

CUNNINGHAM, BOUNDS AND BYRD

ATTORNEYS AT LAW

1350 DAUPHIN STREET

P. O. BOX 4486

MOBILE, ALABAMA 36604

ROBERT T. CUNNINGHAM  
RICHARD BOUNDS  
ROBERT L. BYRD, JR.

AREA CODE 205  
TELEPHONE 438-6188

December 27, 1965

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

Dear Mrs. Duck:

Will you kindly file the enclosed motion for nonsuit and let me know when the same has been granted by the Judge.

Very truly yours,

CUNNINGHAM, BOUNDS & BYRD

  
RICHARD BOUNDS

RB/ac

Enclosure

VANCE ALLEN GIBBON, a minor )  
8 years of age, who sues by and )  
through his father and next )  
friend, GAIL VANCE GIBBON, )

Plaintiff. )

-vs- )

ERNEST CLIFTON BROWN, MARION L. )  
BROWN, and A, B and C, the owner )  
or operator of the motor vehicle )  
involved in the accident made )  
the basis of this suit, whose )  
name or names are otherwise un- )  
known to the Plaintiff at this )  
time but will be added by amend- )  
ment when ascertained, individually )  
and jointly, )

Defendants. )

IN THE CIRCUIT COURT

OF BALDWIN COUNTY,

ALABAMA.

AT LAW.

CASE NO. 4486

#### COUNT ONE

Plaintiff claims of the Defendants the sum of SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS, damages, for that heretofore and on, to-wit, August 8, 1965, the Defendant, ERNEST CLIFTON BROWN, an agent, servant or employee of the Defendant, MARION L. BROWN, while acting within the line and scope of his authority as such, so negligently operated an automobile on U. S. Highway 98 at a point, to-wit, 275 feet West of its intersection with Baldwin County Road No. 11, otherwise known as Greno Road, both of said roads being public roads in Baldwin County, Alabama, as to cause the same to collide with an automobile in which the Plaintiff was riding on said U. S. Highway 98 and over which the Plaintiff had no control, and as a direct and proximate result and consequence of the negligence of the Defendants as aforesaid, Plaintiff suffered the following injuries and damages: he was made sick, sore and lame; he suffered severe mental and physical pain and anguish, still so suffers and will so suffer in the future; he suffered an open depressed skull fracture; he suffered lacerations and contusions

about his head, face and body; he was permanently injured; he was caused to undergo a surgical procedure for the treatment of his head injury and will need further medical and surgical treatment in the future; and he was permanently scarred and disfigured; for all of which he claims damages as aforesaid.

COUNT TWO

Plaintiff claims of the Defendants the sum of SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS, damages, for that heretofore and on, to-wit, August 8, 1965, the Defendant, ERNEST CLIFTON BROWN, an agent, servant or employee of the Defendant, MARION L. BROWN, while acting within the line and scope of his authority as such, wantonly injured the Plaintiff by wantonly operating an automobile on U. S. Highway 98 at a point, to-wit, 275 feet West of its intersection with Baldwin County Road No. 11, otherwise known as Greno Road, both of said roads being public roads in Baldwin County, Alabama, as to cause the same to collide with an automobile in which the Plaintiff was riding on said U. S. Highway 98 and over which the Plaintiff had no control, and as a direct and proximate result and consequence of the wanton conduct of the Defendants as aforesaid, Plaintiff suffered the following injuries and damages: he was made sick, sore and lame; he suffered severe mental and physical pain and anguish, still so suffers and will so suffer in the future; he suffered an open depressed skull fracture; he suffered lacerations and contusions about his head, face and body; he was permanently injured; he was caused to undergo a surgical procedure for the treatment of his head injury and will need further medical and surgical treatment in the future; and he was permanently scarred and disfigured; for all of which he claims damages as aforesaid.

FILED

NOV 2 1965

AME L. DICK, CLERK  
REGISTER

314

CUNNINGHAM, BOUNDS & BYRD  
ATTORNEYS FOR PLAINTIFF

BY:

*Richard Bounds*  
RICHARD BOUNDS

Plaintiff demands a trial by jury.

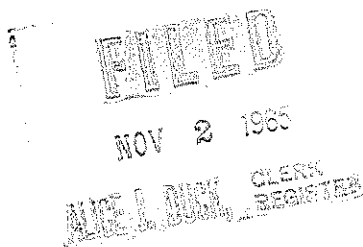
  
RICHARD BOUNDS

TRIAL ATTORNEYS:     Richard Bounds  
                             Robert T. Cunningham

Address of Defendants:

Ernest Clifton Brown  
Route 2, Box 156-B  
Fairhope, Alabama

Marion L. Brown  
Route 2, Box 156-B  
Fairhope, Alabama



SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA  
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 4486

TO ANY SHERIFF OF THE STATE OF ALABAMA:

.....TERM, 19.....

You Are Hereby Commanded to Summon

Ernest Clifton Brown, and Marion L. Brown

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.....  
Ernest Clifton Brown and Marion L. Brown....., Defendant.....

by Vance Allen Gibben, a miner, who sues by and through his father and next friend  
Gail Vance Gibben..... Plaintiff.....

Witness my hand this 2nd day of Nov 19 65

67-11-6-65 W. J. [Signature] Clerk

6748  
No. 1986 Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

VANCE ALLEN GIBBON, a minor  
etc

Plaintiffs

vs.

ERNEST CLIFTON BROWN and

MARION L. BROWN et als

Defendants

SUMMONS AND COMPLAINT

Filed ..... 11-2 ..... 19..... 65

Alice J. Duck ..... Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED  
Received In Office

NOV 2 1965 19.....

TAYLOR WILKINS ..... Sheriff

I have executed this summons

this Nov. 6 ..... 1965

by leaving a copy with

Ernest Clifton Brown  
Marion L. Brown

Sheriff claims 200 miles at

Ten Cents per mile Total \$ 20.00

TAYLOR WILKINS, Sheriff

BY RR  
DEPUTY SHERIFF

Taylor Wilkins ..... Sheriff

Roy Randall ..... Deputy Sheriff

Born Well also.

VANCE ALLEN GIBBON, a minor  
8 years of age, who sues by and  
through his father and next  
friend, GAIL VANCE GIBBON,

Plaintiff,

vs.

ERNEST CLIFTON BROWN, MARION L.  
BROWN, and A, B and C, the owner  
or operator of the motor vehicle  
involved in the accident made  
the basis of this suit, whose  
name or names are otherwise un-  
known to the Plaintiff at this  
time but will be added by amend-  
ment when ascertained, individually  
and jointly,

Defendants.

IN THE CIRCUIT COURT OF

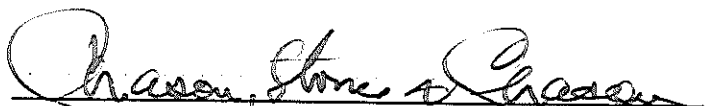
BALDWIN COUNTY, ALABAMA

AT LAW

DEMURRER

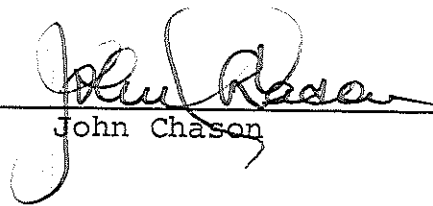
Come the Defendants Ernest Clifton Brown and Marion L.  
Brown and demur to the Complaint filed in the above styled cause  
and each and every count thereof, separately and severally, and  
assign the following separate and several grounds, viz:

1. That such Complaint does not state a cause of action.
2. There is a misjoinder of parties defendant in said  
Complaint.
3. Said Complaint does not allege any duty owing by  
such Defendants to the Plaintiff.
4. The Complaint fails to allege in what manner the  
Plaintiff was permanently injured.
5. That said Complaint claims speculative damages.

  
Attorneys for Ernest Clifton Brown  
and Marion L. Brown.

CERTIFICATE OF SERVICE

I, John Chason, as one of the Attorneys for the Defendants Ernest Clifton Brown and Marion L. Brown, do hereby certify that I have this day sent a copy of the foregoing demurrer by U. S. Mail, postage prepaid, to Cunningham, Bounds & Byrd addressed to them at their office at 1350 Dauphin Street, Mobile, Alabama. Dated this 19th day of November, 1965.

  
\_\_\_\_\_  
John Chason

FILED  
NOV 19 1965  
ALICE L. TUCK, CLERK  
REGISTER



6748

VANCE ALLEN GIBBON

Plaintiff,

vs.

ERNEST CLIFTON BROWN  
AND MARION L. BROWN, ET AL.

\*\*\*\*\*

DEMURRER

\*\*\*\*\*

FILED  
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ALICE L. DIX, CLERK  
CLERK  
REGISTER

318

CASE NO. 6748

MOBILE, ALABAMA 19

FILE NO. 65-236

RECEIVED OF:

CUNNINGHAM, BOUNDS & BYRD, ATTORNEYS

Gibbon

-VS-

Brown et al

Motion for nonsuit