

STATE OF ALABAMA

IN THE CIRCUIT COURT - LAW SIDE

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Rufus Clyde Harmon and Thoni's Oil Company, a corporation, 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 same, then and there to answer the Complaint of George W. Pulliam.

Witness my hand this 16 day of July, 1969.

Reice J. Albee
Clerk

GEORGE W. PULLIAM,

X

Plaintiff,

X

IN THE CIRCUIT COURT OF

X

vs.

X

BALDWIN COUNTY, ALABAMA

X

RUFUS CLYDE HARMON
and THONI'S OIL
COMPANY, a Corpora-
tion,

X

AT LAW

X

X

Defendants.

X

8807

COUNT ONE:

The Plaintiff claims of the Defendants the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that heretofore, on, to-wit: the 10th day of December, 1968, at a point on U. S. Highway No. 90 at the entrance to Thoni's Service Station in Baldwin County, Alabama, the Defendant, Rufus Clyde Harmon, who was then and there the agent, servant or employee of

the Defendant, Thoni's Oil Company, a corporation, and at said time and place acting within the line and scope of his authority as such agent, servant or employee, so negligently operated a motor vehicle as to cause or allow the same to be involved in a collision with an automobile then and there\belonging to the Plaintiff and being driven by him and as a proximate result of the negligence of the Defendants as aforesaid, the Plaintiff was personally injured in that his left arm was broken, his left knee-cap was broken, his right cheek bone was broken in three places, one sinus was crushed, his upper palet and gum were broken or cut, his lower lip was cut and an upper denture and some teeth were broken and his left lung was collapsed; the Plaintiff was further made sick, sore and lame and caused to experience much mental pain and suffering; he incurred large medical and hospital bills and expenses and was caused to lose eleven weeks from his employment, all to the damage of the Plaintiff in the sum above mentioned, hence this suit.

COUNT TWO:

The Plaintiff claims of the Defendants the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that heretofore on, to-wit: the 10th day of December, 1968, at a point on U. S. Highway No. 90 at the entrance to Thoni's Service Station in Baldwin County, Alabama, the Defendant, Rufus Clyde Harmon, who was then and there the agent, servant or employee of Thoni's Oil Company, a corporation, and acting within the line and scope of his employment as such agent, servant or employee so wilfully and wantonly operated a motor vehicle as to cause or allow the same to be involved in a collision with an automobile then and there belonging to the Plaintiff and being driven by him and as a direct and proximate result of said wilful and wanton

negligence of the Defendants as aforesaid, the said Defendants did wilfully and wantonly injure the Plaintiff in that his left arm was broken, his left kneecap was broken, his right cheek bone was broken in three places, one sinus was crushed, his upper palet and gum were broken or cut, his lower lip was cut and an upper denture and some teeth were broken and his left lung was collapsed, the Plaintiff was further made sick, sore and lame and caused to experience much mental pain and suffering; he incurred large medical and hospital bills and expenses and was caused to lose eleven weeks from his employment, all to the damage of the Plaintiff in the sum above mentioned, hence this suit.

CHASON, STONE & CHASON

By: John E. Chason
Attorneys for Plaintiff

The Plaintiff respectfully demands
a triäl of this cause by a jury.

CHASON, STONE & CHASON

By: John E. Chason
Attorneys for Plaintiff

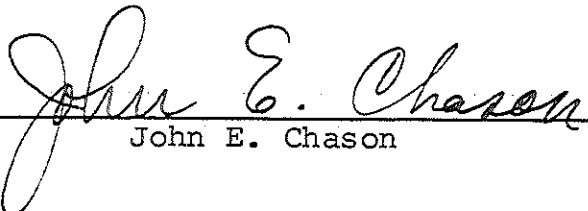
Serve the Defendant, Rufus Clyde Harmon
at Route 2, Box 574, Panama City, Florida
and the Defendant, Thoni's Oil Company
at Panama City, Florida.

STATE OF ALABAMA

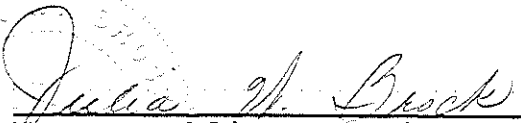
BALDWIN COUNTY

Before me, the undersigned authority, personally appeared John E. Chason, who is known to me and who, after being duly sworn, did depose and say under oath as follows:

That he is one of the attorneys for the Plaintiff, George W. Pulliam, in the above styled cause. That he is informed and believes and upon such information and belief alleges that the Defendant, Rufus Clyde Harmon, is a non-resident of the State of Alabama, residing at Route 2, Box 574, Panama City, Florida, and the Defendant, Thoni's Oil Company, a corporation, is a foreign corporation not qualified to do business in the State of Alabama. That this affidavit is being made for the purpose of securing service of process on the Defendant, Rufus Clyde Harmon, and the Defendant, Thoni's Oil Company, a corporation, under and by virtue of the provisions of Title 7, Section 199 of the Code of Alabama of 1940, as amended.


John E. Chason

Sworn to and subscribed before
me this 16th day of July, 1969.

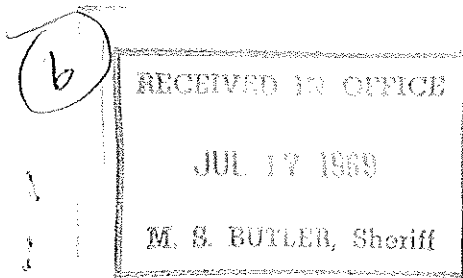

Notary Public, Baldwin County, Alabama.

FILED

JUL 16 1969

ALICE J. DUCK CLERK
REGISTER

3061



Executed by serving 6 copies of
the within on Mable Amos
Secretary of State of The State of
Alabama.

This the 15 day of July 1969.

Sheriff of Montgomery County,

M. S. Butler,

By W. L. Moser D. S.

M. S. Butler, Sheriff of Montgomery
County, Alabama, Claim \$1.50 each for
serving 2 process(es) and \$1.00

travel expense on each of 2
process(es) or a total of \$5.00

W. L. Moser Deputy Sheriff

GEORGE W. PULLIAM,

Plaintiff,

VS.

RUFUS CLYDE HARMON and
THONI'S OIL COMPANY, a
corporation,

Defendants.

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO: 8807

* * * * *

SUMMONS AND COMPLAINT

* * * * *

CHASON, STONE & CHASON
ATTORNEYS AT LAW
P. O. Box 120
BAY MINETTE, ALABAMA

Dependent
Party

We, the Jury, find for the plaintiff and the
amount of \$20,000.00.

Doyle B. Griffith
forman
Sept. 16, 1970

GEORGE W. PULLIAM,	X		
		IN THE CIRCUIT COURT OF	
Plaintiff,	X		
vs.	X		
		BALDWIN COUNTY, ALABAMA	
RUFUS CLYDE HARMON,	X		
et al.,			
	X		
Defendants.	X	AT LAW	NO. 8807

REMITTITUR BY PLAINTIFF

Now comes the Plaintiff in the above styled cause and remits all damages in excess of Eighteen Thousand Five Hundred Sixty-three Dollars and Sixty Cents (\$18,563.60) and hereby consents that the judgment in this case be reduced to Eighteen Thousand Five Hundred Sixty-three Dollars and Sixty Cents (\$18,563.60).

CHASON, STONE & CHASON

By: John Earle Chason
Attorneys for Plaintiff

FILED

OCT 30 1970

ALICE J. DUCK CLERK
REGISTER

GEORGE W. PULLIAM,

Plaintiff,

VS.

RUFUS CLYDE HARMON, ET AL.,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 8807

DEMURRER TO REPLICATION

Now come the defendants, by their attorney, each separately and severally and demur to the replication heretofore filed in this cause and as grounds of such demurrer assign, separately and severally, the following:

1. The facts alleged do not constitute a defense to the defendants's pleas numbered 2, 5 and 6.
2. The allegations of the replication are conclusions of the pleader.
3. The allegations of the replication are conclusions of the pleader and no facts are alleged to show that the defendants' motor vehicle was not lawfully stopped on the said highway at the time and place alleged in the complaint.
4. No facts are alleged to show that defendants' motor vehicle was stopped on the said highway at the time and place alleged in the complaint in violation of any rule of the road.

J. B. Blackburn
Attorney for Defendants

I hereby certify that I have delivered a copy of the foregoing demurrer to replication to the office of John Earle Chason, attorney for plaintiff, in Bay Minette, Alabama, on this 16th day of September, 1970.

J. B. Blackburn
Attorney for Defendants

Filed: September 16, 1970.

Debra J. Madaleno
Judge.

GEORGE W. PULLIAM,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
vs.	X	BALDWIN COUNTY, ALABAMA	
RUFUS CLYDE HARMON, et al.,	X		
Defendants.	X	AT LAW	NO. 8807

The Defendants in the above styled cause having heretofore on the 21st day of October, 1970, argued their motion for a new trial heretofore filed in said cause and after hearing said argument and after considering the grounds set forth in said motion for new trial the Court is of the opinion that grounds 8., 9. and 10. of the amended motion for a new trial are well taken but that none of the other grounds assigned in said amended motion are sufficient and the Plaintiff by and through his attorneys of record having offered a remittance of One Thousand Four Hundred Thirty-six Dollars and Forty Cents (\$1,436.40) against the judgment of Twenty Thousand Dollars (\$20,000.00) heretofore rendered in said cause, said remittance being that amount supported by the testimony in said cause which would be attributable to lost wages on the part of the Plaintiff and the Court being of the opinion that since the offer of remittance has been made that a new trial of this cause should not be granted. It is therefore

ORDERED, ADJUDGED and DECREED that the motion for new trial heretofore made by the Defendants is denied and the Plaintiff's offer of remittance is accepted and the amount of the judgment is therefore reduced to Eighteen Thousand Five Hundred Sixty-three Dollars and Sixty Cents (\$18,563.60) together with costs of Court.

Done this 30th ^{October} ~~November~~, 1970.

Jeffrey J. Massburn
Circuit Judge

GEORGE W. PULLIAM,	Ø	
Plaintiff,	Ø	IN THE CIRCUIT COURT OF
VS.	Ø	BALDWIN COUNTY, ALABAMA
RUFUS CLYDE HARMON, ET AL.,	Ø	AT LAW NO. 8807
Defendants.	Ø	

DEMURRER TO AMENDED COMPLAINT

Now come the defendants, by their attorney, and demur to the amended complaint heretofore filed in this cause and to each and every count thereof, separately and severally, and as grounds of such demurrer assign, separately and severally, the following:

1. It does not state a cause of action.
2. The allegations of the amended complaint are vague, indefinite and uncertain.
3. No facts are alleged to show that the defendants, or either of them, breached any duty owing to the plaintiff.
4. No facts are alleged to show that the defendants, or either of them, owed plaintiff any duty at the time and place of said accident and breached the same, thereby proximately causing him damage or injury.
5. For aught that appears, the defendants owed plaintiff no duty at the time and place of said accident.
6. The averments of negligence are merely the conclusions of the pleader and no facts are alleged in support thereof.
7. No facts are alleged to show how or in what way the defendants, or either of them, were negligent.
8. The allegations of the amended complaint are conclusions of the pleader.
9. The allegations of the amended complaint are conclusions of the pleader and no facts are alleged to show how or in what way the defendants, or either of them, were negligent.

10. No facts are alleged to show that the defendants, or either of them, willfully or wantonly injured the plaintiff.

11. No facts are alleged to show that the defendant, Thoni Oil Magic Benzol Gas Stations, Inc., willfully or wantonly injured the plaintiff.

J. B. Blackless
Attorney for Defendants

I hereby certify that I delivered a copy of the foregoing demurrer to John E. Chason, Esquire, attorney for Plaintiff, on this the 26th day of September, 1970.

J. B. Blackless
Attorney for Defendants

Filed: September 12, 1970,

Jeffrey G. Marshall
Judge

GEORGE W. PULLIAM,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
RUFUS CLYDE HARMON, ET AL.,	X	AT LAW NO. 8807
Defendants.	X	

DEMURRER TO PLEAS

Comes now the Plaintiff in the above styled cause and demurs to the pleas heretofore filed in said cause, separately and severally, and assigns the following separate and several grounds in support thereof:

1. That said pleas fail to set forth a legally sufficient defense to the count or counts of the complaint to which they are directed.
2. Said pleas are vague, indefinite and uncertain.
3. The allegations of said pleas are immaterial.
4. Said pleas complain of conduct on the part of the Plaintiff as to matters not required of the Plaintiff at said time and place.

CHASON, STONE & CHASON

By: John E. Chason
Attorneys for the Plaintiff

FILED

SEP 14 1970

ALICE J. DUCK CLERK
REGISTER

GEORGE W. PULLIAM,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
vs.	X	BALDWIN COUNTY, ALABAMA	
RUFUS CLYDE HARMON, ET AL.,	X	AT LAW	NO. 8807
Defendants.	X		

MOTION TO STRIKE

Comes now the Plaintiff in the above styled cause and files this his Motion to Strike those portions of the Defendants' Pleas, separately and severally, as set out in the body in this his Motion to Strike.

The Plaintiff moves to strike that portion of the Defendants' Pleas designated "2." Wherein the Defendant alleges the following:

"...failed to exercise due care to anticipate the presence of the Defendants' motor vehicle upon the highway and not to run into or against it after he became aware of its presence..."

And for grounds of his motion the Plaintiff assigns the following:

1. That said allegation is irrelevant.
2. That said allegation is of evidential matters and is not a proper factual allegation.
3. That said allegation invades the province of the jury.
4. That said allegation calls for conduct on behalf of the Plaintiff over and above that degree of care required of him by the law.

The Plaintiff moves to strike that portion of the Defendants' Pleas designated "3." Wherein the Defendants allege:

"... failed to anticipate that Defendants' motor vehicle was disabled and stopped on the highway in a lawful manner..."

And for grounds of his motion the Plaintiff assigns the following:

1. That said allegation is irrelevant.
2. That said allegation is of evidential matters and is not a proper factual allegation.
3. That said allegation invades the province of the jury.
4. That said allegation calls for conduct on behalf of the Plaintiff over and above that degree of care required of him by law.

The Plaintiff moves to strike that portion of the Defendants' Pleas designated "6." Wherein the Defendants allege the following:

"...failed to keep a lookout for danger or obstructions while traveling along the public highway at the time of the accident..."

And for grounds of his motion the Plaintiff assigns the following:

1. That said allegation is irrelevant.
2. That said allegation is of evidential matters and is not a proper factual allegation.
3. That said allegation invades the province of the jury.
4. That said allegation calls for conduct on behalf of the Plaintiff over and above that degree of care required of him by law.

The Plaintiff moves to strike that portion of the Defendants' Pleas designated "7." Wherein the Defendants allege the following:

"...negligently failed to equip the motor vehicle which he was then and there driving with seat belts and have them in use at the time of his alleged injuries..."

And for grounds of his motion the Plaintiff assigns the following:

1. That said allegation is irrelevant.
2. That said allegation is of evidential matters and is not a proper factual allegation.
3. That said allegation invades the province of the jury.
4. That said allegation calls for conduct on behalf of the Plaintiff over and above that degree of care required of him by law.

CHASON, STONE & CHASON

By: John E. Chason
Attorneys for the Plaintiff

FILED

SEP 14 1970

ALICE J. DUCK CLERK
REGISTER

George

JOHN W. PULLIAM,

X

Plaintiff,

X

IN THE CIRCUIT COURT OF

vs.

X

BALDWIN COUNTY, ALABAMA

RUFUS CLYDE HARMON,
et al.,

X

X

AT LAW

NO. 8807

Defendants.

X

REPLICATION TO PLEAS

Comes now the Plaintiff by and through his Attorneys of Record and for replication to each plea heretofore filed by the Defendants says:

1. That he joins issue thereon.

2. For special replication to pleas numbered "2.", "5." and "6.", separately and severally, he says separately and severally that said pleas are no defense to this action in that the motor vehicle of the Defendants was a vehicle used in the transportation of inflammable liquids in bulk which was disabled upon a highway outside of a municipality at a time between one-half hour after sunset and one-half hour before sunrise or when there was not sufficient light to render clearly discernible persons or vehicles on the highway at a distance of five hundred feet ahead and the driver of said truck negligently failed to immediately place on the roadway at the traffic side of the vehicle and at a point one hundred feet to the rear of and one hundred feet in front of said vehicle red electric lanterns or other warning devices as prescribed by the law of Alabama, therefore said vehicle was not legally stopped, parked or disabled in said highway at said time and place.

CHASON, STONE & CHASON

9-16-70
Filed 9-16-70
Alice J. Luck
Clerk

By: *John Earle Chason*
Attorneys for Plaintiff

GEORGE W. PULLIAM,	X	
Plaintiff,	X	
	X	IN THE CIRCUIT COURT OF
	X	
vs	X	
	X	BALDWIN COUNTY, ALABAMA
	X	
RUFUS CLYDE HARMON	X	
and THONI'S OIL	X	AT LAW
COMPANY, a corporation,	X	
Defendants.	X	

AMENDMENT

Comes now the Plaintiff in the above styled cause and amends the complaint heretofore filed by him in said cause as follows:

1. The name by which the Defendant oil company is sued is hereby amended so that in each place where the same appears it shall read THONI OIL MAGIC BENZOL GAS STATIONS, INC., a corporation.

CHASON, STONE & CHASON

By: John Earle Chason
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 12 day

of June, 1970
John E. Chason

FILED

JUN 12 1970

ALICE J. DUCK CLERK
REGISTER