

OTIS MINOR,	*	IN THE CIRCUIT COURT
Plaintiff,	*	OF BALDWIN COUNTY,
Vs.	*	ALABAMA
ROBERT L. BERNER COMPANY,	*	AT LAW
an Illinois Corporation,	*	
Defendant.	*	CASE NO: 6838

A N S W E R

Comes now the Defendant and for answer to the complaint, says as follows:

1. Defendant admits that on, to-wit, October 11, 1965, the relationship of the employer and employee existed between the plaintiff and the defendant and that they were subject to the Workmen's Compensation Laws of the State of Alabama. The defendant denies that the plaintiff suffered an accident which arose out of and in the course of his employment with the defendant on, to-wit, October 11, 1965, or that the plaintiff became totally disabled from alleged accident or that he was temporarily, totally disabled on January 24, 1966. The defendant admits that a controversy has arisen as to the benefits to be paid, if any, under the Workmen's Compensation Laws of the State of Alabama.

2. The Defendant does not have any information as to the residence of the plaintiff and therefore neither admits nor denies that the plaintiff resides in Baldwin County, Alabama, at Route 2, Box 68, Fairhope, Alabama, but defendant admits that the defendant is an Illinois Corporation and did business in the State of Alabama at Robertsdale, Alabama, in Baldwin County, Alabama, on October 11, 1965.

3. The Defendant denies that the plaintiff suffered an accident which arose out of and in the course of the plaintiff's employment or that the plaintiff suffered an accident while lifting a sack or an object which caused the plaintiff to suffer a hernia on, to-wit, October 11, 1965.


4. The defendant denies that it had actual and immediate notice of the alleged accident as alleged or that it authorized any medical treatment or insisted that the plaintiff receive any medical treatment for the alleged injury. The defendant admits that it has not paid to the plaintiff any amounts alleged to be due under the Workmen's Compensation laws of the State of Alabama for the alleged injury or has it paid any hospital or medical bills incurred by the plaintiff for treatment of injuries which the plaintiff alleges he received in an accident, as alleged in the complaint.

5. The defendant admits that the average weekly earnings of the plaintiff were in excess of \$100.00 per week and that the plaintiff has a wife and five minor children dependent upon him. The defendant denies that the plaintiff was totally disabled from November 29, 1965, to and including January 11, 1966, or that he has only been released for light duty since January 11, 1966.

6. The defendant alleges that the plaintiff had a hernia on April 29, 1965, and that he had same on the day the plaintiff alleges to have received a hernia while employed by the defendant.

FOREMAN & BROWN,
Attorneys for The Home Indemnity Company,
Compensation Insurance Carrier for
Robert L. Berner Company

BY


ALTON R. BROWN, JR.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 5th
day of May, 1966, served a copy of the
foregoing pleading on counsel for all parties to this
proceeding by mailing the same by United States mail,
properly addressed, and first class postage prepaid.

FILED
10-66
MAY 10 1966
U.S. DISTRICT COURT
SOUTHERD DISTRICT OF ALABAMA
MOBILE

FOREMAN & BROWN

ATTORNEYS AT LAW

SUITE 210 VAN ANTWERP BUILDING

MOBILE, ALABAMA

36602

ALEXANDER FOREMAN, JR. (1914-1966)
ALTON R. BROWN, JR.
JAMES A. JOHNSTON
PETER V. SINTZ

AREA CODE 205
432-2792

October 24, 1967

6838

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

RE: Otis Minor v Robert L. Berner Co.
Workmen's Comp

Dear Mrs. Duck:

We enclose the draft of The Home Indemnity Co.,
#9605474, in the amount of \$775.40, in payment of
Judgment rendered against Robert L. Berner Company.

Yours very truly,

FOREMAN & BROWN

BY

Alton R. Brown, Jr.
Alton R. Brown, Jr.

j/
enclosure

P.S. The \$51.00 draft in payment of attorneys fee
will be forwarded subsequently to Mr. Stone.

775.40	150.00
433.40	71.00
<u>342.00</u>	212.40
51.00	<u>433.40</u>
<u>291.00</u>	

OTIS MINOR,

Plaintiff,

vs.

ROBERT L. BERNER
COMPANY, An Illinois
Corporation,

Defendant.

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

8645
6838

COMPLAINT

The Plaintiff claims of the Defendant benefits under the Workmen's Compensation Laws of the State of Alabama due and owing under the following statement of facts:

1. On to-wit: October 11, 1965, the relationship of employer and employee existed between the Plaintiff and the Defendant, and the Defendant was subject to the Workmen's Compensation Laws of the State of Alabama. On said date and while so employed and engaged in the business of the Defendant and while acting within the line and scope of his employment with said company the Plaintiff suffered an accident which arose out of and in the course of said employment and as a proximate result of said accident the Plaintiff has been totally disabled and is now temporarily partially disabled. A controversy has arisen as to the benefits to be paid under the Workmen's Compensation Laws of the State of Alabama.

2. The Plaintiff resides in Baldwin County, Alabama, his particular address being Route 2, Box 68, Fairhope, Alabama; and the Defendant, Robert L. Berner Company, is an Illinois Corporation doing business in the State of Alabama at Robertsedale

Respectfully submitted,

Otis Minor
Otis Minor

OF COUNSEL:

CHASON, STONE & CHASON
Attorneys at Law
Bay Minette, Alabama

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Norborne C. Stone, Jr., a Notary Public, in and for said County in said State, personally appeared Otis Minor, who is known to me and who, after being by me first duly and legally sworn, did depose and say under oath as follows:

That his name is Otis Minor; that he signed the foregoing Complaint and the facts alleged therein are true and correct.

Otis Minor

Sworn to and subscribed before me
on this 21st day of January, 1966.

Norborne C. Stone, Jr.
Notary Public, Baldwin County, Alabama

FILED

JAN 24 1966

ALICE J. DUCK, CLERK
REGISTRY

OTIS MINOR,	X	
Plaintiff,	X	
vs.	X	IN THE CIRCUIT COURT OF
		BALDWIN COUNTY, ALABAMA
ROBERT L. BERNER	X	
COMPANY, An Illinois		AT LAW
Corporation,	X	
Defendant.	X	

JUDGMENT AWARDING COMPENSATION

This day came the parties and their respective attorneys of record and issue having been joined between the parties the Court proceeded to hear the evidence ore tenus and after having considered the same the Court finds as follows:

FINDINGS OF FACT

(1) That the Plaintiff, Otis Minor suffered an inguinal hernia resulting from an injury by an accident arising out of and in the course of his employment by the Defendant, Robert L. Berner Company.

(2) That both the Plaintiff and the Defendant were, at all times complained of, subject to the Workmen's Compensation Laws of the State of Alabama.

(3) That the hernia suffered by the Plaintiff appeared suddenly, was accompanied by pain, and followed immediately an accident in the course of the employment of the Plaintiff.

(4) That the hernia did not exist prior to the accident for which the Plaintiff claims compensation.

(5) That the hernia suffered by the Plaintiff has been treated in a surgical manner and for which treatment the Plaintiff incurred the following medical and hospital bills which have not been paid: Dr. Ernest G. DeBakey, \$150.00; Dr. John Foster, \$71.00; and South Baldwin Hospital of Foley, Alabama, \$212.40.

(6) That the Plaintiff was temporarily totally disabled as a result of said hernia for a period of nine weeks and his average weekly earnings prior to the accident which resulted in the hernia exceeded \$100.00 per week.

CONCLUSIONS OF LAW

(1) That the Plaintiff is entitled to recover of the Defendant \$342.00 as compensation under the Workmen's Compensation Laws of the State of Alabama.

(2) That the Plaintiff is entitled to recover from the Defendant for the use and benefit of Dr. Ernest G. DeBakey \$150.00, for the use and benefit of Dr. John Foster \$71.00, and for the use and benefit of South Baldwin Hospital \$212.40 as medical expenses and hospital expenses incurred by him in the treatment of said hernia.

(3) That the attorney's fee for services rendered by the attorneys for the Plaintiff, the employment of whom has heretofore been approved by this Court, is hereby fixed at fifteen per cent of the compensation to which the Plaintiff is entitled, or \$51.00.

JUDGMENT

(1) That the Plaintiff, Otis Minor have and recover of the Defendant, Robert L. Berner Company \$342.00 as compensation due him under the Workmen's Compensation Law of the State of Alabama.

(2) That the Plaintiff have and recover of the Defendant \$433.40 for the use and benefit of Dr. Ernest DeBakey, Dr. John Foster and South Baldwin Hospital as hereinabove more particularly set forth and that the Defendant be, and it is hereby, required to pay said sum to the Clerk of the Circuit Court of Baldwin County, Alabama, for distribution by her to the parties

entitled to receive the same, and for which she shall demand and receive receipts in the name of the Plaintiff.

(3) That the Plaintiff be, and he is hereby, ordered and directed to pay to Chason, Stone & Chason, his attorneys, \$51.00 of the total compensation hereinabove awarded to him.

(4) That the costs of this proceeding be, and the same are hereby, taxed against the Defendant.

(5) That execution shall issue for the payment of all sums hereinabove ordered to be paid, including the Court Costs.

Done this 18th day of October, 1967.

Jeffrey A. Massabumi
Circuit Judge

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA
Baldwin County

Circuit Court, Baldwin County

No. 3605

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Robert L. Berner

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

Robert L. Berner, Defendant

by Otis Minor

Plaintiff

Witness my hand this 24th day of January 1966

64-1-26-66

Alice Duck, Clerk

STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

OTIS MINOR,

Plaintiffs

vs.

ROBERT L. BERNER COMPANY
An Illinois Corp. Defendants

SUMMONS AND COMPLAINT

FiledJanuary 24..... 19.66.....

.....Alice J. Duck..... Clerk

CHASON, STONE & CHASON
Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Robert Dale Ala.

RECEIVED
Received In Office

JAN 24 1966..... 19.....

TAYLOR WILKINS....., Sheriff
SHERIFF

I have executed this summons

this Jan 24 1966

by leaving a copy with

Robert L Berner Co
James B. Berner
John Russell Jr
mgc

Sheriff claims 50 miles at

Ten Cents per mile Total \$ 5.00

TAYLOR WILKINS, Sheriff

BY Charles Children
DEPUTY SHERIFF

Taylor Wilkins Sheriff
Charles Children Deputy Sheriff

R. C. Oak