

CONSTITUTIONAL ISSUES:

1. Are the provisions of Rule 44, A.R.App.P., applicable to this appeal?
2. If so, have the provisions been complied with?

Yes  No  
 Yes  No

**NATURE OF CASE ON APPEAL:** In the left column of boxes preceding the categories listed below, check the box (check only one) that best describes or categorizes the basis of theory of the primary issue on appeal. In the right column of boxes, check any secondary theories that are applicable to the suit. These topics need be checked only if the issues on appeal vary from the information supplied in the same columns on the civil case "cover sheet" filed in the trial court.

<p><b>TORTS - Personal Injury</b></p> <p>A <input type="checkbox"/> Bad Faith</p> <p>B <input checked="" type="checkbox"/> Fraud</p> <p>C <input type="checkbox"/> Legal Malpractice</p> <p>D <input type="checkbox"/> Med. Malpractice</p> <p>E <input type="checkbox"/> Other Malpractice</p> <p>F <input type="checkbox"/> Products/AEMLD</p> <p>G <input type="checkbox"/> Gen. Negligence</p> <p>H <input type="checkbox"/> Vehicular Negligence</p> <p>I <input type="checkbox"/> Other _____</p>	<p><b>TORTS - Property Damage</b></p> <p>J <input type="checkbox"/> Personality</p> <p>K <input type="checkbox"/> Realty</p> <p><b>CONTRACTS</b></p> <p>L <input type="checkbox"/> Commercial</p> <p>M <input type="checkbox"/> Personal</p> <p>N <input type="checkbox"/> Pension</p> <p>O <input type="checkbox"/> Insurance</p> <p>P <input type="checkbox"/> Employment</p> <p>Q <input type="checkbox"/> Other _____</p>	<p>R <input type="checkbox"/> REAL PROPERTY</p> <p>S <input type="checkbox"/> CIV RTS: Prisoner</p> <p>T <input type="checkbox"/> CIV RTS: Other</p> <p>U <input type="checkbox"/> Wills/Trusts/Est.</p> <p>V <input type="checkbox"/> Other _____</p> <p><b>EQUITY/Non-Damages Action</b></p> <p>W <input type="checkbox"/> Declar. Judgment</p> <p>X <input type="checkbox"/> Injunc. Commercial</p> <p>Y <input type="checkbox"/> Injunc. Employment</p>	<p>Z <input type="checkbox"/> Injunc. Other</p> <p>1 <input type="checkbox"/> Extrad. Writ</p> <p>2 <input type="checkbox"/> Other _____</p> <p><b>STATUTES/RULES</b></p> <p>3 <input type="checkbox"/> Pub.Ser.Comm</p> <p>4 <input type="checkbox"/> RR/Seaman(FELA)</p> <p>5 <input type="checkbox"/> RICO</p> <p>6 <input type="checkbox"/> Wrongful Death</p> <p>7 <input type="checkbox"/> Other: _____</p>
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IF THE CASE WENT TO TRIAL, HOW MANY DAYS DID THE TRIAL TAKE? 4 days

BRIEFLY SUMMARIZE THE ISSUE(S) ON APPEAL. THIS INFORMATION IS FOR CASE PROCESSING AND STATISTICAL PURPOSES ONLY.

The trial court erred in overruling the defendants' motions for JNOV, new trial and remittitur. Issues include: (1) the trial court's failure to direct the verdict based on the plaintiff's written acknowledgment of the possibility of the repairs made the basis of the suppression claim; (2) the defendants were under no obligation to disclose the refinishing of the automobile; (3) numerous trial errors concerning the admission, exclusion and commentary on certain evidence; and (4) there is insufficient evidence to support a punitive damages verdict; (5) the punitive damages verdict is excessive under Alabama law and violates the defendants' rights to due process under the Fourteenth Amendment.

WITHOUT ARGUMENT, BRIEFLY SUMMARIZE THE FACTS TO INFORM THE COURT OF THE NATURE OF THE CASE. THIS INFORMATION IS FOR CASE PROCESSING AND STATISTICAL PURPOSES ONLY.

The plaintiff alleged that he was defrauded when he purchased a new BMW automobile which had undergone cosmetic refinishing prior to his purchase of the automobile. The action was submitted to the jury solely on a suppression claim as against the appellants.

**SETTLEMENT CONFERENCE:** The Court may require that this appeal be subject to a moderated settlement conference. Do you think the case on appeal would be appropriate for such a conference?  Yes  No

Explain: \_\_\_\_\_

FLILING DATE OF NOTICE OF APPEAL: \_\_\_\_\_

Date 11/18/92

*Samuel M. Hill*  
 Signature of Attorney/ Party Filing this Form