

Daphne Minson Brooks
Plaintiff
Vs
Baldwin County, Alabama
Defendant

RECEIVED

In the Circuit Court of
Baldwin County, Alabama
At Law. No. 4630

Now comes the Plaintiff and appeals the above styled cause to the Court of Appeals of Alabama, from an adverse ruling on to wit 4/18/61 on Demurrers filed by the Defendant. Plaintiff took a Non-suit because of said ruling and appeals therefrom.

Reuben F. McQuilley
Attorney for the Plaintiff

We, the undersigned hereby announce ourselves as Security for Costs on the appeal of the above styled cause to the Alabama Court of Appeals.

Daphne Minson Brooks R.F.M.
PT 3 Bay Minette Ala
and L. D. Smith R.F.M.
PT 3 Bay Minette Ala

D B Minson
R.F.M.
Bay Minette Ala

W. J. Pate
BAY MINETTE

DAPHNE MINSON BROOKS
PLAINTIFF
VS
BALDWIN COUNTY, ALABAMA
DEFENDANT

NOTICE OF APPEAL AND
APPEAL BOND

FILED
MAY 18 1961
ALICE B. DUCK, CLERK
REGISTER

DAPHNE MINSON BROOKS
PLAINTIFF
VS
BALDWIN COUNTY, ALABAMA
DEFENDANT

NOTICE OF APPEAL AND
APPEAL BOND

of appeal. The appeal is taken from the judgment of the trial court in the above entitled cause to the Supreme Court of Alabama, and the appellant has deposited with the clerk of the trial court the sum of \$100.00 as appeal bond.

WITNESSE MY HAND AND SEAL OF OFFICE
THIS 15th DAY OF MAY, 1961.

ALICE J. DUCK, Clerk of the Court, Baldwin County, Alabama. I hereby certify that the foregoing is a true and correct copy of the original filed in my office.

FILED
MAY 31 1961
ALICE J. DUCK, CLERK
BALDWIN COUNTY, ALABAMA

Daphne Minson Brooks
Plaintiff

Vs
Baldwin County, Alabama
Defendant

In the Circuit Court of
Baldwin County, Alabama
At Law. No. 4630

Now comes the Plaintiff and appeals the above styled cause to the Court of Appeals of Alabama, from an adverse ruling on to wit 4/18/61 on Demurrers filed by the Defendant. Plaintiff took a Non-suit because of said ruling and appeals therefrom.

Reuben F. McFarley
Attorney for the Plaintiff

We, the undersigned hereby announce ourselves as Security for Costs on the appeal of the above styled cause to the Alabama Court of Appeals.

Daphne Minson Brooks R.F.M
Rt 3 Box 146 Atmore Ala.

Wm L Brooks
Rt 3 Box 146 Atmore Ala. R.F.M
D.B. Harrison

Bayminette
Rd 2 also

W.J. Porter
BAYMINETTE

FILED
APR 20 1961
CLERK OF COURT

WARRANT BOND
NOTICE OF VERDICT VMD

DEFENDANT
MARVIA YOUNG MINNIE
BAYMINETTE
DAPHNE MINSON BROOKS
SV

NOTICE OF APPEAL AND
APPEAL BOND

MAY 3 1961

IRE DUCK CLERIC REGISTER

for the purpose of determining whether or not the person has been convicted of a crime.

THE UNIVERSITY OF CHICAGO

of 60000 to 70000 and 200000 from 2000000 and some well
I try to do better because we want a camera to find out
and in 1905 I started a company and we built a camera in 1914

4500

CONFIDENTIAL

THE UNIVERSITY OF CHICAGO

we found that the
residual of a
model of $\log_e$ wet fa

DAPHNE HINSON BROOKS,

Plaintiff,

VS.

BALDWIN COUNTY, ALABAMA,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 4630

DEMURRER

Now comes the Defendant and demurs to the complaint heretofore filed in this cause and as grounds for said demurrer assigns the following, separately and severally:

1. It does not state a cause of action.
2. The facts alleged, if true, do not state a cause of action against the Defendant.
3. No facts are alleged to show that the Plaintiff's alleged injury and damages were caused by the negligence of agents, servants or employees of the Defendant while engaged in work therefor and while acting within the line and scope of their authority.
4. It does not allege any duty owing the Plaintiff by the Defendant.
5. It does not allege that the Plaintiff's injuries were caused by the negligence of the Defendant.
6. It affirmatively appears from the allegations of the complaint that the Plaintiff has not filed an itemized, verified claim with the Court of County Commissioners of Baldwin County, Alabama.
7. It affirmatively appears from the allegations of the complaint that the Plaintiff has not filed an itemized, verified claim with the Court of County Commissioners of Baldwin County, Alabama, in the amount sued for in the complaint.
8. The complaint does not state a cause of action against the Defendant, because no facts are alleged to show that the Plaintiff's alleged injury was done or suffered through the neglect, carelessness or unskillfulness of an agent, officer or

employee of the Defendant engaged in work therefor and while acting within the line and scope of his said employment.

9. The complaint does not state a cause of action against the Defendant, because it affirmatively appears from the allegations thereof that the Defendant was acting in a governmental capacity or was engaged in the performance of a governmental function at the time and place where the Plaintiff is alleged to have been injured.

10. It affirmatively appears from the allegations of the complaint that the Defendant was engaged in a governmental capacity at the time and place of Plaintiff's alleged injury.

11. No facts are alleged to show that the Defendant was not engaged in the performance of a governmental function at the time and place where the Plaintiff was alleged to have been injured.

12. No facts are alleged to show that the Defendant was not acting in a governmental capacity at the time and place where the Plaintiff is alleged to have been injured.

13. The allegations of the complaint are vague, indefinite and uncertain in that the way and manner in which the Plaintiff was injured is not described with sufficient certainty.

14. No facts are alleged to show any causal connection between the Defendant's alleged negligence and the Plaintiff's alleged injury.

15. No facts are alleged to show that the Defendant's alleged negligence was the proximate cause of the Plaintiff's alleged injury.

16. The allegations of the complaint are vague, indefinite and uncertain in that the Plaintiff's injuries are not described with sufficient certainty.

17. The allegations of the complaint are vague, indefinite and uncertain in that it does not describe with sufficient certainty the time that the Plaintiff was away from her work because of her said injuries.

18. The allegations of the complaint are conclusions of the pleader.

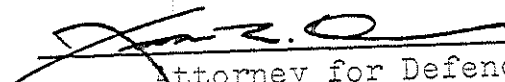
19. No facts are alleged to show whether the Plaintiff was an invitee or licensee of the Defendant at the time and place of her alleged injuries.

20. Plaintiff's business in the Baldwin County Courthouse at the time of her alleged injuries is not described with sufficient certainty.

21. The words "attending to business which had to be transacted on the second floor of said courthouse", as used in the complaint, are conclusions of the pleader and no facts are alleged to show specifically what business the Plaintiff had in the Baldwin County Courthouse at the time and place of her alleged injuries.

22. The allegations of the complaint are vague, indefinite and uncertain in that the location of the stairs used by the Defendant are not described with sufficient certainty.

FILED
MAR 21 1961
ALICE L. DUCK, CLERK
REGISTER


Attorney for Defendant

No. 4630

BALDWIN County, Circuit Court.

DAPHNE HINSON BROOKS
Plaintiff.
vs.

BALDWIN COUNTY, ALABAMA
Defendant.

I, ALICE J. DUCK Clerk of CIRCUIT Court,
of BALDWIN County, Alabama, hereby certify that in the
cause of DAPHNE HINSON BROOKS plaintiff,
vs.

BALDWIN COUNTY, ALABAMA defendant,
which was tried and determined in this Court on the 18th day of
April 1961, in which there was a judgment for
Defendant ~~Dollars, in favor of the plaintiff, for judgment~~
~~for defendant;~~ the Plaintiff on the 3rd day of
May 1961, took an appeal to the Court of Appeals Court
of Alabama to be holden of and for said State.

I further certify that Plaintiff
filed security for cost of appeal, to the Court of Appeals Court, on
the 3rd day of May 1961, and that D.B. Hinson & W.J. Porter,
_____,
are sureties on the appeal bond.

I further certify that notice of the said appeal was on the 5
day of May 1961, served on James R. Owen
as attorney of record for said appellee, and that the amount sued for
was Two Hundred Fifty Thousand Dollars. (Or certain lands)
(Or personal property.)

Witness my hand and the seal of this Court, this the 4th
day of May 1961.

Alice J. Duck
Clerk of the Circuit Court of
Baldwin County, Alabama.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 1961-62

To the Clerk of the Baldwin Circuit Court,
Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court
of said county, in a certain cause lately pending in said Court between
Daphne Hinson Brooks, Appellant,
and
Baldwin County, Alabama, Appellee,
wherein by said Court it was considered adversely to said appellant, were brought before our
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ordered, and adjudged by
our Supreme Court, on the 21st day of December, 1961, that said
judgment of said Circuit Court be in all things
affirmed, and that it was further considered, ordered, and adjudged that the appellant, ~~and~~

Daphne Hinson Brooks,

and

D. B. Hinson and W. J. Porter, Sureties on
the appeal bond pay

the costs accruing on said appeal in this Court and in the Court below, for which costs let execution
issue.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, at the Judicial Department
Building, this the 21st day of
December, 1961


Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

October Term, 19 61-62

1st Div., No. 989

Daphne Hinson Brooks

Appellant,

vs.

Baldwin County, Alabama

Appellee.

From Baldwin Circuit Court.

CERTIFICATE OF
AFFIRMANCE

The State of Alabama,

County.

} Filed

this day of 19

THE STATE OF ALABAMA - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1961-62

1 Div. 989

Daphne Hinson Brooks

vs.

Baldwin County, Alabama

Appeal from Baldwin Circuit Court.

SEARELY, JUSTICE.

This is a suit brought by Mrs. Daphne Hinson Brooks to recover damages against Baldwin County, Alabama for injuries alleged to have been sustained by her in falling on the stairs in the court house of Baldwin County. It is alleged in her complaint that she was taking her son to the draft board on the second floor of the Baldwin County Court House when she slipped

2.

and fell on an unlighted stairway, severely injuring her ankle and foot. The defendant county filed a demurrer to the complaint taking the position, among other grounds, that in maintaining a county court house the defendant was engaged in a governmental function.

The court sustained the demurrers of the county. The plaintiff took a non-suit because of such adverse ruling and brings this appeal to this court.

1. In Section 3, Title 12, Code of 1940 it is provided that every county is a body corporate with power to sue or be sued but this general provision that a county is a body corporate with power to sue and be sued does not deprive a county of immunity from a suit based on negligence so long as it is engaged in governmental functions. Lansy vs. Jefferson County, 249 Ala. 612, 32 So. 2d 542; Garrett vs. Escambia County Hospital Board, 266 Ala. 201, 94 So. 2d 762.

From an examination of the Alabama cases it appears that where the activities of a county are governmental there is no liability in the absence of a statute expressly declaring the liability. Moore vs. Walker County, 236 Ala. 688, 185 So. 175. In the present instance so far as we can ascertain there is no statute specifically imposing responsibility on the county.

This brings us to the final question in the case. Was Baldwin County engaged in a governmental function in maintaining its court house? We consider that the maintenance of the county court house by Baldwin County was in the very nature of things a governmental function. Trials in the Circuit Court are held in the county court house. The probate court keeps its records

3.

and functions there. The county commissioners, tax collector, tax assessor and sheriff have their offices in and operate from the county court house. In the case of City of Bay Minette vs. Quinley, 263 Ala. 188, 82 So. 2d 192, this court held that in maintaining its offices for its police department in the county court house, the City of Bay Minette was engaged in a governmental function and could not be held liable for a defect in the steps used in connection therewith. In keeping with the reasoning in the case here referred to we think it necessarily follows that in maintaining a room in the county court house for a draft board the county should not be held liable for a defect in the stairway used in connection therewith.

Affirmed.

LIVINGSTON, C. J., LAWSON AND MERRILL, JJ, CONCUR.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 989

Daphne Hinson Brooks

, Appellant

vs.

Baldwin County, Alabama

, Appellee,

From

Baldwin

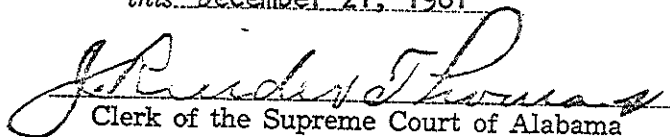
Circuit Court.

The State of Alabama,
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to three inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the
Supreme Court of Alabama,

this December 21, 1961


Clerk of the Supreme Court of Alabama

4630

THE SUPREME COURT OF ALABAMA

October Term, 1961-62

1st Div., No. 989

Daphne Hinson Brooks

Appellant,

vs.

Baldwin County, Alabama

Appellee.

From Baldwin Circuit Court.

COPY OF OPINION

BROWN PRINTING CO., MONTGOMERY 1960

FILED

DEC 22 1961

ALICE J. DUCK, CLERK
REGISTER

THE STATE OF ALABAMA }
 Baldwin County - Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the 18 day
~~11/18/61~~ of April, 1961 ~~Monday~~ in 1961, in a cer-

tain cause in said Court wherein Daphne Hinson Brooks

Plaintiff, and

Baldwin County, Alabama

Defendant, a judgement was rendered against said

Daphne Hinson Brooks

to reverse which Judgment, the said Daphne Hinson Brooks

applied for and obtained from this office an APPEAL, returnable to the Next

Term of our Court of Appeals Court of the State of Alabama, to be held at Montgomery,
 on the day of, 195next, and the necessary bond

having been given by the said D.B. Hinson

with W.J. Porter

, sureties,

Now, You Are Hereby Commanded, without delay, to cite the said

Baldwin County, Ala.

or James R. Owen

, attorney, to appear at the next

Term of our

Court of Appeals
 said ~~Supreme~~ Court, to defend against the said Appeal, if they think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 4th

day of May, A. D., 1961.

Attest:

Alice J. Duck, Clerk.

no. 4636

CIRCUIT COURT
Baldwin County, Alabama

Daphne Hinson Brooks

Vs. Citation in Appeal

Baldwin County
Ala.

Issued _____ day of _____, 195_____

To be served on
Jas R. Owen

Received 4 day of May 1954
and on 5 day of May 1954
I served a copy of the within Citation
on James R. Owens

By service on _____

TAYLOR WILKINS, Sheriff

By W. A. Talbert D. S.
O. M.

STATE OF ALABAMA
COUNTY OF BALDWIN

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to Summon Baldwin County, Alabama to appear and plead answer or demur within thirty days, to the Bill of Complaint filed in the Circuit Court of said County by Daphne Minson Brooks as Plaintiff and against Baldwin County, Alabama, as Defendant.

Witness my hand this 13 day of March 1961.

Alice J. Duck
Clerk

Daphne Minson Brooks	¶	In the Circuit Court of
Plaintiff	¶	Baldwin County, Alabama
vs	¶	At Law. No. _____
Baldwin County, Alabama	¶	
Defendant	¶	

The Plaintiff claims of the Defendant Two-Hundred Fifty Thousand Dollars as damages, for that on to-wit December 9, 1960, while in Baldwin County, Alabama Courthouse attending to business ^{to-wit taking her son to the Draft Board} which had to be transacted on the second floor of said Courthouse, she did fall down an unlighted, dark stairway in said Courthouse, breaking and crushing her foot and ankle. As a proximate result of said accident, the Plaintiff suffered a great deal of physical pain and mental anguish, had to expend a great deal of money for Doctor bills and medicine and was and still is at the time of filing this suit, unable to do her work and causing her to have to be attended and waited on by others; the proximate cause of all her worry, pain, trouble and inconvenience being the negligence of the Defendant its agents or servants while in the line and scope of duty, or their employment with the Defendant leaving a stairway unlighted in said Courthouse on a dark, rainy day, causing her to loose her footing and fall down said stairs, breaking and crushing her foot and ankle, and making her sick and suffering, all to the damage of the Plaintiff as aforesaid. Said Plaintiff has been advised by her Doctor that said foot and leg may have to be amputated as a direct proximate result of said accident.

A claim for a nominal amount was presented by the Plaintiff, to the Baldwin County Commission on to-wit February 16, 1961, for compensation for this injury and on that date said claim was refused and disallowed by said commission, hence this suit.

Robert T. McLeary
Attorney for Plaintiff

Plaintiff demands a trial by Jury.

Robert T. McLeary
Attorney for Plaintiff

FILED

MAR 13 1961

ALICE J. DUCK, Clerk

4630

Daphne Hinson Brooks
Plaintiff
Vs
Baldwin County, Alabama
Defendant

Received 13 day of May 1961
Id on 14 day of March 1961
served a copy of the within B & C
n Baldwin County, Ala

By service on John Hadley, Ch
County Commissioners
TAYLOR WILKINS, Sheriff
By James H. Jones D. S.
mi

SUMMONS AND COMPLAINT

Serve on Mr. John Hadley
Chairman of Board of
Commissioners

FILED
MAR 13 1961
ALICE J. DUCK, Clerk