FRANCES HARTMAN,

Plaintiff,

VS-

COCA-COLA BOTTLING COMPANY, INC.,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 4742

Comes the Plaintiff in the above styled cause and filed this her amended Bill of Complaint as follows:

COUNT IV

The Plaintiff claims of the Defendant FIFTEEN THOUSAND DOLLARS ($15,000.00) as damages for that heretofore on to-wit, the 2nd day of July, 1960, a bottle of the beverage commonly known as Coca-Cola, which had been sold and delivered to the Foley Bakery, an establishment operated by the Plaintiff and her husband in Foley, Baldwin County, Alabama, where Plaintiff was working at the time, by the Defendant, its agents, servants, or employees, acting within the line and scope of their employment, and placed under the work table by the said agents, servants or employees, of the Defendant while acting within the line and scope of their employment, exploded with great force, the broken glass on the bottle or container causing lacerations of both legs of the Plaintiff and causing injury to the saphenous nerve in her left leg below her knee, causing her great pain and suffering; to expend sums for medical treatment; to lose time from work; and to be permanently injured and/or disfigured; all to her damage as aforesaid.

The Plaintiff further alleges that Coca-Cola is a bottled beverage sold generally throughout the United States and is considered heathful and palatable and ordinarily when due care has been exercised by the manufacturer and bottler in preparing that beverage for market, the bottles containing the same do not explode when properly handled by those through whose hands they pass which in this instance was solely the Defendant,

C. G. C.

its agents, servants or employees, while acting within the line and scope of their employment, until the time of the explosion with great force and that the sole cause of the explosion of the said bottle was the negligent and careless bottling and/or manufacturing and/or handling of the said bottle of Coca-Cola by the Defendant, its agents, servants or employees acting within the line and scope of their employment, resulting proximately in the injury to the Plaintiff, the particular acts of negligence not being alleged by the Plaintiff, she being relieved from the necessity of making such allegations since the facts of this cause represent and constitute a case of res ispa loquitar.

Attorney For Plaintiff

Service accepted - 22 Feb 62

atty for Defts.

FILED

FEB 22 1962

ALICE J. DUCK, CLERK REGISTER

FRANCES HARTMAN,

Plaintiff,

VS.

COCA-COLA BOTTLING COMPANY, INC.,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

NO. 4742

FILED

FEB 22 [illegible]

ALICE J. DUCK, CLERK REGISTER

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

SUMMONS AND COMPLAINT

STATE OF ALABAMA)
)
BALDWIN COUNTY)

CIRCUIT COURT, BALDWIN COUNTY
AT LAW

NO._____

TO ANY SHERIFF OF THE STATE OF ALABAMA - GREETINGS-:

You are hereby commanded to summon Coco-Cola Bottling Company, Inc., 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 Coco-Cola Bottling Company, Inc., Defendant, by Frances Hartman, Plaintiff.

WITNESS my hand this 30 day of June, 1961.

Alice J. Hruska, CLERK

E-14: 7-6-61
-11- 7-15-61

FRANCES HARTMAN,
PLAINTIFF

VS

COCO-COLA BOTTLING COMPANY, INC.
DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

COUNT I

The Plaintiff claims of the defendant FIFTEEN THOUSAND AND NO/100 DOLLARS ($15,000.00) as damages, for that heretofore on to-wit, the second day of July, 1960, the Plaintiff, while working in the Foley Bakery, an establishment operated by the Plaintiff and her husband, in Foley, Baldwin County, Alabama, a bottle of the beverage commonly known as Coco-Cola, which had been delivered to the Foley Bakery by the defendant, its agents, servants, or employees and placed under a work table by the said defendant, its agents, servants, or employees, exploded with great force, the broken glass from the bottle or container causing

C. G. C.

lacerations of both legs of the Plaintiff and causing injury to the nerve in her left leg, causing her great pain and suffering; to expend sums for medical treatment and to loose time from work, all to her damage as aforesaid.

The Plaintiff further alleges that Coco-Cola is a bottled beverage sold generally throughout the United States and is considered healthful and palatable and ordinarily when due care has been exercised by the manufacturer and bottler in preparing that beverage for market, the bottles containing the same do not explode when properly handled by those through whose hands they pass which in this instance was solely the defendant, its agents, servants or employees. That the said bottle of Coco-Cola in the instant case had not been opened or tampered with or improperly handled from the time it was placed in the establishment known as the Foley Bakery by the Defendant, its agents, servants, or employees, until the time of the explosion with great force and that the sole cause of the explosion of the said bottle was the negligent and careless bottling, manufacturing and handling of the said bottle of Coco-Cola by the defendant resulting proximately in the injury to the Plaintiff, the particular acts of negligence not being alleged by the Plaintiff, she being relieved from the necessity of making such allegations since the facts of this cause represent and constitute a case of res ispa loquitur.

COUNT II

The Plaintiff claims of the defendant FIFTEEN THOUSAND AND No/100 DOLLARS ($15,000.00) as damages, for that heretofore on to-wit, the second day of July, 1960, a bottle of a beverage known as Coco-Cola, which was sold by the Defendant to the business in the City of Foley, Baldwin County, Alabama, known as the Foley Bakery, which said business is operated by the Plaintiff and her husband, exploded due to the negligence of the defendant and as a proximate consequence and as a result of such negligence of the defendant, the plaintiff suffered lacerations of both legs and injury to the nerve of her left leg and suffered great pain and anguish and was put to expense for hospitalization and in securing the services of a physician and lost time from work and was permanently injured

C. G. C.

and was disfigured, all to her damage as aforesaid. The Plaintiff does not know and therefore does not attempt or allege or describe special acts of negligence of which the defendant may have been guilty and which may have been the proximate cause of the injuries to the Plaintiff herein described, but the Plaintiff states and alleges that the explosion of the aforesaid described bottle of Coco-Cola with the resulting injury to the Plaintiff was an occurance which would not have taken place except for some act or acts of negligence of the defendant in the manufacturing, bottling, inspection, handling, storing, transporting, distribution or sale thereof. Plaintiff further alleges that the explosion of said bottle of Coco-Cola and the resulting injuries to the Plaintiff were the direct result of some act or acts of negligence on the part of the defendant, its agents, servants, or employees, while in the exclusive possession and control of the manufacture, bottling, inspection, handling, storage, transportation, distribution or sale of said bottle of Coco-Cola.

COUNT III

The Plaintiff claims of the defendant FIFTEEN THOUSAND AND NO/100 DOLLARS ($15,000.00) as damages for that, heretofore on to-wit, the second day of July, 1960, the Plaintiff while working in the Foley Bakery, an establishment operated by the Plaintiff and her husband, in Foley, Baldwin County, Alabama, a bottle of the beverage commonly known as Coco-Cola, which had been delivered to the Foley Bakery by the defendant, and placed under a work table by the said defendant, acting through its agents, servants, or employees, exploded with great force, the Plaintiff suffered lacerations of both legs and injury to the nerve of her left leg and suffered great pain and anguish and was put to expense for hospitalization and in securing the services of a physician and lost time from work and was permanently injured and was disfigured, all to her damage as aforesaid. Plaintiff further alleges that in manufacturing, handling, distributing and selling the aforesaid described bottle of Coco-Cola, the defendant impliedly warranted the article so manufacturing, distributed, handled and sold was fit and safe for human consumption and

(page three)

C. G. C.

was so manufactured, bottled, handled and sold in such a manner as not to be inherently or immenently dangerous. The explosion of said bottle of Coco-Cola with resulting injury and damage to the Plaintiff was the proximate result of the negligent breach of said warranty by the defendant in its manufacture, bottling, distribution, and handling of said article.

ATTORNEY FOR PLAINTIFF

PLAINTIFF DEMANDS TRIAL BY JURY

FILED
JUN 30 1961
ALICE J. DUCK, CLERK
REGISTER

C. G. C.

(fourth and last page)

Sheriff claims 50 miles at
Ten Cents per mile Total $5.00
TAYLOR WILKINS, Sheriff
BY Steadham
DEPUTY SHERIFF

Received 3 Day of July 1961
and on 6 Day of July 1961
I served a copy of the within S & C
on Coca Cola Bottling Co
~~J. W. Burney~~
by service on J. W. Burney
V.P. Brunswick
RAY D. BRIDGES, Sheriff
By C. J. Fitzpatrick

Received 30 day of June 1961
and on 15 day of July 1961
served a copy of the within S & C
on Coco-Cola Bottling Co.

By service on O.C. Massey, Distributor
at Robertsdale, Ala.
TAYLOR WILKINS, Sheriff
By Steadham D. S.

RECEIVED
JUL 3 - 1961
SHERIFF'S OFFICE

2765

No. 4742

SUMMONS AND COMPLAINT

FRANCES HARTMAN

-VS-

COCO-COLA BOTTLING COMPANY, INC.
J W Burney - V P

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

AT LAW

FILED
JUN 30 1961
ALICE J. DUCK, CLERK REGISTER

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

~~Received 30 day of June July 1961~~
~~and on 15 day of July 1961~~
~~served a copy of the within S & C~~
~~on Coco Cola Bottling Co~~
~~O. C. Massey, Dist~~
~~By service on~~
~~TAYLOR WILKINS, Sheriff~~
~~By D. S.~~

FRANCES HARTMAN,	*	
	*	
Plaintiff,	*	IN THE CIRCUIT COURT OF
	*	
vs.	*	BALDWIN COUNTY, ALABAMA
	*	
COCA-COLA BOTTLING COMPANY, INC.,	*	AT LAW, CASE NO. 4742
	*	
	*	
Defendant.	*	

Comes the defendant in the above styled cause and demurs separately to each separate count of the plaintiff's complaint upon the following separate and several grounds:

1. Because it is not alleged in nor shown by the averments of said count that the defendant or its agents, servants or employees violated a duty owed to the plaintiff.

2. Because said count does not show that the defendant or its agents, servants or employees owed to the plaintiff a duty and that there was a breach of this duty proximately causing the injury of plaintiff.

3. Because said count does not sufficiently show the nature of the negligence charged against the defendant.

4. Because said count does not allege or show that the injury to the plaintiff was proximately caused by the breach of a duty owed by the defendant or its agents, servants or employees to the plaintiff.

5. Because it is not alleged nor shown by the averments of said count how plaintiff was injured.

6. Because said count does not state a cause of action against the defendant.

7. Said count is based on negligence but does not specify wherein defendant was negligent nor does plaintiff give a valid legal reason for not doing so.

The defendant assigns the following additional grounds for demurrer to Count One of plaintiff's complaint:

8. Said count seeks to invoke the doctrine of res ipsa loquitur but fails to state facts making such doctrine applicable.

9. Said count is based on negligence but does not specify wherein defendant was negligent nor does plaintiff give a valid legal reason for not doing so.

10. The allegation "that the said bottle of Coca Cola in the instant case had not been opened or tampered with or improperly handled from the time it was placed in the establishment known as the Foley Bakery by the defendant, its agents, servants or employees, until the time of the explosion . . ." is but the statement of a conclusion of the pleader, and sufficient facts are not set forth in said count to support such conclusion.

11. The statement in said count that "the said bottle of Coca Cola in the instant case had not been opened or tampered with or improperly handled . . ." is insufficient to negative the possibility of negligence on someone's part other than the defendant or the defendant's agents, servants or employees as being the proximate cause of the explosion.

12. For that the allegation that "the sole cause of the explosion of the said bottle was the negligent and careless bottling, manufacturing and handling of the said bottle of Coca Cola by the defendant . . ." is but the statement of a conclusion of the pleader and no facts are set forth to support said conclusion nor to relieve plaintiff of the necessity of averring such facts.

13. For that the allegations of said count are vague, indefinite and uncertain.

14. For that the allegations of said count are speculative.

15. For that, construing the pleadings most strongly against the pleader, it affirmatively appears that the proximate cause of plaintiff's injury and damage was the negligence of someone other than this defendant or its agents, servants or employees.

The defendant assigns the following additional grounds for demurrer to Count Two of plaintiff's complaint:

16. For that the allegation that a bottle of Coca Cola "exploded due to the negligence of the defendant . . ." is but the statement of a conclusion of the pleader and no facts are set forth to support said conclusion.

17. For that it affirmatively appears from the allegations of the complaint that plaintiff does not know of any negligence on the part of the defendant.

18. For that the allegations of said count are vague, indefinite and uncertain.

19. For that the allegations of said count are speculative.

20. For that this defendant cannot be held liable for acts "of which the defendant may have been guilty", as is alleged in the complaint.

21. For that this defendant cannot be held liable for acts "of which the defendant may have been guilty and which may have been the proximate cause of the injuries to the plaintiff", as is alleged in the complaint.

22. For that the allegation that the explosion of the bottle of Coca Cola and the resulting injuries to plaintiff were the direct result of some act or acts of negligence on the part of defendant are too vague, indefinite and uncertain to permit a recovery by plaintiff in this action.

23. For that, construing the pleadings most strongly against the pleader, it affirmatively appears that the proximate cause of plaintiff's injury and damage was the negligence of someone other than this defendant or its agents, servants or employees.

The defendant assigns the following additional grounds for demurrer to Count Three of plaintiff's complaint:

24. For that the complaint is based on an implied warranty that the bottle of Coca Cola made the basis of the suit was fit and safe for human consumption, and there is no other charge contained in the complaint that it was not fit and safe for human consumption.

25. For that the law does not provide for recovery in case of a negligent breach of implied warranty.

26. For that the allegations of said count are vague, indefinite and uncertain.

27. For that the allegations of said count are speculative.

28. For that, construing the pleadings most strongly against the pleader, it affirmatively appears that the proximate cause of plaintiff's injury and damage was the negligence of someone other than this defendant or its agents, servants or employees.

McCORVEY,TURNER,JOHNSTONE,ADAMS & MAY

By Alex T Howard Jr
Attorneys for Defendant

70,4742

McCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
ATTORNEYS AT LAW
NINTH FLOOR, MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

FRANCES HARTMAN,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
COCA-COLA BOTTLING COMPANY, INC.,	X	AT LAW
	X	CASE NO. 4742
Defendant.	X	

Comes the defendant in the above styled cause and demurs separately to each separate count of the plaintiff's complaint upon the following separate and several grounds:

1. Because it is not alleged in nor shown by the averments of said count that the defendant or its agents, servants or employees violated a duty owed to the plaintiff.

2. Because said count does not show that the defendant or its agents, servants or employees owed to the plaintiff a duty and that there was a breach of this duty proximately causing the injury of plaintiff.

3. Because said count does not sufficiently show the nature of the negligence charged against the defendant.

4. Because said count does not allege or show that the injury to the plaintiff was proximately caused by the breach of a duty owed by the defendant or its agents, servants or employees to the plaintiff.

5. Because it is not alleged nor shown by the averments of said count how plaintiff was injured.

6. Because said count does not state a cause of action against the defendant.

7. Said count is based on negligence but does not specify wherein defendant was negligent nor does plaintiff give a valid legal reason for not doing so.

The defendant assigns the following additional grounds for demurrer to Count One of plaintiff's complaint:

8. Said count seeks to invoke the doctrine of res ipsa loquitur but fails to state facts making such doctrine applicable.

9. Said count is based on negligence but does not specify wherein defendant was negligent nor does plaintiff give a valid legal reason for not doing so.

10. The allegation "that the said bottle of Coca Cola in the instant case had not been opened or tampered with or improperly handled from the time it was placed in the establishment known as the Foley Bakery by the defendant, its agents, servants or employees, until the time of the explosion . . ." is but the statement of a conclusion of the pleader, and sufficient facts are not set forth in said count to support such conclusion.

11. The statement in said count that "the said bottle of Coca Cola in the instant case had not been opened or tampered with or improperly handled . . ." is insufficient to negative the possibility of negligence on someone's part other than the defendant or the defendant's agents, servants or employees as being the proximate cause of the explosion.

12. For that the allegation that "the sole cause of the explosion of the said bottle was the negligent and careless bottling, manufacturing and handling of the said bottle of Coca Cola by the defendant . . ." is but the statement of a conclusion of the pleader and no facts are set forth to support said conclusion nor to relieve plaintiff of the necessity of averring such facts.

13. For that the allegations of said count are vague, indefinite and uncertain.

14. For that the allegations of said count are speculative.

15. For that, construing the pleadings most strongly against the pleader, it affirmatively appears that the proximate cause of plaintiff's injury and damage was the negligence of someone other than this defendant or its agents, servants or employees.

The defendant assigns the following additional grounds for demurrer to Count Two of plaintiff's complaint:

16. For that the allegations that a bottle of Coca Cola "exploded due to the negligence of the defendant . . ." is but the statement of a conclusion of the pleader and no facts are set forth to support said conclusion.

17. For that it affirmatively appears from the allegations of the complaint that plaintiff does not know of any negligence on the part of the defendant.

18. For that the allegations of said count are vague, indefinite and uncertain.

19. For that the allegations of said count are speculative.

20. For that this defendant cannot be held liable for acts "of which the defendant may have been guilty", as is alleged in the complaint.

21. For that this defendant cannot be held liable for acts "of which the defendant may have been guilty and which may have been the proximate cause of the injuries to the plaintiff", as is alleged in the complaint.

22. For that the allegation that the explosion of the bottle of Coca Cola and the resulting injuries to plaintiff were the direct result of some act or acts of negligence on the part of defendant are too vague, indefinite and uncertain to permit a recovery by plaintiff in this action.

23. For that, construing the pleadings most strongly against the pleader, it affirmatively appears that the proxi-

mate cause of plaintiff's injury and damage was the negligence of someone other than this defendant or its agents, servants or employees.

The defendant assigns the following additional grounds for demurrer to Count Three of plaintiff's complaint:

24. For that the complaint is based on an implied warranty that the bottle of Coca Cola made the basis of the suit was fit and safe for human consumption, and there is no other charge contained in the complaint that it was not fit and safe for human consumption.

25. For that the law does not provide for recovery in case of a negligent breach of implied warranty.

26. For that the allegations of said count are vague, indefinite and undertain.

27. For that the allegations of said count are speculative.

28. For that, construing the pleadings most strongly against the pleader, it affirvatively appears that the proximate cause of plaintiff's injury and damage was the negligence of someone other than this defendant or its agents, servants or employees.

JOHNSTON & JOHNSTON
Attorneys for Defendant

By _____
John A. Courtney

61

4742

Rpted 3/7/60

FRANCES HARTMAN,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
COCA-COLA BOTTLING COMPANY, INC.,	X	AT LAW
Defendant.	X	NO. 4742
	X	

Comes now the Defendant in the above styled cause and reserves the right to demur or plead specially.

JOHNSTON & JOHNSTON
Attorneys for Defendant

By John A. Courtney

FILED
SEP 20 1961
ALICE J. DUGAN, CLERK
REGISTER

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
ATTORNEYS AT LAW
NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
HEMLOCK 3-5561 P. O. BOX 1070
MOBILE 6, ALABAMA

GESSNER T. MCCORVEY
BEN D. TURNER
C. A. L. JOHNSTONE, JR.
R. F. ADAMS
JAMES L. MAY, JR.
ALEX T. HOWARD, JR.
J. JEPTHA HILL

CHARLES G. BAILEY, JR.
C. M. A. ROGERS, III

August 2, 1961

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

Dear Mrs. Duck:

I shall appreciate it if you will file the enclosed demurrer in Case No. 4742 - Hartman vs. Coca Cola. I am today sending Mr. Cecil Chason, attorney for plaintiff, a copy of the demurrer.

Cordially yours,

R F Adams

RFA/an
Encl.

CECIL G. CHASON
ATTORNEY-AT-LAW
FOLEY, ALABAMA

June 29, 1961

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

Dear Mrs. Duck:

I am enclosing herewith Summons and Complaint in the case of Frances Hartman Vs. the Coco-Cola Bottling Company, Inc., an extra copy is enclosed as I wish a copy to be served on an office of the Company in Mobile and also some agent of the Company in this County.

I am suggesting to the Sheriff by a copy of this letter that service be had in Mobile and that he then serve a copy on one of the Coco-Cola deliverymen in this County, also endorsing this service on the back of the Complaint.

Yours ~~very truly~~,

Cecil G. Chason

CGC.bs
CC: Taylor Wilkins
Sheriff
Baldwin County
Bay Minette, Alabama

FRANCES HARTMAN,	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
vs.	)	BALDWIN COUNTY, ALABAMA
COCA COLA BOTTLING COMPANY, INC.,	)	AT LAW
Defendant.	)	CASE NO. 4742
	)	

Comes now the Defendant in the above styled cause and for answer to the Plaintiff's complaint as exhibited against it says, separately and severally, as follows:

1. Not guilty.

2. The allegations of the Plaintiff's complaint are untrue.

3. The Defendant is not guilty of the matters alleged in the Plaintiff's complaint.

4. The Defendant was not negligent in the bottling, manufacturing or selling of its bottled beverages to the Plaintiff.

5. The Defendant further says it is not guilty for that the Plaintiff or her agents, servants or employees, while acting withing the line and scope of their employment as such so negligently handled the said bottle of Coca Cola as to cause it to explode and as a direct and proximate result and consequence of such negligence as aforesaid, the Plaintiff or the Plaintiff's agents, servants or employees, while acting within the line and scope of their employment as such, proximately contributed to the Plaintiff's injuries and damages, wherefore the Plaintiff ought not to recover of the Defendant.

6. The Defendant further says it is not guilty for that the Plaintiff or her agents, servants or employees while acting within the line and scope of their employment as such so negligently caused the said bottle to be placed in a position on the floor of the Plaintiff's establishment as to cause or allow

the same to be struck or jarred thereby causing the same to explode and as a direct and proximate result and consequence of such negligence as aforesaid, the Plaintiff or the Plaintiff's agents, servants or employees, while acting within the line and scope of their employment as such, proximately contributed to the Plaintiff's injuries and damages, wherefore the Plaintiff ought not to recover of the Defendant.

7. The Defendant further says it is not guilty for that the Plaintiff or her agents, servants or employees, while acting within the line and scope of their employment as such, so negligently caused or allowed the bottles of Coca Cola to be placed in an area which was subjected to extreme and drastic changes in temperature due to baking ovens in the room, that the bottle complained of was therefore negligently treated or handled by the Plaintiff as aforesaid and as a direct and proximate result and consequence of such negligence as aforesaid, the Plaintiff or the Plaintiff's agents, servants or employees, while acting within the line and scope of their employment as such, proximately contributed to the Plaintiff's injuries and damages, wherefore, the Plaintiff ought not to recover of the Defendant.

JOHNSTON & JOHNSTON

By _____
John A. Courtney

CHASON & STONE

By _____
John Chason

Attorneys for Defendant.

FRANCES HARTMAN, Plaintiff, VS- COCA-COLA BOTTLING COMPANY, INC., Defendant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA AT LAW NO. 4742

Comes the Plaintiff in the above styled cause and filed this her amended Bill of Complaint as follows:

COUNT V

The Plaintiff claims of the Defendant FIFTEEN THOUSAND DOLLARS ($15,000.00) as damages for that heretofore on to-wit, the 2nd day of July, 1960, a bottle of the beverage commonly known as Coca-Cola, which had been sold and delivered to the Foley Bakery, an establishment operated by the Plaintiff and her husband in Foley, Baldwin County, Alabama, where Plaintiff was working at the time, by the Defendant, its agents, servants, or employees, acting within the line and scope of their employment, and placed under the work table by the said agents, servants or employees, of the Defendant while acting within the line and scope of their employment, exploded with great force, the broken glass on the bottle or container causing lacerations of both legs of the Plaintiff and causing injury to the saphenous nerve in her left leg below her knee, causing her great pain and suffering; to expend sums for medical treatment; to lose time from work; and to be permanently injured and/or disfigured; all to her damage as aforesaid.

The Plaintiff further alleges that Coca-Cola is a bottled beverage sold generally throughout the United States and is considered heathful and palatable and ordinarily when due care has been exercised by the manufacturer and bottler in preparing that beverage for market, the bottles containing the same do not explode when properly handled by those through whose hands they pass which in this instance was solely the Defendant,

C. C. C.

its agents, servants or employees, while acting within the line and scope of their employment. That the said bottle of Coco-Cola in the instant case had not been opened or tampered with or improperly handled from the time it was placed in the establishment known as the Foley Bakery by the Defendant, its agents, servants, or employees, while acting within the line and scope of their employment, until the time of the explosion with great force and that the sole cause of the explosion of the said bottle was the negligent and careless bottling and/or manufacturing and/or handling of the said bottle of Coca-Cola by the Defendant, its agents, servants or employees, while acting within the line and scope of their employment, resulting proximately in the injury to the Plaintiff, the particular acts of negligence not being alleged by the Plaintiff, she being relieved from the necessity of making such allegations since the facts of this cause represent and constitute a case of res ispa loquitar.

Attorney for Plaintiff

C. G. C.

(second and last page)

FRANCES HARTMAN,

Plaintiff,

VS-

COCA-COLA BOTTLING COMPANY,

Defendant.

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

NO. 4742

Filed 3/7/62
[illegible] Judge

CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

MCCORVEY, TURNER, JOHNSTONE, ADAMS & MAY
ATTORNEYS AT LAW
NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING
HEMLOCK 3-5561 P. O BOX 1070
MOBILE 6, ALABAMA

GESSNER T MCCORVEY
BEN D TURNER
C A L JOHNSTONE, JR
R F. ADAMS
JAMES L. MAY, JR
ALEX T HOWARD, JR
J. JEPTHA HILL

CHARLES B. BAILEY, JR.
C. M. A. ROGERS, III

September 8, 1961

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

Re: Frances Hartman vs. Coca Cola Bottling Company
Cir. Ct., Baldwin County, Alabama, Case No.4742

Dear Mrs. Duck:

We have been advised that the firm of Johnston & Johnston on yesterday filed an appearance for the defendant in the above case.

As that firm is taking over the defense of the above case from us, we request permission to withdraw our firm's appearance for the defendant, and further request that the demurrer heretofore filed by us also be withdrawn.

If there is anything further that we need to do in order to accomplish the above, please let us know.

Thank you for your co-operation.

Yours very truly,

Alex T. Howard, Jr.

ATH,JR:cs

cc: Mr. E. C. J. Selander (2) (6857-04-69)
Mr. John A. Courtney