

MARION B. RICKMAN

Plaintiff

HARVEY S. SMITH

Defendant

IN THE CIRCUIT COURT

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 5462

.-.-.-.-.

Comes now the Defendant in the above styled cause and for answer to the Plaintiff's Complaint says as follows:

I

Not guilty

II

Plaintiff ought not to have and recover in this cause for that Defendant says that Plaintiff was guilty of negligence which proximately contributed to his said son's injury and death, and that his negligence consisted in this: that at the point or place of the accident along Baldwin County Highway No. 7, at a point approximately 117 feet South of Power Pole No. 9, a public highway in Baldwin County, Alabama, there was no obstruction of visibility but that there was clear and un-obstructed view of the said Highway in both directions, that the highway was well traveled with automobile traffic in both directions, and that the Plaintiff did cause or direct his said son to cross the highway at that point directly into the path of the automobile which was then and there being operated by the Defendant.

III

Plaintiff ought not to have and recover in this cause for that Plaintiff was guilty of negligence which proximately contributed to his said son's injury and death, and that his negligence consisted of this: That at the point or place of the accident along Baldwin County Highway No. 7, at a point approximately 117 feet South of Power Pole No. 9, a public highway in Baldwin County, Alabama, there was no obstruction of visibility but that there was clear and un-obstructed view of the said highway in both directions, that the highway was well traveled with automobile traffic in both directions, and that Plaintiff did allow his said son to cross the highway at that point directly into the path of the automobile which was then and there being operated by the Defendant.

3-9-64

We the Jury find for the
Defendant.
C. A. Beck.

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Filed 3/4/64
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MARION B. RICKMAN

Plaintiff

VS

HARVEY S. SMITH AND
WILLIAM M. SMITH, jointly
and severally

Defendants

IN THE CIRCUIT COURT

BALDWIN COUNTY, ALABAMA

IN EQUITY

CASE NO. 5462

o-o-o-o-o

Comes now Wilson Hayes, attorney for William M. Smith
in the above styled cause and suggests upon the record the
death of William M. Smith, one of the defendants in the above
styled cause.

Filed

3-9-64

Wingfield
clerk

Wilson Hayes
Wilson Hayes, Attorney for
Defendants

MARION B. RICKMAN

Plaintiff

HARVEY S. SMITH

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 5462

Comes now the Defendant in the above styled cause and for answer to the Plaintiff's Complaint says as follows:

I

Not guilty

II

That Plaintiff ought not to have and recover in this cause for that the Defendant says that Plaintiff was guilty of negligence which proximately contributed to his son's injury and death, and that his negligence consisted in this; that the said Plaintiff did cause his said son to cross the highway suddenly, without warning and into the path of the automobile which was then and there being driven by Defendant.

III

Plaintiff ought not to have and recover in this cause for that Defendant says that Plaintiff was guilty of negligence which proximately contributed to his said son's injury and death, and that his negligence consisted in this: that at the point or place of the accident along Baldwin County Highway No. 7, at a point approximately 117 feet South of Power Pole No. 9, a public highway in Baldwin County, Alabama, there was no obstruction of visibility but that there was clear and un-obstructed view of the said Highway in both directions, that the highway was well traveled with automobile traffic in both directions, and that the Plaintiff did cause or direct his said son to cross the highway at that point directly into the path of the automobile which was then and there being operated by the Defendant.

IV

That Plaintiff ought not to have and recover in this cause for that Plaintiff was guilty of negligence which proximately

contributed to his son's injury and death, and that his negligence consisted in allowing his said son to cross the highway suddenly, without warning and into the path of the automobile which was then and there being driven by the Defendant.

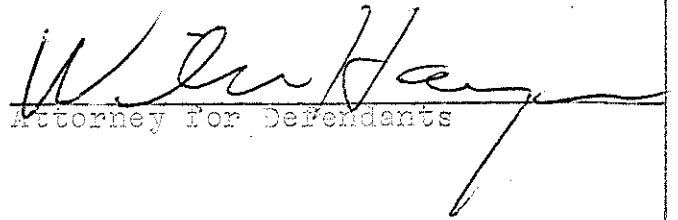
V

Plaintiff ought not to have and recover in this cause for that Plaintiff was guilty of negligence which proximately contributed to his said son's injury and death, and that his negligence consisted of this: That at the point or place of the accident along Baldwin County Highway No. 7, at a point approximately 117 feet South of Power Pole No. 9, a public highway in Baldwin County, Alabama, there was no obstruction of visibility but that there was clear and un-obstructed view of the said highway in both directions, that the highway was well traveled with automobile traffic in both directions, and that Plaintiff did allow his said son to cross the highway at that point directly into the path of the automobile which was then and there being operated by the Defendant.

FILED

MAR 9 1964

**ALICE L. DUCK, CLERK
REGISTER**


Attorney for Defendants

STATE OF ALABAMA

COUNTY OF BALDWIN

TO ANY SHERIFF OF THE STATE OF ALABAMA

You are hereby commanded to summon Harvey S. Smith and William M. Smith 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 Marion B. Rickman. You are further hereby ordered to make return of such service.

Witness my hand this 5 day of October, 1963.


CLERK

MARION B. RICKMAN,	:	IN THE CIRCUIT COURT OF
Plaintiff,	:	BALDWIN COUNTY, ALABAMA
versus	:	AT LAW
HARVEY S. SMITH,	:	
Defendant.	:	CASE NO. 5462

AMENDED BILL OF COMPLAINT

Comes now the plaintiff in the above-styled cause and amends the complaint heretofore filed by him by amending the caption and body of the complaint to read as fully hereinafter set out:

MARION B. RICKMAN,	:	IN THE CIRCUIT COURT OF
Plaintiff,	:	BALDWIN COUNTY, ALABAMA
versus	:	AT LAW
HARVEY S. SMITH and	:	
WILLIAM M. SMITH,	:	
Jointly and Severally,	:	
Defendants.	:	CASE NO. 5462

COUNT ONE

Plaintiff claims of the defendants, jointly and severally, FIFTY THOUSAND AND NO/100ths (\$50,000.00) DOLLARS damages for that heretofore on, to-wit, December 16, 1962, the Defendant, Harvey S. Smith, who was then and there the agent, servant or employee of the Defendant, William M. Smith, and who was then and there acting within the line and scope of his employment as such, did so negligently operate a motor vehicle on and along Baldwin County Highway No. 7, at a point approximately 117 feet South of Power Pole No. 9, said highway being then and there a public highway in Baldwin County, Alabama, as to cause or allow the same

to run into, upon, against and over the plaintiff's son, Robert Leslie Rickman, a minor eight years of age, and plaintiff avers that as a direct and proximate result and consequence thereof his said son was killed, hence this suit.

COUNT TWO

Plaintiff claims of the defendants, jointly and severally, FIFTY THOUSAND AND NO/100ths (\$50,000.00) DOLLARS damages for that heretofore on, to-wit, December 16, 1962, the Defendant, Harvey S. Smith, who was then and there the agent, servant or employee of the Defendant, William M. Smith, and who was then and there acting within the line and scope of his employment as such, did wantonly kill the plaintiff's minor son, Robert Leslie Rickman, eight years of age, by causing or allowing an automobile the Defendant, Harvey S. Smith, was then and there operating on and along Baldwin County Highway No. 7, at a point approximately 117 feet South of Power Pole No. 9, said highway being then and there a public highway in Baldwin County, Alabama, to run into, upon, against and over the plaintiff's minor son, Robert Leslie Rickman. And plaintiff avers that as a direct and proximate result and consequence thereof his said minor son was killed, hence this suit.

KILBORN, DARBY AND KILBORN

By *Ben Kilborn*
Attorneys for Plaintiff

Defendants may be served at:

Route 1, Box 207
Bay Minette, Alabama

FILED
OCT 5 1965
ALICE J. DUCK, CLERK
REGISTER


MARION B. RICKMAN,
Plaintiff
VS
HARVEY S. SMITH,
Defendant

IN THE CIRCUIT COURT
BALDWIN COUNTY, ALABAMA
AT LAW
NO. 5462

..-.-.-.

Comes now the Defendant and demurs to the Plaintiff's complaint and to each count thereof separately and severally and assigns the following demurrers separately and severally:

1. The Complaint does not state a cause of action.
2. The Complaint contains conclusions of the pleader.
3. That the Defendant did wontonly kill the Plaintiff's minor son is a conclusion of the pleader.
4. For aught that appears in the Complaint, the death of Plaintiff's minor son was not the proximate result of any act or omission of the Defendant.


Attorney for Defendant

Defendant demands trial
by jury.



FILED
MAR 19 1963
ALICE J. DUCK, CLERK
REGISTER

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

MARION B. RICKMAN

Plaintiffs

vs.

HARVEY S. SMITH and

WILLIAM M. SMITH

Defendants

Amended
SUMMONS and COMPLAINT

Filed 10-5, 19 63

Alice J. Duck, Clerk

Plaintiff's Attorney

Defendant's Attorney

*20 be served on
William M. Smith
At Bay Minette Ala.*

Defendant lives at

RECEIVED IN OFFICE

Oct 5, 1963

, Sheriff

I have executed this summons

this 10-18, 1963

by leaving a copy with

William M. Smith

Sheriff claims 20 miles at

Ten Cents per mile Total \$ 2.00

TAYLOR WILKINS, Sheriff

BY *W. A. Talbert*
DEPUTY SHERIFF

Taylor Wilkins Sheriff

W. A. Talbert Deputy Sheriff

White House Fork

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,
BALDWIN COUNTY

No. 5462

CIRCUIT COURT, BALDWIN COUNTY

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Harvey S. Smith and William M. Smith

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
Harvey S. Smith and William M. Smith, Defendant

by Marion B. Rickman

Plaintiff

Witness my hand this 5 day of October 19 63

64-10-18-63

Archie J. Duck, Clerk

559

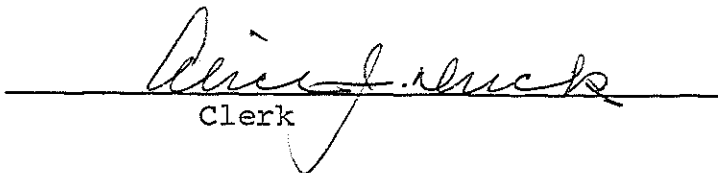
STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA

You are hereby commanded to summon Harvey S. Smith 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 Marion B. Rickman. You are further hereby ordered to serve a copy of the complaint and summons on the father or mother or guardian of Harvey S. Smith and make return of such service.

Witness my hand this 11 day of Feb, 1963.


Clerk

MARION B. RICKMAN, : IN THE CIRCUIT COURT OF
Plaintiff, : BALDWIN COUNTY, ALABAMA,
versus : AT LAW
HARVEY S. SMITH, :
Defendant. : CASE NO. _____

COUNT ONE

Plaintiff claims of the defendant FIFTY THOUSAND AND NO/100ths (\$50,000.00) DOLLARS damages for that heretofore on, to-wit, December 16, 1962, the defendant did so negligently operate a motor vehicle on and along Baldwin County Highway No. 7, at a point approximately 117 feet South of Power Pole No. 9, said Highway being then and there a public highway in Baldwin County, Alabama, as to cause or allow the same to run into, upon, against and over the plaintiff's son, Robert Leslie Rickman, a minor eight years of age, son of plaintiff. And plaintiff avers that as a direct and proximate result and consequence thereof his said son was killed, hence this suit.

COUNT TWO

Plaintiff claims of the defendant FIFTY THOUSAND AND NO/100ths (\$50,000.00) DOLLARS damages for that heretofore on, to-wit, December 16, 1962, the defendant did wantonly kill the plaintiff's minor son, Robert Leslie Rickman, eight years of age, by causing or allowing an automobile the defendant was then and there operating on and along Baldwin County Highway No. 7, at a point approximately 117 feet South of Power Pole No. 9, said Highway being then and there a public highway in Baldwin County, Alabama, to run into, upon, against and over the plaintiff's said minor son. And

plaintiff avers that as a direct and proximate result and
consequence thereof his son was killed, hence this suit.

KILBORN, DARBY AND KILBORN

By *Bam Kilborn*
Attorneys for Plaintiff

Plaintiff respectfully demands a trial by jury

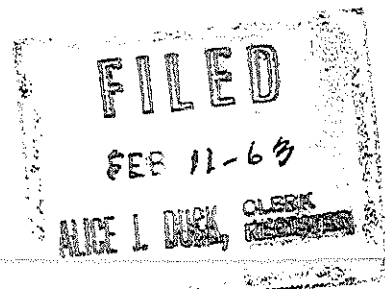
Bam Kilborn

Defendant may be served at:

Route 1, Box 207
Bay Minette, Alabama
Where he resides

Service should be on defendant and a
copy served on his father, mother or
guardian.

64-2-21-63



no. 5462

Marion B. Rickman

VS.

Harvey B. Smith

Received 11 day of Feb. 1963
on 11 day of Feb. 1963
received a copy of the within D.C.
Harvey B. Smith and
Grandfather H.B.
service on Smith

TAYLOR, WILKINS, Sheriff

By W.A. Zolbert
White House Fork

Sheriff claims 4 00

Ten Cents per mile Total \$ 4.00
TAYLOR WILKINS, Sheriff

BY Zolbert
DEPUTY SHERIFF

FILED

FEB 11-63

ALICE J. DUCK, CLERK
REGISTER

W 5462
Rackman
vs
Smith

JURY LIST - MARCH 9, 1964.

1. Beck, Charles C., Businessman, Lillian
2. Blalock, Greene C., Carpenter, Fairhope
3. Bloch, Herman, Farmer, Elberta
4. Malone, T.E., Merchant, Fairhope
5. Mason, Jimmy, Salesman, Fairhope
6. Mosley, Rufus, Farmer, Stapleton
7. Eslava, Clarence, Farmer, Mag. Spgs.
8. Haden, James T., Salesman, Robertsdale
9. Quinley, Wilburn, Farmer, Bay Minette
10. Rhodes, Charles R., Farmer, Foley
11. Rhodes, Larkin T., Jr., Farmer, Bay Minette
12. Rieben, Ray, Paper Mill, Bay Minette
13. Roberson, Mutt, Laborer, Robertsdale
14. Lazzari, Anglo, Farmer, Belforest
15. Lazzari, Joe, Jr., Farmer, Belforest
16. Lazzari, John, Farmer, Belforest
17. Lager, J.E., Salesman, Foley
18. Little, W.E., Mgr. Bell Tele. Commercial, Spanish Fort
19. Robinson, Dale L., Ins. Agt., Foley
20. Sanders, E. Frank, Banker, Foley
21. Andress, Herbert E., Farmer, Foley
22. Dickey, O.L., Butcher, Robertsdale
23. Crosby, James W., Bookkeeper, Foley
24. Arnould, M.L., Floor Finisher, Robertsdale
25. Barton, John, Jr., Newport, Bay Minette
26. Thompson, Albert M., Merchant, Bay Minette
27. Wenzel, Emmett O., Merchant, Gulf Shores
28. Woodward, C.H., Merchant, Fairhope
29. Wright, Justice D., Forester, Stapleton
30. Boan, Jessie Forest, Farmer, Stapleton
31. Bung, Floyd, Merchant, Fairhope
32. Oblak, John, Jr., Farmer, Silverhill
33. Leiterman, Nick, Civil Service, Elberta
34. Smith, Clinton, Defense Worker, Bay Minette
35. Suddith, Jack, Officer Manager, Bay Minette
36. Bosby, Eugene, Construction Worker, Fairhope
37. Bryant, Nathan, Clerk, Fairhope
38. Denton, Alphonse, Carpenter, Fairhope
39. Lamar, Reuben, Laborer, Foley
40. McReynolds, Leon, Labor Worker, Bay Minette
41. Moore, Jessie, Court House, Bay Minette
42. Wilson, Frank E., Brookley Field, Daphne
43. Tullos, Abe, Brookley Field, Fairhope

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KILBORN, DARBY AND KILBORN

LAWYERS

FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

VINCENT F. KILBORN
WILLIS C. DARBY, JR.
BENJAMIN H. KILBORN

TELEPHONE HEMLOCK 2-2635

CABLE ADDRESS: VEEKAY

February 7, 1963

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

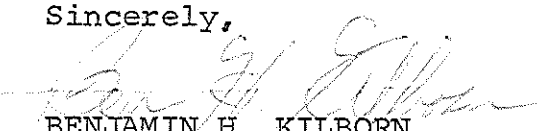
RE: MARION B. RICKMAN
VS: HARVEY S. SMITH
Our File No. 5861

Dear Mrs. Duck:

I enclose herewith Bill of Complaint in the above-styled cause which I would thank you to file. Please advise the date same is filed.

Thank you.

Sincerely,


BENJAMIN H. KILBORN

BHK:sfh
Encl.