

COMPLAINT

JANE M. MOORE, AS ADMINISTRATRIX OF
THE ESTATE OF JAMES R. MOORE,
DECEASED,

Plaintiff

Vs.

RICHMOND R. KENDRICK, PRICE-WILSEY
VETERANS OF FOREIGN WARS, V.F.W.,
POST No. 5226, an Unincorporated
Organization, PRICE-WILSEY POST NO. 5226,
VETERANS OF FOREIGN WARS OF THE UNITED STATES,
INCORPORATED, a corporation, VETERANS OF
FOREIGN WARS OF THE UNITED STATES,
a corporation, JOHN KING, JOHN DOE
and RICHARD ROE, whose names are
otherwise unknown to the plaintiff,
but which will be added by amendment
when ascertained, and ROBERT CHILDRESS
Jointly and Severally,

Defendants

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

Case No.

4603

COUNT ONE

The plaintiff claims of the defendants Two Hundred and Fifty Thousand(\$250,000.00)Dollars, damages for a wrongful assault and battery committed by the defendants on the plaintiff's intestate, James R. Moore, viz, on, to-wit, the 22nd day of February, 1959.

COUNT TWO

The plaintiff claims of the defendants Two Hundred and Fifty Thousand(\$250,000.00)Dollars, damages for a wrongful assault and battery committed by the defendants, Richmond R. Kendrick, John Doe Richard Roe and Robert Childress on the plaintiff's intestate, James R. Moore, on, to-wit, at 1:30 a.m. Sunday, February 22nd, 1959, while the plaintiff's said intestate was a guest, invitee and patron of the defendant veterans organization and corporations named in the caption of this complaint, in said organization's and corporations' club, inn, dance hall, restaurant or tavern where intoxicating liquors are sold and served, then and there being operated as such by said defendant veterans organization and corporations, in Baldwin County, Alabama, at which time and place said defendants, Richmond R. Kendrick, John Doe and Richard Roe, John King and Robert Childress were members and patrons of said defendant veterans organization and corporations, which assault and battery was wrongfully and negligently permitted to commence and to continue by said defendants by its' negligence and the negligence of its' manager, agent or servant, the defendant, John King, then and there acting as such within the line and scope of his employment

as such, in permitting and allowing the aforescribed assault and battery to occur and to continue, and by failing to provide means of maintaining proper order and to exercise reasonable care for the safety of plaintiff's intestate and husband, the said James R. Moore, deceased; and as a proximate result of said assault and battery the plaintiff's said intestate was cruelly beaten on and about his head resulting in multiple fractures of his skull and acute brain concussion, whereby the death of plaintiff's said intestate was proximately caused to occur on, to-wit, the 22nd day of February, 1959, in Baldwin County, Alabama, about thirteen(13)hours after said injury.

Kenneth E. Henderson

Kenneth E. Henderson, Attorney for the Plaintiff
12 N. Jackson Street, Mobile, Alabama.

Jane M. Moore

Jane M. Moore, As Administratrix of the Estate
of James R. Moore

Plaintiff demands a Jury Trial on and for this cause.

Kenneth E. Henderson

Kenneth E. Henderson, Attorney for plaintiff

Summons to be issued:

1. The address of the defendant Richmond R. Kendrick is Rosinton Community, Baldwin County, Alabama.
2. The address of John King is: Manager of Price-Wilsey V.F.W. Post No. 5226, at its' clubhouse, Highway 90, Robertsedale, Baldwin County, Ala.
3. Service of process on the defendant Price-Wilsey Veterans of Foreign Wars , V.F.W., Post 5226, an unincorporated organization, shall be had by service upon Keith Cooper, its' Commander, at said V.F.W.Post's Club House, Highway 90, Robertsedale, Baldwin County, Ala., or at Keith Cooper's Chiropractic office, Robertsedale, Baldwin County, Ala.
4. Service of Process on Price-Wilsey Veterans of Foreign Wars,V.F.W., Post No.5226, a corporation, shall be had by service upon Keith Cooper, its' Commander, at same addresses stated in 3 next above.
5. Service of Process on Veterans of Foreign Wars of the United States, a Corporation, shall be had by service upon Keith Cooper and John King, its' agents, at their addresses stated in 2 and 3 next above, and on The Secretary of State of Alabama, Montgomery, Alabama.
6. The address of the defendant, Robert or Bob Childress is Loxley, Baldwin County, Alabama.

FILED

FEB 20 1961

ALICE J. DUCK, Clerk

Received 21 day of Feb 1961
and on 28 day of Feb 1961
I served a copy of the within A & C
on Walter Wilkey & J. W. Post
5226 on union Corp. Organization
By service on Keith Cooper - Commander

TAYLOR WILKINS, Sheriff
By Stadham D. S.

Received 21 day of Feb 1961
and on 28 day of Feb 1961
I served a copy of the within A & C
on Walter Wilkey & J. W. Post 5226,
A. Corp.
By service on Keith Cooper - Commander

TAYLOR WILKINS, Sheriff
By Stadham D. S.

Received 21 day of Feb 1961
and on 28 day of Feb 1961
I served a copy of the within A & C
on Walter Wilkey & J. W. Post 5226,
A. Corp.
By service on Keith Cooper - Commander

FILED
FEB 20 1961.
ALICE J. DUCK, Clerk

TAYLOR WILKINS, Sheriff
By Stadham D. S.

*We the jury find for the
plaintiff but for the
damage of \$7500.
S. C. McMill
John*

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. 4603

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon RICHMOND R. KENDRICK, ET ALS

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

RICHMOND R. KENDRICK, ET ALS

Defendant

by JANE M. MOORE, As Administratrix, of the Estate of JAMES R. MOORE, Deceased

Plaintiff

Witness my hand this 20 day of February 19 61

Alice J. Luck, Clerk

Exp. 3-2-61

No. 4603

Page

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

X JANE M. MOORE, AS Administratrix of

The Estate of JAMES R. MOORE, Deceased
Plaintiffs

vs.

RICHMOND R. KENDRICK, ET AL

Defendants

Summons and Complaint

Filed February 20, 1961

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

2/21, 1961

Taylor Wilkins
Sheriff.

I have executed this summons

this March 2, 1961

by leaving a copy with

Richmond R. Kendrick 3-2-61
John King 2-25-61
Robert Chalmers 3-2-61

Sheriff claims 29.2 miles at

Ten Cents per mile Total \$29.20

TAYLOR WILKINS, Sheriff

BY *Edlough Steadham*
DEPUTY SHERIFF

Taylor Wilkins
Sheriff.
Edlough Steadham
Deputy Sheriff.

MOTION TO QUASH SERVICE

JANE M. MOORE, AS ADMINISTRATRIX
OF THE ESTATE OF JAMES R. MOORE,
DECEASED,

Plaintiff

vs

RICHMOND R. KENDRICK, et al,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4603

Comes now the Defendant, Veterans of Foreign Wars of the United States, a corporation, and appearing specifically and only for the purpose of this motion moving the court to quash vacate service of the Complainant made by the Sheriff of Baldwin County, Alabama, on D. Keith Cooper, as agent of said corporation, and as grounds for said motion, the Defendant says: That at the time of the institution of said suit and said alleged service, it was not doing business by an agent in Baldwin County, Alabama at the time the cause of action sued on arose. The Defendant says further as grounds for this motion, that D. Keith Cooper was not an agent of the Defendant, Veterans of Foreign Wars of the United States, a corporation, at the time the cause of action arose, nor at the time of the purported service.

Wilters & Brantley

By:

Tolbert M. Brantley

FILED

MAR 55 1961

ALICE J. DUCK, CLERK
REGISTER

JANE M. MOORE, AS ADMINISTRATOR
OF THE ESTATE OF JAMES R. MOORE
DECEASED,

vs.

Defendant's

MOTION TO QUASH SERVICE

[illegible]

The State of Alabama

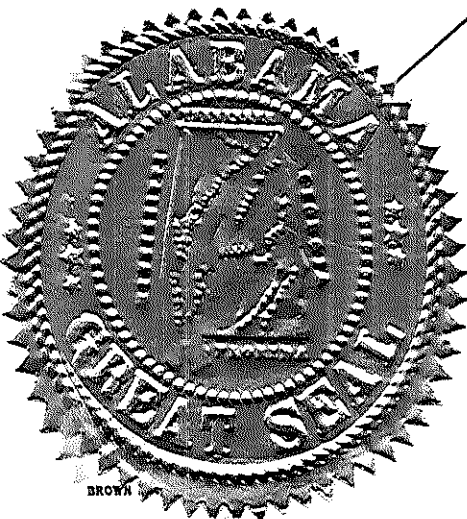
DEPARTMENT OF STATE

I, Bettye Frink, Secretary of State, of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that the foreign corporation records on file in this office disclose that Veterans of Foreign Wars of the United States, a corporation created by an Act of Congress, qualified in the State of Alabama on August 7, 1961. The statutory agent is shown to be James C. Gates, 632 South Court Street (P. O. Box 808) Montgomery, Alabama.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, this 10 day of August One Thousand Nine Hundred and Sixty-one.

Bettye Frink

Secretary of State



Jane M. Moore, Administratrix of
the Estate of James R. Moore,
deceased,

Plaintiff

Vs.

Richmond R. Kendrick, et al,

Defendants

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4603

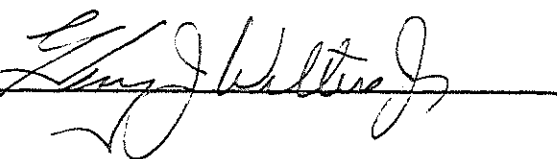
Comes now the Defendants, Price-Wilsey Post #5226, Veterans
of Foreign Wars of the United States, Inc., a corporation, John
King and Robert Childress and amends the demurs to the Complainant's
Complaint by adding the following:

6.

That said Count 2 is vague, indefinite and uncertain.

WILTERS & BRANTLEY

BY:



JANE M. MOORE, AS ADMINISTRATRIX)
OF THE ESTATE OF JAMES R. MOORE,)
DECEASED,)

Plaintiff,)

Vs.)

RICHMOND R. KENDRICK, et al,)

Defendants.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

Case No. 4603

AMENDED DEMURRERS

Comes now the defendant, Richmond R. Kendrick, in the above styled cause, and respectfully request of this Honorable Court permission to file the following Amended Demurrers to the original complaint filed heretofore in this cause.

Comes now Richmond R. Kendrick, one of the Defendants in the above styled cause, and demurs to the Bill of Complaint and to each and every count thereof, separately and severally, as follows:

ONE:

Neither the Complaint nor either of the count s^thereof state a cause of action.

TWO:

The Complaint, and both counts thereto, are ambiguous.

THREE:

Neither the Complaint nor either of the counts thereto sufficiently appraise the Defendant, Richmond R. Kendrick, as to which of the defendants committed the alleged assault and battery upon Plaintiff's intestate, James R. Moore, Deceased.

FOUR:

Count Two of the Complaint fails to show that there was negligence on the part of the defendant Richmond R. Kendrick, or any of the other defendants.

FIVE:

Neither the Complaint, nor either of the counts thereto, allege that the death of Plaintiff's intestate was caused by any acts of any of the defendants named in the Complaint.

Kenneth Cooper
Attorney for Defendant Richmond R. Kendrick

The defendant, Richmond R. Kendrick,
demands a trial by jury.

-- *Kenneth Cooper*
Attorney for Defendant Richmond R. Kendrick.

FILED

MAR 31 1967

ALICE J. DUCK, Clerk

JANE M. MOORE, AS ADMINISTRATRIX OF
THE ESTATE OF JAMES R. MOORE,
DECEASED,

Plaintiff,

VS.

RICHMOND B. KENDRICK, et al.,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 4603.

AMENDED MOTION TO QUASH SERVICE

Comes now the Defendant, The Veterans of Foreign Wars of the United States, and amends its motion to quash the service of the Complaint on Keith Cooper as an agent of the Veterans of Foreign Wars of the United States, so that, as Amended, said Motion is as follows:

"Comes the defendant, VETERANS OF FOREIGN WARS OF THE UNITED STATES, A Corporation created by Act of ^{Congress} ~~FORN WARS~~, and appearing specially and only for the purpose of making this Motion, moves the Court to quash and vacate the service of the complaint by the Sheriff of Baldwin County, Alabama, on Keith Cooper, as agent of Veterans of Foreign Wars of the United States, a Corporation, and as grounds for said motion, this defendant says that at the time of the institution of this suit, and said alleged service, it was not doing business by agent in Baldwin County, Alabama, nor was it doing so at the time the cause of action sued on arose; that its agent for service is James C. Gates, 632 South Court Street (P. O. Box 808), Montgomery, Alabama; and that, in support of this motion, there is attached hereto, marked Exhibit "A", and by reference made a part of this Motion as though fully set out herein, a Certificate of Bettie Frank, Secretary of State of Alabama, and in further support of this Motion, there is attached hereto, Marked Exhibit "B", and by reference made a part hereof as though fully set out herein, a Affidavit of Harry J. Wilters, Sr. Vice Commander of the Department of Alabama, Veterans of Foreign Wars of the United States.

Julian H. Madeline
Attorney for Defendant, VFW.

EXHIBIT "A"

THE STATE OF ALABAMA

DEPARTMENT OF STATE

I, Bettie Frink, Secretary of State, of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that the foreign corporation records on file in this office disclose that Veterans of Foreign Wars of the United States, a corporation created by Act of Congress, qualified in the State of Alabama on August 7, 1961. The Statutory Agent is shown to be James C. Gates, 632 South Court Street (P. O. Box 808), Montgomery, Alabama.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, this 10 day of August, One Thousand Nine Hundred and Sixty-one.

ALABAMA

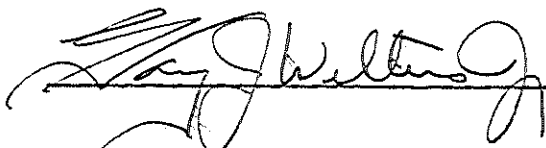
/s/ BETTIE FRINK
SECRETARY OF STATE

GREAT SEAL

EXHIBIT "B"

STATE OF ALABAMA, §
 §
COUNTY OF BALDWIN. §

Before me, the undersigned authority, within and for said State and County, personally appeared Harry J. Wilters, who is known to me, and who, being by me first duly sworn, deposes and says, on oath: "My name is Harry J. Wilters. I am the Senior Vice Commander of the Department of Alabama, Veterans of Foreign Wars of the United States. I have been an Officer in said Organization for more than one year. I know that the Veterans of Foreign Wars of the United States is a foreign Corporation, created by Act of Congress of the United States; that on February 22, 1959, said Corporation was not doing business by agent in Baldwin County, Alabama; that at the time this suit was filed on February 20, 1961, said Corporation was not doing business by Agent in Baldwin County, Alabama; and that at the time the summons and complaint was served on Keith Cooper, said corporation was not doing business by agent in Baldwin County, Alabama, and that, at that time, said Keith Cooper was not an agent, servant or employee of the Veterans of Foreign Wars of the United States, a Corporation created by Act of Congress." Further Deponent says not.



Sworn to and subscribed before me this the 29th day of August, 1961.


NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA

JANE M. MOORE, AS ADMINISTRATRIX
OF THE ESTATE OF JAMES R. MOORE,
DECEASED,

Plaintiff

vs

RICHMOND R. KENDRICK, et al,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 4603

~~DEMURRER~~

Comes Now the Defendants Price-Wilsey Post No. 5226, Veterans of Foreign Wars of the United States, Incorporated, a corporation, John King and Robert Childress and files the following demurs to the Plaintiff's Complaint:

1.

Count 1 does not state a cause of action.

2.

From the allegations in Count 1, the Defendants cannot tell which of them is being charged with assault and battery.

3.

Count 2 does not state a cause of action.

4.

Count 2 is ambiguous.

5.

This said Count 2 fails to show wherein there was negligence on the part of the Defendants.

Wilters & Brantley

By:

Tolbert M. Brantley
Tolbert M. Brantley

FILED

MAR 22 1961

ALICE L. DUCK, CLERK
REGISTER

4603

JANE M. MOORE, AS ADMINISTRATRIX
OF THE ESTATE OF JAMES R. MOORE,
DECEASED,

Plaintiff

vs.

RICHMOND R. KENDRICK, et al,

Defendants

DEMURRER

FILED
MAR 25 1966
ALICE J. DUCK, CLERK
REGISTER

JANE M. MOORE, AS ADMINISTRATRIX)
OF THE ESTATE OF JAMES R. MOORE,)
DECEASED,)

Plaintiff,)

Vs)

RICHMOND R. KENDRICK, Et Al,)
Defendants.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

No. 4603

DEMURRER

Comes now Richmond R. Kendrick, one of the Defendants in above styled cause, and demurs to the Bill of Complaint and to each and every count thereof, separately and severally, as follows:

One:

Neither the Complaint nor either of the counts thereto state a cause of action.

Two:

Neither the Complaint nor either of the counts thereto apprise the Defendant Richmond R. Kendrick as to which Defendant committed assault and battery upon the Plaintiff's intestate, James R. Moore.

THREE:

The Complaint, and both of the Counts thereto, is ambiguous.

Four:

Count Two of the Complaint fails to show there was negligence on the part of any of the Defendants.

FIVE:

Neither the Complaint, nor either of the Counts thereto, allege that the death of Plaintiff's intestate was caused by any of the acts of any of the Defendants.

Kenneth Cooper
Attorney at Law

FILED
MAR 29 1961
ALICE J. DUCK, Clerk

Case No. 4603

HANE R. MOORE, AS ADMINIS-
TRATRIX OF THE ESTATE OF
JAMES R. MOORE, DECEASED,
Plaintiff,

Vs.

RICHOND R. KENDRICK,
Defendant

DEMURRER.

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