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# ERROR STOPS TRIAL

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## Technicality Suddenly Ends Lombard Action.

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Suit instituted by counsel for C. A. Lombard, as administrator of the estate of his mother, Mrs. Mary D. Lombard, against Chasteen & Dorsey, contractors, and M. K. Hall, truckdriver, for \$10,000 damages for the death of Mrs. Lombard in a traffic accident here September 9, was declared to be "out of court" and dismissed without prejudice to the plaintiff by Judge Ed E. Hardin late Tuesday, as the result of a technical error, which the judge discovered.

The case probably will be retried in January.

The dismissal was ordered by the court on motion of F. W. Bixby, of counsel for the plaintiff, Lombard, after the court had found, during a perusal of the record of the probate court, in which Lombard was made administrator of his mother's estate, that an affidavit of posting, such as should be filed as a guarantee that Lombard had given ten days' public notice of his petition for appointment, had not been filed; therefore, Lombard was technically "out of court" and unable to sue.

Attorney Bixby said today that

Attorney Bixby said today that the dismissal would not preclude further action. It was a "mere oversight," he said, for which it would be improper to place any blame on court officials, or himself, inasmuch as the technicality was little short of an accident and not the result of bad intent.

#### Action Starts Anow

The result was that notices were posted today as prescribed by the statutes, "declaring to the world" Lombard's intention to ask for letters of administration of his mother's estate. He may again be heard in his petition in Judge W. P. Brown's probate court ten days hence. He will be required to furnish a new bond, but granted a new order of permission to sue in behalf of the estate; he will be obliged to file a new complaint and go through, with his attorneys, the legal steps prerequisite to the ultimate selection of another jury and retrial of the case in the trial court where in the dismissal was rodered Tuesday afternoon.

Mrs. Lombard, 75-year-old pioneer Bellingham resident, was fatally injured when a car driven by one of her sons, Harry Lombard, was struck broadside by a Chasteen & Dorsey truck driven by Hall at the triple intersection of Ellis, Potter and Magnolia streets. A. C. Lombard was "appointed" administrator of his mother's estate September 19, when permission to sue was granted by Judge Brown.

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