

COMMISSION TO TAKE DEPOSITIONS

THE STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT

TO: Dorothy Macreadie,
1407 St. Stephens Road,
Mobile, Alabama

KNOW YE: that we, having full faith in your prudence and competency, have appointed you
Commissioner, and by these presents do authorize you, at such time and place as you may appoint,
to call before you and examine Dr. W. C. Hannon

as witnesses in behalf of Plaintiff in a cause pending in our
Circuit Court in Baldwin County, of said State, wherein Douglas Stewart, A minor by his next friend, Faye Nettles

Plaintiff
Complainant
and Cecil Gebhart, sometimes known as Cecil Gibhart

Defendant
Respondent

on oath, to be by you administered, upon him
to take and certify the deposition of the witness and return the same to our Court, with all
convenient speed, under your hand.

Witness 21st day of December, 1953

Alvin J. Smith
Register.

Commissioner's Fee, \$ 12.50

Witness' Fees, \$ _____

No. _____

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Complainant—

vs.

Defendant—

COMMISSION TO TAKE DEPOSITION

COMMISSIONER

WITNESSES:

DOUGLAS STUART, a minor, by his
next friend, FAYE NETTLES,

Plaintiff,

Vs.

CECIL GIEBHART, sometimes known
as CECIL GIEBHART,

Defendant.

§ IN THE CIRCUIT COURT OF BALDWIN
§
§ COUNTY, ALABAMA.

§
§ AT LAW

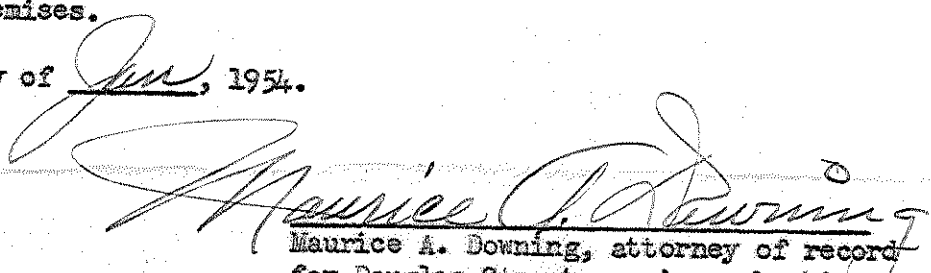
§
§ NO. 1948

Now comes Douglas Stuart, a minor, by his next friend, Faye Nettles, Plaintiff in the above styled cause and in support of her application to perpetuate the testimony of Claude J. Lindsey, a witness in this cause, makes and files this affidavit before the Clerk of this Honorable Court pursuant to the laws and rules governing this procedure and particularly pursuant to Section 499, et seq; of Title 7 of the Code of Alabama 1940, as amended, stating that the applicant, Douglas Stuart, a minor, by his next friend Faye Nettles, is a party to this suit which is pending in this Court; that the testimony of Claude J. Lindsey, who at the time of the filing of this suit was a resident of Baldwin County, Alabama, and who is now residing temporarily at Evergreen, Alabama, and is a member of the Armed Forces of the United States and is at the present time on leave from the Armed Forces, pending his removal to parts unknown outside of the Continental Limits of the United States and the jurisdiction of this Court, is necessary to the prosecution of this suit by the Plaintiff. Plaintiff files with this affidavit interrogatories to be propounded by this applicant to the said witness.

WHEREFORE, applicant prays that the testimony of said witness be taken and perpetuated under the laws and rules governing such cases and that a Commissioner be provided for such purpose and that due notice of the filing of this application and the said interrogatories and of the residence of the said witness and of the Commission to be appointed be given to the opposing party in this proceeding, in the manner required by law, and that a commission accompanied by a copy of any court interrogatories and abutting interrogatories, if propounded, be issued to take the deposition of said witness, and that the said Commissioner take and certify such depositions or interrogatories and return same to this Court in all respects as provided by law.

This affidavit is made by the applicant by and through Maurice A. Downing,
her attorney of record in this cause, who has knowledge of the facts and is
fully authorized in the premises.

Done this, the 8th day of June, 1954.


Maurice A. Downing, attorney of record
for Douglas Stuart, a minor, by his
next friend, Faye Nettles.

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before me, the undersigned authority in and for said State and County, personally
appeared Maurice A. Downing, known by me to be the attorney of record for Douglas
Stuart, a minor, by his next friend, Faye Nettles, the Plaintiff in the above
entitled cause, who, being by me first duly sworn to speak the truth, on oath
deposes and says that the facts stated in the foregoing affidavit are true and
that he executed the same for and on behalf of the Plaintiff.


Maurice A. Downing

Subscribed and sworn to before me on this the

8th day of June, 1954.


NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

DOUGLAS STUART, a minor, by
his next friend, FAYE NETTLES,

Plaintiff,

Vs.

CECIL GEBHART, sometimes known
as CECIL GIEHART,

Defendant.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

AT LAW

NO. 1948

Comes the Plaintiff, Douglas Stuart, a minor, by his next friend Faye Nettles, and for the purpose of perpetuating the testimony of Claude J. Lindsey, a resident of Evergreen, Alabama, a witness in this cause, propounds the following interrogatories to the said witness:

1. What is your name?.
2. What is your address?.
3. What was your address on 18 March 1952?.
4. Are you in the Armed Forces of the United States?.
5. What branch of service are you now in?.
6. Where are you now stationed, if anywhere?.

7. Were you a passenger in an automobile driven by George Gebhart in March 1952, which was involved in an accident in Baldwin County?.

(a) If your answer to the above question is in the affirmative, please state what date said accident occurred.

(b) If your answer is in the affirmative, please state in what direction you were traveling and where said accident occurred.

8. If your answer to question 7 was in the affirmative, please state whether you were injured in said accident.

9. Was George Gebhart driving said automobile at the time of said accident?.

10. How old was George Gebhart, if you know?.

11. Do you know who owned said automobile?.

(a) If you state you do know who owned the automobile, please state the name of the owner.

12. What was the make and model of said automobile?.

13. At the time of said accident, how fast was George Gebhart driving?.

(a) How long had he been driving at said speed?.

14. Who else besides yourself and George Gebhart were passengers in said automobile?.

15. Was Douglas Stuart a passenger in the front seat of said automobile, or was he a passenger in the rear seat?.

16. Please relate exactly what happened at the time of said accident and immediately prior thereto.

17. Was George Gebhart driving said automobile at an excessive rate of speed?

(a) If your answer is in the affirmative, please state what you did to have said speed reduced, if anything.

(b) Did you complain to George Gebhart about the excessive rate of speed?

18. In which direction was said automobile traveling at the time of said accident?

19. How wide is the highway at the point where said accident occurred?

(a) Is there room for more than two lines of traffic?

20. At the time of said accident, was George Gebhart driving on the left or the right of the center line of said highway, facing in the direction in which you were traveling at the time of said accident?

(a) If your answer is that he was on the left side of the center line of said highway, please state whether or not there was any oncoming traffic facing you at the time of said accident.

21. Did the vehicle in which you were riding collide with another vehicle?

22. Did the vehicle in which you were riding and which was driven by George Gebhart, collide with any other object?

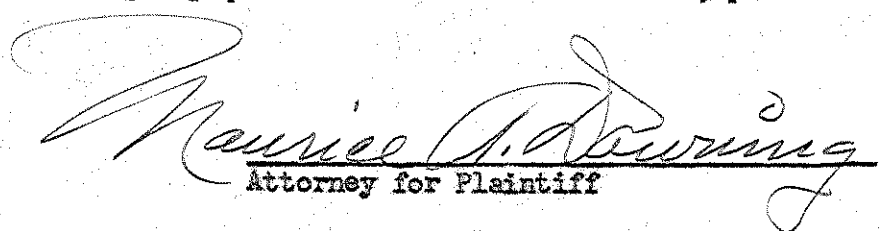
(a) On which side of the road was said object located?

23. Was Jane Rutledge or Betty Jean Evans injured in said accident?

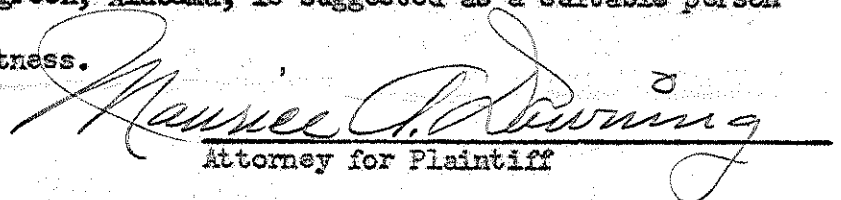
24. Do you know if Douglas Stuart was injured in said accident?

25. Were you present at the time George Gebhart was given permission to use said automobile?

(a) If your answer to the foregoing question is in the affirmative, please state who gave him permission.


Attorney for Plaintiff

The name of Clarence Ward, Evergreen, Alabama, is suggested as a suitable person to take the depositions of this witness.


Attorney for Plaintiff

Report for Director

to make the deposition of this witness.

The name of GEORGE HENRY, last known address, is addressed as a suitable person

and who has been interviewed.

(c) If you answer to the foregoing question in the affirmative, please advise the following:

- 12. Where you present at the time GEORGE HENRY was taken into custody to the
- 13. Do you know the address of the house in which he was residing?
- 14. How long he stayed at that address and when he left?

Answered: advised with my other objects.

15. How did you come to know that he was in the house in which he was residing?

16. How did you come to know that he was in the house in which he was residing?

(a) If you answer to the foregoing question in the affirmative, please advise the following:

17. How did you come to know that he was in the house in which he was residing?

(b) If you answer to the foregoing question in the affirmative, please advise the following:

18. How did you come to know that he was in the house in which he was residing?

(c) If you answer to the foregoing question in the affirmative, please advise the following:

19. How did you come to know that he was in the house in which he was residing?

20. How did you come to know that he was in the house in which he was residing?

21. How did you come to know that he was in the house in which he was residing?

extra copy

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

April 22, 1953

Mrs. Alice J. Duck, Clerk
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith is the original and one copy of the
Answer of the Defendant in the case of Douglas Stuart,
a minor, by his next friend, Faye Nettles -vs- Cecil
Gebhart.

Yours Very Truly,



C. G. Chason

CGC:fm

encls. 2

DOUGLAS STUART, a minor, by his
next Friend Faye Nettles,

Plaintiff

Vs.

CECIL GEBHART, sometimes known
as CECIL GIBHART,

Defendant

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

AT LAW

No. _____

COUNT ONE

Comes Douglas Stuart, a minor by his next friend Faye Nettles, plaintiff in the above styled cause and claims of the defendant, Cecil Gebhart, sometimes known as Cecil Gibhart, defendant, the sum of \$25,000.00, damages for that heretofore and on to-wit: the 18th day of March, 1952, the defendant did negligently permit his son, George Gebhart, sometimes known as George Gibhart, to operate a motor vehicle at or near Elberta, Baldwin County, Alabama, on Highway number 89, knowing that said George Gebhart, sometimes known as George Gibhart, was a reckless driver and was likely to injure someone while operating said motor vehicle and as a proximate consequence of said negligence of the defendant the said George Gebhart, sometimes known as George Gibhart, did wilfully and wantonly injure Douglas Stuart by wilfully and wantonly operating said vehicle at an excessive speed and on the wrong side of the said Highway number 89, a public highway ~~xx~~ or road in the County of Baldwin, State of Alabama, and as a proximate consequence of said wilful and wanton conduct, the said Douglas Stuart, who was a passenger in said vehicle was injured and damaged as follows: fracture of left arm in supracondylar area with a permanent deformity in the region of the left elbow; numerous cuts about the face and body; bruises about the left arm, shoulder, head and left side of his body; he was made sick and sore and was caused to endure both physical and mental pain and anguish; he incurred medical expenses, hospital expenses, doctors' bills in and about the care, treatment and cure of said injuries and drug bills in and about the care and treatment of said injuries, all to his damage in the sum aforesaid, hence this suit

COUNT TWO

The plaintiff claims of the defendant the sum of \$25,000.00 damages for that heretofore and on to-wit: the 18th day of March, 1952, George Gebhart, sometimes known as George Gibhart, while acting in the line and scope of his employment as the agent, servant or employee of the defendant, Cecil Gebhart, sometimes known as Cecil Gibhart, did wilfully and wantonly injure Douglas Stuart by wilfully and wantonly operating a motor vehicle, the property of the defendant, at an excessive rate of speed and on the wrong side of Highway number 89, a public street or highway in Baldwin County, Alabama, at or near Elberta, Alabama and as a proximate consequence

of the wilful and wanton conduct of George Gebhart, sometimes known as George Gibhart, while acting in the line and scope of his employment as the agent, servant, or employee of the defendant, the said Douglas Stuart was injured and damaged as follows: fracture of left arm in supracondylar area with a permanent deformity in the region of the left elbow; numerous cuts about the face and body; bruises about the left arm, shoulder, head and left side of his body; he was made sick and sore and was caused to endure both physical and mental pain and anguish; he incurred medical expenses, hospital expenses, doctors' bills in and about the care and treatment and cure of said injuries and drug bills in and about the care and ~~xxx~~ treatment of said injuries, all to his damage in the sum aforesaid, hence this suit.

Maurice G. Downing & Wm. M. Clarke
Attorneys for the Plaintiff
1100 Van Antwerp Bldg
Mobile, Ala.

The plaintiff demands a trial by jury.
Maurice G. Downing
atty for plaintiff

no 1948

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FILED

Alice L. Buck, Clerk

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SUMMONS AND COMPLAINT

Moore Printing Co.

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 1948

-----TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon CECIL GEBHART, sometimes known as CECIL GIBHART

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 CECIL GEBHART,
sometimes known, as CECIL GIBHART, Defendant.

by DOUGLAS STUART, a minor, by his next Friend Faye Nettles,
Plaintiff.

Witness my hand this 17th day of March 1953.

Alfred Alcock, Clerk

RECORDED

No. 1948

Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

DOUGLAS STUART, a minor, by his
next Friend Faye Nettles,

Plaintiffs

vs.

CECIL GEBHART, sometimes known as

CECIL GIBHART,

Foley Ala.
Defendants

SUMMONS and COMPLAINT

Filed

3-17

1953

Reign, Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

March 17, 1953
Myles & Sullivan, Sheriff

I have executed this summons

this *28th Day of March, 1953*
by leaving a copy with

J. L. Davis
Cecil Gebhart
et al.

Tamara Wilkins, Sheriff
Bellevue Steadman, Deputy Sheriff

DOUGLAS STUART, a minor, by his
next friend Faye Nettles,

Plaintiff,

-VS-

CECIL GEBHART, sometimes known
as CECIL GIBHART,

Defendant.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 1948.

Comes the defendant in the above styled cause and for answer
to the complaint filed therein and each count thereof, separately
and severally, sets out the following separate and several pleas.

PLEA ONE

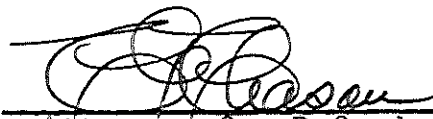
The defendant sayeth he is not guilty.

PLEA TWO

The defendant sayeth that he did not own the motor vehicle
operated by his son, George Gebhart, on, to-wit, March 18, 1952,
and did not negligently permit his son to operate a motor vehicle
on Highway #89 at or near Elberta, in Baldwin County, Alabama, on
that date.

PLEA THREE

The defendant sayeth that George Gebhart was not acting in
the line and scope of any employment as the agent, servant or em-
ployee of the defendant while operating a motor vehicle on High-
way #89 at or near Elberta, in Baldwin County, Alabama, on to-wit,
March 18, 1952.



Attorney for Defendant.

DOUGLAS STUART, a minor, by his
next Friend Faye Nettles,

Plaintiff

Vs.

CECIL GEBHART, sometimes known
as CECIL GIBHART,

Defendant

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

AT LAW

No. 19175

COUNT ONE

Comes Douglas Stuart, a minor by his next friend Faye Nettles, plaintiff in the above styled cause and claims of the defendant, Cecil Gebhart, sometimes known as Cecil Gibhart, defendant, the sum of \$25,000.00, damages for that heretofore and on to-wit: the 18th day of March, 1952, the defendant did negligently permit his son, George Gebhart, sometimes known as George Gibhart, to operate a motor vehicle at or near Elberta, Baldwin County, Alabama, on Highway number 89, knowing that said George Gebhart, sometimes known as George Gibhart, was a reckless driver and was likely to injure someone while operating said motor vehicle and as a proximate consequence of said negligence of the defendant the said George Gebhart, sometimes known as George Gibhart, did wilfully and wantonly injure Douglas Stuart by wilfully and wantonly operating said vehicle at an excessive speed and on the wrong side of the said Highway number 89, a public highway and road in the County of Baldwin, State of Alabama, and as a proximate consequence of said wilful and wanton conduct, the said Douglas Stuart, who was a passenger in said vehicle was injured and damaged as follows: fracture of left arm in supracondylar area with a permanent deformity in the region of the left elbow; numerous cuts about the face and body; bruises about the left arm, shoulder, head and left side of his body; he was made sick and sore and was caused to endure both physical and mental pain and anguish; he incurred medical expenses, hospital expenses, doctors' bills in and about the care, treatment and cure of said injuries and drug bills in and about the care and treatment of said injuries, all to his damage in the sum aforesaid, hence this suit

COUNT TWO

The plaintiff claims of the defendant the sum of \$25,000.00 damages for that heretofore and on to-wit: the 18th day of March, 1952, George Gebhart, sometimes known as George Gibhart, while acting in the line and scope of his employment as the agent, servant or employee of the defendant, Cecil Gebhart, sometimes known as Cecil Gibhart, did wilfully and wantonly injure Douglas Stuart by wilfully and wantonly operating a motor vehicle, the property of the defendant, at an excessive rate of speed and on the wrong side of Highway number 89, a public street or highway in Baldwin County, Alabama, at or near Elberta, Alabama and as a proximate consequence

of the wilful and wanton conduct of George Gebhart, sometimes known as George Gibhart, while acting in the line and scope of his employment as the agent, servant, or employee of the defendant, the said Douglas Stuart was injured and damaged as follows: fracture of left arm in supracondylar area with a permanent deformity in the region of the left elbow; numerous cuts about the face and body; bruises about the left arm, shoulder, head and left side of his body; he was made sick and sore and was caused to endure both physical and mental pain and anguish; he incurred medical expenses, hospital expenses, doctors' bills in and about the care and treatment and cure of said injuries and drug bills in and about the care and treatment of said injuries, all to his damage in the sum aforesaid, hence this suit.

2-1-20

FILED

Maurice A. Downing &
Attorneys for the Plaintiff
Wm M. Clark
1100 Van Antwerp Bldg
Mobile, Ala.

The Plaintiff demands a trial by jury.
Maurice A. Downing

2-1-20

to the willful and wanton conduct of George Robert, sometimes known as George Robert, while acting in the line and scope of his employment as the agent, servant, or employee of the defendant, the said George Robert was injured and damaged as follows: fracture of left arm in supracoracoid area with a permanent deformity in the region of the left elbow; numerous cuts about the face and body; bruises about the left arm, shoulder, head and left side of his body; he was made sick and sore and was caused to endure both physical and mental pain and suffering; he incurred medical expenses, hospital expenses, doctors' bills in and about the care and treatment and cure of said injuries and drug bills in and about the care and treatment of said injuries, all to his damage in the sum aforesaid, hence this

FILED

3-21-38

APR 1 1938

James O. Thompson
Attorney for the Plaintiff

Wm. M. Clark
1100 Van Duseburg Bldg.
Mobile, Ala.

Wm. M. Clark
1100 Van Duseburg Bldg.
Mobile, Ala.

87461 004

DOUGLAS STUART, a minor, by
his next friend, FAYE NETTLES,

Plaintiff,

Vs.

CECIL GEEHART, sometimes known
as CECIL GIEHART,

Defendant.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

AT LAW

NO. 1948

Comes your petitioner, Douglas Stuart, a minor, by his next friend, Faye Nettles, in the above styled cause, and desiring the testimony of Dr. W. C. Hannon, 1407 St. Stephens Road, Mobile, Mobile County, Alabama, propounds the following deposition to Dr. W. C. Hannon, under the provisions of Section 457, Title 7, of the Code of Alabama 1940, the answers to which will be material evidence for the Plaintiff upon the trial of this cause:

1. What is your full name?.
2. What is your business address?.
3. What is your residence address?.
4. What is your trade or profession?.
5. If your answer to the above question is that you belong to the medical profession, please state whether you specialize in any particular branch of said profession, and if so what is your specialty?.
6. If you do belong to the medical profession, are you licensed to practice said profession in the State of Alabama?.
7. How long have you practiced your particular specialty in the medical profession?.
8. Were you in active practice of your specialty during the whole of 1952?.
9. Did you attend Douglas Stuart in 1952?.
10. If you did attend Douglas Stuart in 1952, state on what date or dates you attended Douglas Stuart.
11. If you state you did attend Douglas Stuart in 1952, what was the first date that you attended said Douglas Stuart?.
12. What was your diagnosis of Douglas Stuart?.
13. Did you give Douglas Stuart a physical examination?.

COMMISSION TO TAKE DEPOSITIONS

THE STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT

TO: Dorothy Macreadie,
1407 St. Stephens Road,
Mobile, Alabama

KNOW YE: that we, having full faith in your prudence and competency, have appointed you
Commissioner, and by these presents do authorize you, at such time and place as you may appoint,
to call before you and examine Dr. W. C. Hannon

as witnesses in behalf of Plaintiff in a cause pending in our
Circuit Court in Baldwin County, of said State, wherein
Douglas Stewart, A minor by his next friend, Faye Nettles

Plaintiff
~~Complainant~~

and Cecil Gebhart, sometimes known as Cecil Gibhart

Defendant
~~Respondent~~

on oath, to be by you administered, upon him
to take and certify the deposition of the witness and return the same to our Court, with all
convenient speed, under your hand.

Witness 21st day of December, 1953

Alvin J. Spuck
Register.

Commissioner's Fee, \$ 12⁵⁰

Witness' Fees, \$ _____

RECORDED

ANSWER

DOUGLAS STUART, a minor, by his
next friend, Faye Nettles,

Plaintiff,

- vs -

CECIL GEBHART, sometimes known
as CECIL GIBHART,

Defendant.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 1948.

(())(())(())(())(())(())(())(())(())(())

4-24-53
CECIL G. CHASON

ATTORNEY AT LAW
FOLEY, ALABAMA

STATE OF ALABAMA,
CONECUH COUNTY.

Depositions of Claud J. Lindsey, a witness sworn and examined on behalf of the Plaintiff by virtue of the annexed commission, issued out of the Circuit Court at Law for Baldwin County and State of Alabama, in a cause therein pending, to perpetuate the testimony of the said Claud J. Lindsey wherein Douglas Stuart, a minor by his next friend, Fay Nettles, Plaintiff, vs. Cecil Gebhart, sometimes known as Cicil Gibhart, Defendant, The said Claud J. Lindsey being sworn to speak the truth, the whole truth, and nothing but the truth, doth depose as follows:

To interrogatory 1, he saith.

My name is Claud J. Lindsey.

To interrogatory 2, he saith.

My address is P. O. Box 301, Evergreen, Alabama.

To interrogatory 3, he saith.

My address on March 18, 1952 was Robertsdale, Alabama.

To interrogatory 4, he saith.

I am now in the Armed Forces of the United States of America.

To interrogatory 5, he saith.

I am a member of the Air Force of the United States.

To interrogatory 6, he saith.

I am not stationed at any place. I will report to Parks Air Base, California, on the 9th of February, 1954, and will from there go to foreign service in Korea.

To interrogatory 7, he saith.

I was a passenger in an automobile driven by George Gebhart in March, 1952, which automobile was involved in an accident in Baldwin County, Alabama.

(a) The accident occurred on March 18, 1952.

(b) We were driving West from Pensacola, Florida to Foley, Alabama and said accident occurred just East of the Town of Elberta in Baldwin County, Alabama.

To interrogatory 8, he saith.

I was injured in said accident.

To interrogatory 9, he saith.

George Gebhart was driving the automobile at the time the accident occurred on March 18, 1952.

To interrogatory 10, he saith.

I do not know George Gebhart's exact age but in my judgment and opinion he was about 19 years of age.

To interrogatory 11, he saith.

I do not know of my own knowledge who owned the automobile, but my information is that it belonged to his father.

(a) Cecil Gebhart was the owner of the automobile.

To interrogatory 12, he saith.

The automobile was a 1951 Model Chevrolet.

To interrogatory 13, he saith.

At the time of the accident George Gebhart was driving the automobile about 86 miles per hour.

(a) George Gebhart drove at a speed of about 86 miles per hour from the time we left Pensacola until the accident occurred.

To interrogatory 14, he saith.

Besides George Gebhart and myself the following named were passengers in said automobile at the time of the accident: Douglas Stuart, Jane Jones now Jane Rutledge, Bettie Jean Evans.

To interrogatory 15, he saith.

Douglas Stuart was a passenger in the rear seat of the automobile at the time the accident occurred.

To interrogatory 16, he saith.

As we proceeded along the highway the car which George Gebhart was driving over took another car going West in the same direction as we were, and George Gebhart attempted to pass said car and pulled over to the left side of the road and was in the act of passing the car when as he started down a hill he met another car coming in the opposite direction or going East and he did not have time to pass the car which he was attempting to pass and get back on the right hand side of the road, and to avoid a collision with the car traveling East he pulled his car off the pavement onto the shoulder of the road on the left hand side and struck a concrete post and culvert leading from the highway to a private home.

To interrogatory 17, he saith.

George Gebhart was driving the automobile at an excessive rate of speed at the time of accident.

(a) Prior to the accident I had a number of times asked George Gebhart to slow down as he was driving too fast.

(b) Yes, I did complain to George Gebhart about the excessive rate of speed.

To interrogatory 18, he saith.

The automobile was traveling West upon the Highway near Elberta at the time of accident.

To interrogatory 19, he saith.

I do not know exactly how wide the highway was at the point where the accident occurred, but it was a regular two lane highway.

- (a) No, there is room only on said highway for two lanes of traffic.

To interrogatory 20, he saith.

At the time of the accident George Gebhart was driving on the left of the center line of said highway facing in the direction in which we were traveling at the time of accident.

- (a) Yes, there was oncoming traffic facing us at the time of said accident.

To interrogatory 21, he saith.

No, the automobile in which we were riding did not collide with another vehicle.

To interrogatory 22, he saith.

Yes, the automobile in which we were riding and which was driven by George Gebhart collided with another object that, a concrete post and culvert at the intersections of a private driveway from the highway to a residence.

- (a) The object with which the car collided was on the left hand side of the highway.

To interrogatory 23, he saith.

Yes, Jane Rutledge and Bettie Jean Evans were injured in said accident.

To interrogatory 24, he saith.

Yes, Douglas Stuart was injured in said accident.

To interrogatory 25, he saith.

No, I was not present at the time George Gebhart was given permission to use said automobile.

- (a) I do not know who gave him permission to use said automobile.

Claude J. Lindsey

I, Clarence Ward, the Commissioner named in the annexed Commission, hereby certify that the foregoing evidence, from page 1 to page 3, inclusive, of Claud J. Lindsey, the witness, was taken down by me, as near as may be, in the language of the witness Claud J. Lindsey, and correctly and audibly read over to him and by him subscribed in my presence at Evergreen, Alabama, on the 25th day of January, 1954, at a time and place appointed by me for the taking of said deposition. I further certify that I have personal knowledge of the personal identity of said witness Claud J. Lindsey, and that I am not of counsel or of kin to any of the parties to the cause or in any manner interested in the result thereof.

GIVEN UNDER MY HAND AND SEAL, this 25th day of January, 1954.

Clarence Ward (SEAL)
Commissioner.

FILED
FEB 1 1954
ALICE J. COLE, Clerk

COMMISSION TO TAKE DEPOSITIONS

THE STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT

TO: Clarence Ward,
Evergreen, Alabama

KNOW YE: that we, having full faith in your prudence and competency, have appointed you
Commissioner, and by these presents do authorize you, at such time and place as you may appoint,
to call before you and examine Claude J. Lindsey

as witnesses in behalf of Plaintiff in a cause pending in our
Circuit Court in Baldwin County, of said State, wherein
Douglas Stewart, a minor by his next friend, Faye Nettles

, Complainant
and Cecil Gebhart sometimes known as Cecil Gibhart

Respondent
on oath, to be by you administered, upon him

to take and certify the deposition of the witness and return the same to our Court, with all
convenient speed, under your hand.

Witness 11th day of January, 1954

David J. Smith
Register.

Commissioner's Fee, \$

Witness' Fees, \$

No. _____

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Complainant—

vs.

Defendant—

COMMISSION TO TAKE DEPOSITION

COMMISSIONER

WITNESSES:

DOUGLAS STUART, a minor, by his
next friend, FAYE NETTLES,

Plaintiff,

Vs.

CECIL GEBHART, sometimes known
as CECIL GIEHART,

Defendant.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

AT LAW

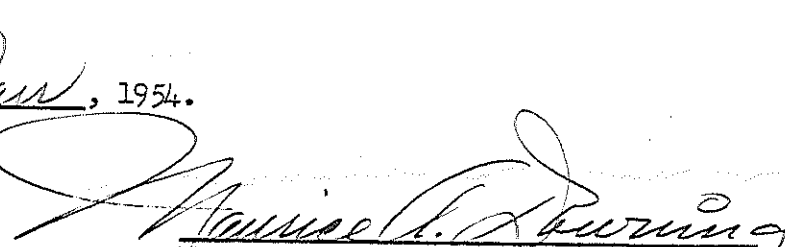
NO. 1948

Now comes Douglas Stuart, a minor, by his next friend, Faye Nettles, Plaintiff in the above styled cause and in support of her application to perpetuate the testimony of Claude J. Lindsey, a witness in this cause, makes and files this affidavit before the Clerk of this Honorable Court pursuant to the laws and rules governing this procedure and particularly pursuant to Section 499, et seq; of Title 7 of the Code of Alabama 1940, as amended, stating that the applicant, Douglas Stuart, a minor, by his next friend Faye Nettles, is a party to this suit which is pending in this Court; that the testimony of Claude J. Lindsey, who at the time of the filing of this suit was a resident of Baldwin County, Alabama, and who is now residing temporarily at Evergreen, Alabama, and is a member of the Armed Forces of the United States and is at the present time on leave from the Armed Forces, pending his removal to parts unknown outside of the Continental limits of the United States and the jurisdiction of this Court, is necessary to the prosecution of this suit by the Plaintiff. Plaintiff files with this affidavit interrogatories to be propounded by this applicant to the said witness.

WHEREFORE, applicant prays that the testimony of said witness be taken and perpetuated under the laws and rules governing such cases and that a Commissioner be provided for such purpose and that due notice of the filing of this application and the said interrogatories and of the residence of the said witness and of the Commissioner to be appointed be given to the opposing party in this proceeding, in the manner required by law, and that a commission accompanied by a copy of any court interrogatories and abutting interrogatories, if propounded, be issued to take the deposition of said witness, and that the said Commissioner take and certify such depositions or interrogatories and return same to this Court in all respects as provided by law.

This affidavit is made by the applicant by and through Maurice A. Downing,
her attorney of record in this cause, who has knowledge of the facts and is
fully authorized in the premises.

Done this, the 8th day of Jan, 1954.


Maurice A. Downing, attorney of record
for Douglas Stuart, a minor, by his
next friend, Faye Nettles.

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before me, the undersigned authority in and for said State and County, personally
appeared Maurice A. Downing, known by me to be the attorney of record for Douglas
Stuart, a minor, by his next friend, Faye Nettles, the Plaintiff in the above
entitled cause, who, being by me first duly sworn to speak the truth, on oath
deposes and says that the facts stated in the foregoing affidavit are true and
that he executed the same for and on behalf of the Plaintiff.


Maurice A. Downing

Subscribed and sworn to before me on this the

8th day of Jan, 1954.


NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

DOUGLAS STUART, a minor, by
his next friend, FAYE NETTLES,

Plaintiff,

Vs.

CECIL GEBHART, sometimes known
as CECIL GIBHART,

Defendant.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

AT LAW

NO. 1948

Comes the Plaintiff, Douglas Stuart, a minor, by his next friend Faye Nettles, and for the purpose of perpetuating the testimony of Claude J. Lindsey, a resident of Evergreen, Alabama, a witness in this cause, propounds the following interrogatories to the said witness:

1. What is your name?.
2. What is your address?.
3. What was your address on 18 March 1952?.
4. Are you in the Armed Forces of the United States?.
5. What branch of service are you now in?.
6. Where are you now stationed, if anywhere?.
7. Were you a passenger in an automobile driven by George Gebhart in March 1952, which was involved in an accident in Baldwin County?
 - (a) If your answer to the above question is in the affirmative, please state what date said accident occurred.
 - (b) If your answer is in the affirmative, please state in what direction you were traveling and where said accident occurred.
8. If your answer to question 7 was in the affirmative, please state whether you were injured in said accident.
9. Was George Gebhart driving said automobile at the time of said accident?.
10. How old was George Gebhart, if you know?.
11. Do you know who owned said automobile?
 - (a) If you state you do know who owned the automobile, please state the name of the owner.
12. What was the make and model of said automobile?.
13. At the time of said accident, how fast was George Gebhart driving?
 - (a) How long had he been driving at said speed?.
14. Who else besides yourself and George Gebhart were passengers in said automobile?.
15. Was Douglas Stuart a passenger in the front seat of said automobile, or was he a passenger in the rear seat?.

16. Please relate exactly what happened at the time of said accident and immediately prior thereto.

17. Was George Gebhart driving said automobile at an excessive rate of speed?

(a) If your answer is in the affirmative, please state what you did to have said speed reduced, if anything.

(b) Did you complain to George Gebhart about the excessive rate of speed?

18. In which direction was said automobile traveling at the time of said accident?

19. How wide is the highway at the point where said accident occurred?

(a) Is there room for more than two lines of traffic?

20. At the time of said accident, was George Gebhart driving on the left or the right of the center line of said highway, facing in the direction in which you were traveling at the time of said accident?

(a) If your answer is that he was on the left side of the center line of said highway, please state whether or not there was any oncoming traffic facing you at the time of said accident.

21. Did the vehicle in which you were riding collide with another vehicle?

22. Did the vehicle in which you were riding and which was driven by George Gebhart, collide with any other object?

(a) On which side of the road was said object located?

23. Was Jane Rutledge or Betty Jean Evans injured in said accident?

24. Do you know if Douglas Stuart was injured in said accident?

25. Were you present at the time George Gebhart was given permission to use said automobile?

(a) If your answer to the foregoing question is in the affirmative, please state who gave him permission.


Attorney for Plaintiff

The name of Clarence Ward, Evergreen, Alabama, is suggested as a suitable person to take the depositions of this witness.


Attorney for Plaintiff

8/26/

FILED
JAN 11 1954
ALICE J. BUCK, Clerk