

AMENDED COMPLAINT

JESSIE BURKE

Plaintiff

VS.

HANNIS GIVENS and  
CLARENCE GIVENS

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 8071

Comes now the Plaintiff in the above styled cause and amends  
Count Two of his Complaint to read as follows:

COUNT TWO

The Plaintiff claims of the Defendant, Hannis Givens, FIVE  
THOUSAND (\$5,000.00) DOLLARS, as damages, for this: That heretofore on,  
to-wit, May 26, 1967, the Defendant was engaged in a timber cutting ope-  
ration on the Barrick Tract of land near the Theodore ammunition dump in  
Mobile County, Alabama, and on said date the Plaintiff was in the service  
or employment of the Defendant in the following capacity, to-wit, assist-  
ing in timber cutting and loading and while engaged in the discharge of  
his duties as such employee, a log fell upon or struck the Plaintiff,  
breaking his ~~right~~ <sup>left</sup> ankle and he was rendered unable to work and earn money  
and was permanently injured. He was put to much expense for medicine and  
medical services for the treatment of his injuries for to-wit, his ~~right~~ <sup>left</sup>  
ankle. The Plaintiff avers that at the time and place complained of, he  
was injured as the direct and proximate consequence and result of the  
negligence of Clarence Givens, who was in the service or employment of the  
Defendant, Hannis Givens. That Clarence Givens had superintendence in-  
trusted to him at said time and place. The Plaintiff avers that while  
Clarence Givens was in the exercise of such superintendence, he negligently  
swung a load of logs around with a ~~timberjack~~ <sup>Skidder</sup> so as to cause one of the logs  
to strike the Plaintiff on his ~~right~~ <sup>left</sup> ankle and as a direct and proximate con-  
sequence thereof, his ~~right~~ <sup>left</sup> ankle was broken. The Plaintiff further avers  
that at said time and place, Clarence Givens negligently allowed the Plain-  
tiff to stand and remain in a place of danger without warning him of such  
danger.

CERTIFICATE OF SERVICE

WILTERS, BRANTLEY & NESBIT

I do hereby certify that I have on this 23 day of June  
1967 served a copy of the foregoing pleading on counsel for BY:  
parties to this proceeding by mailing the same by United States  
Mail, properly addressed, and first class postage prepaid.

WILTERS, BRANTLEY & NESBIT

By: Thurman S. Nesbit

Thurman S. Nesbit  
Attorneys for the Plaintiff

FILED

JUN 23 1969

ALICE J. DUCK CLERK  
REGISTER

We the jury find in favor of the  
defendant-

Dee M. Byers  
Foreman

*[Faint, mostly illegible text follows, appearing to be a typed document or a very light scan of a document. Some words like "We the jury" and "defendant" are visible in the first line.]*

*[Handwritten signatures and marks are visible at the bottom of the page, including a large signature on the left and some initials or marks in the center and right.]*

JESSIE BURKE,	X		
		IN THE CIRCUIT COURT OF	
Plaintiff,	X		
vs.	X	BALDWIN COUNTY, ALABAMA	
HANNIS GIVENS and	X		
CLARENCE GIVENS,	X	AT LAW	NO. 8071
	X		
Defendants.	X		

PLEAS

Comes now the Defendant, Hannis Givens, in the above styled cause, by his attorneys, and for answer to "COUNT TWO" of the Complaint as amended says as follows:

1. Not guilty.
2. The injuries of the Plaintiff, if any, were caused by the negligence of a fellow servant of the Plaintiff.
3. The Defendant Clarence Givens did not have superintendence intrusted to him over the Plaintiff at the time and place complained of.
4. The Plaintiff was himself guilty of negligence at the time and place complained of which caused the injuries complained of.

WHEREFORE, the Plaintiff should not recover.

CHASON, STONE & CHASON

By: *Malcolm Stone, Jr.*  
Attorneys for Defendants

*Filed*  
*6-12-70*  
*Alice J. Duck*  
*Clerk*

CHASON, STONE & CHASON

ATTORNEYS AT LAW

P. O. BOX 120

BAY MINETTE, ALABAMA 36507

JOHN CHASON  
NORBORNE C. STONE, JR.  
JOHN EARLE CHASON

TELEPHONE 937-2191

May 15, 1969

Mrs. Alice J. Duck, Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Burke vs. Givens  
Case No. 8071

Would you please withdraw our appearance as attorneys for the Defendants in the above case.

Thanking you for your attention to this request,  
we are

Sincerely,

CHASON, STONE & CHASON

By: 

NCS:jb

FILED

MAY 16 1969

ALICE J. DUCK CLERK  
REGISTER

CHASON, STONE & CHASON

ATTORNEYS AT LAW

P. O. BOX 120

BAY MINETTE, ALABAMA 36507

JOHN CHASON  
NORBORNE C. STONE, JR.  
JOHN EARLE CHASON

June 2, 1969

TELEPHONE 937-2191

Mrs. Alice J. Duck, Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Burke vs. Givens

8071

Would you please re-enter the appearance of  
this firm as attorneys for Defendants in the above styled  
cause?

With best regards, we are

Yours very truly,

CHASON, STONE & CHASON

By: 

NCS:pjb

cc: Honorable Phyllis Nesbit  
Attorney at Law  
Robertsdale, Alabama

JESSIE BURKE

Plaintiff

VS.

HANNIS GIVENS AND  
CLARENCE GIVENS

Defendants

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. \_\_\_\_\_

1.

The Plaintiff claims of the Defendant the sum of FIVE THOUSAND (\$5,000.00) DOLLARS as damages, for this: That heretofore on, to-wit, May 26, 1967, the Plaintiff was working for the Defendant, Hannis Givens, cutting timber in Mobile County, Alabama, on the Barrick Tract of land near the Theodore ammunition dump, a place where the Plaintiff had a right to be. The Defendant, Clarence Givens as agent, servant or employee of the Defendant, Hannis Givens, while acting within the line and scope of his employment, so negligently, operated a timber-jack as to negligently cause or allow the load it was carrying to run into, over or against the Plaintiff. The Plaintiff avers that as a direct and proximate consequence of said negligence, he was injured as follows: His ankle was broken and he was caused much pain and suffering and caused him to spend great sums of money for the treatment of said injury and was caused to lose a great sum of money because he was unable to work. The Plaintiff avers that he was permanently injured. The Plaintiff avers that all of the aforesaid damages were proximately caused by the negligence of the Defendant, Clarence Givens, the agent, servant or employee of the Defendant, Hannis Givens and within the scope of his authority.

2.

The Plaintiff claims of the Defendant, Hannis Givens, FIVE THOUSAND (\$5,000.00) DOLLARS, as damages, for this: That heretofore on, to-wit, May 26, 1967, the Defendant was engaged in a timber cutting operation on the Barrick Tract of land near the Theodore ammunition dump in Mobile County, Alabama, and on said date the Plaintiff was in the service or employment of the Defendant in the following capacity, to-wit, assisting in timber cutting and loading and while engaged in the discharge of his duties as such employee,

a log fell upon or struck the Plaintiff, breaking his right ankle and he was rendered unable to work and earn money and was permanently injured. He was put to much expense for medicine and medical services for the treatment of his injuries for to-wit, his right ankle. The Plaintiff avers that his injuries, suffering and loss of time was the proximate consequence and result of the negligence of Clarence Givens who was in the service or employment of the Defendant, Hannis Givens, and he had superintendence intrusted to him while in the exercise of such superintendence and said negligence consisted of this, viz: Clarence Givens negligently swung a load of logs around with a timber-jack so as to cause or allow one of the logs to strike the Plaintiff on his right ankle. The Plaintiff further avers that Clarence Givens negligently allowed the Plaintiff to stand and remain in a place of danger without warning him of such danger.

WILTERS, BRANTLEY & NESBIT

BY:

*Thurles J. Nesbit*  
Attorneys for the Plaintiff

The Plaintiff demands a jury trial.

**FILED**

MAR 27 1968

**ALICE J. 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 Hannis Givens and Clarence Givens

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.....

Hannis Givens and Clarence Givens

....., Defendant.S...

by Jessie Burke

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

Witness my hand this.....27.....day of March, 1968.....

Alice J. Duck, Clerk

Ex. 4-3-68



No. 8021

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

Jessie Burke

Plaintiffs

vs.

Hannis Givens and  
Clarence Givens

Defendants

SUMMONS AND COMPLAINT

Filed ..... **FILED** ..... 19.....

MAR 27 1968

Clerk

**ALICE J. DUCK**

CLERK  
REGISTER

Wileers, Brantley & Nesbit

BY:

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Rural Route, Robertsdale,  
Alabama

Received In Office

..... MAR 27 1968 ..... 19.....

TAYLOR WILKINS  
SHERIFF

Sheriff

I have executed this summons

this April 3 1968

by leaving a copy with

Hannis Givens  
Clarence Givens

TAYLOR WILKINS, SHERIFF OF BALDWIN

COUNTY, ALABAMA, CLAIM \$1.50 EACH

FOR SERVING 2 PROCESS(ES) AND

TRAVEL EXPENSE ON EACH OF \$ 18.00

PROCESS(ES) OR A TOTAL OF \$ 21.00

Taylor Wilkins Sheriff

Carroll L. Lister Deputy Sheriff

Severance 90

JURY LIST - JUNE TERM - JUNE 8th, 1970

- ~~1. Arnette, Roy, Carpenter, Perdido~~
- ~~2. Beatty, Raymond, Laborer, Fairhope~~ D<sup>1</sup>
- ~~3. Brabner, Martin J., Jr., South Central Bell, Bay Minette~~ P<sup>2</sup>
- ~~4. Bryars, C. H., Jr., Farmer, Bay Minette~~
- ~~5. Bryars, Miss Dollie M., Newport, Bay Minette~~
- ~~6. Calloway, John, Fisherman, Gulf Shores~~ P<sup>8</sup>
- ~~7. Chastang, James, Paper Mill, Bay Minette~~ P<sup>3</sup>
- ~~8. Day, Bernice, Stockton~~ P<sup>12</sup>
- ~~9. Demko, Lula D., Operator, Perdido~~
- ~~10. Fackler, Charles, Mech., Loxley~~
- ~~11. Fackler, Paul W., Mechanic, Loxley~~
- ~~12. Eriel, W. E., Retired, Bay Minette~~ P<sup>13</sup>
- ~~13. Gibson, John D., Mechanic, Robertsedale~~
- ~~14. Gilbert, Annie Ree, Housewife, Bay Minette~~ P<sup>1</sup>
- ~~15. Hasting, Evelyn, Housewife, Bay Minette~~ P<sup>4</sup>
- ~~16. Heidelberg, Joe., Jr., Farmer, Robertsedale~~
- ~~17. Heller, Boyd O., Contractor, Foley~~ P<sup>6</sup>
- ~~18. Hudson, Ethel, Maid, Bay Minette~~ D<sup>1</sup>
- ~~19. Larson, Arthur, Farmer, Rosinton~~
- ~~20. Lazzari, John, Farmer, Belforest~~ D<sup>10</sup>
- ~~21. Long, Grady, Jr., L & N R.R., Perdido~~
- ~~22. Malone, T. E., Merchant, Fairhope~~
- ~~23. McNeil, Vadin, Farmer, Gateswood~~ P<sup>9</sup>
- ~~24. Mikkelsen, Roy, Farmer, Summerdale~~ P<sup>4</sup>
- ~~25. Myrick, T. C., Fairhope~~
- ~~26. Oswell, Charles, Timber & Oil, Spanish Fort-Daphne~~ D<sup>2</sup>
- ~~27. Rider, Charles, Woodsman, Bay Minette~~
- ~~28. Sawyer, Mr. Lenora, Fairhope~~ D<sup>3</sup>
- ~~29. Smith, Columbus, Retired, Stockton~~ D<sup>13</sup>
- ~~30. Stevenson, Leona, Maid, Bay Minette~~ D<sup>4</sup>
- ~~31. Strickland, Marvin, Laborer, Bay Minette~~ P<sup>5</sup>
- ~~32. Swor, Mrs. Gertrude, Real Estate, Fairhope~~ D<sup>8</sup>
- ~~33. Therrell, E. L. Doris, Housewife, Daphne~~ D<sup>12</sup>
- ~~34. Trawick, Emma D., Stapleton~~ D<sup>9</sup>
- ~~35. Ward, John, International Paper, Spanish Fort~~ D<sup>6</sup>
- ~~36. Weeks, Harry J., Nurseryman, Foley~~ P<sup>7</sup>
- ~~37. Whitten, Lewis S., Electrician, Fairhope~~ P<sup>11</sup>
- ~~38. Windham, Carl T., Paper Co., Robertsedale~~ P<sup>4</sup>
- ~~39. Woolf, Burnette K., Stockton~~ D<sup>11</sup>
- ~~40. Wrenn, Walter P., Retired, Bay Minette~~ P<sup>10</sup>
- ~~41. Wrenn, Mrs. Wynona, Housewife, Bay Minette~~
- ~~42. Keifer, Mrs. Marion, Housewife, Lillian~~ D<sup>5</sup>

28.  
12  
26  
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P XXXXX XXXXX XXX~~0~~  
D XXXXX XXXXX XX/

JESSIE BURKE,	X	
Plaintiff,	X	
		IN THE CIRCUIT COURT OF
vs.	X	
		BALDWIN COUNTY, ALABAMA
HANNIS GIVENS and	X	
CLARENCE GIVENS,	X	AT LAW NO. 8071
	X	
Defendants.	X	

DEMURRER:

Come now the Defendants in the above styled cause, by their attorneys, and demur to the Bill of Complaint filed against them and to each count thereof separately and severally and assign the following separate and several grounds in support thereof:

1. The Complaint fails to state a cause of action.
2. Count One of the Complaint fails to state a cause of action.
3. Count Two of the Complaint fails to state a cause of action.
4. The Plaintiff fails to allege a cause of action against both of the Defendants.
5. The Complaint fails to allege any negligence on the part of the Defendant Hannis Givens.
6. The Complaint fails to allege any negligence on the part of the Defendant Clarence Givens.
7. The Complaint fails to allege any negligence on the part of either of the Defendants.
8. The Complaint fails to allege a duty owing from the Defendants, or either of them, to the Plaintiff and breach of that duty proximately resulting in injuries and damages to the Plaintiff.
9. The allegations of the Complaint are vague, indefinite and uncertain.

10. The allegations of Count One are vague, indefinite and uncertain.

11. The allegations of Count Two are vague, indefinite and uncertain.

12. Count One of the Complaint fails to allege that the Defendant Clarence Givens was, at the time and place complained of, the agent, servant or employee of the Defendant Hannis Givens acting within the lines and scope of his employment as such.

13. Count Two of the Complaint fails to allege that the Defendant Clarence Givens was, at the time and place complained of, the agent, servant or employee of the Defendant Hannis Givens acting within the lines and scope of his employment as such.

14. The allegations of Count One of the Complaint are conclusions of the pleader.

15. The allegations of Count Two of the Complaint are conclusions of the pleader.

16. The allegations of the Complaint are conclusions of the pleader and no facts are alleged in the Complaint or either count thereof to support such conclusions.

17. It affirmatively appears from the allegations of the Complaint that the injuries allegedly suffered by the Plaintiff were the result of the negligence of a fellow servant.

18. It affirmatively appears from the allegations of Count One of the Complaint that the injuries allegedly suffered by the Plaintiff were the result of the negligence of a fellow servant.

19. It affirmatively appears from the allegations of Count Two of the Complaint that the injuries allegedly suffered by the Plaintiff were the result of the negligence of a fellow servant of the Plaintiff.

20. No facts are alleged in the Complaint which, if true,

would impose any liability upon the Defendant Hannis Givens as an employer of the Plaintiff.

21. No facts are alleged in Count One of the Complaint which, if true, would impose any liability upon the Defendant Hannis Givens as an employer of the Plaintiff.

22. No facts are alleged in Count Two of the Complaint which, if true, would impose any liability upon the Defendant Hannis Givens as an employer of the Plaintiff.

23. It affirmatively appears from the allegations of Count One of the Complaint that the Plaintiff is not entitled to recover against the Defendant Hannis Givens.

24. It affirmatively appears from the allegations of Count Two of the Complaint that the Plaintiff is not entitled to recover against the Defendant Hannis Givens.

25. The allegations of Count Two of the Complaint fail to allege any duty owing by the Defendant, or either of them, to the Plaintiff to warn him of any danger and a breach of such duty proximately resulting in the injuries complained of.

26. The allegations of Count Two of the Complaint fail to allege any facts which, if true, would impose any liability on the Defendant Hannis Givens under and by virtue of the Employers Liability Act of the State of Alabama.

Respectfully submitted,

CHASON, STONE & CHASON

By: 

Attorneys for Defendants

The Defendants demand a trial of this cause by a jury.

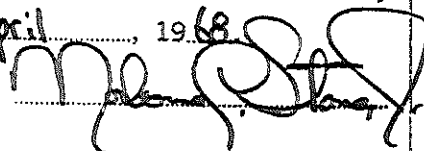
CHASON, STONE & CHASON

By: 

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 9 day of April, 1968.



FILED

APR 8 1968

ALICE J. DUCK  
CLERK  
REGISTER

8071  
Jury

JESSIE BURKE,

Plaintiff,

vs.

HANNIS GIVENS and  
CLARENCE GIVENS,

Defendants.

\* \* \* \* \*

DEMURRER:

\* \* \* \* \*

FILED

APR 8 1968

ALICE J. DUCK  
CLERK  
REGISTER

CHASON, STONE & CHASON  
ATTORNEYS AT LAW  
P. O. Box 120  
BAY MINETTE, ALABAMA

8071

July

JESSIE BURKE,

Plaintiff,

vs.

HANNIS GIVENS and  
CLARENCE GIVENS,

Defendants.

\* \* \* \* \*

DEMURRER:

\* \* \* \* \*

**FILED**

APR 8 1968

**ALICE J. DUCK** CLERK  
REGISTER

**CHASON, STONE & CHASON**  
ATTORNEYS AT LAW  
P. O. Box 120  
BAY MINETTE, ALABAMA