

4722

STATE OF ALABAMA)
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Ed Middleton and Joe Potter to appear within thirty days from 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 Thomas Floyd Long, a minor, suing by Woodie Long, as his father and next friend.

WITNESS my hand this 2 day of June, 1961.

Reverend J. Leuck
Clerk

Defendant's address is
Loxley, Alabama

THOMAS FLOYD LONG, a minor,
suing by Woodie Long, as his
father and next friend,

Plaintiff,

VS.

ED MIDDLETON and JOE POTTER,

Defendants.

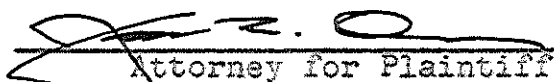
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

C O M P L A I N T

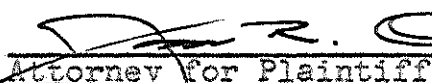
COUNT ONE

The Plaintiff claims of the Defendants the sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) for that heretofore on to-wit, June 12, 1960, at or near Cairo, Illinois, while the Plaintiff was helping repair a motor vehicle belonging to the Defendant, Ed Middleton, the Defendant, Joe Potter, who was then and there an agent, servant or employee of the Defendant, Ed Middleton, acting within the line and scope of his authority as such agent, servant or employee, so negligently ignited the engine of the said

motor vehicle as to cause it to explode and as a proximate result of said negligence the Plaintiff was seriously and permanently injured; his face was burned and disfigured and he was caused to spend much time and money in and about medical treatment for his said injuries. Plaintiff alleges that all of his injuries were caused as a proximate result of the negligence of the Defendant, Joe Potter, the agent, servant or employee of the Defendant, Ed Middleton, while acting within the line and scope of his authority as such agent, servant or employee, hence this suit.


Attorney for Plaintiff

Plaintiff demands a trial of said cause by jury.


Attorney for Plaintiff

FILED
JUN 21 1906
ALICE J. DUCK, CLERK
REGISTER

ARMBRECHT, JACKSON, McCONNELL & DeMOUY
LAWYERS

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

June 22, 1961

WM. H. ARMBRECHT
THEO. K. JACKSON
JOHN W. McCONNELL, JR.
MARSHALL J. DeMOUY
WM. H. ARMBRECHT, III
RAE M. CROWE
BROOK G. HOLMES
W. BOYD REEVES

MAILING ADDRESS
P. O. BOX 290
MOBILE, ALA.

CABLE ADDRESS
SEALAW

TELEPHONE
HEMLOCK 3-1891

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

Re: Thomas Floyd Long, a minor, suing by
Woodie Long, as his father and next
friend, Plaintiff, vs. Ed Middleton and
Joe Potter, Defendants. - No. 4722

Dear Mrs. Duck:

Enclosed herewith you will find the original of some demurrers
which we wish to file on behalf of the Defendant Ed Middleton. You will
note where we have sent Mr. James R. Owen a copy of these demurrers.
We would appreciate it if you would notify us of the setting of this case.

Very truly yours,

ARMBRECHT, JACKSON, McCONNELL
& DeMOUY

By


Marshall J. DeMouy

MJD
ah
Enclosure

cc: Mr. James R. Owen - w/encl.

| | | |
|-------------------------------------|---|----------------------|
| THOMAS FLOYD LONG, a minor, |) | IN THE CIRCUIT COURT |
| suing by Woodie Long, as his father | (| OF BALDWIN COUNTY, |
| and next friend, |) | ALABAMA |
| Plaintiff, | (| AT LAW |
| vs. |) | |
| ED MIDDLETON and JOE POTTER, | (| NO. 4722 |
| Defendants. |) | |

Comes now the Defendant, Ed Middleton, in the above styled cause and demurs to Plaintiff's complaint as a whole, and each and every count thereof, separately and severally, upon the following separate and several grounds:

1. Said count fails to allege a cause of action.
2. Said count fails to allege the existence of any legal duty owing from this Defendant to the Plaintiff therein.
3. Said count fails to allege the breach of any duty owing from this Defendant to the Plaintiff therein.
4. Said count is vague, indefinite and uncertain in that it does not apprise this Defendant of what he will be called upon to defend.
5. The allegations of said count are vague, indefinite and uncertain in that it does not appear that the alleged explosion occurred in point of time when the Plaintiff was helping repair a motor vehicle belonging to this Defendant.
6. Said count is vague, indefinite and uncertain in that the allegations thereof do not apprise this Defendant as to where the Plaintiff

was located at the time he was allegedly injured.

7. Said count seeks to set out the quo modo constituting the negligence without alleging sufficient facts in support thereof.

8. Said count is vague, indefinite and uncertain in that it does not allege in any particular whatever how the motor vehicle belonging to this Defendant was negligently ignited.

9. Said count wholly fails to set forth sufficient facts as to how this Defendant was negligent.

10. For aught appearing from the allegations of said count, there was no proximate cause between the alleged negligence of this Defendant and the alleged injuries and damages of the Plaintiff.

11. It affirmatively appears that there was no causal connection between the alleged negligence of this Defendant and the alleged injuries and damages of the Plaintiff.

12. Because it affirmatively appears from the allegations of said count that there was an intervening cause between the alleged negligent ignition of the engine referred to in said count and the alleged injuries and damages of the Plaintiff.

13. For aught appearing from the allegations of said count, Plaintiff was not at a place where he had a right to be at the time and place of said accident.

14. For aught appearing from the allegations of said count, Plaintiff was a trespasser at the time and place of said accident.

FILED

JUN 29 1961

ALICE J. DUCK, CLERK
REGISTER

ARMBRECHT, JACKSON, McCONNELL
& DeMOUY

By Marshall J. DeMouy
Marshall J. DeMouy

By Broox G. Holmes
Broox G. Holmes

64

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BALDWIN COUNTY)

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WITNESS my hand this 2 day of June, 1961.

Archie French
Clerk

Defendant's address is
Loxley, Alabama

THOMAS FLOYD LONG, a minor,
suing by Woodie Long, as his
father and next friend,

Plaintiff,

VS.

ED MIDDLETON and JOE POTTER,

Defendants.

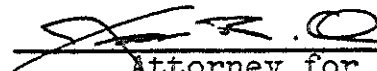
IN THE CIRCUIT COURT OF
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C O M P L A I N T

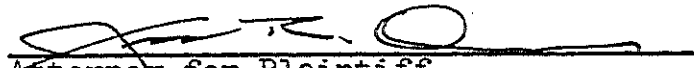
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Attorney for Plaintiff

Plaintiff demands a trial of said cause by jury.


Attorney for Plaintiff

FILED
JUN 2. 1961
ALICE J. DUCK, CLERK
REGISTER

Received _____ day of _____
and on 10 day of June 1961
between the party of the within Const
on Ed. Middleton
By service on _____

TAYLOR WILKINS, Sheriff
BY Edlugh Steadman

Lopley, Ala
Sheriff claims 40 miles at
Ten Cents per mile Total \$ 4.00
TAYLOR WILKINS, Sheriff
BY Steadman
DEPUTY SHERIFF

COMPLAINT 4722

THOMAS FLOYD LONG, a minor,
suing by Woodie Long, as his
father and next friend,

Plaintiff,

VS.

ED MIDDLETON and JOE POTTER,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

JAMES R. OWEN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA