intending to injure the plaintiffs, did falsely, wickedly, maliciously and willfully print, publish and widely circulate and did cause to be printed, published and widely circulated in and about said County and State, and elsewhere, the following false, scandalous and defamatory matter of and concerning the plaintiffs, to-wit;

"Norton Kiddie Kollege
For Colored Children"

Said defendant, and its agents, wrongfully, negligently and carelessly failed and omitted to make investigation as to the truth of said matter, insofar as the same concerned the plaintiffs, prior to the printing, publication and circulation thereof, and said article was false, scandalous and defamatory of plaintiffs and was known to defendant, its servants and agents, so to be, and was printed, published and circulated by defendant, as aforesaid, unlawfully and in wanton and reckless disregard of plaintiffs' rights.

By reason of the aforesaid printing, publication and wide circulation of said matter, plaintiffs have been brought into public scorn, infamy, contempt and obloquy, and have been held up as objects of scorn, shame, contempt and obloquy among their neighbors, friends, associates and acquaintances, and among those who have patronized said playground and school, and among good and worthy persons and citizens of the community, and your plaintiffs have thereby been subjected to disgrace, ridicule, odium and contempt, and said matter has tended to harm the reputation of plaintiffs so as to lower them in the estimation of the community, and to deter others from associating or dealing with them.

By reason of the premises and of the aforesaid wrongful, unlawful and malicious act of defendant in printing, publishing and circulating the aforesaid false, scandalous, malicious and defamatory libel of and concerning plaintiffs, plaintiffs have been greatly injured to their damage in the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

C O U N T F O U R

Plaintiffs claim of the defendant the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00); damages, for falsely and maliciously publishing the following matter of and concerning the plaintiffs, with intent to defame the plaintiffs, that is to say,-

The defendant at all times hereinafter mentioned was and still is a corporation doing business under the laws of the State of Alabama, engaged in the conduct of a telephone business in the County of Mobile, State of Alabama, and said defendant then was and now is the publisher of a telephone directory, issued in connection with said telephone business, which said telephone directory was then and is now widely read and known and was then and is now widely circulated throughout Mobile County, Alabama, and all of the towns and municipalities therein, and elsewhere in the United States of America.

The plaintiffs at all times hereinafter mentioned were and still are engaged in the business of the operation of a playground and school for white children six years of age and under known and advertized as Norton Kiddie Kollege; and for the purposes

of which the plaintiffs have expended large sums of money in lands, in playground equipment, in school buildings, in an auditorium, in school equipment and facilities, and in provision for a teaching staff. Said playground has been available for private rental by persons desiring to give parties for young children, and said school has been and is ~~the~~ private school providing kindergarten and pre-school training. The said school was and is duly accredited as a private school for white children.

The aforesaid playground and school now are and for all the times since the establishment of the same have been exclusively operated, maintained and used for and by white persons and white children only. The plaintiffs and their said playground and school have enjoyed good reputation and standing in the community and among the public generally.

In the October 1958 issue of the telephone directory, and on or about the first day of October, 1958, in Mobile County, Alabama, the said defendant, intending to injure the plaintiffs, did falsely, wickedly, maliciously and willfully print, publish and widely circulate and did cause to be printed, published and widely circulated in and about said County and State, and elsewhere, the following false, scandalous and defamatory matter of and concerning the plaintiffs, to-wit;

"Worton Kiddie Kollege
For Colored Children"

Said defendant, and its agents, having knowledge of the falsity of the published matter, and having the authority to remove the aforesaid telephone directory from general circulation and possession among the telephone subscribers and from among the public, nonetheless permitted said telephone directories to remain in general circulation and use.

By reason of the aforesaid printing, publication and wide circulation of said matter, plaintiffs have been brought into public scorn, infamy, contempt and obloquy, and have been held up as objects of scorn, shame, contempt and obloquy among their neighbors, friends, associates and acquaintances, and among those who have patronized said playground and school, and among good and worthy persons and citizens of the community, and your plaintiffs have thereby been subjected to disgrace, ridicule,

odium and contempt, and said matter has tended to harm the reputation of plaintiffs so as to lower them in the estimation of the community, and deter others from associating or dealing with them.

By reason of the premises and of the aforesaid wrongful, unlawful and malicious act of defendant in printing, publishing and circulating the aforesaid false, scandalous, malicious and defamatory libel of and concerning plaintiffs, plaintiffs have been greatly injured to their damage in the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

C O N C L U S I O N

Plaintiffs claim of the defendant the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), damages, for reason of the following, that is to say,-

The defendant at all times hereinafter mentioned was and still is a corporation doing business under the laws of the State of Alabama, engaged in the conduct of a telephone business in the County of Mobile, State of Alabama, and said defendant then was and now is the publisher of a telephone directory, issued in connection with said telephone business, which said telephone directory was then and is now widely read and known and was then and is now widely circulated throughout Mobile County, Alabama, and all of the towns and municipalities therein, and elsewhere in the United States of America.

The plaintiffs at all times hereinafter mentioned were and still are engaged in the business of the operation of a playground and school for white children six years of age and under known and advertised as Norton Kiddie Kollege; and for the purposes of which the plaintiffs have expended large sums of money in lands, in playground equipment, in school buildings, in an auditorium, in school equipment and facilities, and in provision for a teaching staff. Said playground has been available for private rental by persons desiring to give parties for young children, and said school has been and is a private school providing kindergarten and pre-school training. The said school was and is duly accredited as a private school for white children.

The aforesaid playground and school now are and for all

the times since the establishment of the same have been exclusively operated, maintained and used for and by white persons and white children only. The plaintiffs and their said playground and school have enjoyed good reputation and standing in the community and among the public generally.

In the October 1958 issue of the telephone directory, and on or about the first day of October, 1958, in Mobile County, Alabama, the said defendant, intending to injure the plaintiffs, did falsely, wickedly, maliciously and willfully print, publish and widely circulate and did cause to be printed, published and widely circulated in and about said County and State, and elsewhere, the following false, scandalous and defamatory matter of and concerning the plaintiffs, to-wit:

"Norton Kiddie Kollege
For Colored Children"

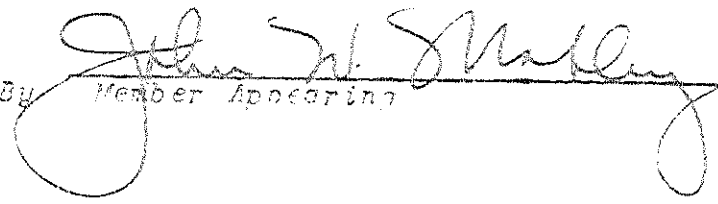
Said publication was made without plaintiffs' knowledge, consent or approval, in malicious and reckless disregard of, and in violation of plaintiffs' right to privacy.

Said defendant, in publishing, or causing to be published, said matter, violated the plaintiffs' right to privacy, which plaintiffs were, and are entitled to enjoy, and seriously jeopardized plaintiffs' right to continue their operation of said playground and kindergarten. Plaintiffs aver that the defendant, in publishing or causing to be published said matter did so maliciously, and in reckless disregard for and in violation of plaintiffs' right to privacy and plaintiffs' right to continue their said enterprise.

By reason of the matters hereinabove set forth, plaintiffs have suffered great mental anguish for fear that they would lose their said business enterprise; and plaintiffs have suffered further great mental anguish and have been humiliated by reason of their having to explain to their friends, neighbors and associates, and to the public generally, that they do not, and did not, and will not in the future, operate their said playground and school, nor make the same available, to any children other than white. By reason of defendant's malicious, unlawful and reckless violation of plaintiffs' right to privacy, and by reason of defendant's malicious, unlawful and reckless

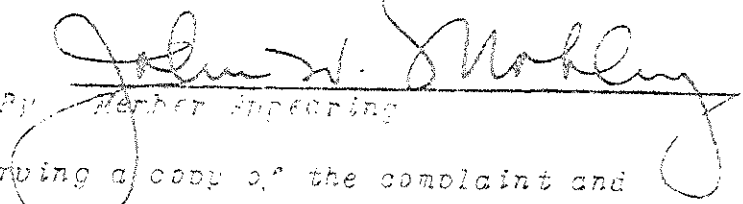
disregard of plaintiffs' right to continue to operate their aforesaid enterprise as a private playground and private school for white children only, damages should be assessed against the defendant in the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

HOLBERG, TULLY, HODNETTE & MOBLEY
Attorneys for Plaintiffs

By  Member Appearing

Plaintiffs demand trial by jury.

HOLBERG, TULLY, HODNETTE & MOBLEY
Attorneys for Plaintiffs

By  Member Appearing

Defendant may be served by serving a copy of the complaint and summons upon any officer or any agent thereof at Southern Bell Telephone and Telegraph Company, 202 Government Street, Mobile, Alabama

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

SOUTHERN BELL TELEPHONE & TELEGRAPH CO., a corporation

to appear within thirty days from service of this process, in the Circuit Court of Mobile County
Alabama, at the place of holding the same, then and there to answer the complaint of
EDWARD M. NORTON & HAZEL M. NORTON

WITNESS: John E. Mandeville, Clerk of said Court, this 19th day of August, 1959

Attest: John E. Mandeville
Clerk

SHERIFF'S RETURN

Received _____ day of _____, 19____ and on _____ Day
of _____, 19____, I served a copy of
the within _____ on _____

by service on _____

RAY D. BRIDGES, SHERIFF

By _____ D. S.

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No. 1178

JUDGE ERVIN DOCKET

CIVIL DIVISION

CIRCUIT COURT
MOBILE COUNTY

EDWARD H. NORTON &
HAZEL M. NORTON

VS. } Complaint and Summons

SOUTHERN BELL TELEPHONE &
TELEGRAPH CO., a corp.

Issued 19th day of August, 1959

Defendant's Address:

Serve any officer or agent
of Southern Bell Tel. & Tel. Co.
202 Govt. St. - Mobile, Ala.

JOHN A. MOBLEY
Plaintiff's Attorney

Copy

Served 12:46 P.M.
8-25-59 to
C.W. Norton
Jail 1011 L. J.

PLEA IN ABATEMENT

EDWARD H. NORTON and HAZEL M.
NORTON,

Plaintiffs,

VS.

SOUTHERN BELL TELEPHONE & TELE-
GRAPH CO., a corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 3947

FILED

OCT 7 1959

ALICE J. DUCK, Clerk

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

EDWARD H. NORTON & HAZEL * IN THE CIRCUIT COURT OF
M. NORTON, Plaintiffs * BALDWIN COUNTY, ALABAMA.

VS. *
SOUTHERN BELL TELEPHONE &
TELEGRAPH CO., a corporation * LAW NO. _____
Defendant

C O U N T O N E

The plaintiffs are now, and were at all times herein complained of, engaged in the business of the operation of a playground and an accredited school for white children six years of age and under. Said business is and was conducted at 1964 Hall's Mill Road, Mobile, Alabama, under the name and style of Norton Kiddie Kollege, advertised and known as such. The plaintiffs have enjoyed good reputation with the school authorities of Mobile County, Alabama, and they have enjoyed the good will, patronage and trade with all the members of the community, they having confidence in the character, integrity and reputation of the plaintiffs, both individually and in their operation of said playground and school. The success of the plaintiffs' business depends directly upon continued accreditation from the school authorities of Mobile County, Alabama, and upon the patronage and good will of the community.

The defendant is a corporation engaged in conducting and carrying on a telephone service or business in Baldwin County, Alabama, and elsewhere, and in the publication of a telephone directory in connection therewith. Such telephone directory is circulated among and to telephone subscribers in Baldwin County, Alabama, and elsewhere, and among the public generally and at public telephone booths.

On or about the first day of October, 1958, the defendant published, and did cause to be published, in Baldwin County, Ala., in said telephone directory, and in the section thereof described as the Classified Telephone Directory, a statement of and concerning the plaintiffs and their business herein above described, which said statement was in a conspicuous place in said Classified Telephone Directory, where it was read and seen by many thousands of subscribers of said telephones, and others who read said Classified Telephone Directory. Said statement was in the following words, that is to say;

"Norton Kiddie Kollege
For Colored Children"

The defendant well knew said publication was and is malicious and false, and that the same was intended to and did expose the plaintiffs to public ridicule and contempt, lower them in the estimation of the community, and deter others from associating or dealing with them; wherefore, plaintiffs were and are damaged and injured and are entitled to recover damages in the sum of, to-wit, NINE THOUSAND, NINE HUNDRED AND NINETY DOLLARS (\$9,990.00).

C O U N T T W O

The plaintiffs claim of the defendant the sum of NINE THOUSAND, NINE HUNDRED AND NINETY DOLLARS (\$9,990.00) damages, for falsely and maliciously publishing of and concerning them in a telephone directory published in Baldwin County, Alabama, the following with intent to defame the plaintiffs, viz; - that Norton Kiddie Kollege was for colored children; on or about the first day of October, 1958.

C O U N T T H R E E

Plaintiffs claim of the defendant the sum of NINE THOUSAND NINE HUNDRED AND NINETY DOLLARS (\$9,990.00), damages for falsely and maliciously publishing the following matter of and concerning the plaintiffs, with intent to defame the plaintiffs, that is to say,-

The defendant at all times hereinafter mentioned was and still is a corporation doing business under the laws of the State of Alabama, engaged in the conduct of a telephone business in the County of Baldwin, State of Alabama, and said defendant then was and now is the publisher of a telephone directory, issued in connection with said telephone business, which said telephone directory was then and is now widely read and known and was then and is now widely circulated throughout Baldwin County, Alabama, and all of the towns and municipalities therein, and elsewhere in the United States of America.

The plaintiffs at all times hereinafter mentioned were and still are engaged in the business of the operation of a playground and school for white children six years of age and under known and advertised as Norton Kiddie Kollege; and for the purposes of which the plaintiffs have expended large sums of money in lands, in playground equipment, in school buildings, in an

auditorium, in school equipment and facilities, and in provision for a teaching staff. Said playground has been available for private rental by persons desiring to give parties for young children, and said school has been and is a private school providing kindergarten and pre-school training. The said school was and is duly accredited as a private school for white children.

The aforesaid playground and school now are and for all the times since the establishment of the same have been exclusively operated, maintained and used for and by white persons and white children only. The plaintiffs and their said playground and school have enjoyed good reputation and standing in the community and among the public generally.

In the October 1958 issue of the telephone directory, and on or about the first day of October, 1958, in Baldwin County, Alabama, the said defendant, intending to injure the plaintiffs, did falsely, wickedly, maliciously and willfully print, publish and widely circulate and did cause to be printed, published and widely circulated in and about said County and State, and elsewhere, the following false, scandalous and defamatory matter of and concerning the plaintiffs, to-wit;

"Norton Kiddie Kollege
For Colored Children"

Said defendant, and its agents, wrongfully, negligently and carelessly failed and omitted to make investigation as to the truth of said matter, insofar as the same concerned the plaintiffs, prior to the printing, publication and circulation thereof, and said article was false, scandalous and defamatory of plaintiffs and was known to defendant, its servants and agents, so to be, and was printed, published and circulated by defendant, as aforesaid, unlawfully and in wanton and reckless disregard of plaintiffs' rights.

By reason of the aforesaid printing, publication and wide circulation of said matter, plaintiffs have been brought into public scorn, infamy, contempt and obloquy, and have been held up as objects of scorn, shame, contempt and obloquy among their neighbors, friends, associates and acquaintances, and among

those who have patronized said playground and school, and among good and worthy persons and citizens of the community, and your plaintiffs have thereby been subjected to disgrace, ridicule, odium and contempt, and said matter has tended to harm the reputation of plaintiffs so as to lower them in the estimation of the community, and to deter others from associating or dealing with them.

By reason of the premises and of the aforesaid wrongful, unlawful and malicious act of defendant in printing, publishing and circulating the aforesaid false, scandalous, malicious and defamatory libel of and concerning plaintiffs, plaintiffs have been greatly injured to their damage in the sum of NINE THOUSAND, NINE HUNDRED AND NINETY DOLLARS (\$9,990.00).

C O U N T F O U R

Plaintiffs claim of the defendant the sum of NINE THOUSAND, NINE HUNDRED AND NINETY DOLLARS (\$9,990.00), damages, for falsely and maliciously publishing the following matter of and concerning the plaintiffs, with intent to defame the plaintiffs, that is to say, -

The defendant at all times hereinafter mentioned was and still is a corporation doing business under the laws of the State of Alabama, engaged in the conduct of a telephone business in the County of Baldwin, State of Alabama, and said defendant then was and now is the publisher of a telephone directory, issued in connection with said telephone business, which said telephone directory was then and is now widely read and known and was then and is now widely circulated throughout Baldwin County, Alabama, and all of the towns and municipalities therein, and elsewhere in the United States of America.

The plaintiffs at all times hereinafter mentioned were and still are engaged in the business of the operation of a playground and school for white children six years of age and under known and advertised as Norton Kiddie Kollege; and for the purposes of which the plaintiffs have expended large sums of money in lands, in playground equipment, in school buildings, in an auditorium, in school equipment and facilities, and in provision for a teaching staff. Said playground has been available for

private rental by persons desiring to give parties for young children, and said school has been and is a private school providing kindergarten and pre-school training. The said school was and is duly accredited as a private school for white children.

The aforesaid playground and school now are and for all the times since the establishment of the same have been exclusively operated, maintained and used for and by white persons and white children only. The plaintiffs and their said playground and school have enjoyed good reputation and standing in the community and among the public generally.

In the October 1958 issue of the telephone directory, and on or about the first day of October, 1958, in Baldwin County, Alabama, the said defendant, intending to injure the plaintiffs, did falsely, wickedly, maliciously and willfully print, publish and widely circulate and did cause to be printed, published and widely circulated in and about said County and State, and elsewhere, the following false, scandalous and defamatory matter of and concerning the plaintiffs, to-wit;

"Norton Kiddie Kollege
For Colored Children"

Said defendant, and its agents, having knowledge of the falsity of the published matter, and having the authority to remove the aforesaid telephone directory from general circulation and possession among the telephone subscribers and from among the public, nonetheless permitted said telephone directories to remain in general circulation and use.

By reason of the aforesaid printing, publication and wide circulation of said matter, plaintiffs have been brought into public scorn, infamy, contempt and obloquy, and have been held up as objects of scorn, shame, contempt and obloquy among their neighbors, friends, associates and acquaintances, and among those who have patronized said playground and school, and among good and worthy persons and citizens of the community, and your plaintiffs have thereby been subjected to disgrace, ridicule, odium and contempt, and said matter has tended to harm the reputation of plaintiffs so as to lower them

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in the estimation of the community, and deter others from associating or dealing with them.

By reason of the premises and of the aforesaid wrongful, unlawful and malicious act of defendant in printing, publishing and circulating the aforesaid false, scandalous, malicious and defamatory libel of and concerning plaintiffs, plaintiffs have been greatly injured to their damage in the sum of NINE THOUSAND, NINE HUNDRED AND NINETY DOLLARS (\$9,990.00).

C O U N T F I V E

Plaintiffs claim of the defendant the sum of NINE THOUSAND, NINE HUNDRED AND NINETY DOLLARS (\$9,990.00), damages for reason of the following, that is to say,-

The defendant at all times hereinafter mentioned was and still is a corporation doing business under the laws of the State of Alabama, engaged in the conduct of a telephone business in the County of Baldwin, State of Alabama, and said defendant then was and now is the publisher of a telephone directory, issued in connection with said telephone business, which said telephone directory was then and is now widely read and known and was then and is now widely circulated throughout Baldwin County, Alabama, and all of the towns and municipalities therein, and elsewhere in the United States of America.

The plaintiffs at all times hereinafter mentioned were and still are engaged in the business of the operation of a playground and school for white children six years of age and under known and advertised as Norton Kiddie Kollege; and for the purposes of which the plaintiffs have expended large sums of money in lands, in school equipment and facilities, and in provision for a teaching staff. Said playground has been available for private rental by persons desiring to give parties for young children, and said school has been and is a private school providing kindergarten and pre-school training. The said school was and is duly accredited as a private school for white children.

The aforesaid playground and school now are and for all

the times since the establishment of the same have been exclusively operated, maintained and used for and by white persons and white children only. The plaintiffs and their said playground and school have enjoyed good reputation and standing in the community and among the public generally.

In the October 1958 issue of the telephone directory, and on or about the first day of October 1958, in Baldwin County, Alabama, the said defendant, intending to injure the plaintiffs, did falsely, wickedly, maliciously and willfully print, publish and widely circulate and did cause to be printed, published and widely circulated in and about said County and State, and elsewhere, the following false, scandalous and defamatory matter of and concerning the plaintiffs, to-wit;

"Norton Kiddie Kollege
For Colored Children"

Said publication was made without plaintiffs' knowledge, consent or approval, in malicious and reckless disregard of, and in violation of plaintiffs' right to privacy.

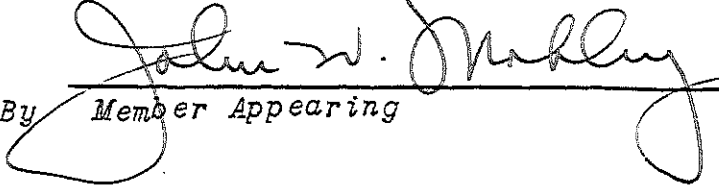
Said defendant, in publishing, or causing to be published, said matter, violated the plaintiff's right to privacy, which plaintiffs were, and are entitled to enjoy, and seriously jeopardized plaintiffs' right to continue their operation of said playground and kindergarten. Plaintiffs aver that the defendant, in publishing or causing to be published said matter did so maliciously, and in wreckless disregard for and violation of plaintiffs' right to privacy and plaintiffs' right to continue their said enterprise.

By reason of the matters hereinabove set forth, plaintiffs have suffered great mental anguish for fear that they would lose their said business enterprise; and plaintiffs have suffered further great mental anguish and have been humiliated by reason of their having to explain to their friends, neighbors and associates, and to the public generally, that they do not, and did not, and will not in the future, operate their said playground and school, nor make the same available, to any children other than white. By reason of defendant's malicious, unlawful and wreckless violation of plaintiffs' right to

8.

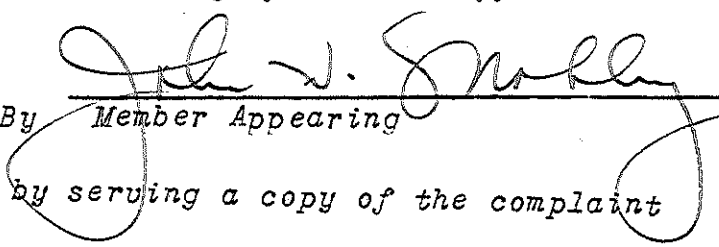
privacy, and by reason of defendant's malicious, unlawful and
wreckless disregard of plaintiffs' right to continue to
operate their aforesaid enterprise as a private playground
and private school for white children only, damages should
be assessed against the defendant in the sum of NINE THOUSAND,
NINE HUNDRED AND NINETY DOLLARS (\$9,990.00).

HOLBERG, TULLY, HODNETTE & MOBLEY
Attorneys for Plaintiffs

By  Member Appearing

Plaintiffs demand trial by jury.

HOLBERG, TULLY, HODNETTE & MOBLEY
Attorneys for Plaintiffs

By  Member Appearing

The Defendant may be served by serving a copy of the complaint
and summons upon any officer or any agent of Southern Bell
Telephone and Telegraph Company at its office in Bay Minette,
Baldwin County, Alabama.

FILED
AUG 20 1959
ALICE J. DUCK, Clerk

FILED
AUG 20 1959
ALICE J. DUCK, Clerk

STATE OF ALABAMA)
COUNTY OF MOBILE)

CIRCUIT COURT

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon SOUTHERN BELL
TELEPHONE & TELEGRAPH COMPANY, a corporation to appear
within thirty days from service of this process, in the
Circuit Court of Baldwin County, Alabama, at the place of
holding the same, then and there to answer the complaint of
EDWARD H. NORTON and HAZEL M. NORTON.

WITNESS: Alice J. Duck, Clerk of said Court, this
20 day of August, 1959.

64-9-23-59

Attest: Alice J. Duck
Clerk

* * * * *

SHERIFF'S RETURN

Received _____ day of August, 1959, and on _____ day of
August, 1959, I served a copy of the within Complaint and
Summons on SOUTHERN BELL TELEPHONE & TELEGRAPH COMPANY,
a corporation by service on _____

TAYLOR WILKINS, Sheriff

By _____ D. S.

CD
1124 3947
445

ived 20 day of Aug 1959
on 23 day of Sept 1962
ved a copy of the within Q & C
Rathman, Seel & Updegraff
Co.
ervice on M. Hunt, asst
Deputy Wm
TAYLOR, WILKINS, Sheriff
By H. B. Brunell D.S.

FILED
AUG. 20 1959
ALICE J. DUCK, Clerk

LAW OFFICES
HOLBERG, TULLY, HODNETTE AND MOBLEY

1107 MILNER BUILDING

P.O. BOX 47

MOBILE, ALABAMA

RALPH G. HOLBERG, JR.

ALBERT J. TULLY

ROBERT E. HODNETTE, JR.

JOHN W. MOBLEY

HERBERT P. FEIBELMAN, JR.

August
19th
1959

Mrs. Alice J. Duck, Clerk
Circuit Court
Court House
Bay Minette, Alabama

Re: Edward H. Norton and Hazel M. Norton vs. Southern Bell
Telephone & Telegraph Co., a corporation

Dear Mrs. Duck:

Enclosed please find an original and one copy of complaint
and summons to be filed with your court.

We would very much appreciate your filing same in the Cir-
cuit Court of Baldwin County, and forwarding the copy thereof
to the Sheriff for service upon Southern Bell Telephone &
Telegraph Company. You will note that we have indicated on
the complaint that such complaint and summons can be served
upon this defendant by serving any officer or agent of said
corporation at its office in Bay Minette, Baldwin County,
Alabama. Your co-operation and services to this end are
greatly appreciated.

Thanking you again and with highest personal regards, we
remain

Very truly yours,

HOLBERG, TULLY, HODNETTE & MOBLEY

By


John W. Mobley

JWM:pam