

IN THE MATTER OF COMPENSATION	)	
FOR INJURY TO CANDELARIO M.	)	
BAEZ,	)	IN THE CIRCUIT COURT OF
	)	
Employee,	)	
	)	BALDWIN COUNTY, ALABAMA
vs.	)	
	)	
SCHERMER PECAN COMPANY,	)	LAW SIDE. NO. 6614.
INCORPORATED, doing business	)	
as Fairala Produce Company,	)	
	)	
Employer.	)	

Comes Schermer Pecan Company, Incorporated, doing business as Fairala Produce Company, by and through its Attorneys of Record, and for answer to the complaint therein, says:

1. That it admits that on June 3, 1963, that the relationship of employer and employee existed between the Defendant corporation and the Plaintiff and that the Defendant and the Plaintiff was subject to compensation laws of the State of Alabama.

2. That it admits that on June 3, 1963, that the Plaintiff was injured as a result of an accident.

3. Defendant neither admits nor denies that at the time of said accident Plaintiff was acting within the line and scope of his employment and that said accident arose out of and in the course of said employment, Defendant not having any immediate knowledge of said facts other than Plaintiff's allegations.

4. Defendant admits that it had notice of the accident and that it has paid all hospital and doctors bills, being in the total sum of \$1,531.45, and the Defendant further shows unto this Honorable Court that it has paid the following as temporary disability:

(a) Draft for temporary benefits, term 6/4/63 to 7/16/63, No. MY-6268, in the amount of \$195.00;

(b) Draft dated December 20, 1963, for temporary benefits, term 7/16/63 to 12/3/63, in the amount of \$650.00;

(c) Draft dated March 3, 1964, for temporary benefits, term 12/3/63 to 2/11/64, in the amount of \$325.00;

(d) Draft dated September 25, 1964, for term from 2/11/64 to 9/29/64, in the amount of \$1,072.50;

(e) Draft dated October 29, 1964, for term from 9/29/64 to 10/27/64, in the amount of \$133.00;

That the total amounts paid by the Defendant to the Plaintiff is the sum of \$2,372.50; that the Defendant agrees that the sum of \$2,877.50 is further owed in this matter, based upon the temporary benefits which have been paid allowing a ten percent (10%) permanent disability on behalf of the Plaintiff as set forth in the medical report prepared by Dr. Kenneth Peacock, West Palm Beach, Florida.

WHEREFORE, the Defendant says that upon the payment of the additional sum that the Plaintiff is not entitled to maintain or prosecute this action under the Workmen's Compensation Act of the State of Alabama and that upon payment of said sum, Plaintiff has recovered all that he is entitled to under the provisions of said Act.

CHASON, STONE AND CHASON

By: *John Chason*

STATE OF ALABAMA     )  
                                  (  
BALDWIN COUNTY     )

Before me, the undersigned authority within and for said State and County, personally appeared John Chason, who is known to me and who first being duly sworn, deposes and says that he is one of the Attorneys of Record for the Defendant, and that the facts set forth in the foregoing are true and correct.

*John Chason*

Sworn to and subscribed before  
me on this the 17<sup>th</sup> day of June, 1966.

*Edna R. Godwin*

Notary Public, Baldwin County, Alabama.

FILED

JUN 17 1966

ALICE L. DICK, CLERK  
REGISTERED

IN THE MATTER OF COMPENSATION )  
FOR INJURY TO CANDELARIO M. )  
BAEZ, )

Employee, )

vs. )

SCHERMER PECAN COMPANY, )  
INCORPORATED, doing business )  
as Fairala Produce Company, )

Employer. )

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE.

6614

TO THE HONORABLE TELFAIR J. MASHBURN, JUDGE OF THE CIRCUIT COURT  
OF BALDWIN COUNTY, ALABAMA:

Your Petitioner, Candelario M. Baez, respectfully shows  
unto this Court and unto your Honor as follows:

1. That he was, on June 3, 1963, residing in Baldwin  
County, Alabama, and was a workman employed by Schermer Pecan  
Company, Incorporated, doing business as Fairala Produce Company,  
which corporation is an Alabama Corporation, with its principal  
place of business at Fairhope, Baldwin County, Alabama.

2. That on June 3, 1963, while working at Summerdale,  
Alabama, in the employment of the said Schermer Pecan Company,  
Incorporated, doing business as Fairala Produce Company, and while  
unloading potatoes from a truck onto a grader, your Petitioner's  
left foot slipped and he lost his balance and your Petitioner fell  
and ruptured a disc in his back; that he has been totally disabled  
~~AS A RESULT OF~~  
~~SINCE~~ said injury, and is now so disabled. Petitioner further  
alleges that his said injuries arose out of and on account of his  
employment by the said Schermer Pecan Company, Incorporated, doing  
business as Fairala Produce Company, which said Company was sub-  
ject to the Workmen's Compensation Act of Alabama at the time of  
said accident and that the Royal-Globe Insurance Group was the in-  
surance carrier for the said employer at the time of the accident.

3. Your Petitioner alleges that the Defendant, Schermer  
Pecan Company, Incorporated, doing business as Fairala Produce  
Company, had prompt and immediate notice of the said accident and

that said employer, or its insurer, the Royal-Globe Insurance Group, paid to the said Petitioner, the following sums for the following purposes:

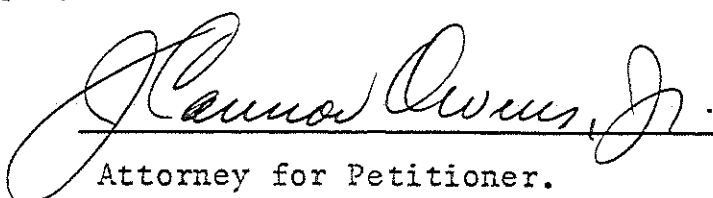
- (a) Draft dated December 20, 1963, for temporary benefits, term 7/16/63 to 12/3/63, in the amount of \$650.00;
- (b) Draft dated March 3, 1964, for temporary benefits from 12/3/63 to 2/11/64, in the amount of \$325.00;
- (c) Draft dated September 25, 1964, for term from 2/11/64 to 9/29/64, in the amount of \$1,072.50;
- (d) Draft dated October 29, 1964, for term from 9/29/64 to 10/27/64, in the amount of \$133.00;

Since October 29, 1964, your Petitioner has not received any benefits under said Workmen's Compensation Act, said payments having been stopped. Petitioner alleges that total medical payments in the sum of \$1,531.45 have been paid.

4. Your Petitioner further alleges that he is married and has nine children; that he has no formal training or education and has been a farm laborer all of his adult life; your Petitioner further alleges that he has limited ability to understand English and reads and writes in the Spanish language only; Petitioner further alleges that because of said injuries hereinabove referred to that he is unable to perform any farm labor duties and is unemployable because of such injuries.

5. Your said Petitioner does not know what weekly wage that he was drawing at the time of his employment but alleges that the said employer has been paying temporary benefits at the rate of \$35.00 per week.

WHEREFORE, your Petitioner prays that your Honor will take jurisdiction of this cause, his petition for Workmen's Compensation, and will set the same for a hearing, giving due and proper notice thereof to the said Schermer Pecan Company, Incorporated, doing business as Fairala Produce Company, and will set the same for a hearing and upon such hearing, will determine that he is entitled to total disability payments of \$38.00 for 300 weeks, and your Petitioner will ever pray.

  
Attorney for Petitioner.

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me, the undersigned Notary Public, in and for said State and County, personally appeared Candelario M. Baez, who is known to me and who being first duly sworn, deposes on oath and says as follows: That he has had read to him the foregoing petition and the statements made therein are true and correct and that he knows of his own knowledge that they are true and correct.

Candelario M. Baez  
Candelario M. Baez.

Sworn to and subscribed before me  
on this the 15<sup>th</sup> day of July, 1965.

Margaret G. Valentines

Notary Public, Palm Beach County, Florida

My commission expires: .....

(Affix seal)

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES JAN. 7, 1968  
BONDED THROUGH FRED W. DIESTELHORST

FILED

JUL 26 1965

MADE A BOOK, REGISTRY

July 15, 1965.

State of Florida  
County of Palm Beach

I, CANDELARIO BAEZ, have had the foregoing Complaint in the Circuit Court of Baldwin County, Alabama, in which I am the Employee and the Schermer Pecan Company is the Employer and wherein Mr. J. Connor Owens, Jr. is to appear as my Attorney in Alabama, translated from English to Spanish and read to me and I understand it and am aware of its contents and purposes.

Candelario Baez  
Candelario Baez

Witnesses:

Margarita Baez

Margaret D. Valenzuela

STATE OF ALABAMA

BALDWIN COUNTY

TO THE HONORABLE TELFAIR J. MASHBURN, JUDGE OF THE CIRCUIT COURT  
OF BALDWIN COUNTY, ALABAMA:

Now comes Candelario M. Baez, and shows unto your Honor that he is an employee as defined by the Workmen's Compensation Laws of the State of Alabama, and that his employer was Schermer Pecan Company, Incorporated, doing business as Fairala Produce Company, and that he has suffered an injury while acting within the line and scope of his employment; that he has been unable to reach settlement with his employer and that he prays for permission to secure the services of an attorney to represent him in said matter. He request permission of the Court to secure the services of J. Connor Owens, Jr., an Attorney at Law, Bay Minette, Alabama, as his attorney in the premises.

Candelario Baez

ORDER:

The foregoing having been submitted, and the Court being of the opinion that the said permission should be granted, the said Candelario M. Baez is hereby permitted and authorized to employ J. Connor Owens, Jr., an Attorney at Law, to represent him in a claim for injuries arising out of an accident sustained in the line of course of his employment while employed by Schermer Pecan Company, Incorporated, doing business as Fairala Produce Company.

DATED at Bay Minette, this 26<sup>th</sup> day of July, 1965.

Telfair J. Mashburn  
Judge.

FILED  
JUL 26 1965  
ALICE I. DUCK, CLERK  
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA  
BALDWIN COUNTY

Circuit Court, Baldwin County

No.....

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon SCHERMER PECAN COMPANY, INCORPORATED  
doing business as Fairala Produce Company, Fairhope, Alabama

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.....

Schermer Pecan Company, Incorporated, doing business as, Defendant.....  
Fairala Produce Company,

by CANDELARIO M. BAEZ

..... Plaintiff.....

Witness my hand this 26th day of July 19 65

EX-729-65

Alice J. Duck, Clerk



No. 6614

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

IN THE MATTER OF COMPENSATION FOR  
INJURY TO CANDELARIO M. BAEZ

Plaintiffs

vs.

~~SCHERMER PECAN COMPANY, INC., d/b/a~~  
Fairala Produce Co.

Defendants

SUMMONS AND COMPLAINT

Filed July 26th 19 65

Alice J. Duck Clerk

J. Connor Owens, Jr.

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED

Received In Office

JUL 26 1965

TAYLOR WILKINS

SHERIFF

Sheriff

I have executed this summons

this July 29 19 65

by leaving a copy with

Schermmer Pecan  
Co. By service  
on:  
Mr Schermmer  
(Owner)

Sheriff's claims 70

Penalty per mile 7.00

By D. Randall  
Deputy Sheriff

Taylor Wilkins

Sheriff

Roy Randall

Deputy Sheriff

E. Lope

IN THE MATTER OF COMPENSATION )  
FOR INJURY TO CANDELARIO M. )  
BAEZ, )

Employee, )

vs. )

SCHERMER PECAN COMPANY, )  
INCORPORATED, doing business )  
as Fairala Produce Company, )

Employer. )

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE. NO. 6614.

DECREE:

This day came the parties by their Attorneys, and issue having been joined between the parties and after hearing the evidence, the Court being of the opinion, it is considered and ordered by the Court, and it is the final judgment in this matter by the Court, that compensation be, and the same is hereby awarded to the petitioner in the total sum of FIVE THOUSAND TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$5,250.00);

It is further determined by the Court that the Defendant has paid to the Plaintiff as compensation, the sum of \$2,372.50, and is entitled to credit therefor, leaving a balance due of \$2,877.50 as compensation in this cause, and it is therefore considered, ordered and adjudged by the Court that the Plaintiff have and recover of the Defendant the sum of \$2,877.50, in one lump-sum, together with costs in this cause, upon the payment of which the Defendant shall be discharged of liability in this cause.

It is further Ordered, Adjudged and Decreed, and it is the judgment of this Court that an Attorney's fee of \$787.50 be awarded in this cause.

DATED at Bay Minette, Alabama, this 17<sup>th</sup> day of June, 1966.

J. Fair J. Madaleno  
Judge.

IN THE MATTER OF COMPENSATION X  
FOR INJURY TO CANDELARIO M. X  
BAEZ, X

Employee, X

vs. X

SCHERMER PECAN COMPANY, X  
INCORPORATED, doing business X  
as Fairala Produce Company, X

Employer. X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE.

6614

Comes the Employer in the above styled cause and demurs to the complaint filed in said cause and each and every paragraph thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said complaint does not state any claim against the employer.
2. The allegation in paragraph two of the complaint that the employee has been totally disabled since his injury fails to allege that he has been totally disabled as a result of such injury.
3. Paragraph four of the complaint alleges that the employee has been unable to perform any farm labor duties and is unemployable because of such injuries but does not allege that he cannot perform services of other nature.
4. That said complaint fails to allege the amount employee was earning each week immediately prior to his injury.
5. That said complaint affirmatively shows that employee does not know how much weekly wages he was receiving immediately prior to his injury and alleges that the employer paid temporary benefits of \$35.00 per week, yet, the complaint seeks payment of \$38.00 per week for three hundred weeks.
6. That said complaint seeks damages of payment of wages without making allowance for the temporary payments which were made to him by the employer.

FILED

AUG 19 1965

ALICE L. DUCK, CLERK  
REGISTER

*Chasen, Stone & Grason*  
Attorneys for Employer

6614  
DEMURRER

\* \* \* \* \*

IN THE MATTER OF COMPENSATION  
FOR INJURY TO CANDELARIO M.  
BAEZ,

Employee,

vs.

SCHERMER PECAN COMPANY,  
INCORPORATED, doing business  
as Fairala Produce Company,

Employer.

\* \* \* \* \*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

LAW SIDE.

\* \* \* \* \*

FILED  
AUG 19 1965  
ALICE I. DUCK, CLERK  
REGISTER