

WILLIAM SANDBERG,
Plaintiff,)

-VS-

FRANK RAHS,
ALIAS FRANK REAS,
Defendant.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY.

1st. Plaintiff claims of the defendant the sum of Two Hundred (\$200.00) Dollars, for that on or about the 19th day of May, 1919, the defendant wilfully and intentionally struck one of plaintiff's horses in the eye, and as a proximate result thereof, the said horse was injured, losing said eye, and causing the plaintiff to incur a great expense in the treatment of said eye or injury and to spend much time in said treatment, all to his damage in the above said amount; hence this suit.

2nd. Plaintiff claims of the defendant the sum of Two Hundred (\$200.00) Dollars, as damages, for that on or about the 19th day of May, 1919, the defendant struck one of plaintiff's horses in the eye, greatly damaging said eye, thereby greatly depreciating the value of the said horse, and thereby causing the plaintiff to incur a large expense in the treatment of the said injury, to expend much time in the treatment of said injury, all to the damage of the plaintiff in the above said sum; hence this suit.

Chas. Hall &
Gordon & Edington
ATTORNEYS FOR PLAINTIFF.

Plaintiff demands a trial by Jury.

Chas. Hall &
Gordon & Edington
ATTORNEYS FOR PLAINTIFF.

The State of Alabama, {
BALDWIN COUNTY.

Circuit Court

No.

Fall Term 191 9

To Any Sheriff of the State of Alabama :

You are hereby commanded to summon Frank Rabs alias Frank Rhas

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 him Defendant

by William Sandberg

Plaintiff

Witness my hand this 26th day of June, 191 9

J. W. Richardson

Clerk.

COMPLAINT

Plaintiff Versus

The Plaintiff claims of the Defendant

Dollars due by

Plaintiff's Attorney.

Original

No.

State of Alabama,

BALDWIN COUNTY.

Circuit Court

William Sandberg

vs.

Plaintiffs

Frank Rhas alias Frank

Rhas.

Defendants

SUMMONS AND COMPLAINT

Filed June 26th, 1919

D. W. R. R. R.

Clerk

Defendant lives at

DYAS,

Chas Hall Gordon and Eddington.

Plaintiff's Attorney

Defendant's Attorney

Times Print, Bay Minette.

Received in office

June 26th, 1919

W. R. Stuart

Sheriff

I have executed this Writ

this 21st Aug 1919

by leaving a copy of the within summons and complaint with

Frank Rhas.

W. R. Stuart

Sheriff

Deputy Sheriff.

CHARGE OF THE COURT.

Gentlemen of the Jury, the plaintiff in this case brings his suit against the Director General of the Railroads and claims \$200 as damages and alleges in his complaint that this money is due him by reason of the facts alleged in his complaint, that the defendant was operating a railroad in this county in 1918 and that the plaintiff had some cattle and that the defendant so negligently operated that railroad that as a ~~mm~~ result, proximate cause of that negligence of the railroad his cattle were killed and he was damaged to the extent of this four head of cattle and the defendant in answer to this complaint says that he denies the allegations of the complaint and in the next place he says that the cause of action is barred by the statute of limitations of one year and in the third place the defendant says that before the commencement of this suit he paid the damages due for the killing of these cattle.

Now the defendant's plea of the general issue, the denial of the allegations of the complaint, puts in issue the averments in this complaint and it casts upon the plaintiff the burden of proving to your reasonable satisfaction that he was the owner of four head of cattle and that the defendant was operating a railroad and that the defendant by and through its servants so negligently operated their railroad as that these cattle were killed and that the killing of the cattle was the proximate result of the negligence, negligent operation of the railroad by the defendant, its agents or servants.

Now you determine in the first place whether or not the plaintiff owned some cattle? If he did, were those cattle killed or were any of them killed? and if they were were they killed by the defendant by the operation of a train? Now if that's true, was the killing of those cattle the proximate result and consequence of the negligent operation of that train or its trains? and if it was, then the plaintiff would be entitled to a verdict unless you find in favor of the defendant upon the other two issues. That is to say, if the defendant has paid to the plaintiff for these cattle before this suit was commenced, then the plaintiff could not recover and if on

the other hand these cattle were struck, injured, more than twelve months before the commencement of this suit, on June 26, 1918--in other words, if the cattle were killed more than twelve months before June 26, 1919, in other words if they were killed more than a year before June 26th of this year, then the plaintiff could not recover. His claim, if he had one, would be barred by the statute of limitations of one year.

Those are the issues you are to determine. If the plaintiff sustain the burden that is upon him and convinces you that he had some cattle that were killed and how many cattle were killed and what was the value, the reasonable market value of those cattle at the time of the killing, in June or July, whenever it was, in 1918. Now if the cattle were killed by the defendant's train then was it, were they killed as the proximate result of the negligent operation of that train? That is, it is the duty of the defendant's servants in the operation of its trains to keep a look out, to observe the track in front of their moving train and it is the duty of the defendant to have its train equipped with the proper appliances for the purpose of stopping or checking the speed of its trains and it is the duty of the defendant to have its engines equipped with alarms in the way of the blowing of the whistle or the ringing of the bell and it is the duty of the engineer to use those means, those appliances to prevent injury to stock along or on its right of way and if it fails to exercise those duties, perform those duties, then it is guilty of negligence... So then if you find that the defendant's, that the plaintiff's cattle were killed or any of them, and that they were killed as the proximate result of the negligent operation of the train by the defendant, its agents or servants, and that they were killed less than 12 months prior to June 26, 1919 and that the defendant has not paid for those cattle before the suit was brought, then it would be your duty to bring in a verdict for the plaintiff and assess the plaintiff's damages at the reasonable cash market value of the cattle, all or any of them that were killed under those conditions, and in that event you would say by your verdict "We, the Jury, find

for the plaintiff and we assess the plaintiff's damages at"-so many dollars, whatever amount may be, not to exceed in any event \$200, the amount claimed in the complaint. If on the other hand you find that the plaintiff's cattle were not killed or that they were not the property of the plaintiff or that they were not killed by reason of, as a proximate result of the ~~manipulation~~ operation of the train by the servants or agents of the defendant or that they were killed more than 12 months prior to June 26, 1919 or that the defendant had paid for the cattle before the suit was commenced, in either of those events you would find for the defendant and in that event you would say by your verdict "We, the jury, find for the defendant"

Write your verdict on the back of the complaint and one of you gentlemen sign your name to it and write the word foreman after your name.

WHAT SAYS THAT PLAINTIFF?

MR. GORDON: We are satisfied.

WHAT SAYS THE DEFENDANT:

MR. JENKINS: We are satisfied.

STATE OF ALABAMA, BALDWIN COUNTY.

I HEREBY CERTIFY THAT the above and foregoing is a true and correct transcript of the evidence and proceedings in the cause therein mentioned.

IN TESTIMONY WHEREOF I have hereunto set my hand on this the 5th day of December, 1919.

W. D. Rieford

Official Court Reporter
21st Judicial Circuit of Alabama.