

JOHN F. PIMPERL,	X	
Plaintiff,	X	
vs.	X	IN THE CIRCUIT COURT OF
LOUISVILLE and NASHVILLE RAILROAD	X	
COMPANY, a corporation and JOHN		
DOE, RICHARD DOE, JOHN ROE and	X	BALDWIN COUNTY, ALABAMA
RICHARD ROE, whose names are to		
your Plaintiff otherwise unknown,	X	
as members of a train crew, of		
said LOUISVILLE and NASHVILLE	X	
RAILROAD COMPANY,		
Defendants.	X	
	X	

6438

ANSWERS TO INTERROGATORIES

The undersigned Louisville & Nashville Railroad Company, a corporation, as one of the Defendants in the above styled cause, now makes answer under oath to the interrogatories propounded to it by the Plaintiff in said cause, viz:

1. Yes.
2. Louisville & Nashville Railroad Company.
3. Yes.
4. W. T. Dudley, Superintendent, Mobile, Alabama.
5. Yes.
6. No. 44, W. W. Cushing, Engineer, 2416 N. 15th Avenue Pensacola, Florida; Roscoe Smith, Conductor, Hickory Shores, Gulf Breeze, Florida; C. E. Grace, Brakeman, 708 Payton Drive, Pensacola, Florida; G. C. Arrant, Flagman, 7708 Shaw Street, Pensacola, Florida, and W. E. Gordon, Fireman, 9400 Palmetto Lane, Shreveport Louisiana.
7. No.
8. No.
9. Yes.
10. March 30th, No. 41.

11. Diesel.
12. Diesel, approximately 6:30 P. M., March 30, 1964.
13. No. 44.
14. No.
15. Answered in No. 14.
16. Yes, W. K. Walker, Track Supervisor.
17. See copy attached.

LOUISVILLE & NASHVILLE RAILROAD COMPANY,
a corporation,

By: L. M. Coker

Sworn to and subscribed before me this

2nd day of November, 1965.

Act L. Roberts
Notary Public, Columbia County,
of Florida.

LOUISVILLE & NASHVILLE RAILROAD COMPANY

Copy 89-4

REPORT OF FIRE

SECTION FOREMEN ARE REQUIRED TO INSPECT ALL PROPERTY DAMAGED BY FIRE SET OUT BY ENGINES OR ROAD DEPARTMENT CREWS, AND MAKE REPLY TO THE FOLLOWING QUESTIONS, SENDING THIS REPORT TO THE SUPERVISOR, WHO WILL FORWARD IT TO THE DIVISION ENGINEER.

(1) REPORT OF FIRE OCCURRING ON LAND OF Penbrow
(NAME OF OWNER, WHITE OR COLORED)
ON March 29, 1968, AT
(ROUTE NO., POST OFFICE, STATE) (MONTH, DAY, YEAR)
2 M., BETWEEN MILE POSTS 631 AND 632, m + m DIVISION
(HOUR)
ON East SIDE OF TRACK.
(EAST OR WEST)

(2) DESCRIPTION OF PROPERTY:

IF FIELD, HOW MANY ACRES WERE BURNED OVER? _____ WHAT DID IT CONTAIN? _____

IF WHEAT, WHEN WAS IT SOWN? _____ TO WHAT KIND OF CROP? _____

IF PASTURE, WHAT KIND? _____

IF HAY OR STRAW, WHAT KIND? _____ HOW MANY TONS? _____

IF WOODS, HOW MANY ACRES BURNED OVER? 100 HOW MANY TREES WERE DESTROYED? _____

WHAT KIND AND SIZE? _____

HOW MANY TREES WERE DAMAGED? 500 WHAT KIND AND SIZE? _____

Small Pine

IF FENCE, WHAT KIND? _____ ABOUT HOW OLD? _____

TOTAL LENGTH DAMAGED OR DESTROYED _____ NUMBER OF POSTS _____

IF OTHER PROPERTY, DESCRIBE FULLY _____

(3) CIRCUMSTANCES. WHAT CAUSED THE FIRE? Do not know

IF SPARKS FROM ENGINE, GIVE TRAIN NO. _____ DID FIRE COMMENCE ON OR OFF THE RIGHT-OF-WAY? Do not know DISTANCE FROM CENTER OF TRACK TO POINT WHERE FIRE STARTED ?

WERE THERE ANY DRY GRASS, WEEDS, PAPER, TIES, WOOD, ETC., ON RIGHT-OF WAY AT TIME OF FIRE?

IF SO, DID ANY OF IT BURN? yes FROM WHAT DIRECTION WAS THE WIND BLOWING? North

WHO WAS FIRST TO DISCOVER THE FIRE? _____

(4) VALUATION. IN WHAT AMOUNT DOES OWNER CLAIM PROPERTY WAS DAMAGED \$ _____

IN WHAT AMOUNT DO YOU THINK IT WAS DAMAGED? \$ 2 IF DAMAGE WAS APPRAISED BY

OTHERS, WHAT IS THEIR ESTIMATE \$ _____ NAMES AND ADDRESSES OF APPRAISERS _____

(5) WITNESSES. NAMES AND ADDRESSES OF PERSONS, OTHER THAN OWNER, WHO KNOW THE FACTS _____

(6) OTHER INFORMATION. STATE FULLY ANY OTHER FACTS I was called at 5 am on the 30th to this fire

I CERTIFY THAT THE FOREGOING ANSWERS ARE CORRECT:

DATE 4-4-1968

FOREMAN,
SECTION NO. 5 m + m DIVISION
APPROVED:

W. K. Walker
SUPERVISOR
W. B. Baker
DIVISION ENGINEER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

Circuit Court, Baldwin County

STATE OF ALABAMA
BALDWIN COUNTY

No.....

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Louisville & Nashville railroad co.,
a corporation, and John Doe, Richard Doe, John Roe and
Richard Roe, whose names are to your plaintiff otherwise unknown
as members of a train crew

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 Louisville &
Nashville Railroad Co., a corp., and John Doe, Richard Doe, John Roe
& Richard Roe, whose names are to your plaintiff otherwise
unknown as members of a train crew, Defendant.....

by John F. Fingerl

Plaintiff.....

Witness my hand this 15 day of March 1945

Clerk

No..... Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

Plaintiffs

vs.

Defendants

SUMMONS AND COMPLAINT

Filed 19.....

MAR 15 1965

Clerk

ALICE J. DUCK, CLERK
REGISTERED

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

..... 19.....

....., Sheriff

I have executed this summons

this 19.....

by leaving a copy with

..... Sheriff

..... Deputy Sheriff

JOHN P. FIMPERL

Plaintiff

vs

LOUISVILLE & NASHVILLE RAILROAD
COMPANY, a corporation and
JOHN DOE, RICHARD DOE, JOHN
ROE and RICHARD ROE, whose
names are to your plaintiff
otherwise unknown, as members of
a train crew
Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

-1-

Plaintiff claims of the defendants the sum of Three
Thousand Dollars (\$3,000.00) as damages for that heretofore
on to-wit, the 29th day of March, 1964, the defendant negli-
gently set fire to and damaged and/or destroyed, to-wit, 75
acres of timber located on the lands of the plaintiff of
the value, to-wit Three Thousand Dollars (\$3,000.00) to
plaintiff's great damage as aforesaid.

-2-

The plaintiff claims of the defendants the further sum of
Three Thousand Dollars (\$3,000.00) for that heretofore on to-
wit, the 29th day of March, 1964, the defendant by the negli-
gence of his agents, servants or employees who were then and
there engaged in the operation of a train of cars and an engine
upon defendant's railway track in Baldwin County, Alabama,
negligently set fire to grass, debris or other inflammable
substance located and situate on the right of way of said
defendant and negligently allowed said fire to burn and cross
on to the lands of said plaintiff burning over seventy-five
acres of the said lands and burning, damaging and destroying
timber of said plaintiff of the value of to-wit, Three thousand
Dollars (\$3,000.00).

-3-

The plaintiff claims of the defendants the further sum of
Ten Thousand Dollars (\$10,000.00) as damages for that heretofore
on to-wit, the 29th day of March, 1964, the defendant by the
wilful and wanton actions of the said agents, servants or
employees of said defendants who were then and there engaged in

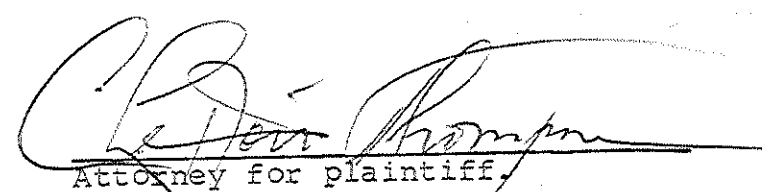
the operation of a train of cars and an engine upon defendant's railway track in Baldwin County, Alabama, between the city of Bay Minette and the railroad station and Community of Perdido, Alabama, wilfully and wantonly threw from said train certain burning substances which were inflammable and which set fire to grass or debris situate on the right of way of said defendant and said defendant, its agents, servants or employees then and there operating said train, wilfully and wantonly allowed the fire so set to burn and proceed on to the lands of said plaintiff and across said lands of said plaintiff damaging or destroying the timber of said plaintiff situate thereon of the value of to-wit, Ten thousand Dollars (\$10,000.00).

THOMPSON & WHITE

BY: 

Attorney for plaintiff.

Plaintiff respectfully demands trial by jury.


Attorney for plaintiff.

FILED
MAR 15 1933
ALICE I. DICK, CLERK
REGISTER

JOHN F. FIMPHAL

Plaintiff

vs

LOUISVILLE & NASHVILLE RAILROAD

COMPANY, a corporation, and

JOHN DOE, RICHARD DOE, JOHN

ROE and RICHARD ROE, whose

names are to your plaintiff

otherwise unknown, as members of

a train crew

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

Comes the plaintiff in the above styled cause and propounds the following interrogatories to the train master, Montgomery and New Orleans Division of the L & N Railroad Company, a corporation, defendant in said cause:

1. Are you the train master of the defendant corporation for the above named division?
2. State your name.
3. Were you employed in such capacity on March 29, 1964?
4. Do you have official records of the L & N Railroad in your possession for the last ten days in March, 1964?
5. If your answer is "no", give the name and address and official capacity of the official who has such official information for said corporation in his possession.
6. If your answer is "yes", did you have a train operating over your tracks in Baldwin County at a point about nine miles north of Bay Minette at approximately 11:30 A.M. on said date.
7. If so, state the number of said train or other specific identification available to you. Having determined the number of said train, give the names and addresses of the train crew employed by the L & N Railroad Company, defendant in this cause and the classification of each, such as engineer, conductor, etc.
8. State, if you know, whether a report was made by any member of the train crew concerning a fire on or about the railroad right of way and the date said report was furnished to your office, if such was made.
9. Give the date and number of the train on which said train crew returned to Mobile on.

10. State the kind and type of locomotive or locomotives which pulled the said train traveling North about 11:30 A.M. nine miles North or east of Bay Minette on March 29, 1964.

11. Give the kind or type of engine utilized by the said crew returning to Mobile together with the date and time of said return past a point along the L & M Railroad nine miles North of Bay Minette.

12. State the number or identification of the first train passing that certain point nine miles North or East of Bay Minette on defendant's railroad passing in either direction that point and the direction in which said train was traveling.

13. State whether or not a report made by the train crew on the said train or any subsequent train within twelve hours of 11:30 A.M. on March 29, 1964, reported a fire on or adjacent to the L & M right of way between Bay Minette and Perdido at or about a point nine miles North of Bay Minette.

14. If any report was made concerning said fire, attach a copy of said report and identify the train man making said report.

15. State whether or not there is available to you a report of the maintenance division servicing the area between Bay Minette and Perdido at a point approximately nine miles North or East of Bay Minette on said defendant's right of way and if such report is not available to you, give the name and official capacity of the person having such reports under his directions or control.

16. If said report is available to you, attach a copy of a report made by an employee of the said maintenance department concerning a fire on or adjacent to the right of way of the said defendant at a point about nine miles North or East of Bay Minette which fire was burning from 11:30 A.M. on March 29, 1964, and during the twenty-four hours following.

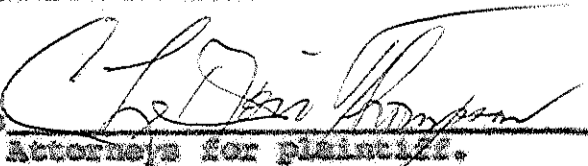
FILED

MAY 15 1964

ALICE L. MOORE

CLERK
REGISTRY

THOMPSON & WHITE

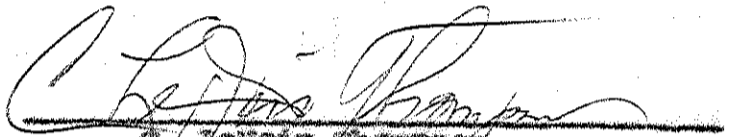

Attorneys for plaintiff.

STATE OF ALABAMA

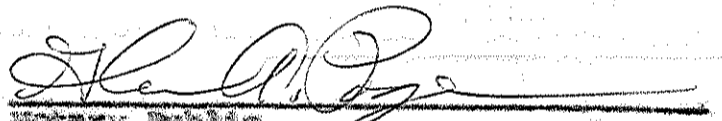
BALDWIN COUNTY

Before me, the undersigned Notary Public, in and for said State and County, personally appeared C. Lenoir Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. Lenoir Thompson and I am one of the Attorneys of Record for the plaintiff in the above entitled cause, and as such, I am authorized to make this affidavit. I further state that the answer of the train master, Montgomery and New Orleans Division of the L & N Railroad Company, a corporation to the foregoing interrogatories will, if truthfully made, be material evidence for the plaintiff on the trial of said cause.


C. Lenoir Thompson

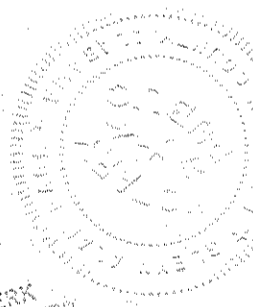
Subscribed and sworn to before me by the said C. Lenoir Thompson on this the 12th day of March, 1968.


Notary Public

FILED

MAR 15 1968

ALICE I. DUCK, CLERK
REGISTER



SUM

MONS 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 Louisville & Nashville Railroad Co.,
a corporation, and John Doe, Richard Doe, John Roe and
Richard Roe, whose names are to your plaintiff otherwise unknown
as members of a train crew

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 Louisville &
Nashville Railroad Co., a corp., and John Doe, Richard Doe, John Roe
& Richard Roe, whose names are to your plaintiff otherwise
unknown as members of a train crew, Defendant.....

by John F. Pingerl

Plaintiff.....

Witness my hand this 15 day of March 1965

Chief Clerk, Clerk

JOHN F. PIMPERL	I	
Plaintiff	I	
vs	I	IN THE CIRCUIT COURT OF
LOUISVILLE & NASHVILLE RAILROAD	I	
COMPANY, a corporation and	I	BALDWIN COUNTY, ALABAMA
JOHN DOE, RICHARD DOE, JOHN	I	
DOE and RICHARD DOE, whose	I	
names are to your plaintiff	I	
otherwise unknown, as members of	I	
a train crew	I	
Defendants	I	

-1-

Plaintiff claims of the defendants the sum of Three Thousand Dollars (\$3,000.00) as damages for that heretofore on to-wit, the 29th day of March, 1964, the defendant negligently set fire to and damaged and/or destroyed, to-wit, 75 acres of timber located on the lands of the plaintiff of the value, to-wit: Three Thousand Dollars (\$3,000.00) to plaintiff's great damage as aforesaid.

-2-

The plaintiff claims of the defendants the further sum of Three Thousand Dollars (\$3,000.00) for that heretofore on to-wit, the 29th day of March, 1964, the defendant by the negligence of his agents, servants or employees who were then and there engaged in the operation of a train of cars and an engine upon defendant's railway track in Baldwin County, Alabama, negligently set fire to grass, debris or other inflammable substance located and situate on the right of way of said defendant and negligently allowed said fire to burn and cross on to the lands of said plaintiff burning over seventy-five acres of the said lands and burning, damaging and destroying timber of said plaintiff of the value of to-wit, Three Thousand Dollars (\$3,000.00).

-3-

The plaintiff claims of the defendants the further sum of Ten Thousand Dollars (\$10,000.00) as damages for that heretofore on to-wit, the 29th day of March, 1964, the defendant by the wilful and wanton actions of the said agents, servants or employees of said defendants who were then and there engaged in

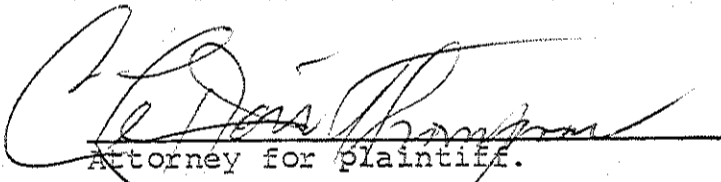
the operation of a train of cars and an engine upon defendant's railway track in Baldwin County, Alabama, between the City of Bay Minette and the railroad station and community of Perdido, Alabama, wilfully and wantonly threw from said train certain burning substances which were inflammable and which set fire to grass or debris situate on the right of way of said defendant and said defendant, its agents, servants or employees then and there operating said train, wilfully and wantonly allowed the fire so set to burn and proceed on to the lands of said plaintiff and across said lands of said plaintiff damaging or destroying the timber of said plaintiff situate thereon of the value of to-wit, Ten Thousand Dollars (\$10,000.00).

THOMPSON & WHITE

BY: 

Attorneys for plaintiff.

Plaintiff respectfully demands trial by jury.


Attorney for plaintiff.

FILED
MAR 15 1933
ALICE J. DICK, CLERK
REGISTER

JOHN F. PIMPHAL

Plaintiff

vs

LOUISVILLE & NASHVILLE RAILROAD
COMPANY, a corporation, and
JOHN DOE, RICHARD DOE, JOHN
ROE and RICHARD ROE, whose
names are to your plaintiff
otherwise unknown, as members of
a train crew
Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

Comes the plaintiff in the above styled cause and propounds
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and New Orleans Division of the L & N Railroad Company, a
corporation, defendant in said cause:

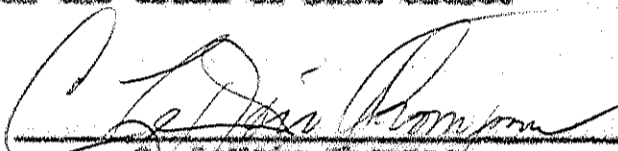
1. Are you the train master of the defendant corporation
for the above named division?
2. State your name.
3. Were you employed in such capacity on March 29, 1964?
4. Do you have official records of the L & N Railroad
in your possession for the last ten days in March, 1964?
5. If your answer is "no", give the name and address and
official capacity of the official who has such official infor-
mation for said corporation in his possession.
6. If your answer is "yes", did you have a train op-
erating over your tracks in Baldwin County at a point about
nine miles north of Bay Minette at approximately 11:30 A.M.
on said date.
7. If so, state the number of said train or other specific
identification available to you. Having determined the number
of said train, give the names and addresses of the train crew
employed by the L & N Railroad Company, defendant in this
cause and the classification of each, such as engineer, con-
ductor, etc.
8. State, if you know, whether a report was made by any
member of the train crew concerning a fire on or about the
railroad right of way and the date said report was furnished
to your office, if such was made.
9. Give the date and number of the train on which said
train crew returned to Mobile on.

STATE OF ALABAMA

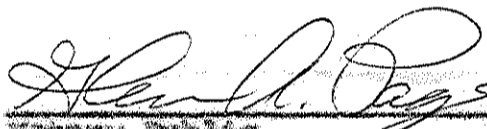
BALDWIN COUNTY

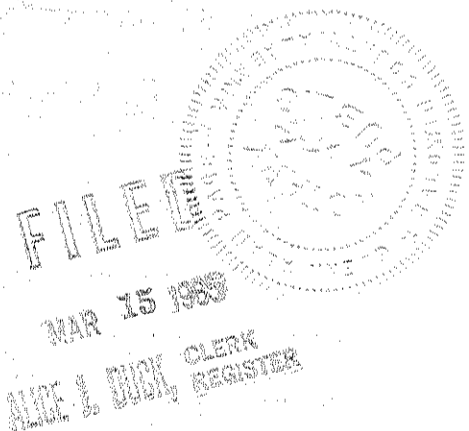
Before me, the undersigned Notary Public, in and for said State and County, personally appeared C. LeNoir Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. LeNoir Thompson and I am one of the Attorneys of Record for the plaintiff in the above entitled cause, and as such, I am authorized to make this affidavit. I further state that the answer of the train master, Montgomery and New Orleans Division of the L & N Railroad Company, a corporation to the foregoing interrogatories will, if truthfully made, be material evidence for the plaintiff on the trial of said cause.


C. LeNoir Thompson

Subscribed and sworn to before me by the said C. LeNoir Thompson on this the 12th day of March, 1933.


Notary Public



THOMSON & WHITE
ATTORNEYS FOR DEFENSE
BY: *[Signature]*

FILED
MAY 15 1964
CLERK
ALICE L. DOW, REGISTRAR

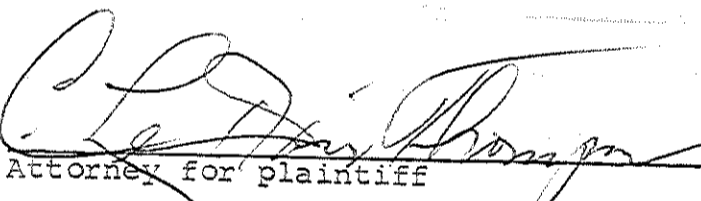
- March 29, 1964, and during the twenty-four hours following.
- East of Bay Minette which fire was burning from 11:30 P.M. on
- the said defendant at a point about nine miles north or
- more concerning a fire on or adjacent to the right of way of
- a report made by an employee of the said maintenance depart-
16. If said report is available to you, attach a copy of
- under his direction or control.
- name and official capacity of the person having such report
- may and if such report is not available to you, give the
- North or East of Bay Minette on said defendant's right of
- Bay Minette and provide at a point approximately nine miles
- report of the maintenance division relating the area between
15. State whether or not there is available to you a
- making said report.
- attach a copy of said report and identify the train and
14. If any report was made concerning said fire,
- Minette.
- provide at or about a point nine miles north of Bay
- adjacent to the right of way between Bay Minette and
- of 11:30 P.M. on March 29, 1964, reported a fire on or
- on the said train or any subsequent train within twelve hours
13. State whether or not a report made by the train crew
- that point and the direction in which said train was traveling.
- Bay Minette on defendant's railroad passing in either direction
- train passing that certain point nine miles north or east of
12. State the number of identification of the first
- nine miles north of Bay Minette.
- time of said train passing point along the right of way
- said crew according to mobile together with the date and
11. Give the kind or type of engine utilized by the
- nine miles north or east of Bay Minette on March 29, 1964.
- which pulled the said train traveling north about 11:30 P.M.
10. State the kind and type of locomotive or locomotives

the operation of a train of cars and an engine upon defendant's railway track in Baldwin County, Alabama, between the city of Bay Minette and the railroad station and community of Perdido, Alabama, wilfully and wantonly threw from said train certain burning substances which were inflammable and which set fire to grass or debris situate on the right of way of said defendant and said defendant, its agents, servants or employees then and there operating said train, wilfully and wantonly allowed the fire so set to burn and proceed on to the lands of said plaintiff and across said lands of said plaintiff damaging or destroying the timber of said plaintiff situate thereon of the value of co-wit, Ten thousand dollars (\$10,000.00).

THOMPSON & WHITE


BY: C. L. Thompson
Attorneys for plaintiff.

Plaintiff respectfully demands trial by jury.


Attorney for plaintiff

JOHN F. PIMPERL

X

Plaintiff

X

vs

X

IN THE CIRCUIT COURT OF

LOUISVILLE & NASHVILLE RAILROAD

X

BALDWIN COUNTY, ALABAMA

COMPANY, a corporation, and

JOHN DOE, RICHARD DOE, JOHN

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DOE and RICHARD DOE, whose
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otherwise unknown, as members of
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Defendants

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nine miles North of Bay Minette at approximately 11:30 A.M.
on said date.

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of said train, give the names and addresses of the train crew
employed by the L & N Railroad Company, defendant in this
cause and the classification of each, such as engineer, con-
ductor, etc.

8. State, if you know, whether a report was made by any
member of the train crew concerning a fire on or about the
Railroad right of way and the date said report was furnished
to your office, if such was made.

9. Give the date and number of the train on which said
train crew returned to Mobile on.

10. State the kind and type of locomotive or locomotives which pulled the said train traveling North about 11:30 A.M. nine miles North or east of Bay Minette on March 29, 1964.

11. Give the kind or type of engine utilized by the said crew returning to Mobile together with the date and time of said return past a point along the L & N Railroad nine miles North of Bay Minette.

12. State the number or identification of the first train passing that certain point nine miles North or East of Bay Minette on defendant's railroad passing in either direction that point and the direction in which said train was traveling.

13. State whether or not a report made by the train crew on the said train or any subsequent train within twelve hours of 11:30 A.M. on March 29, 1964, reported a fire on or adjacent to the L & N right of way between Bay Minette and Perdido at or about a point nine miles North of Bay Minette.

14. If any report was made concerning said fire, attach a copy of said report and identify the train man making said report.

15. State whether or not there is available to you a report of the maintenance division servicing the area between Bay Minette and Perdido at a point approximately nine miles North or East of Bay Minette on said defendant's right of way and if such report is not available to you, give the name and official capacity of the person having such reports under his directions or control.

16. If said report is available to you, attach a copy of a report made by an employee of the said maintenance department concerning a fire on or adjacent to the right of way of the said defendant at a point about nine miles North or East of Bay Minette which fire was burning from 11:30 A.M. on March 29, 1964, and during the twenty-four hours following.

THOMPSON & WHITE

BY: 

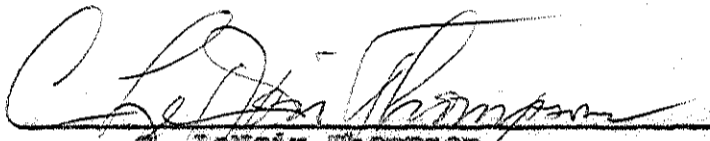
Attorneys for plaintiff.

STATE OF ALABAMA

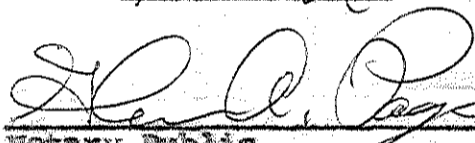
DALE COUNTY

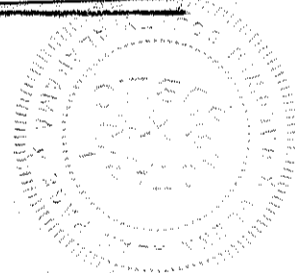
Before me, the undersigned Notary Public, in and for said state and county, personally appeared C. Lenoir Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. Lenoir Thompson and I am one of the Attorneys of Record for the plaintiff in the above entitled cause, and as such, I am authorized to make this affidavit. I further state that the answer of the train master, Montgomery and New Orleans Division of the L & N Railroad Company, a corporation to the foregoing interrogatories will, if truthfully made, be material evidence for the plaintiff on the trial of said cause.


C. Lenoir Thompson

Subscribed and sworn to before me by the said C. Lenoir Thompson on this the 12th day of March, 1965.


Notary Public



C. LENOIR THOMPSON

Attorney-At-Law

BAY MINNETTE, ALABAMA

36507

Residence Phone: 937-7487

Office Phone: 937-3921

August 19, 1966

The Honorable, the Circuit Judge
of Baldwin County, Alabama
Bay Minette, Alabama

Re: John F. Pimperl

vs.

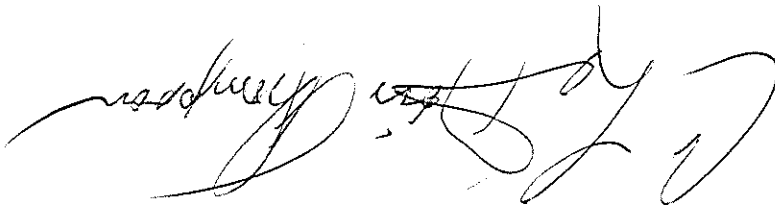
L & N Railroad Company,
a corporation, et al

6438

Dear Sir:

Inasmuch as the above styled case has been settled between the parties with the agreement that the defendant will pay the costs, I respectfully ask as attorney for the plaintiff John F. Pimperl, that his case against the L & N Railroad be dismissed and noted "settled between the parties".

Respectfully,



CLT/hm

JOHN F. PIMPERL	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
vs	X	BALDWIN COUNTY, ALABAMA
LOUISVILLE & NASHVILLE RAILROAD	X	
COMPANY, a corporation and		
JOHN DOE, RICHARD DOE, JOHN	X	
ROE and RICHARD ROE, whose names		
are to your plaintiff otherwise	X	
unknown.		
Defendants	X	
	X	

Comes the plaintiff in the above styled cause and propounds the following interrogatories to the Louisville and Nashville Railroad Company, a corporation, defendant in said cause:

1. Are you the defendant corporation named in this cause?
2. State your correct name or identification.
3. Do you have official records of the said Louisville and Nashville Railroad Company in your possession for the last ten days in March, 1964?
4. Give the name and address and official capacity of the official who has such official information for said corporation in his possession.
5. If your answer is "yes", did you have a train operating over your tracks in Baldwin County at a point about nine miles North of Bay Minette at approximately 11:30 A.M. on March 29, 1964?
6. If so, state the number of said train or other specific identification available to you. Having determined the number of said train, give the names and addresses of the train crew employed by the Louisville and Nashville Railroad Company, defendant in this cause and the classification of each, such as engineer, conductor, flagman, brakeman, etc.
7. State, if you know, whether a report was made by any member of the train crew concerning a fire on or about the railroad right of way on March 29, 1964, and the date said report was furnished to your office, if such was made.

8. State whether or not a report was made by a track supervisor, inspector or employee in a track gang or other employee that a fire occurred on the East or South side of the Louisville and Nashville Railroad on March 29, 1964.

9. State whether or not a report was made by a track supervisor or employee in a track gang or other employee that a fire occurred on the East or South side of the Louisville and Nashville Railroad on March 30, 1964.

10. Give the date and number of the train on which said train crew returned to Mobile on.

11. State the kind and type of locomotive or locomotives which pulled the said train traveling North about 11:30 A.M. nine miles North or East of Bay Minette on March 29, 1964.

12. Give the kind or type of engine utilized by the said crew returning to Mobile together with the date and time of said return past a point along the Louisville and Nashville Railroad nine miles North of Bay Minette after March 29, 1964.

13. State the number or identification of the first train passing that certain point nine miles North or East of Bay Minette on defendant's railroad passing in either direction that point and the direction in which said train was traveling, after 11:30 A.M. March 29, 1964.


14. State whether or not a report made by the train crew on the said train or any subsequent train within twelve hours of 11:30 A.M. on March 29, 1964, reported a fire on or adjacent to the L & N right of way between Bay Minette and Perdido at or about a point nine miles North of Bay Minette.

15. If any report was made concerning said fire, attach a copy of said report and identify the train man making said report.

16. State whether or not there is available to you a report of the maintenance division servicing the area between Bay Minette and Perdido at a point approximately nine miles North or East of Bay Minette on said defendant's right of way and if such report is not available to you, give the name and official capacity of the person having such reports under

his directions or control.

17. If said report is available to you, attach a copy of a report made by an employee of the said maintenance department concerning a fire on or adjacent to the right of way of the said defendant at a point about nine miles North or East of Bay Minette which fire was burning from 11:30 A.M. on March 29, 1964, and during the twenty-four hours following.

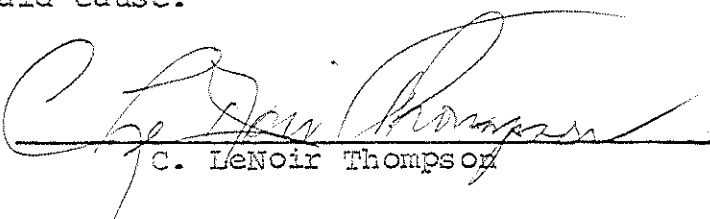

Attorney for plaintiff

STATE OF ALABAMA

BALDWIN COUNTY

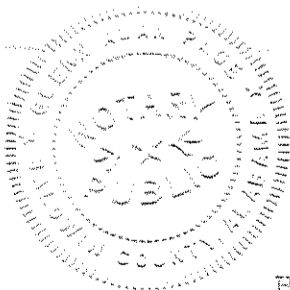
Before me, the undersigned Notary Public, in and for said State and County, personally appeared C. LeNoir Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. LeNoir Thompson and I am one of the Attorneys of Record for the plaintiff in the above entitled cause, and as such I am authorized to make this affidavit. I further state that the answer of the Louisville and Nashville Railroad Company, a corporation, defendant, to the foregoing interrogatories will, if truthfully made, be material evidence for the plaintiff on the trial of said cause.


C. LeNoir Thompson

Subscribed and sworn to before me by the said C. LeNoir Thompson on this the 2nd day of September, 1965.


Notary Public



Have Sheriff serve on Honorable Robert E. Steiner, III, registered agent for service L & N Railroad Company, Montgomery, Alabama.

I hereby accept service
of copy of written
interrogatories on this
the 1st day of Oct. 1965
John Chase
Att'y for L & N.

FILED

MADE A DUCK

1965
CLERK
REGISTER

March 22, 1965

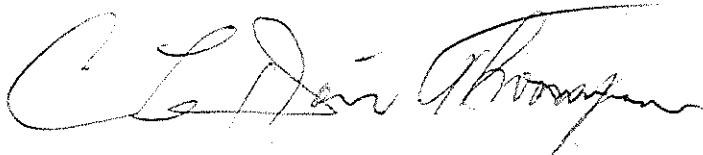
Sheriff Taylor Wilkins
Bay Minette, Alabama

Dear Sheriff:

Examination of the records as reported by the Secretary of State Revealed that Honorable R. E. Steiner, III, First National Bank Building, Montgomery, Alabama, has been designated as the statutory agent of the Louisville and Nashville Railroad.

Therefore, it is suggested that the complaint be forwarded to the Sheriff of Montgomery County for service in accordance with this information.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. L. Davis".

CLT/hm

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

Circuit Court, Baldwin County

STATE OF ALABAMA
BALDWIN COUNTY

No.

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Louisville & Mobile Railroad Co.,
a corporation, and John Doe, Richard Doe, John Roe and
Richard Roe, whose names are to your plaintiff otherwise unknown
as members of a train crew

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 Louisville &
Mobile Railroad Co., a corp., and John Doe, Richard Doe, John Roe
& Richard Roe, whose names are to your plaintiff otherwise
unknown as members of a train crew, Defendant.....

by John F. Pingerl

....., Plaintiff.....

Witness my hand this 15 day of March 1945.

Deirdre French Clerk

No..... Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

Plaintiffs

vs.

Defendants

SUMMONS AND COMPLAINT

Filed 19.....

..... Clerk

FILED
MAR 23 1935
CLERK, REGISTER

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

..... 19.....

..... Sheriff
I have executed this summons

this 19.....
by leaving a copy with

..... Sheriff

..... Deputy Sheriff

JOHN P. PINDERL	I	
Plaintiff	I	
vs	I	IN THE CIRCUIT COURT OF
LOUISVILLE & NASHVILLE RAILROAD	I	
COMPANY, a corporation and	I	BALDWIN COUNTY, ALABAMA
JOHN DOE, RICHARD DOE, JOHN	I	
DOE and RICHARD DOE, whose	I	
names are to your plaintiff	I	
otherwise unknown, as members of	I	
a train crew	I	
Defendants	I	

-1-

Plaintiff claims of the defendants the sum of Three thousand Dollars (\$3,000.00) as damages for that heretofore on to-wit, the 19th day of March, 1964, the defendant negligently set fire to and damaged and/or destroyed, to-wit, 75 acres of timber located on the lands of the plaintiff of the value, to-wit Three thousand Dollars (\$3,000.00) to plaintiff's great damage as aforesaid.

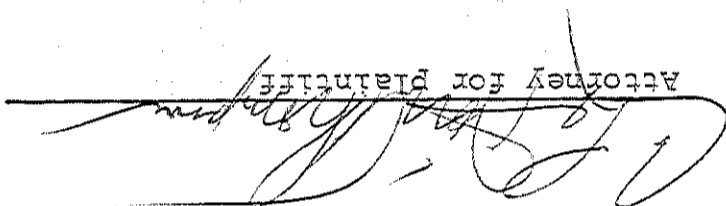
-2-

The plaintiff claims of the defendants the further sum of Three thousand Dollars (\$3,000.00) for that heretofore on to-wit, the 19th day of March, 1964, the defendant by the negligence of his agents, servants or employees who were then and there engaged in the operation of a train of cars and an engine upon defendant's railway track in Baldwin County, Alabama, negligently set fire to grass, debris or other inflammable substance located and situate on the right of way of said defendant and negligently allowed said fire to burn and cross on to the lands of said plaintiff burning over seventy-five acres of the said lands and burning, damaging and destroying timber of said plaintiff of the value of to-wit, Three thousand Dollars (\$3,000.00).

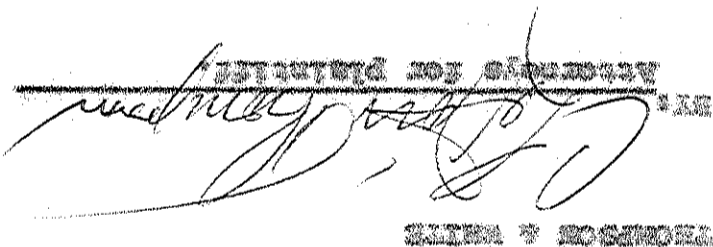
-3-

The plaintiff claims of the defendants the further sum of Ten thousand Dollars (\$10,000.00) as damages for that heretofore on to-wit, the 29th day of March, 1964, the defendant by the wilful and wanton actions of the said agents, servants or employees of said defendants who were then and there engaged in

FILED
MAY 15 1966
CLERK
MAINE 1. DUCK, REGISTER

Attorney for Plaintiff


Plaintiff respectfully demands trial by jury.

THOMAS & WHITE

Attorneys for Plaintiff

the value of co-ops, ten thousand dollars (\$10,000.00).
destroying the timber of said plaintiff estate the reason of
plaintiff and across said lands of said plaintiff damaging or
the state so not to burn and proceed on to the lands of said
and those operating said state, with the and variously allowed
and said defendant, the agents, servants or employees then
to claim or debate estate on the right of way of said defendant
burning operations which were extensive and which not the
plaintiff, with the and variously shown from said estate certain
may include and the railroad station and community of defendant,
railway track in Madison County, Alabama, between the city of
the operation of a train of cars and an engine upon defendant's

JOHN B. PIMENTE

PLAINTIFF

VS

LOUISIANA & MISSISSIPPI RAILROAD

JOHN DOE, RICHARD DOE, JOHN DOE and RICHARD DOE, whose names are to your plaintiff otherwise unknown, as members of a train crew

Defendants

Comes the plaintiff in the above styled cause and propounds the following interrogatories to the train master, Montgomery and New Orleans Division of the L & M Railroad Company, a corporation, defendant in said cause:

1. Are you the train master of the defendant corporation for the above named division?

2. State your name.

3. Were you employed in such capacity on March 29, 1944?

4. Do you have official records of the L & M Railroad in your possession for the last ten days in March, 1944?

5. If your answer to "no", give the name and address and official capacity of the official who has such official information for said corporation in his possession.

6. If your answer to "yes", did you have a train operating over your tracks in Baldwin County at a point about nine miles north of Bay Minette at approximately 11:30 A.M. on said date?

7. If so, state the number of said train or other specific identification available to you. Having determined the number of said train, give the names and addresses of the train crew employed by the L & M Railroad Company, defendant in this cause and the classification of each, such as engineer, conductor, etc.

8. State, if you know, whether a report was made by any member of the train crew concerning a fire on or about the railroad right of way and the date said report was furnished to your office, if such was made.

9. State the date and number of the train on which said train crew returned to Mobile on.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

THOMPSON & WHITE
ATTORNEYS FOR DEFENDANT

FILED
MAR 15 1964
MILWAUKEE

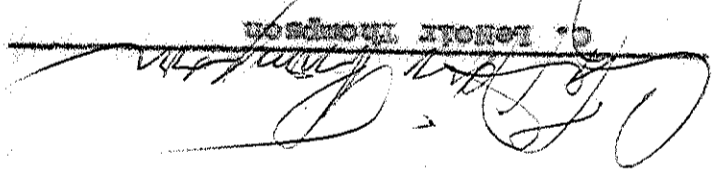
10. State the kind and type of locomotive or locomotives which pulled the said train travelling North about 11:30 A.M. nine miles North or East of May Minette on March 29, 1964.
11. Give the kind or type of engine utilized by the said crew returning to Mobile together with the date and time of said return passing point along the I & M Railroad.
12. State the number of identification of the first train passing that certain point nine miles North or East of May Minette on defendant's railroad passing in either direction that point and the direction in which said train was travelling.
13. State whether or not a report made by the train crew on the said train or any subsequent train within twelve hours of 11:30 A.M. on March 29, 1964, reported a fire on or adjacent to the I & M right of way between May Minette and Perdido at or about a point nine miles North or East of May Minette.
14. If any report was made concerning said fire, attach a copy of said report and identify the train man making said report.
15. State whether or not there is available to you a report of the maintenance division covering the area between May Minette and Perdido at a point approximately nine miles North or East of May Minette on said defendant's right of way and if such report is not available to you, give the name and official capacity of the person having such reports under his directions or control.
16. If said report is available to you, attach a copy of a report made by an employee of the said maintenance department concerning a fire on or adjacent to the right of way of the said defendant at a point about nine miles North or East of May Minette which fire was burning from 11:30 A.M. on March 29, 1964, and during the twenty-four hours following.

STATE OF ALABAMA

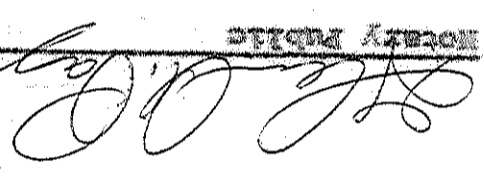
DADE COUNTY

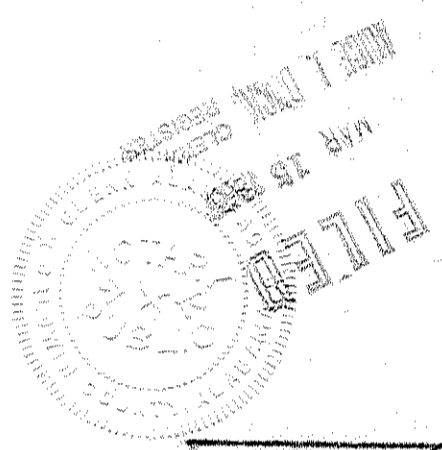
Before me, the undersigned Notary Public, in and for said state and county, personally appeared C. Lebolt Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. Lebolt Thompson and I am one of the attorneys of record for the plaintiff in the above entitled cause, and as such, I am authorized to make this affidavit. I further state that the answer of the train master, Montgomery and New Orleans Division of the L & N Railroad Company, a corporation to the foregoing interrogatories will, if truthfully made, be material evidence for the plaintiff on the trial of said cause.


C. Lebolt Thompson

Subscribed and sworn to before me by the said C. Lebolt Thompson on this the 17th day of March, 1963.


Notary Public



JOHN F. PIMPERL

X

Plaintiff

X

IN THE CIRCUIT COURT OF

vs

X

BALDWIN COUNTY, ALABAMA

LOUISVILLE & NASHVILLE RAILROAD
COMPANY, a corporation and
JOHN DOE, RICHARD DOE, JOHN
ROE AND RICHARD ROE, whose
names are to your plaintiff
otherwise unknown, as members of
a train crew

X

AT LAW

NO. 6438

X

X

X

Defendants

X

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

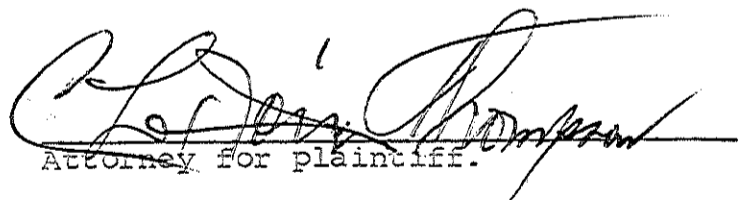
Comes the plaintiff, John F. Pimperl and shows unto the
Court that more than thirty days prior to the filing of this
motion, the plaintiff in the above styled cause propounded in-
terrogatories to defendants, Louisville & Nashville Railroad
Company, under Code 1940, Tit. 7, Section 477-486, requiring
said defendant to answer certain interrogatories therein pro-
pounded, and that although more than sixty days have elapsed
since the service by the Sheriff of said interrogatories upon
the defendant, Louisville & Nashville Railroad Company, the
said defendant has failed, and still fails and refuses to
answer the interrogatories therein propounded.

Wherefore, the plaintiff moves the Court to enforce the
penalty as provided by Title 7, Section 483 of the Code of
1940, as recompiled.

FILED

AUG 24 1965

ALICE A. DUCK, CLERK
REGISTER


Attorney for plaintiff.

JOHN F. PIMPERL

Plaintiff

vs

LOUISVILLE & NASHVILLE RAILROAD
COMPANY, a corporation and
JOHN DOE, RICHARD DOE, JOHN
ROE and RICHARD ROE, whose
names are to your plaintiff
otherwise unknown as members of
a train crew
Defendants

X
X
X
X
X
X
X
X
X

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

-1-

Plaintiff claims of the defendants the sum of Three
Thousand Dollars (\$3,000.00) as damages for that heretofore
on to-wit, the 29th day of March, 1964, the defendant negli-
gently set fire to and damaged and/or destroyed, to-wit, 75
acres of timber located on the lands of the plaintiff of
the value, to-wit Three Thousand Dollars (\$3,000.00) to
plaintiff's great damage as aforesaid.

-2-

The plaintiff claims of the defendants the further sum of
Three Thousand Dollars (\$3,000.00) for that heretofore on to-
wit, the 29th day of March, 1964, the defendant by the negli-
gence of his agents, servants or employees who were then and
there engaged in the operation of a train of cars and an engine
upon defendant's railway track in Baldwin County, Alabama,
negligently set fire to grass, debris or other inflammable
substance located and situate on the right of way of said
defendant and negligently allowed said fire to burn and cross
on to the lands of said plaintiff burning over seventy-five
acres of the said lands and burning, damaging and destroying
timber of said plaintiff of the value of to-wit, Three Thousand
Dollars (\$3,000.00).

-3-

The plaintiff claims of the defendants the further sum of
Ten Thousand Dollars (\$10,000.00) as damages for that heretofore
on to-wit, the 29th day of March, 1964, the defendant by the
wilful and wanton actions of the said agents, servants or
employees of said defendants who were then and there engaged in

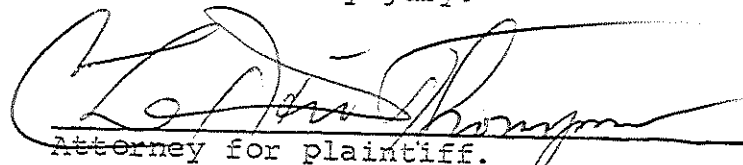
the operation of a train of cars and an engine upon defendant's railway track in Baldwin County, Alabama, between the City of Bay Minette and the railroad station and Community of Perdido, Alabama, wilfully and wantonly threw from said train certain burning substances which were inflammable and which set fire to grass or debris situate on the right of way of said defendant and said defendant, its agents, servants or employees then and there operating said train, wilfully and wantonly allowed the fire so set to burn and proceed on to the lands of said plaintiff and across said lands of said plaintiff damaging or destroying the timber of said plaintiff situate thereon of the value of to-wit, Ten Thousand Dollars (\$10,000.00).

THOMPSON & WHITE

BY: 

Attorneys for plaintiff.

Plaintiff respectfully demands trial by jury.


Attorney for plaintiff.

FILED

MAR 15 1965

ALICE J. DICK, CLERK
REGISTER

JOHN F. PIMPERL

X

Plaintiff

X

vs

X

IN THE CIRCUIT COURT OF

LOUISVILLE & NASHVILLE RAILROAD X

BALDWIN COUNTY, ALABAMA

COMPANY, a corporation, and

JOHN DOE, RICHARD DOE, JOHN

X

ROE and RICHARD ROE, whose

names are to your plaintiff X

otherwise unknown, as members of

a train crew X

Defendants

X

Comes the plaintiff in the above styled cause and propounds the following interrogatories to the train master, Montgomery and New Orleans Division of the L & N Railroad Company, a corporation, defendant in said cause:

1. Are you the train master of the defendant corporation for the above named division?

2. State your name.

3. Were you employed in such capacity on March 29, 1964?

4. Do you have official records of the L & N Railroad in your possession for the last ten days in March, 1964?

5. If your answer is "no", give the name and address and official capacity of the official who has such official information for said corporation in his possession.

6. If your answer is "yes", did you have a train operating over your tracks in Baldwin County at a point about nine miles North of Bay Minette at approximately 11:30 A.M. on said date.

7. If so, state the number of said train or other specific identification available to you. Having determined the number of said train, give the names and addresses of the train crew employed by the L & N Railroad Company, defendant in this cause and the classification of each, such as engineer, conductor, etc.

8. State, if you know, whether a report was made by any member of the train crew concerning a fire on or about the Railroad right of way and the date said report was furnished to your office, if such was made.

9. Give the date and number of the train on which said train crew returned to Mobile on.

10. State the kind and type of locomotive or locomotives which pulled the said train traveling North about 11:30 A.M. nine miles North or east of Bay Minette on March 29, 1964.

11. Give the kind or type of engine utilized by the said crew returning to Mobile together with the date and time of said return past a point along the L & N Railroad nine miles North of Bay Minette.

12. State the number of identification of the first train passing that certain point nine miles North or East of Bay Minette on defendant's railroad passing in either direction that point and the direction in which said train was traveling.

13. State whether or not a report made by the train crew on the said train or any subsequent train within twelve hours of 11:30 A.M. on March 29, 1964, reported a fire on or adjacent to the L & N right of way between Bay Minette and Perdido at or about a point nine miles North of Bay Minette.

14. If any report was made concerning said fire, attach a copy of said report and identify the train man making said report.

15. State whether or not there is available to you a report of the maintenance division servicing the area between Bay Minette and Perdido at a point approximately nine miles North or East of Bay Minette on said defendant's right of way and if such report is not available to you, give the name and official capacity of the person having such reports under his directions or control.

16. If said report is available to you, attach a copy of a report made by an employee of the said maintenance department concerning a fire on or adjacent to the right of way of the said defendant at a point about nine miles North or East of Bay Minette which fire was burning from 11:30 A.M. on March 29, 1964, and during the twenty-four hours following.

FILED

MAR 15 1965

ALICE L. DICK, CLERK
REGISTER

THOMPSON & WHITE

BY:



Attorneys for plaintiff.

STATE OF ALABAMA


BALDWIN COUNTY

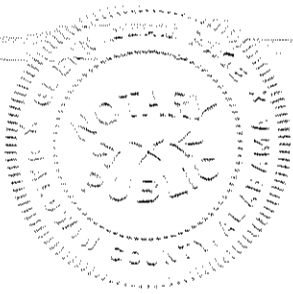
Before me, the undersigned Notary Public, in and for said State and County, personally appeared C. LeNoir Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. LeNoir Thompson and I am one of the Attorneys of Record for the plaintiff in the above entitled cause, and as such, I am authorized to make this affidavit. I further state that the answer of the Train master, Montgomery and New Orleans Division of the L & N Railroad, Company, a corporation to the foregoing interrogatories will, if truthfully made, be material evidence for the plaintiff on the trial of said cause.


C. LeNoir Thompson

Subscribed and sworn to before me by the said C. LeNoir Thompson on this the 12th day of MARCH, 1965.


Notary Public



FILED

MAR 15 1965

ALICE L. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

Circuit Court, Baldwin County

STATE OF ALABAMA
BALDWIN COUNTY

No. 6435

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Louisville & Nashville Railroad Co.,
a corporation, and John Doe, Richard Doe, John Roe and
Richard Roe, whose names are to your plaintiff otherwise unknown
as members of a train crew

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 Louisville &
Nashville Railroad Co., a corp., and John Doe, Richard Doe, John Roe
& Richard Roe, whose names are to your plaintiff otherwise
unknown as members of a train crew Defendant.....

by John F. Pimperl

Plaintiff.....

Witness my hand this 15 day of March 19 65

64-3-24-65

David Welch Clerk

STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

John T. Finner

Plaintiffs

vs.

L. S. N. Railroad Co
et al

Defendants

SUMMONS AND COMPLAINT

Filed 19.....

W. B. Adams Clerk

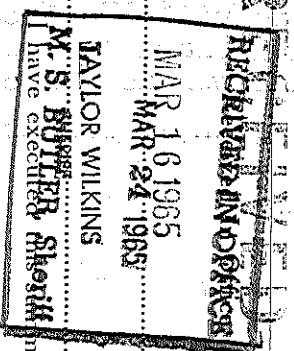
Served 25 day of March 1965
at found in my county after diligent search and it
is the duty of the Sheriff to serve the process
on the defendant and the Sheriff is directed to
do so.

W. B. Adams
Deputy Sheriff

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at



this 24 March 1965
by leaving a copy with

L. S. N. Railroad Co
Robert C. Stevens
President for L. S. N.
Railroad

The Sheriff claims 2
miles at 10c per mile for a total
of \$ 20
M. S. Butler, Sheriff
Montgomery County, Ala.

M. S. Butler Sheriff
Thomason Deputy Sheriff

JOHN F. PIMPERL,

Plaintiff,

vs.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LOUISVILLE and NASHVILLE
RAILROAD COMPANY, a corporation
and JOHN DOE, RICHARD DOE, JOHN
ROE and RICHARD ROE, whose names
are to your Plaintiff otherwise
unknown, as members of a train
crew, of said LOUISVILLE and
NASHVILLE RAILROAD COMPANY,

Defendants.

Comes the Defendant, Louisville and Nashville Railroad Company, and demurs to the amended complaint filed in said cause and each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That count one of said complaint does not allege that the agents, servants or employees of such Defendant were then and there acting within the line and scope of their employment, at the time of the alleged damages.
2. That the property which was damaged and destroyed is not sufficiently described in count one of such complaint.
3. That there is a misjoinder of parties Defendant in said complaint.
4. That said complaint does not allege any duty owing by such Defendant to the Plaintiff.
5. That the place where the accident occurred is not sufficiently set out in count two of the complaint.
6. That count three of the complaint does not set out that such Defendant willfully or wantonly injured the Plaintiff.
7. That count three of the complaint does not allege that the agents, servants or employees of such Defendant were acting within the line and scope of their employment at the time of the alleged injury.
8. That the place where the accident occurred is not sufficiently set out in count three.

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113

Kasson, Stone & Casson
Attorneys for Louisville & Nashville Railroad
Company

JOHN F. PIMPERL,	X	
Plaintiff,	X	
vs.	X	IN THE CIRCUIT COURT OF
LOUISVILLE and NASHVILLE RAILROAD	X	
COMPANY, a corporation and JOHN		
DOE, RICHARD DOE, JOHN ROE and	X	
RICHARD ROE, whose names are to		BALDWIN COUNTY, ALABAMA
your plaintiff otherwise unknown,	X	
as members of a train crew, em-		
ployed by said LOUISVILLE and NASH-	X	
VILLE RAILROAD COMPANY,		
Defendants.	X	
	X	

DEMURRER

Comes the Defendant, Louisville & Nashville Railroad Company, a corporation, and demurs to the Amended Complaint filed in the above styled cause on November 15, 1965, and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said Amended Complaint does not state a cause of action.
2. That said Amended Complaint is vague and indefinite.
3. That said Amended Complaint does not allege any duty owing by such Defendant to the Plaintiff.
4. That Count 1 of said Amended Complaint claims damages of the Defendant, Louisville & Nashville Railroad Company, its train crew as agents, servants or employees of said corporation without naming such agents, servants or employees of whom he claims damages.
5. That Count 1 of said Amended Complaint fails to allege that the agents, servants or employees of such Defendant were acting within the line and scope of their employment at the time of the act complained of.

6. That there is a misjoinder of parties defendant in said cause.

7. That Count 1 of said Amended Complaint fails to allege that the negligence of such Defendant was the proximate cause of the damages of the Plaintiff.

8. Count 1 of said Amended Complaint fails to show any connection between the negligence of such Defendant and the damages of the Plaintiff.

9. Count 1 of said Amended Complaint alleges that such Defendant, by its negligence, damaged and/or destroyed lands of the Plaintiff but claims damages for timber which is not referred to as being damaged.

10. Count 2 of the Amended Complaint fails to contain the names of the agents, servants or employees of such Defendant who are supposed to have been negligent.

11. Count 2 of said Amended Complaint fails to allege that the agents, servants or employees of such Defendant were acting within the line and scope of their employment at the time the damages to the Plaintiff occurred.

12. Count 3 of said Amended Complaint fails to allege that the agents, servants or employees of such Defendant were acting within the line and scope of their employment at the time of the injury to the Plaintiff.

13. Count 3 of the Amended Complaint fails to allege that such Defendant wilfully or wantonly injured the Plaintiff.

14. Count 3 of said Amended Complaint fails to allege that the willful or wanton act of such Defendant was the proximate cause of the damages to the Plaintiff.

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Chas. Stone & Chas.
Attorneys for Louisville & Nashville
Railroad Company, a corporation.

6438

JOHN F. PIMPERL,
Plaintiff,

vs.

LOUISVILLE & NASHVILLE RAILROAD
COMPANY, a corporation,
Defendant.

DEMURRER

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AMENDED COMPLAINT

JOHN F. PIMPERL

X

Plaintiff

X

vs

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LOUISVILLE and NASHVILLE RAILROAD
COMPANY, a corporation and JOHN
DOE, RICHARD DOE, JOHN ROE and
RICHARD ROE, whose names are to your
plaintiff otherwise unknown, as
members of a train crew, employed
by said LOUISVILLE and NASHVILLE
RAILROAD COMPANY

X

X

X

X

X

Defendants

X

6438

Comes your plaintiff and amends his complaint as last
amended in said cause to read as follows:

-1-

Plaintiff claims of the defendants the sum of Three
Thousand Dollars (\$3,000.00) as damages for that heretofore
on to-wit, the 29th day of March, 1964, the defendant Louisville
and Nashville Railroad Company, its train crew as agents, ser-
vants or employees of said corporation negligently set fire to
and damaged and/or destroyed lands of the plaintiff described
as follows:

All of the South Half of the Northeast quarter
of section 2, Township 1 South, Range 4 East
except that part lying North of the L & N
Railroad tracks which parcel is 75 acres more
or less and situate in Baldwin County

Damages to said timber being of the value of to-wit, \$3,000.00.

-2-

The plaintiff claims of the defendants the sum of Three
Thousand Dollars (\$3,000.00) for that heretofore on to-wit,
the 29th day of March, 1964, the said defendant Louisville
and Nashville Railroad Company, by the negligence of its
members of the train crew as agents, servants or employees of
said corporation who were then and there engaged in the operation
of a train of cars and an engine upon defendant company's track
in Baldwin County, Alabama, negligently set fire to grass, debris

or other inflammable substance located and situate on the right of way of said defedant company and negligently allowed said fire to burn and cross on to the lands of said plaintiff described as follows:

All of the South Half of the Northeast quarter of Section 2, Township 1 South, Range 4 East except that part lying North of the L & N Railroad tracks, which parcel is 75 acres more or less and situate in Baldwin County

damaging and destroying timber growing thereon, of said plaintiff of the value of to-wit, Three Thousand Dollars (\$3,000.00).

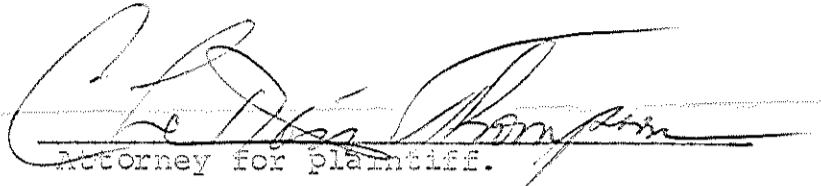
-3-

The plaintiff claims of the defendants the further sum of Ten Thousand Dollars (\$10,000.00) as damages for that heretofore on to-wit, the 29th day of March, 1964, the said defendant Louisville and Nashville Railroad Company by the wilful and wanton actions of the said members of said train crew, as agents, servants or employees of said defendant Louisville and Nashville Railroad Company who were then and there engaged in the operation of a train of cars and an engine upon defendant Louisville and Nashville Railroad Company's railway track in Baldwin County, Alabama, between the City of Bay Minette and the railroad station and Community of Perdido, Alabama, wilfully and wantonly threw from said train, certain burning substances which were inflammable and which set fire to grass or debris situate on the right of way of said defendant railroad company and said defendant, Louisville and Nashville Railroad Company, its agents, servants or employees then and there operating said train, wilfully and wantonly allowed the fire to set to burn and proceed on to the lands of said plaintiff described as follows:

All of the South Half of the Northeast quarter of Section 2, Township 1 South, Range 4 East except that part lying North of the L & N Railroad tracks which parcel is 75 acres more or less and situate in Baldwin County

wilfully and wantonly damaging or destroying the timber of

said plaintiff situate thereon of the value of to-wit,
Ten Thousand Dollars (\$10,000.00).


Attorney for plaintiff.

FILED

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ALICE J. DUCK, CLERK
REGISTERED

AMENDED COMPLAINT

JOHN F. PIMPERL

X

Plaintiff

X

vs

X

IN THE CIRCUIT COURT OF

LOUISVILLE and NASHVILLE RAILROAD X
COMPANY, a corporation and JOHN
DOE, RICHARD DOE, JOHN ROE and X
RICHARD ROE, whose names are to
your plaintiff otherwise unknown, X
as members of a train crew, of
said LOUISVILLE and NASHVILLE X
RAILROAD COMPANY

X

X

X

X

X

Defendants

X

BALDWIN COUNTY, ALABAMA

6438

Comes your plaintiff and amends his complaint heretofore
filed in said cause to read as follows:

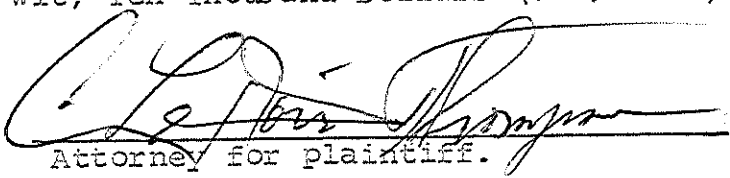
-1-

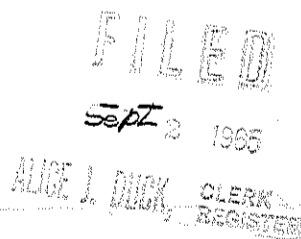
Plaintiff claims of the defendants the sum of Three
Thousand Dollars (\$3,000.00) as damages for that heretofore
on to-wit, the 29th day of March, 1964, the defendant Louisville
and Nashville Railroad Company's agents, servants or employees
negligently set fire to and damaged and/or destroyed, to-wit,
75 acres of timber located on the lands of the plaintiff in
Section 11, Township 1 South, Range 4 East in Baldwin County
of the value, to-wit Three Thousand Dollars (\$3,000.00) to
plaintiff's great damage as aforesaid.

-2-

The plaintiff claims of the defendants the sum of Three
Thousand Dollars (\$3,000.00) for that heretofore on to-wit,
the 29th day of March, 1964, the said defendant Louisville
and Nashville Railroad Company, by the negligence of its agents,
servants or employees who were then and there engaged in the
operation of a train of cars and an engine upon defendant
company's track in Baldwin County, Alabama, negligently
set fire to grass, debris or other inflammable substance
located and situate on the right of way of said defendant
company and negligently allowed said fire to burn and cross
on to the lands of said plaintiff located in Section 11, Township
1 South, Range 4 East in Baldwin County, burning over seventy-
five acres of the said lands and burning, damaging and destroying
timber growing thereon, of said plaintiff of the value of to-
wit, Three Thousand Dollars (\$3,000.00).

The plaintiff claims of the defendants the further sum of Ten Thousand Dollars (\$10,000.00) as damages for that heretofore on to-wit, the 29th day of March, 1964, the said defendant Louisville and Nashville Railroad Company by the wilful and wanton actions of the said agents, servants or employees of said defendant Louisville and Nashville Railroad Company who were then and there engaged in the operation of a train of cars and an engine upon defendant Louisville and Nashville Railroad Company's railway track in Baldwin County, Alabama, between the City of Bay Minette and the railroad station and Community of Perdido, Alabama, wilfully and wantonly threw from said train, certain burning substances which were inflammable and which set fire to grass or debris situate on the right of way of said defendant railroad company and said defendant, Louisville and Nashville Railroad Company, its agents, servants or employees then and there operating said train, wilfully and wantonly allowed the fire so set to burn and proceed on to the lands of said plaintiff located in Section 11, Township 1 South, Range 4 East, and across said lands of said plaintiff damaging or destroying the timber of said plaintiff situate thereon of the value of to-wit, Ten Thousand Dollars (\$10,000.00).


Attorney for plaintiff.



JOHN F. PIMPERL,	℥	
Plaintiff,	℥	
vs.	℥	IN THE CIRCUIT COURT OF
LOUISVILLE & NASHVILLE RAILROAD	℥	
COMPANY, a corporation, and		
JOHN DOE, RICHARD DOE, JOHN ROE	℥	BALDWIN COUNTY, ALABAMA
and RICHARD ROE, whose names		
are to your plaintiff otherwise	℥	
unknown, as members of a train		
crew,	℥	
Defendants.	℥	

DEMURRER

Comes the Defendant, Louisville & Nashville Railroad Company, a corporation, and demurs to the Complaint filed in the above styled cause and to each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said Complaint does not state a cause of action.
2. That said Complaint is vague and indefinite.
3. That said Complaint fails to allege which Defendant is the principal and which Defendant is the agent.
4. That said Complaint does not allege which Defendant was negligent.
5. That said Complaint fails to allege any duty owing by the Louisville & Nashville Railroad Company to the Plaintiff.
6. That the property damaged is not sufficiently described in the Complaint.
7. That said Complaint fails to allege where the timber which was damaged is located and a proper description of the land upon which it was growing.

8. That said Complaint fails to allege that the Defendant's negligence was the proximate cause of the Plaintiff's injuries.


9. That Count 2 of the Complaint fails to allege which Defendant is the owner of the railway located in Baldwin County, Alabama.

10. That Count 2 of the Complaint fails to allege what train caused the damage which is referred to in such Complaint.

11. That Count 3 of the Complaint fails to allege whose willful or wanton acts caused the injury to the Plaintiff.

12. That Count 3 of the Complaint does not sufficiently refer to the train which is owned by ^{one} of the Defendants or which Defendant owned such train and was responsible for its operation.

13. That Count 3 of the Complaint does not allege that the Defendant, Louisville & Nashville Railroad Company, willfully and wantonly injured the Plaintiff.


Attorneys for Defendant,
Louisville & Nashville Railroad Company

FILED

APR 12 1965

AUGIE J. DICK, CLERK
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6438

JOHN F. PIMPERL,
Plaintiff,

-vs-

LOUISVILLE & NASHVILLE
RAILROAD COMPANY,
a corporation, ET AL.

Defendant.

DEMURRER

FILED
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