TW:6494

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW CASE NO. 13670 KILBORN, DARBY AND KILBORN VIRGILE J. BRUMFIELD, a minor, by and through JURY By: Willis C. Darby, Jr. his next friend, Sam Brumfield P.O. BOX 1273 Mobile, Alabama 36604 Suit for \$10,000.00 damages for personal injuries ٧S. ANN CHILDRESS RICHARD W. VOLLMER, JR. PATRICIA ANNE-CHILDREE P.O. Box 935 Mobile, Alabama 36601 PLEADINGS, PROCESS, ETC. Complaint and Summons returned September 3, 1964, "NOT FOUND". 1. Complaint & Summons 8-25-64 AMENDED COMPLAINT AND SUMMONS served on Defendant on November 16, 1964. 2. Amended Complaint & Summons 11-5-64 3. Plea in Abatement 11-24-64 April 30, 1965 - Plea in Abatement sustained and case ordered transferred to Circuit Court of Baldwin County, Alabama, as provided by Title 7, Sec. 64-(1). (31 - 783)

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.

In witness whereof I have hereunto set my hand and attached my official seal as such Clerk of said Court at Mobile, Mobile County, Alabama, on these the 3rd day of May 1965.

John to/Marchentle, Clerk

Defendant

CASE NO. 13670 PATRICIA ANNE CHILDREE AGERAR Plaintiff AMAAAIA OF MOBILE COUNTY, SYW BROWEIEID' by and through his next friend, IN THE CIRCUIT COURT VIRGILE J. BRUMFIELD, a minor,

### COUNT

Plaintiff claims of the Defendant the sum of TEM

Plaintiff respectfully damands a trial by jury. all of which Plaintiff claims damages as aforesaid. anguish, and he had to withdraw from school one semester, for physical pain and he suffered and continues to suffer mental fractured, his face was permanently scarred, he suffered great were damaged, his chest was bruised, one of his ribs was and body, his mouth and chin were cut and bruised, his teeth gence, Plaintiff was severely injured about his face, limbs proximate result and consequence of Defendant's said negliwith the automobile which Plaintiff was operating and as a cause the motor vehicle operated by the Defendant to collide negligently operated a motor vehicle then and there, as to where plaintiff had a right to be, and the Defendant so and seven tenths (3.7) miles north of Robertsdale, Alabama, State of Alabama, known as County road #65, about three an automobile on a public street in the County of Baldwin, that on, to-wit; August 30, 1963, Plaintiff was operating THOUSAND AND NO/100ths (\$10,000.00) DOLLARS as damages for

KILBORU, DARBY and KILBORU

Willis C. Darby / Ok

Defendant may be served:

Loxley, Alabama Route 1,

# THE STATE OF ALABAMA

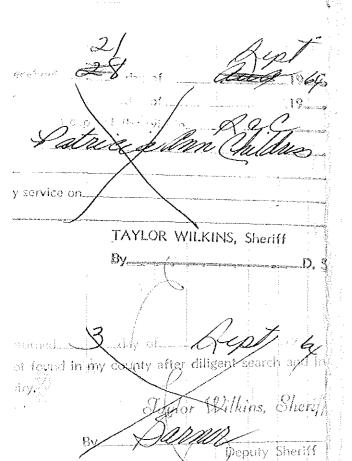
MOBILE COUNTY

To Any Sheriff of the State of Alabama:

## CIRCUIT COURT

o appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabam at the place of holding the same, then and there to answer the complaint of	You are hereby	y comman	ided to su	mmon				
WITNESS: John E. Mandeville, Clerk of said Court, this 25th day of August , 1964  Attest: Mand lander Clerk  SHERIFF'S RETURN  Rececived day of , 19 and on D  of , 19 , I served a copy the within on	PATRIC	IA ANNE	E CHILD	REE				
WITNESS: John E. Mandeville, Clerk of said Court, this 25th day of August , 1964  Attest: Mand lander Clerk  SHERIFF'S RETURN  Rececived day of , 19 and on D  of , 19 , I served a copy the within on								
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D.S.



No. 13670 DOCKET CIVIL DIVISION

MOBILE COUNTY

VIRGILE J. BRUMFIELD, a minor, by and through his next friend, SAM BRUMFIELD

VS.

Complaint and Summons

PATRICIA ANNE CHILDREE

Issued 25th day of August, 19 64

Defendant's Address

Route 1, Loxley, Alabama

KILBORN, DARBY & KILBORN
BY: Willis C. Darby, Jr.
Plaintiff's Attorney

RECEIVED

AUG 26 1964

CHERIFF'S OFFICE

# COMPLAINT AND SUMMONS AND SHERIFF'S RETURN OF SERVICE

VIRGILE J. BRUMFIELD, a minor, by and through his	)	IN THE	CIRCUIT	COURT OF
next friend, SAM BRUMFIELD,	)	MOBILE	COUNTY,	ALABAMA
Plaintiff,	)	AT LAW		
versus	)			
PATRICIA ANNE CHILDREE,	)			
Defendant	) )	CASE NO	13670-	_m

#### MOTION TO AMEND

Comes now the plaintiff and amends the caption of the above entitled cause. Plaintiff avers that the name Patricia Anne Childree was erroneously written instead of the name Patricia Ann Childress, which is the true name of the defendant first mentioned. Plaintiff amends the caption of the above entitled cause which was heretofore filed to read as follows:

VIRGILE J. BRUMFIELD, a minor, by and through his	)	IN TH	E CIE	RCUIT	COURT	OF
next friend, SAM BRUMFIELD,	)	MOBIL	E CO	JNTY,	ALABAN	Δl
Plaintiff,	)	AT LA	W/			
versus	)					
PATRICIA ANN CHILDRESS,	) )					
Defendant	)	CASE	NO.	13670	T-(	

DATED at Mobile, Alabama, this 5th day of November, 1964.

KILBORN, DARBY and KILBORN

Attorney for Plaintiff P. O. Box 1273

Mobile, Alabama

Defendant may be served at:

Rosinton, Alabama Jeles Manember 5, 1964 John & Mandenille, Clark

430

VIRGILE J. BRUMFIELD, a minor, ) IN THE CIRCUIT COURT
by and through his next friend, )

SAM BRUMFIELD, ) OF MOBILE COUNTY, )

Plaintiff ) ALABAMA

Versus )

PATRICIA ANNE CHILDREE )

Defendant

CASE NO. 13670

#### COUNT 1.

Plaintiff claims of the Defendant the sum of TEN THOUSAND AND NO/100ths (\$10,000.00) DOLIARS as damages for that on, to-wit; August 30, 1963, Plaintiff was operating an automobile on a public street in the County of Baldwin, State of Alabama, known as County road #65, about three and seven tenths (3.7) miles north of Robertsdale, Alabama, where plaintiff had a right to be, and the Defendant so negligently operated a motor vehicle then and there, as to cause the motor vehicle operated by the Defendant to collide with the automobile which Plaintiff was operating and as a proximate result and consequence of Defendant's said negligence, Plaintiff was severely injured about his face, limbs and body, his mouth and chin were cut and bruised, his teeth were damaged, his chest was bruised, one of his ribs was fractured, his face was permanently scarred, he suffered great physical pain and he suffered and continues to suffer mental anguish, and he had to withdraw from school one semester, for all of which Plaintiff claims damages as aforesaid.

Plaintiff respectfully damands a trial by jury.

KILBORN, DARBY and KILBORN

Defendant may be served:

Route 1,

Loxley, Alabama

Filed august 25, 1964

Willis C. Darby./Jr.

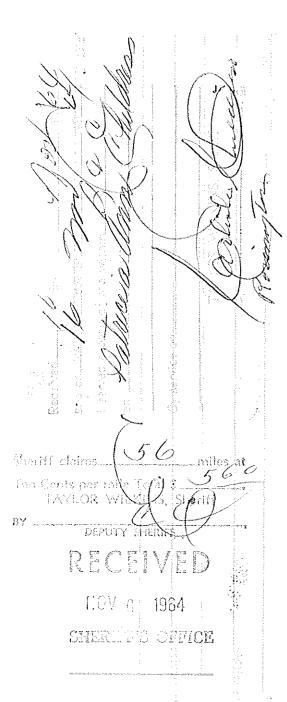
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# THE STATE OF ALABAMA

MOBILE COUNTY

## CIRCUIT COURT

PATRICIA ANN CHILDRESS		ANLANCE OFFICE OF THE STATE OF		
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appear within thirty days from service of this proces	s, in the Circu	it Court of M	íobile Count	y, Alabama
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VIRGILE J. BRUMFIELD, a minor by and	through l	nis next	friend.	
SAM BRUMFIELD				
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WITNESS: John E. Mandeville, Clerk of said Coun	et this 5th	aav of N	lovember	19 64
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No. 13670 TAYLOR JUDGI DOCKET CIVIL DIVISION CIRCUIT COURT MOBILE COUNTY VIRGILE J. BRUMFIELD, a minor, etc. AMENDED VS. Complaint and Summons PATRICIA ANN CHILDRESS Issued 5th day of November, 1964 Defendant's Address Rosinton, Alabama

WILLIS C. DARBY
Plaintiff's Attorney

## CIRCUIT COURT

# THE STATE OF ALABAMA MOBILE COUNTY

To Any Sheriff of the State of Alabama: You are hereby commanded to summon

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.S.a.

No. 13670

JUDGE \_\_\_\_\_\_ DOCKET

**CIVIL DIVISION** 

## CIRCUIT COURT

MOBILE COUNTY

VIRGILE J. BRUMFIELD, a minor, by and through his next friend, SAM BRUMFIELD

VS.

371:

Complaint and Summons

PATRICIA ANNE CHILDREE

Issued 25th day of August, 19 64

Defendant's Address

Route 1, Loxley, Alabama

KILBORN, DARBY & KILBORN
BY: Willis C. Darby, Jr.
Plaintiff's Attorney

Copy

#### 3. PLEA IN ABATEMENT

Defendant	(	T-078 T ON FRAD
LATRICIA ANN CHILDRESS,	(	
( sn	(	WAJ TA
( ,lliintis[q	(	AMABAJA
minor, by and through his	(	OF MOBILE COUNTY,
VIRGILE J. BRUMFIELD, & )	(	IN THE CIRCUIT COURT

Comes now the defendant in the above styled cause and appearing specially and only for the purpose of filing this plea in abatement and for no other purpose pleads in abatement to the complaint filed in this cause as follows:

That the cause should be abated for that the complaint shows on its face that the alleged injuries complained of by the plaintiff occurred on a public highway in Baldwin County, Alabama on, to-wit, August 30, 1963. That the complaint further shows on its face that the said action is for personal injuries and is a personal action as defined in Title 7, Section 54 of the Code of Alabama 1940 Edition as amended.

The defendant was a resident citizen of Baldwin County, Alabama, at all times alleged in the plaintiff's complaint and ever since that time, and at the time and date this lawsuit was commenced against her, and the defendant is still a resident citizen of Baldwin County, Alabama, having in said county a permanent residence and the defendant has not, at any time set out in the complaint, nor at the time this suit was commenced, nor since, been a resident citizen of Mobile County, Rlabama. The defendant avers that the accident made the basis

of this suit did occur in Baldwin County, Alabama.

Wherefore, defendant says that the Circuit Court of Mobile County, Alabama, is without jurisdiction of said suit and the said cause of action and that the venue thereof is improperly laid in Mobile County, Alabama, and any suit based on the matters herein complained of, if brought in Alabama at all, should be filed and prosecuted in Baldwin County, Alabama where the said Patricia Ann Childress has at all times and does now reside; and defendant prays that said action and said suit be abated by this court.

PILLANS, REAMS, TAPPAN, WOOD & ROBERTS

Richard W. Vollmer, Jr.

Attorney for Defendant

STATE OF ALABAMA COUNTY OF MOBILE

Before me, Judith Ann Ponds, a Notary Public in and for said County in said State, personally appeared Patricia Ann Childress, who, by me being first duly sworn on oath, deposes and says, that she is the defendant in the above styled case and that she has read the foregoing plea in abatement and that the matters and facts stated in said plea in abatement are true and correct.

Patricia Ann Childress

Subscribed and sworn to before me this 2 day of November, 1964.

Notary Public, Mobile County, Alabama

Filid / Parember 24, 1964 John 2.77 Maderill, Cha

## FRIDAY, APRIL 30, 1965

VIRGILE J. by and thi Sam Brumfi	. BRUMFIELD, rough his nex ield	a minor, t friend,	) PLEA IN ABATEMENT SUSTAINED, ) AND CASE ORDERED TRANSFERRED ) TO CIRCUIT COURT OF BALDWIN ) COUNTY, ALABAMA, AS PROVIDED
CAFFEY	-VS-	13670	) BY TITLE 7, SEC. 64-(1)
PATRICIA A	ANN CHILDRESS		)

This day in open Court came the parties by their attorneys, and defendant's Plea in Abatement filed November 24, 1964, in this cause, coming on to be heard and being argued by counsel and understood by the Court;

It is ordered and adjudged by the Court that defendant's said Plea in Abatement filed November 24, 1964, in this cause be, and the same is hereby sustained, and case ordered transferred to the Circuit Court of Baldwin County, Alabama, as provided by Title 7, Sec. 64-(1).

Minute Book 31

Page 783

I respectfully beg to advise that if this bill

59-0E-H

## CIAIT DIAISION' CIBCUIL COURT, MOBILE COUNTY

(Act No. 571, Reg. Ses. Leg. 1955) (Amend Sec. 34 and 100, Title 11, Code Ala. 1940)	LS03 40	Ala. Legislature 1957	(Act No. 740, Reg. Session (Act No. 740, Reg. Sept. 20, 1957)
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VIRGILE J. BRUMFIELD, a minor, by and through his next friend,	χ	
SAM BRUMFIELD,	χ	IN THE CIRCUIT COURT OF
Plaintiff,	X	
Vs.	χ	BALDWIN COUNTY, ALABAMA
PATRICIA ANN CHILDRESS,	χ	LAW SIDE NO. 6498
Defendant.	χ	

### PLEA

Comes the Defendant in the above styled cause and for plea to the Complaint filed in said cause, separately and severally, and says:

- 1. Not Guilty.
- 2. That at the time and place complained of in the Complaint, the Plaintiff himself was guilty of negligence which was the proximate cause of his injuries and damages, hence he cannot recover in this suit.

Filed 5-18-65 Attorneys for Defendant

VIRGILE J. BRUMFIELD, a minor, by and through his next friend, SAM BRUMFIELD,

Plaintiff,

vs.

PATRICIA ANN CHILDRESS,

Defendant.

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PLEA

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