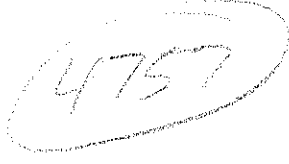


JAMES FULLER, : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
VS. :  
WOODHAVEN DAIRY, : AT LAW  
INCORPORATED, a corporation  
and JAMES BAIRD, :  
Defendants. :



D E M U R R E R

Comes now each of the defendants, separately and severally, and demurs to each count of the complaint filed herein, separately and severally, and for separate and several grounds of demurrer, sets down and assigns, separately and severally, the following:

1. That it does not state facts sufficient to constitute a cause of action against this defendant.

2. For that negligence is therein alleged merely as a conclusion of the pleader.

3. For that it is vague, indefinite and uncertain, in that it does not apprise this defendant with sufficient certainty against what act or acts of negligence defendant is called on to defend.

4. For that it does not appear with sufficient certainty the duty, if any, this defendant may have owed to the plaintiff.

5. For that it does not appear with sufficient certainty wherein this defendant violated any duty owed by defendant to the plaintiff.

6. For that it does not sufficiently appear that this defendant owed any duty to the plaintiff which defendant negligently failed to perform.

7. For that the averments set up, if true, do not show any liability on the part of this defendant.

8. For that the pleader sets out in what said negligence consisted, and the facts so set out do not show negligence.

9. For that there does not appear sufficient causal connection between this defendant's said breach of duty and plaintiff's injuries and damages.

10. No facts are alleged to show that plaintiff sustained any damage or injury as the proximate result of any negligence or breach of duty on the part of this defendant.

11. It is not alleged that the negligence complained of proximately caused the accident and the injuries and damages complained of.

12. For that it affirmatively appears in the complaint that the plaintiff proximately contributed to his own injuries.

13. For aught that appears, both the plaintiff and this defendant were subject to the Workmen's Compensation Provisions of Title 26, Chapter 5, Article 2.

14. For aught that appears, both the plaintiff and this defendant are subject to the Workmen's Compensation laws and the plaintiff has failed to give this defendant written notice of the accident as required by Title 26, Section 294.

15. For aught appearing from said complaint, plaintiff's theory of recovery is under the Alabama Workmen's Compensation Act and the damages claimed are inconsistent with the allegations.

16. Said count is redundant and prolix.

17. Said count avers inconsistent theories of recovery.

18. The damages averred are but conclusions of the pleader, not supported by any allegations of injury.

19. For aught appearing, the plaintiff cannot recover for the injuries and damages under the theory of negligence which he attempts to set forth.

20. Said count attempts to set forth the quo modo of the negligence and the facts, in and of themselves, do not support the conclusions averred.

21. The allegations of the complaint that the injuries were sustained as a result of the injuries alleged is but a conclusion of the pleader not supported by the facts averred.

22. Said count does not aver with sufficient definiteness plaintiff's theory of recovery so as to permit defendant to properly defend the claim averred.

W B Hand  
Attorney for Defendants  
622 First National Bank Building  
Mobile, Alabama

Of Counsel:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

JAMES FULLER,

PLAINTIFF

VS

WOODHAVEN DAIRY, INCORPORATED,  
a corporation, AND JAMIE BAIRD,

DEFENDANTS

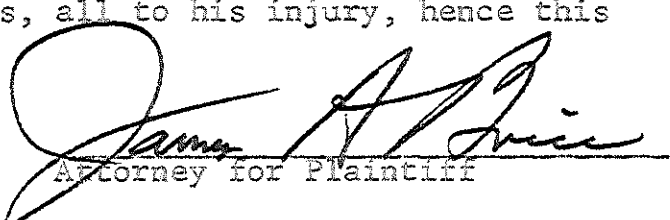
IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

I.

Plaintiff claims of the defendants Thirty-five Thousand and NO/100 (\$35,000.00) Dollars, damages, for that heretofore, to-wit: the 13th day of March 1961, at the dairy farm of defendant, Woodhaven Dairy, Incorporated, in Baldwin County, Alabama, the defendant, Jamie Baird, while acting within the line and scope of his employment as agent, servant or employee of the defendant, Woodhaven Dairy, Inc. engaged the plaintiff to repair a certain cattle feed wagon, and did supervise, direct and order the plaintiff in and about the repair of the said cattle feed wagon in such a manner as to negligently allow said cattle feed wagon to fall upon plaintiff's head; and that by reason of the said negligence of the said defendant, Jamie Baird, while acting within the line and scope of his employment as agent, servant or employee of the said defendant, Woodhaven Dairy, Inc., plaintiff's skull was fractured and his brain and nervous system were permanently injured; plaintiff suffered severe lacerations of the forehead, face and eyelid, and permanent scarring of same; and that since said injuries plaintiff has suffered, still suffers, and will continue to suffer during his lifetime, great pain, and has spent and will be compelled to spend large sums of money for surgical, medical and hospital attendance and medicine, and has been and will during his lifetime be disabled and prevented from attending to his livelihood, work, business and duties, all to his injury, hence this suit.

  
Attorney for Plaintiff

Plaintiff demands trial by jury.

  
Attorney for Plaintiff

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. \_\_\_\_\_

\_\_\_\_\_ TERM, 19\_\_\_\_

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon Woodhaven Dairy, Incorporated, a corporation,

and Jamie Baird

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 Woodhaven Dairy,  
Incorporated, a corporation, and Jamie Baird \_\_\_\_\_, Defendant s.

by James Fuller \_\_\_\_\_

\_\_\_\_\_, Plaintiff \_\_\_\_\_

Witness my hand this 10 day of July 1961

E. J. 7-11-61

Robert J. Duck \_\_\_\_\_, Clerk

No. 4757

Page \_\_\_\_\_

**STATE of ALABAMA**

**Baldwin County**

**CIRCUIT COURT**

James Fuller

Plaintiffs

vs.

Woodhaven Dairy, Incorporated,  
a corporation, and Jamie Baird  
Defendants

**Summons and Complaint**

**FILED**

Filed

**JUL 10 1961**

19\_\_\_\_

ALICE J. DUCK, CLERK  
REGISTER

Clerk

James A. Brice

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Robertsdale, Alabama

Received In Office

July 10, 1961

Sheriff.

I have executed this summons

this

19\_\_\_\_

by leaving a copy with

Jermie Baird 7-11  
Mileage 70 mi  
W. G. Mc Kibben 14 July  
as Vice President  
and General Manager  
of Woodhaven Dairy

Sheriff claims

70

miles at

Ten Cents per mile Total \$

7.00

TAYLOR WILKINS, Sheriff

BY

Edleigh Steadham  
DEPUTY SHERIFF

Taylor Wilkins

Sheriff.

Edleigh Steadham  
Deputy Sheriff.

6 mi South Silasville

JAMES A. BRICE  
ATTORNEY AT LAW  
FOLEY, ALABAMA

POST OFFICE BOX 298

WHITEHALL 3-3601

September 15, 1961

Mrs. Alice J. Duck  
Circuit Clerk  
Bay Minette, Alabama

Re: James Fuller  
Vs: Woodhaven Dairy, Inc., et al  
No. 4757

Dear Mrs. Duck:

Kindly dismiss the above suit with prejudice.

Cost bill should be sent to W. C. Boone, Jr., Esq.,  
Box 123, Mobile, Alabama.

Thank you.

Sincerely,

  
James A. Brice

JAB:j



HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON  
LAWYERS

SIXTH FLOOR FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

CHAS. C. HAND  
C. B. ARENDALL, JR.  
T. MASSEY BEDSOLE  
THOMAS G. GREAVES, JR.  
WM. BREYARD HAND  
VIVIAN G. JOHNSTON, JR.  
PAUL W. BROCK  
ALEX F. LANKFORD, III  
EDMUND R. CANNON, JR.  
LYMAN F. HOLLAND, JR.  
J. THOMAS HINES, JR.  
W. C. BOONE, JR.  
DONALD F. PIERCE

MAILING ADDRESS:  
P. O. BOX 123

CABLE ADDRESS:  
HAB

TELEPHONE:  
HEMLOCK 2-5514

September 21, 1961

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

Re: Fuller v. Woodhaven Dairy

Dear Mrs. Duck:

I have settled the above case with Jim Brice and he advises he has dismissed it. Please send me the cost bill, together with a short letter stating that the case was dismissed by the plaintiff's attorney.

Many thanks for your continued cooperation and assistance.

Yours very truly,

*W. C. Boone Jr.*

For the Firm

WCBjr.meb

*Write cert  
& mail to  
with CB*

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MAILING ADDRESS:  
P. O. BOX 123

CABLE ADDRESS:  
HAB

TELEPHONE:  
HEMLOCK 2-5514

July 28, 1961

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

Re: James Fuller vs. Woodhaven Dairy, Incorporated, a corporation, and James Baird

Dear Mrs. Duck:

I am enclosing herewith Demurrer which I would appreciate your filing with the Court on behalf of the defendants, acknowledging receipt of same on the enclosed copy of this letter.

Yours very truly,

*WB Hand*

For the Firm

WBH:dn  
Enclosure

*copy  
mailed 2 31-61*

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON  
LAWYERS

SIXTH FLOOR FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

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LYMAN F. HOLLAND, JR.  
J. THOMAS HINES, JR.  
W. C. BOONE, JR.  
DONALD F. PIERCE

August 15, 1961

MAILING ADDRESS:  
P. O. BOX 123

CABLE ADDRESS:  
HAB

TELEPHONE:  
HEMLOCK 2-5514

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

Re: James Fuller v. Woodhaven Dairy

4754

Dear Mrs. Duck:

If you would be kind enough to check the sheriff's return concerning service on the defendants in this case and advise me as to the name of the person served for Woodhaven Dairy and the date of service I would appreciate it.

I am enclosing an extra copy of this letter for you to write this information on.

Many thanks for your cooperation.

Yours very truly,

*W.C. Boone Jr.*

For the Firm

WCBjr.meb