


CARL W. GASH,	X	
Plaintiff,	X	
	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
LOUISVILLE & NASHVILLE	X	AT LAW CASE NO:8308
RAILROAD COMPANY,	X	
INCORPORATED,	X	
Defendant.	X	

Comes the Defendant and demurs to the Complaint filed in the above styled cause and each and every count thereof, separately and severally, and assigns the following separate and several grounds:

1. That said Complaint does not state a cause of action.
2. That said Complaint does not allege any duty owing by the Defendant to the Plaintiff.
3. That said Complaint does not allege in what manner the potatoes were damaged.
4. That said Complaint does not allege any negligence on the part of such Defendant.
5. That said Complaint is vague and indefinite.
6. That said Complaint does not state when such potatoes were damaged.
7. For aught that appears from said Complaint, the claim of the Plaintiff is barred by the statute of limitations.
8. There is no allegation in such Complaint that the Defendant was paid by the Plaintiff for services rendered by such Defendant.
9. That the property damage is not sufficiently described.

10. That it is not alleged where the Defendant received such potatoes.

11. That the point of origin of such shipment is not set out in the Complaint.

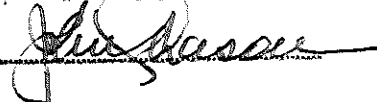

Attorneys for Defendant

The Defendant demands a trial of this cause by a jury.


Attorneys for Defendant

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 12 day of Sept, 1968



July

CARL W. GASH,

Plaintiff,

vs.

LOUISVILLE & NASHVILLE
RAILROAD COMPANY,
INCORPORATED,

Defendant.

* * * * *

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW CASE NO: 8308

* * * * *

DEMURRER

FILED

* * * * *

SEP 17 1968

ALICE J. DUCK CLERK
REGISTER

In the Matter of the Removal to the
District Court of the United States
for the Southern District of Alabama,
Southern Division, of the case of:

CARL W. GASH,

Plaintiff,

VS.

LOUISVILLE & NASHVILLE
RAILROAD COMPANY,
Incorporated,

Defendant.

TO: Honorable Alice J. Duck, Clerk
Circuit Court of Baldwin County
Baldwin County Courthouse
Bay Minette, Alabama

Pursuant to the provisions of law in such cases made
and provided, there is hereby filed with you a copy of the
petition of the defendant, Louisville & Nashville Railroad
Company, a corporation, in the above entitled cause to remove
said cause to the United States District Court for the Southern
District of Alabama, Southern Division. The said petition,
accompanied by a bond with good and sufficient surety conditioned
as is required by law, has been this day filed in said United
States District Court for the Southern Division of the Southern
District of Alabama.

Written notice of the filing of the aforesaid petition and
bond has been this day mailed to the attorney for the plaintiff
herein, and you are hereby notified that the filing of a copy
of the aforementioned petition with you as Clerk of the Circuit

Court of Baldwin County, Alabama effects removal of said
cause to the aforesaid District Court of the United States.

DATED this 1st day of October, 1968.

W B Hand
W. B. HAND
Attorney for Defendant
Louisville & Nashville Railroad Company

OF COUNSEL:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON

FILED

OCT 4 1968
OCT 4 1968

ALICE J. DUCK CLERK
REGISTER

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF ALABAMA

SOUTHERN DIVISION

CARL W. GASH,)

Plaintiff,)

VS.)

CIVIL ACTION NO. _____

LOUISVILLE & NASHVILLE)

RAILROAD COMPANY,)

Incorporated,)

Defendant.)

PETITION OF DEFENDANT FOR REMOVAL
TO UNITED STATES DISTRICT COURT

TO THE HONORABLE JUDGES OF SAID COURT:

Comes now your petitioner, Louisville & Nashville Railroad Company, a corporation, defendant in the above styled cause, and respectfully shows unto this Honorable Court as follows:

1. That the defendant, Louisville & Nashville Railroad Company, is now and was at the time of the commencement of this suit incorporated and existing under the laws of the State of Kentucky and a citizen of that State, with its office and principal place of business in Louisville, Kentucky; that the plaintiff, Carl W. Gash, is now and was at the time of the commencement of this suit a citizen of the State of Alabama, residing in Baldwin County, Alabama; that this is an

action brought by a citizen of the State of Alabama against a citizen of the State of Kentucky and is wholly between citizens of different states, and one which can be fully determined between them.

2. That this is a suit to recover damages for injury to certain goods, allegedly the property of the plaintiff.

3. That the amount sued for and involved in this action exceeds the sum of Three Thousand and No/100 (\$3,000.00) Dollars, exclusive of interest and costs; that the time within which the defendant is allowed by law to file said petition for removal has not expired; and that the defendant has a good defense to said cause. Petitioner attaches hereto as Exhibit "A" and makes a part hereof, a copy of all process, pleadings and orders purported to have been served upon them in such action.

4. That the removal of this cause is based upon Title 28 U.S.C.A. Sections 1441 and 1445 (b). Petitioner further avers that plaintiff's alleged cause of action against petitioner arose under the provisions of Title 49 U.S.C.A. Section 20 (II) which provide that a common carrier, railroad, or transportation company receiving property for transportation from a point in one state to a point in another state shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage or injury to such property caused by it.

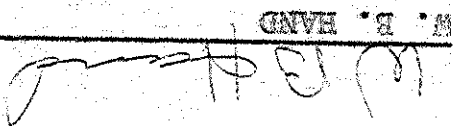
5. Petitioner files and offers herewith bond with

good and sufficient surety in the penal sum of Five Hundred and No/100 (\$500.00) Dollars conditioned that defendant will pay all costs and disbursements incurred by reason of this removal proceeding should it be determined that this action was wrongfully or improperly removed to this said court.

6. Petitioner represents that promptly upon the filing of this petition and the said bond filed herewith, the petitioner shall give written notice thereof to the adverse party and shall file a copy of the petition with the clerk of the Circuit Court of Baldwin County, Alabama, wherein said action is now pending.

WHEREFORE, your petitioner prays that the said bond filed herewith be accepted as good and sufficient and that this court will enter such order or orders as may be proper in the premises.

DATED this 1st day of October, 1968.



W. B. HAND
Attorney for Defendant
Louisville & Nashville Railroad Company

OF COUNSEL:

HAND, ARENDALL, BEDSOLE, GRAVES & JOHNSTON

STATE OF ALABAMA:
COUNTY OF MOBILE:

W. B. HAND, being first duly sworn, deposes and says that he is the attorney for the defendant, Louisville & Nashville

Railroad Company, a corporation, in the above styled cause, and he is authorized to execute this affidavit in behalf of said defendant; that he has read the foregoing petition and knows the contents thereof, and that the facts stated therein are true.

W. B. Hand
W. B. HAND

Subscribed and sworn to before me

this 4th day of October, 1968.

Justith M. Penson
NOTARY PUBLIC, STATE OF ALABAMA AT LARGE

FILED

OCT 4 1968

ALICE J. DUCK CLERK
REGISTER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA
213 U. S. COURT HOUSE & CUSTOM HOUSE
MOBILE, ALABAMA 36602

Date: Oct. 26, 1971

Mr. Arthur C. Epperson, P. O. Box 716, Foley, Alabama

Clerk, Circuit Court of Baldwin County, Ala., Bay Minette, Ala.

RE: ADM. NO. _____ CIVIL ACTION NO. 5195-68
CIRCUIT COURT NO. 8308

V. _____

To Mr. Mandeville, I enclose herewith Check No. _____ in
the sum of \$ _____ payable to his order in payment of the costs
in the Circuit Court of Mobile County in the Above matter.

To Arthur C. Epperson, I enclose herewith
Check No. 6588 in the sum of \$ 1,784.99, in payment of judgment
& interest in the above-entitled case.

To Clerk, Circuit Court of Baldwin Co., I enclose herewith
Check No. 6589 in the sum of \$ 26.00, in payment of costs in
the Circuit Court of Baldwin County in the above matter.

To Arthur C. Epperson, I enclose herewith
Check No. 6590 in the sum of \$ 20.00, in payment of attys. docket fee.

To _____, I enclose herewith
Check No. _____ in the sum of \$ _____, in payment of witness
fee in the above entitled matter.

To _____, I enclose herewith
Check No. _____ in the sum of \$ _____, in payment of witness
fee in the above entitled matter.

To _____, I enclose herewith
Check No. _____ in the sum of \$ _____, in payment of witness
fee in the above entitled matter.

With regards, I am

Cordially yours,

William J. O'Connor
William J. O'Connor,
Clerk.

CARL W. GASH_
Plaintiff

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

8308

COUNT ONE

The plaintiff claims of the defendant the sum of \$676.01, damages for injury of certain goods, the Plaintiffs' property, namely one car load of Irish Potatoes, received by the defendant as common carrier to be delivered by the defendant to Victory Potatoe Company at Chicago, Illinois, for a reward; and Plaintiff says that injury was recieved by said Irish Potatoes while in possession of Defendant as such common carrier and during transit.

COUNT TWO

The plaintiff claims of the defendant the sum of \$1,332.85, damages for injury of certain goods, the Plaintiffs' property, namely one car load of Irish Potatoes, received by the defendant as common carrier to be delivered by the defendant to Central Banana Company at Flint, Michigan, for a reward; and Plaintiff says that injury was recieved by said Irish Potatoes while in possession of Defendant as such common carrier and during transit.

COUNT THREE

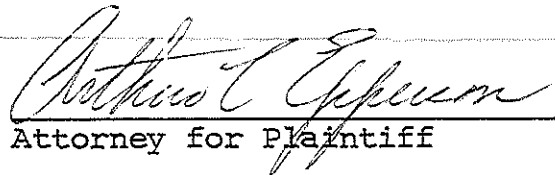
The plaintiff claims of the defendant the sum of \$2,825.00, damages for injury of certain goods, the Plaintiffs' property, namely one car load of Irish Potatoes, received by the defendant as common carrier to be delivered by the defendant to Consumamo Brothers at Detroit, Michigan, for a reward; and Plaintiff says that injury was recieved by said Irish Potatoes while in possession of Defendant as such common carrier and during transit.

COUNT FOUR

The Plaintiff claims of the Defendant the sum of \$225.00 damages for injury of certain goods, the Plaintiffs' property, namely, one car load of Irish Potatoes, received by the defendant as common carrier to be delivered by the defendant to Consignee at Decatur, Illinois, for a reward; and Plaintiff says that injury was recieved by said Irish Potatoes while in possession of Defendant as such common carrier and during transit.

COUNT FIVE

The Plaintiff claims of the Defendant the sum of \$515.00 damages for injury of certain goods, the Plaintiffs' property, namely, one car load of Irish Potatoes, received by the defendant as common carrier to be delivered by the defendant to Consignee at Youngstown, Ohio, for a reward; and Plaintiff says that injury was recieved by said Irish Potatoes while in possession of Defendant as such common carrier and during transit.


Attorney for Plaintiff

FILED

SEP 9 1968

ALICE J. DUCK CLERK
REGISTER

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No.

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Comanded to Summon LOUISVILLE & NASHVILLE RAILROAD
COMPANY, INCORPORATED

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 COMPANY, INCORPORATED, Defendant

by _____

CARL W. GASH, Plaintiff.....

Witness my hand this 9th day of September 1968.

Alice J. Black, Clerk

Ex
9-9-68

731

No.

8308

Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

Carl W. Gask

Plaintiffs

vs.

Louisville & Nashville
Railroad Co. Inc.

Defendants

SUMMONS and COMPLAINT

Filed

FILED

, 19

SEP 9 1968

Clerk

ALICE J. DUCK

CLERK
REGISTER

Arthur C. Epperson

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

SEP 9 1968

, 19

PAVON WILKINS

Sheriff

, Sheriff

I have executed this summons

this

Sept 9

, 1968

by leaving a copy with

BS Blackmon Jr.

Taylor W. Blackmon
D. A. Talbert

Sheriff

Deputy Sheriff