

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. GREVARD 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
LOUIS E. BRASWELL
HAROLD D. PARKMAN

MAILING ADDRESS:
P. O. BOX 123

CABLE ADDRESS:
HAB

TELEPHONE:
HEMLOCK 2-5514

September 17, 1963

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

5686

Re: Cyrus A. Sibley vs. M and S Service Station,
L. H. Shepherd, Jr., H. H. Davis and J. H. Funk,
In the Circuit Court of Baldwin County, Alabama

Dear Mrs. Duck:

Enclosed is the answer of the defendants M and S
Service Station, H. H. Davis and J. H. Funk, as well as
a receipt which I would appreciate your signing and re-
turning to me for my file.

With best regards,

Yours very truly,

Paul Brock

For the Firm

PB.rw
Encls.

cc: Mr. H. H. Davis

Mr. J. H. Funk

FOREMAN & BROWN
ATTORNEYS AT LAW
SUITE 417 FIRST NATIONAL BANK BUILDING
MOBILE 13, ALABAMA

ALEXANDER FOREMAN, JR.
ALTON R. BROWN, JR.
WILLIAM H. BRIGHAM

August 22, 1963

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

RE: Cyrus A. Sibley vs
M and S Service Station, etc.,
et als

Dear Mrs. Duck:

Enclosed herewith you will please find the
Summons and Complaint in the above styled matter.
We would like to bring to your attention the
demand for jury trial on page 2 thereof. We
respectfully request that the enclosed Summons and
Complaint be filed immediately as the statute runs
on August 27, 1963.

Yours very truly,

FOREMAN & BROWN

BY 
Alexander Foreman, Jr.

/j
enclosure

P.S. We would appreciate you notifying us by letter or
card that the above was filed, and the date it
was filed.

FOREMAN & BROWN
ATTORNEYS AT LAW
SUITE 417 FIRST NATIONAL BANK BUILDING
MOBILE 13, ALABAMA

ALEXANDER FOREMAN, JR.
ALTON R. BROWN, JR.
WILLIAM H. BRIGHAM

October 25, 1963

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

RE: Case No. 5686
Cyrus A. Sibley - vs -
M & S Service Station, L. H.
Shepherd, Jr., H. H. Davis, and
J. H. Funk
Our File No. 63-4440-AB

Dear Mrs. Duck:

As attorneys for the Plaintiff, we respectfully request that the above styled case be dismissed, with prejudice.

Yours very truly,

FOREMAN & BROWN

By 
Alton R. Brown, Jr.

ARBjr.

cc: Mr. Paul W. Brock
Mr. Walter M. Cook

FILED
OCT. 27 1963
ALICE J. DUCK, CLERK
REGISTER

LYONS, PIPES & COOK

ATTORNEYS AT LAW

517 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

JOSEPH H. LYONS (1900-1957)
SAM W. PIPES, III
WALTER M. COOK
GORDON B. KAHN
IRWIN W. COLEMAN, JR.
G. SAGE LYONS

36601

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

Re: Cyrus A. Sibley vs. M & S Service Station, et al.,
In the Circuit Court of Baldwin County, Alabama,
Case No: 5686

Patricia A. Sibley vs. M & S Service Station, et
al., In the Circuit Court of Baldwin County,
Alabama, Case No: 5447

Dear Mrs. Duck:

Enclosed please find drafts in total payment of the
Court costs in both of these cases. We understand
that the plaintiff's attorney has dismissed the Cyrus
A. Sibley case. Please sign the enclosed letter,
returning it to us at your early convenience.

Yours truly,

LYONS, PIPES & COOK


Walter M. Cook

WMC/sab

Enclosures

LYONS, PIPES & COOK

ATTORNEYS AT LAW

517 FIRST NATIONAL BANK BUILDING

MOBILE 8, ALABAMA

36601

JOSEPH H. LYONS (1900-1957)
SAM W. PIPES, III
WALTER M. COOK

FRANK T. POPE, JR.
GORDON B. KAHN
IRWIN W. COLEMAN, JR.
G. SAGE LYONS

September 16, 1963

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

Re: Cyrus A. Sibley, Plaintiff, vs
M and S Service Station, L. H. Shepherd, Jr.,
H. H. Davis, and J. H. Funk, jointly and
separately - In the Circuit Court of Baldwin
County Alabama


Dear Mrs. Duck:

Enclosed please find demurrers which we respectively ask
that you file on behalf of the defendant L. H. Shepherd, Jr.
Please acknowledge receipt of the same on the enclosed copy,
returning it to us for the completion of our files.

With best wishes, I am

Sincerely yours,


LYONS, PIPES AND COOK



Walter M. Cook

WMC/a
encl

P.S. Please advise us as to the amount of the court costs of the
above captioned case through a dismissal along with the court costs
in the case of Patricia Sibley



CYRUS A. SIBLEY,)	IN THE CIRCUIT COURT OF
)	
Plaintiff,)	BALDWIN COUNTY
)	
Vs.)	ALABAMA
)	
M and S SERVICE STATION,)	
L. H. SHEPHERD, JR.,)	AT LAW
H. H. DAVIS and J. H. FUNK,)	
jointly and separately,)	
)	
Defendants.)	CASE NO. _____

A N S W E R

Comes now each of the defendants in the above cause, M and S Service Station, H. H. Davis and J. H. Funk, separately and severally, and for separate and several answer to the complaint filed therein interposes the following separate and several pleas:

1. Not guilty.

2. At the time and place alleged in the complaint, on, to-wit, August 27, 1962, on Section Street, a public street in Fairhope, Baldwin County, Alabama, at a point between the intersections of said street with Foster Avenue and with Volanta Avenue, the agent, servant or employee of the plaintiff, while acting within the line and scope of her agency or employment as such, did so negligently operate the automobile in which the plaintiff was a passenger as to cause or allow the same to collide with the motor vehicle operated by said L. H. Shepherd, Jr., thereby proximately contributing to the injuries and damages of which the plaintiff complains and hence the plaintiff ought not recover.

3. At the time and place complained of in the complaint, on, to-wit, August 27, 1962, on Section Street, a

public street in the City of Fairhope, Baldwin County, Alabama, there was in full force and effect an ordinance of the City of Fairhope prohibiting the operation of a motor vehicle at a speed in excess of forty miles an hour, said ordinance being Ordinance Number 240, which, in part, reads as follows:

"Section I. No person shall operate a motor vehicle at a greater speed than forty (40) miles per hour in the following listed zones in the city:

1. On Alabama Highway No. 98 (Section St.)
from the North City Limit, South to
Pensacola Avenue."

that at said time and place the agent, servant or employee of the plaintiff, while acting within the line and scope of her agency, service or employment as such, did so negligently operate the motor vehicle in which the plaintiff was a passenger within the City of Fairhope, Alabama on Section Street at a point between the north city limit of Fairhope and Pensacola Avenue that the collision described in said complaint resulted, the said agent, servant or employee having then and there operated said motor vehicle in violation of the aforesaid ordinance of the City of Fairhope, in that she was then and there operating said motor vehicle in excess of forty miles an hour, thereby proximately contributing to the injuries and damages of which plaintiff complains and, hence, plaintiff ought not recover.


Paul W. Brock

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing answer has been served upon Alton R. Brown, Jr., Esq., attorney for Cyrus A. Sibley, and Walter M. Cook, Esq., attorney for L. H. Shepherd, Jr., by depositing same in the United States Mail, postage prepaid, addressed to Mr. Brown and Mr. Cook at their respective offices in Mobile, Alabama, on the 17th day of September, 1963.

Paul W. Brock
Paul W. Brock

FILED
SEP 17 1963
ALICE J. DUCK, CLERK
REGISTER

CYRUS A. SIBLEY,)	IN THE CIRCUIT COURT OF
)	BALDWIN COUNTY, ALABAMA
Plaintiff,)	
vs)	
)	AT LAW
M AND S SERVICE STATION,)	
L. H. SHEPHERD, JR.,)	
H. H. DAVIS, and J. H. FUNK,)	
jointly and separately,)	
Defendants.)	CASE NO _____

Comes now the defendant L. H. Shepherd, Jr. in the above entitled cause, and demurs to the plaintiff's complaint, and to each count thereof, separately and severally, and as grounds for said demurrer sets down and assigns the following, separately and severally:


1. Said count fails to allege the violation of any owed by this defendant to the plaintiff.
2. Said count fails to allege facts showing the violation of any duty owed by this defendant to the plaintiff.
3. For aught that appears from said count, the accident did not occur on a public street.
4. For aught that appears from said count the plaintiff was not at a place where he had a legal right to be at the time and place complained of.
5. For aught that appears from said count, the damages suffered ^{act} by the plaintiff were not the proximate result of any/or failure to act on the part of this defendant.
6. For that said count fails to allege any causal connection between the alleged negligence of this defendant and the alleged damages of the plaintiff.

FILED

SEP 19 1963

AUDIE L. DUCK, CLERK
REGISTER

LYONS, PIPES AND COOK
Attorneys for L. H. Shepherd, Jr.

By 
Walter M. Cook

SUMMONS

STATE OF ALABAMA:

COUNTY OF BALDWIN:

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon M and S Service Station to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, at the place of holding the same and then and there to plead, answer or demur to the complaint of Cyrus A. Sibley.

Witness my hand this 23 day of Aug, 1963.

Alfred J. Luck
CLERK

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SUMMONS

STATE OF ALABAMA:

COUNTY OF BALDWIN:

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon L. H. Shepherd, Jr. to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, at the place of holding the same and then and there to plead, answer or demur to the complaint of Cyrus A. Sibley.

Witness my hand this 23 day of Aug, 1963.

Alfred J. Luck
CLERK

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SUMMONS

STATE OF ALABAMA:

COUNTY OF BALDWIN:

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon H. H. Davis to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, at the place of holding the same and then and there to plead, answer or demur to the complaint of Cyrus A. Sibley.

Witness my hand this 23 day of Aug, 1963.

Alfred J. Luck
CLERK

SUMMONS

STATE OF ALABAMA:

COUNTY OF BALDWIN:

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon J. H. Funk to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, at the place of holding the same and then and there to plead, answer or demur to the complaint of Cyrus A. Sibley.

Witness my hand this 23 day of August, 1963.

Alice J. Rauch
CLERK

CYRUS A. SIBLEY,	§	IN THE CIRCUIT COURT
Plaintiff,	§	OF BALDWIN COUNTY, ALABAMA
Vs.	§	
M and S SERVICE STATION,	§	AT LAW
L. H. SHEPHERD, JR.,	§	
H. H. DAVIS, and J. H. FUNK,	§	
jointly and separately,	§	
Defendants.	§	CASE NO: _____

COUNT ONE

Plaintiff claims of the Defendants the sum of to-wit,
 Twenty-five Thousand and no/100 (\$25,000.00) Dollars, as damages,
 for that heretofore and on to-wit, August 27, 1962, the Defendant,
 L. H. Shepherd, Jr., an agent, servant or employee of the
 Defendants, M and S Service Station, H. H. Davis and J. H. Funk,
 while acting within the line and scope of his authority as such,
 so negligently operated a motor vehicle on United States Highway
 98, a public street in Baldwin County, Alabama, between said
 highway's intersections with Foster Avenue and Volanta Avenue in
 Fairhope, Baldwin County, Alabama, as to cause said motor vehicle
 to run in front of, and be struck by, an automobile in which the
 Plaintiff was a passenger, and as a proximate result of the
 negligence of the Defendant, as aforesaid, the Plaintiff was in-
 jured and damaged as follows: his body was bruised and broken,
 he was sick, sore and lame, he was caused to suffer excruciating
 physical pain and mental anguish, and did so for a long period of
 time, he was caused to incur doctors, hospital and medical expenses
 for the care and treatment of his said injuries and will incur
 further such expenses in the future, he was caused to lose time from
 his work and will lose more time in the future, he was permanently
 injured, all to his damages in the sum aforesaid, hence this suit.

FOREMAN & BROWN
 Attorneys for Plaintiff

BY Alexander Foreman, Jr.
 Alexander Foreman, Jr.

Plaintiff demands a trial by jury.

Alexander Foreman, Jr.

Defendants may be served as follows:

M and S Service Station
51 North Section Street
Fairhope, Alabama

L. H. Shepherd, Jr.
51 North Section Street
Fairhope, Alabama

H. H. Davis
51 North Section Street
Fairhope, Alabama

J. H. Funk
51 North Section Street
Fairhope, Alabama

FILED

AUG 23 1963

ALICE J. DUCK, CLERK
REGISTER

Ed-8-24-63

5686

Cyrus A. Sibley

VS.

M.T.S. Service Station

L.H. Shepherd, Jr

H.H. Davis

J. H. Funk,

Saintly & Separately

ceived 23 day of Aug. 1963

d on 24 at Aug 163

erved a copy of the within I & C

M.T.S. Service Sta. L.H.

Shepherd, Jr., H.H. Davis &

service on J. H. Funk

TAYLOR WILKINS, Sheriff

By Robert Eastman D.

7/1/63

Sheriff claims 280 miles at
Ten Cents per mile Total \$ 28.00

TAYLOR WILKINS, Sheriff
BY Robert Eastman D.
DEPUTY SHERIFF

FILED

AUG 23 1963

ALICE J. DUCK, CLERK
REGISTER