

FOREMAN & BROWN
ATTORNEYS AT LAW

~~1501 1/2 FIRST NATIONAL BANK BUILDING~~

MOBILE, ALABAMA
36602

ALEXANDER FOREMAN, JR.
ALTON R. BROWN, JR.
JAMES A. JOHNSTON

(of counsel)

May 16, 1966

Honorable John E. Mandeville, Clerk
Circuit Court of Mobile County
Mobile County Court House
Mobile, Alabama

19069-MC

RE: Howard Gardner v Clyde Pendergraft, also known as
Clyde Pendergrass
Our File No: 65-2030-JJ

Dear Mr. Mandeville:

Please have an Alias Summons issued to Clyde Pendergrass
the Defendant in the above entitled cause and have the
Sheriff serve this Defendant at Scott Paper Company, Mobile,
Alabama.

Yours very truly,

FOREMAN & BROWN

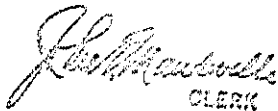
BY


James A. Johnston

JJ:jw

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

MAY 17 10 03 AM '66


CLERK

J. CONNOR OWENS, JR.
ATTORNEY AT LAW
DAHLBERG BUILDING
P. O. BOX 729
BAY MINETTE, ALABAMA

WALTER S. PATTON, ASSOCIATE

November 23, 1966

TELEPHONE NO. 937-4661

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

Subject: Howard Gardner, Plaintiff,
vs.
Clyde Pendergrass, Defendant
Case No. 19069 (Mobile County Transf)

Dear Mrs. Duck:

In the above styled case which was transferred to the Circuit Court of Baldwin County, from Mobile County Courts, I would appreciate it if you would enter an appearance in behalf of the undersigned for the plaintiff in this case.

Thank you for your aid and consideration in this matter.

Sincerely yours,


Walter S. Patton

WSP:am

CC: Mr. Wilson Hayes
Attorney at Law
Bay Minette, Alabama

HOWARD GARDNER

PLAINTIFF

VS

CLYDE PENDERGRASS

DEFENDANT

) IN THE CIRCUIT COURT

) BALDWIN COUNTY, ALABAMA

) AT LAW

) NUMBER: _____

, - - - - -

Comes now the Defendant in the above styled cause
and for answer to the complaint says:

1. Not guilty.

W. L. Hay
Attorney for Defendant

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 12th day of December,
1966 served a copy of the foregoing pleading on counsel for all
parties to this proceeding by mailing the same by United States
Mail, properly addressed, with first class postage prepaid.

W. L. Hay

FILED
DEC 14 1966
MADE I. DUCK, CLERK
REGISTER

726, 79-84

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW

CASE NO. 19069 - McCall

FOREMAN & BROWN
BY: James A. Johnston

HOWARD GARDNER

N.J.

VS. Suit for \$250.00 damages to motor vehicle.
(TORT)

HAYES & WILKINS
Bay Minette, Alabama
BY: Wilson Hayes

CLYDE PENDERGRAFT, also known as CLYDE PENDERGRASS

PLEADINGS, PROCESS, ETC. * FILING DATE *

- | | | |
|---|-----------|---|
| 1. Complaint & Summons | *4-15-66 | * C & S returned "Not Found" on May 9, 1966. |
| | | * Amended C & S served on Defendant on June 8, 1966. |
| 2. Amended Complaint & Summons - - - - - | *5-17-66 | * June 24, 1966- Hearing on Plea in Abatement set for July 11, 1966 at 10:00 A.M. D.T.M. |
| 3. Plea in Abatement | *6-16-66 | * July 11, 1966- Case passed by consent to be re-set in fall. D.T.M. |
| 4. Complaint refiled as amended in ink | *11-21-66 | * November 21, 1966- Plaintiff allowed to amend his complaint in ink. - D.T.M. 34-493 |
| 5. Plea in Abatement refiled to complaint as amended in ink | *11-21-66 | * November 21, 1966- Plea in Abatement sustained; cause ordered transferred to Circuit Court of Baldwin County. Dan T, McCall, Jr. - Judge 34-493 |
| | * | * |
| | * | * |

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 this the 22nd day of November, 1966.

John E. Mandeville, Clerk.

FILED

NOV 23 1966

ALICE L. DUCK, CLERK - REGISTERS

HOWARD GARDNER,

Plaintiff,

Vs.

CLYDE PENDERGRAFT,

Defendant.

*

*

*

*

*

IN THE CIRCUIT COURT

OF MOBILE COUNTY,

ALABAMA

AT LAW

CASE NO:

19069-Mc

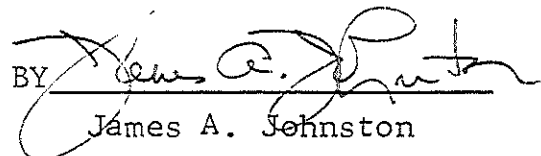
Comes now the Plaintiff in the above entitled cause and amends his Complaint to further describe the Defendant herein as follows:

1. Plaintiff alleges that the Defendant, Clyde Pendergraft, is also known as Clyde Pendergrass, and that the said Clyde Pendergraft and Clyde Pendergrass are one and the same persons.

Plaintiff further amends his Complaint so that this cause hereinafter be referred to as HOWARD GARDNER, Plaintiff Vs. CLYDE PENDERGRAFT, also known as CLYDE PENDERGRASS, Defendant.

FOREMAN & BROWN,
Attorneys for Plaintiff

BY


James A. Johnston

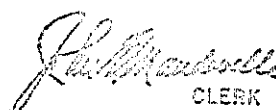
Serve Defendant at

SCOTT PAPER COMPANY,
Mobile, Alabama

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

MAY 17 10 03 AM '66

564


CLERK

HOWARD GARDNER,	*	IN THE CIRCUIT COURT
Plaintiff,	*	OF MOBILE COUNTY,
Vs.	*	ALABAMA
CLYDE PENDERGRAFT,	*	AT LAW
Defendant.	*	CASE NO: <u>19069</u>

COUNT ONE

The Plaintiff claims of the Defendant the sum of Two Hundred Fifty and no/100 (\$250.00) Dollars as damages for that heretofore and on, to-wit, the 29th day of May, 1965, the Defendant so negligently operated a motor vehicle on one of the public roads in ^{Baldwin} Mobile County, Alabama, to-wit: on the Mobile Bay Causeway, commonly known as U.S. Highway 90 near the entrance to the Bankhead Tunnel, as to collide at said time and place with a motor vehicle being then and there operated by the plaintiff and as a proximate result of the defendant's negligence as aforesaid, the property of the plaintiff was damaged as follows; viz: plaintiff's motor vehicle was bent, broken, torn and otherwise damaged, the market value of said vehicle permanently depreciated, the plaintiff lost the use of said vehicle for a period of time, all to the damage and injury in the amount aforesaid, hence this suit.

FOREMAN & BROWN,
Attorneys for Plaintiff

BY James A. Johnston
James A. Johnston

Serve defendant at
P.O. Box 99, Daphne, Alabama
or at Scott Paper Company
Mobile, Alabama

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

APR 15 9 05 AM '66

John E. Mandeville
CLERK

*Refiled November 21, 1966, as
amended in ink.*

John E. Mandeville,
Clerk

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

CLYDE PENDERGRAFT, also known as CLYDE PENDERGRASS

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,
at the place of holding the same, then and there to answer the complaint of _____

HOWARD GARDNER

WITNESS: John E. Mandeville, Clerk of said Court, this 17th day of May, 1966

Attest: John E. Mandeville
Clerk

SHERIFF'S RETURN

Received 19 day of May, 1966 and on 8 Day
of June, 1966, I served a copy of
the within Amended Complaint on _____

by service on Clyde Pendergraft

RAY D. BRIDGES, SHERIFF

By L. Smith D.S.

DEPT. CLERK DEPT.
MOBILE COUNTY, ALA.
MAY 19 2 51 PM '66
BY

[Signature]
No. 19069
JUDGE McCall's DOCKET
CIVIL DIVISION

CIRCUIT COURT
MOBILE COUNTY

HOWARD GARDNER

VS. } AMENDED
Complaint and Summons

[Signature]
CLYDE PENDERGRAFT, also known
as CLYDE PENDERGRASS

Issued 17th day of May, 1966

Defendant's Address

SCOTT PAPER COMPANY
Mobile, Alabama

JAMES A. JOHNSTON

Plaintiff's Attorney

HOWARD GARDNER,

Plaintiff,

Vs.

CLYDE PENDERGRAFT,

Defendant.

*

*

*

*

*

IN THE CIRCUIT COURT

OF MOBILE COUNTY,

ALABAMA

AT LAW

CASE NO: 19069

COUNT ONE

The Plaintiff claims of the Defendant the sum of Two Hundred Fifty and no/100 (\$250.00) Dollars as damages for that heretofore and on, to-wit, the 29th day of May, 1965, the Defendant so negligently operated a motor vehicle on one of the public roads in ^{Baldwin} Mobile County, Alabama, to-wit: on the Mobile Bay Causeway, commonly known as U.S. Highway 90 near the entrance to the Bankhead Tunnel, as to collide at said time and place with a motor vehicle being then and there operated by the plaintiff and as a proximate result of the defendant's negligence as aforesaid, the property of the plaintiff was damaged as follows; viz: plaintiff's motor vehicle was bent, broken, torn and otherwise damaged, the market value of said vehicle permanently depreciated, the plaintiff lost the use of said vehicle for a period of time, all to the damage and injury in the amount aforesaid, hence this suit.

FOREMAN & BROWN,
Attorneys for Plaintiff

BY

James A. Johnston

Serve defendant at
P.O. Box 99, Daphne, Alabama
or at Scott Paper Company
Mobile, Alabama

Extra copy

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

CLYDE PENDERGRAFT

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,
at the place of holding the same, then and there to answer the complaint of

HOWARD GARDNER

WITNESS: John E. Mandeville, Clerk of said Court, this 15th day of April, 1966

Attest: John E. Mandeville
Clerk

SHERIFF'S RETURN

Received _____ day of _____, 19____ and on _____ Day
of _____, 19____, I served a copy of
the within _____ on _____

by service on _____

RAY D. BRIDGES, SHERIFF

By _____ D.S.

REC'D. SHERIFF DEPT.
MOBILE COUNTY, ALA.

APR 13 3 03 PM '66

BY _____

By _____
TAYLOR WILKINS, Sheriff

/ Service on _____

erved a copy of the within _____

on _____ day of _____ 19 _____

ceived _____ day of _____ 1966

By _____
Taylor Wilkins, Sher
Deputy Sher

guilty.

Not found in my county after diligent search and

Returned _____ day of _____ 1966

No. 19069

JUDGE _____ DOCKET

CIVIL DIVISION

CIRCUIT COURT

MOBILE COUNTY

HOWARD GARDNER

VS. } Complaint and Summons

CLYDE PENDERGRAFT

Issued 15th day of April, 1966

Defendant's Address

P.O. Box 99, Daphne, Ala.
or at Scott Paper Co.
Mobile, Alabama

FOREMAN & BROWN

BY: James A. Johnston

Plaintiff's Attorney

THE STATE OF ALABAMA
MOBILE COUNTY



CIRCUIT COURT

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

CLYDE PENDERGRAFT

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,
at the place of holding the same, then and there to answer the complaint of _____

HOWARD GARDNER

WITNESS: John E. Mandeville, Clerk of said Court, this 15th day of April, 1966

Attest: John E. Mandeville
Clerk

SHERIFF'S RETURN

Received _____ day of _____, 19____ and on _____ Day
of _____, 19____, I served a copy of
the within _____ on _____
by service on _____

RAY D. BRIDGES, SHERIFF

By _____ D.S.

No. 19069

JUDGE _____ DOCKET _____

CIVIL DIVISION

CIRCUIT COURT
MOBILE COUNTY

HOWARD GARDNER

VS.

} Complaint and Summons

CLYDE PENDERGRAFT

Shauld B. Pendergrass

Issued 15th day of April, 1966

Defendant's Address

P.O. Box 99, Daphne, Ala.
or at Scott Paper Co.
Mobile, Alabama

FOREMAN & BROWN

BY: James A. Johnston

Plaintiff's Attorney

Copy

HAYES & WILKINS
ATTORNEYS
BAY MINETTE, ALABAMA 36507

Wilson Hayes
Taylor D. Wilkins, Jr.

June 15, 1966

P. O. Box 268
937-5506

Mr. John E. Mandeville
Clerk
Circuit Court
Mobile County
Mobile, Alabama

Dear Mr. Mandeville:

Please file the enclosed Plea In Abatement.

Yours very truly;

Taylor Wilkins, Jr.

TWJr/blr
Encl: 1

#19069-Me

HOWARD GARDNER,

PLAINTIFF

VS

CLYDE PENDERGRASS

DEFENDANT

IN THE CIRCUIT COURT

MOBILE COUNTY, ALABAMA

AT LAW

CASE # 19069 - *MC*

PLEA IN ABATEMENT

COMES NOW DEFENDANT SPECIALLY AND BY HIS ATTORNEY, WILSON HAYES AND ONLY FOR THE PURPOSE OF MAKING THIS, HIS PLEA IN ABATEMENT, AND SAYS:

THAT PLAINTIFF OUGHT NOT TO HAVE AND MAINTAINED HIS SAID ACTION AGAINST DEFENDANT FOR THAT:

1. DEFENDANT RESIDES IN BALDWIN COUNTY, ALABAMA AND MAINTAINS A PERMANENT RESIDENCE IN THE STATE OF ALABAMA IN BALDWIN COUNTY, ALABAMA WHICH IS, TO-WIT: 2316 BALDWIN DRIVE, DAPHNE, ALABAMA, OF WHICH PLAINTIFF HAS FULL KNOWLEDGE.

2. THAT DEFENDANT HAS NEVER AND DOES NOT NOW RESIDE IN MOBILE COUNTY, ALABAMA.

3. THAT DEFENDANT DOES NOW, AND HAS ALWAYS RESIDED IN DAPHNE, BALDWIN COUNTY, ALABAMA.

4. THAT THE ACT OR OMISSION COMPLAINED OF IN PLAINTIFF'S COMPLAINT ACCURED IN BALDWIN COUNTY, ALABAMA AND NOT WITHIN MOBILE COUNTY, ALABAMA.

Clyde Pendergrass

STATE OF ALABAMA
BALDWIN COUNTY

I, WILSON HAYES, A NOTARY PUBLIC IN AND FOR SAID STATE OF ALABAMA AT LARGE, PERSONALLY APPEARED CLYDE PENDERGRASS WHO BEING KNOWN TO ME AND BEING SWORN SAYS THAT HE HAS READ THE FOREGOING PLEA IN ABATEMENT AND THE SAME IS TRUE AND CORRECT.

Clyde Pendergrass

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE 10th DAY OF JUNE, 1966.

Wilson Hayes
NOTARY PUBLIC, STATE OF ALABAMA AT
LARGE

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

JUN 16 9 17 AM '66

John E. Mauderville
CLERK

copy: James A. Johnston

*Re-Filed November 21, 1966.
to complaint as amended.
in ink. John E. Mauderville.
Clerk*

No. 19069

SHERIFF'S RETURN

CIVIL

Circuit Court of Mobile

HOWARD GARDNER

VS.

SUBPOENA FOR
DEFENDANT

CLYDE PENDERGRAFT, etc.

Executed by serving personally when an X is marked opposite their names under Column SP, and by leaving at residence where an X is marked opposite their names under column LR, and witnesses not found where an X is marked opposite their names under column NF.

Ray D. Bridges Sheriff
By J. and Dep. Sheriff

Issued 10th day of NOV. 1966

Set for Trial 21 day of NOV. 1966

COURTROOM #4

WITNESSES: NAMES AND ADDRESSES

SP	LR	NF
X14		

Howard Gardner
c/o James A. Johnston
Attorney at Law
Van Antwerp Building
Mobile, Alabama

REC'D SHERIFF DEPT.
MOBILE COUNTY, ALA.
NOV 10 3 13 PM '66

The Sheriff will make an X under proper column, opposite witness' name indicating service as follows: SP—For Served Personally; LR—For Left at Residence; and NF—For Not Found, and opposite X specify date.

WILSON HAYES

(Attorney for DEFENDANT)

568

The State of Alabama
MOBILE COUNTY

To Any Sheriff of the State, Greetings:

You are hereby commanded to Summon the persons whose names are listed on the back of this original subpoena if to be found in your County, at the instance of the party named on the back of this subpoena to appear before the Circuit Court of Mobile County, at the Court House thereof on the trial date set out on back of this subpoena, then and there to testify the truth to say in the case stated on the back of this original writ.

Herein fail not have you then and there this subpoena.

Witness, John E. Mandeville, Clerk of the Court
aforesaid as per date of issuance shown on back
of this original subpoena.

Attest. John E. Mandeville, Clerk.

MONDAY, NOVEMBER 21, 1966

HOWARD GARDNER)	
McCALL -vs- 19069)	PLEA IN ABATEMENT SUSTAINED, CAUSE
CLYDE PENDERGRAFT, aka)	ORDERED TRANSFERRED TO CIRCUIT COURT
CLYDE PENDERGRASS)	OF BALDWIN COUNTY

This day in open Court came the parties by their attorneys, and defendant's Plea in Abatement filed June 16, 1966, and refiled November 21, 1966, to the complaint as amended in ink 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 June 16, 1966, and refiled November 21, 1966, to the complaint as amended in ink in this cause be, and the same is hereby sustained, and cause ordered transferred to the Circuit Court of Baldwin County, Alabama.

Minute Book 34

Page 493

STATE OF ALABAMA, }
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

as rendered by the said Circuit Court on the 21st day of November, 19 66, in the cause
entitled No. 19069 - HOWARD GARDNER

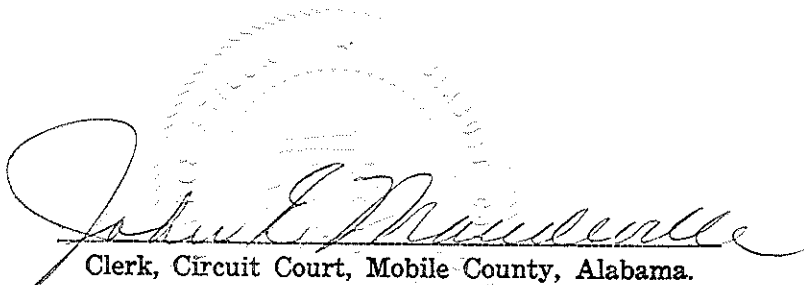
_____, Plaintiff,

— versus — CLYDE PENDERGRAFT, aka CLYDE PENDERGRASS

Defendant, (~~Together with the cancellation thereon~~), as the same remains of record in this office in
Minute Book No. 34, Page No. 493.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office
in the City of Mobile, Alabama, on this the 22nd day of November, 19 66.

ATTEST:


Clerk, Circuit Court, Mobile County, Alabama.

CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY

No. 19669 HOWARD GARDNER Plaintiff
VS.
CLYDE PENDERGRAFT, a/k/a CLYDE PENDERGRASS Defendant

(Act No. 740, Reg. Session Ala. Legislature 1957
Appvd. Sept. 20, 1957)
(Amend Sec. 21, Title 11, Code Ala. 1940)

BILL OF COST

(Act No. 571, Reg. Ses. Leg. 1955)
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

CLERK'S FEES	Pltff.	Deft.	SHERIFF'S FEES	Pltff.	Deft.
Suits for \$100 or less\$ 6.00			Serving Summons & Complaint\$ 1.50	1 50	
Suits for over \$100 but less than \$1,000 10.00	10 00		Serving Writ of Garnishment 1.50		
Suits for \$1,000 and over 20.00			Serving Sci Fa.-Notices 1.50		
Suits in detinue, ejectment, etc. 10.00			Levying Attachment & Return 6.25		
Suits not otherwise provided 10.00			Executing Writ Possession 5.00		
Writs, Mandamus, Prohibition, etc. 15.00			Seizing personal property under Writ of Detinue 6.00		
Appeals from Court General Sessions 15.00			Serving subpoenas, each 175	75	
Appeals from Probate Court 20.00			Impanelling Jury75		
Appeals from JP Courts 6.00			Taking & Approving Bond 2.00		
Appeals from State Dept of Pub. Safety, and other State Agencies 10.00			Collecting Costs Execution 1.50		
Workmen's Compensation Settle. 10.00			Serving Contempt Writ 1.50		
Garnishment on Judgment 6.00			Making Deed for Property sold 2.50		
Order of Sale, Motions to sell. 6.00			Commission, collecting money on executions, 1st \$200 5%; \$200 to \$500 4%; over \$500 3% \$		
Recording executions from State Agencies 3.00					
Cert. Copy of Record - per 100 words15		80			
Taking Appeal Bond75					
Record for Supreme Court etc., per 100 words15					
Add'l Copies of Record for Supreme Court, per 100 words05					
Checking - including Reporters Transcript of Evidence 10.00					
Certifying Abstract in lieu of Transcript on Appeal 5.00					
Collecting Money on Judgments over 30 days old; ½ the per- centage allowed Sheriffs \$					
Total\$	10 00	80			

RECAPITULATION	
Clerk	10 00
Sheriff	2 25
Inferior Civil Court	
Justice Peace fees	
Witness fees	
Commissioner's fees	
Certificate of Judgment	
Judgment	
10% Damages	
Interest	
Stenographer's fees (\$10.00 Day)	
Library fee	1 50
Trial Tax (County)	1 50
Trial Tax (State)	1 50
Advertisement	
Garnishee's fees	
	16.75
	.80
	\$17.55

I respectfully beg to advise that if this bill for costs is not paid before 19....., it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk