

STATE OF ALABAMA)
BALDWIN COUNTY.)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon R. A. Hail to appear within thirty (30) days of the service of this writ in the circuit court, to be held for said county at the place of holding the same, then and there to answer the complaint of William H. Gwaltney, a minor, who sues by Henry S. Gwaltney, his father and next friend.

WITNESS MY HAND this 11th day of July, 1931.

J. M. Peterson
Clerk.

WILLIAM H. GWALTNEY, A MINOR,
BY HENRY W. GWALTNEY, HIS FATHER
AND NEXT FRIEND,

PLAINTIFF

vs

R. A. HAIL

DEFENDANT

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

COMPLAINT.

Plaintiff claims of the Defendant the sum of FIVE THOUSAND & 00/100 (\$5,000.00) DOLLARS as damages, for that, on or about the 10th day of March, 1931, the Defendant was a regularly licensed Doctor of Medicine, authorized to practise such profession in the State of Alabama, with an office in the Town of Robertsdale, Baldwin County, Alabama, where the said Defendant held himself forth to the public as a skillful and qualified physician and doctor of medicine.


That on said 10th day of March, 1931 the Plaintiff was suffering from a minor irritation of his left eye and called upon the Defendant in his said office in Robertsdale, Alabama and retained and employed the Defendant for the purpose of treating his said ailment and the Defendant accepted said employment and undertook to treat and heal the Plaintiff's said ailment, whereby the relation of physician and patient was created between Plaintiff and Defendant.

That the Defendant employed in his said office as an office nurse and assistant, one Marie Olsen and that in the treatment of Plaintiff's

eye the said Defendant ordered and directed the said agent, employee and servant the said Marie Olsen to place medicine, the nature of which is unknown to the Plaintiff, in the eye of Plaintiff; that the Defendant was personally present and directed his said employee, agent and servant the said Marie Olsen, but the said Marie Olsen, acting for and under the direction of the defendant carelessly and negligently placed in the left eye of the Plaintiff an acid or caustic substance or medicine, the exact nature of which is unknown to the Plaintiff, and by reason thereof the said left eye of the Plaintiff was badly burned, the eyeball burned and scarred and the eye lid and eye socket burned, scarred and distorted and the sight of Plaintiff's eye impaired and largely destroyed.

That by reason of the carelessness and negligence of the Defendant and of the agent, servant and employee of the Defendant as aforesaid the Plaintiff suffered the injuries to his eye above set forth and has suffered and will continue to suffer intense physical pain and mental anguish and the injuries hereinbefore described Plaintiff alleges to be permanent and that he will suffer from said injuries all of the rest of his life and that he now is and, from this time on, will be compelled to wear glasses or spectacles and all of said loss, damage and injury is the direct result of the carelessness of the Defendant and his agent, servant and employee as above stated, and said negligence of the Defendant and his agent, servant and employee is the proximate cause of such loss, damage and injury to the Plaintiff.

Plaintiff further alleges that he is a minor of the age of twenty (20) years and brings this action by Henry W. Gwaltney who is the father and next friend of said Plaintiff.



Attorney for Plaintiff.

WILLIAM H. GWALTNEY, A MINOR
BY HENRY S. GWALTNEY, HIS FATHER
AND NEXT FRIEND,

Plaintiff,

VS.

R. A. HAIL,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

DEMURRERS TO COMPLAINT.

The Defendant demurs to the complaint upon the following grounds:

1. Said complaint fails to affirmatively show that the Defendant undertook for a reward the treatment of Plaintiff's eye.

2. The averment in the complaint that the Plaintiff will continue to suffer intense physical pain and that the injuries described are permanent, and that he will suffer from said injuries all the rest of his life and that he will be compelled to wear glasses or spectacles, is a mere conclusion of the pleader.

3. Said complaint fails to aver any duty of this Defendant to exercise due care, skill and diligence in the treatment of Plaintiff's eye.

Richardson & Child

Attorneys for Defendant.

4. Said Complaint fails to allege a breach or negligent performance of the duty owing the plaintiff by the defendant.

Richardson & Child
Attys for Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

WILLIAM H. GWALTNEY, A MINOR
BY HENRY S. GWALTNEY, HIS
FATHER AND NEXT FRIEND,

Plaintiff,

VS.

R. A. HAIL,

Defendant.

DEMURRERS TO COMPLAINT.

Filed Aug 11th/931
J. M. Macmillan
Clerk.

William H. Gwaltney, a Minor,
By Henry S. Gwaltney, His Father
and Next Friend,
Plaintiff.

In the Circuit Court of Baldwin County,
Alabama.

-v-

Law Side.

R. A. Hail,
Defendant.

Additional Demurrers.

Comes the Defendant by leave of the court and demurs to the complaint in this cause and as additional grounds of demurrer assigns the following:

A

Said complaint fails to aver facts sufficient to show the duty owing the Plaintiff by the Defendant and further fails to aver or allege that this duty was negligently performed.

B

Said complaint fails to show actionable negligence on the part of the Defendant and injury to Plaintiff proximately caused thereby.

C

Said Complaint fails to allege or show that Marie Olson, the agent, employee or servant of the Defendant was acting within the line and scope of her employment in placing the medicine in the eye of the Plaintiff.

D

Said Complaint contains no averment of a failure on the part of the Defendant to exercise reasonable care and diligence in the selection of his agent, employee, or servant, Marie Olson.

Richard G. & C. H. Hail
Attorneys for Defendant.

No —

Wm H. Gwaltney
A Minor,

vs

R. A. Stail

Additional De-
murrers.

Filed Sept 1st/93
J W Rice
Clerk

Rickaby & Co

WILLIAM H. GWALTNEY, A MINOR
BY HENRY S. GWALTNEY, HIS FATHER
AND NEXT FRIEND,

Plaintiff,

VS.

R. A. HALL,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

DEMURRERS TO COMPLAINT

The Defendant demure to the complaint upon the following grounds:

1. Said complaint fails to affirmatively show that the Defendant undertook for a reward the treatment of Plaintiff's eye.
2. The averment in the complaint that the Plaintiff will continue to suffer intense physical pain and that the injuries described are permanent, and that he will suffer from said injuries all the rest of his life and that he will be compelled to wear glasses or spectacles, is a mere conclusion of the pleader.
3. Said complaint fails to aver any duty of this Defendant to exercise due care, skill and diligence in the treatment of Plaintiff's eye.

Richardson & Calk

~~Attorneys for Defendant.~~

4. Said Complaint fails to ~~also~~ allege a breach or negligent performance of the duty owing the Plaintiff by the Defendant.

Richardson & Calk
Attys for Plt.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

WILLIAM H. GWALTNEY, A MINOR
BY HENRY S. GWALTNEY, HIS
FATHER AND NEXT FRIEND.

Plaintiff,

VS.

R. A. HAIL,

Defendant.

DEMURRERS TO COMPLAINT.

RICKAREY & COBB.
Attorneys for Defendant.

William H. Gwaltney, a Minor
By Henry H. Gwaltney, his Father
and Next Friend,

Plaintiff.

-v-

H.A. Nail,

Defendant.

In the Circuit Court of

Baldwin County, Alabama.

Law Side.

And now comes the Defendant, by his attorneys Rickarby & Cobb, and moves the court to grant an order directing and requiring the Plaintiff the in this cause to submit to a physical examination by one or more competent and disinterested physicians to be selected by the parties to this suit, or their attorneys, or to be appointed by the court, and that said examination be conducted under the direction and control of the court.

Rickarby & Cobb At
Attorneys for Defendant.

Mr. H. Kewitney

vs
R. A. Hail

Motion

Filed Sept 14/1931
J. W. Kewitney

Answer

By
J. W. Kewitney
Att. for
R. A. Hail

William H. Gwaltney, a Minor
By Henry H. Gwaltney, his Father
and Next Friend,

Plaintiff.

-v-

R.A. Hail,

Defendant.

In the Circuit Court of

Baldwin County, Alabama.

Law Side.

And now comes the Defendant, by his attorneys Rickarby & Cobb, and moves the court to grant an order directing and requiring the Plaintiff the in this cause to submit to a physical examination by one or more competent and disinterested physicians to be selected by the parties to this suit, or their attorneys, or to be appointed by the court, and that said examination be conducted under the direction and control of the court.

Rickarby & Cobb
Attorneys for Defendant.

Wm. H. Grosvenor

vs

R. A. Stail

Motion

Filed Sept 14/93,

J. W. Keenan
Clerk

By
J. W. Keenan