101

W. D. MCDOWELL, Plaintiff, VS. L. & N. RAILROAD COMPANY, a corporation, Defendant.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW.

And now comes the Defendant and for answer to the Plaintiff's complaint and to each matured allegation therein pleads:

ONE:

Not guilty.

TWO:

That the facts therein alleged are untrue.

THREE:

That the cause of action was barred by the statute of limitation of one year.

FOUR:

That the said bull was killed on a portion of the Defendant's right of way, which was enclosed by proper fences and cattle guards, erected and maintained in conformity to the notice of the Public Service Commission.

Berkey & Hall
Attorneys for Defendant.

106 RECORDED

W. D. MCDOWELL,

Plaintiff,

Vs.

L. & N. RAILROAD COMPANY,
a corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

PLEAS

Filed this 28 day of
February, 1935.

Robt L Deck
Clerk.

W. D. MCDOWELL, Plaintiff, VS. LOUISVILLE & NASHVILLE RAIL-ROAD COMPANY, a Corporation, Defendant.	IN THE JUSTICE COURT OF J. M. FRANKLIN, JUSTICE OF PEACE, BEAT 4, BAY MINETTE, ALABAMA.

Comes the Defendant and demurs to the Plaintiff's complaint in this cause and for grounds thereof says:

ONE:

That said complaint does not state a cause of action.

TWO:

That said complaint does not allege how or in what manner the said animal was killed.

THREE:

That said complaint does not state any facts which tend to show negligence on the part of the Defendant.

Burke & Hall
Attorneys for Defendant.

filed 10/26/94

RECORDED

J. M. Franklin

NLP Exp 0-94

W. D. MCDOWELL, Plaintiff, VS. LOUISVILLE & NASHVILLE RAILROAD COMPANY, a Corporation, Defendant.	IN THE JUSTICE COURT OF J. M. FRANKLIN, JUSTICE OF PEACE, BEAT 4, BAY MINETTE, ALABAMA.

Comes the Defendant and for answer to the Plaintiff's complaint says: ~~That the facts herein alleged are untrue.~~

TWO:

That the said cause of action is barred by the statute of limitation of one year.

3. That at time animal was killed, the Defendant had erected and maintaining a fence and proper cattle guards, and that said animal was within the territory so fenced

McCorvey & Hale
Attorneys' for Defendant.

Filed Oct 26 K
1984 RECORDED
and
J W Franklin
Clerk

W. D. McDowell, Plaintiff

vs.

L. & N. R. R. Co., a Corporation, ~~Plaintiff~~. Defendant.

In Circuit Court of Baldwin County, Ala.

Now comes the ~~defendant~~ plaintiff in the above entitled cause, and demurs to plea numbered Four on the following grounds, to-wit:-

~~First~~ First.

Because it is not shown or alleged that the defendant was notified by The Public Service Commission to erect a fence and construct cattle guards at the point where the said bull of plaintiff was killed.

Second.

Because said plea fails to show that said fences and cattle guards were erected and maintained in conformity to the notice of the Public Service Commission

Third.

Because from aught that appears in said plea, this fence and cattle guards might have been erected in comformity with the notice of the Public Service ~~Corporation~~ Commission, and then torn down, and might have not been in proper condition at the time said bull was killed.

Fourth.

Because said plea is a mere conclusion of the pleader.

Fifth.

Because said plea four fails to set out the notice that was alleged to have been given to defendant by the Public Service Commission to fence the portion of defendant's right of way, along which plaintiff' bull was killed, and also the guards, culverts etc., to be erected and maintained at this point.

M. D. Hawkins

W. D. McDowell
Plaintiff
vs
L & N. R.R. Co.
Deft.

Demurrer to
Plea four

C. 101

Filed this 22 day Mar 1936
Peter L. Deal
Clerk Recorder

W. T. Vance
Atty for Plaintiff

7-438

Appeal---Notice to apellee.--

)
) W.D.McDowell
)
V-S

Louisville and Nashville Railway Company

To W.D.McDowell plaintiff in said cause:

You are hereby notified that the Louisville and Nashville railway company the defendant in the above entitled cause,has prayed an appeal from the judgement therein rendered by me; and,having complied with the requirements of the law in such cases,the same has been granted,to the next term of the circuit court of Baldwin county ~~xxxxxxxxxxxx~~ Spring term 1935.

Given under my hand this the 6th day of November 1934

J. M Franklin

Notary public Ex-Officio Justice of the peace-Baldwin County Ala Beat 4.

RECORDED

Appeal-Notice to apellee

W.D.McDowell

V-S

Louisville and Nashville railway company.

November 6th 1934

J.M.Franklin

V.P.Ex-O.J.P

Executed Nov 6th 1934 By serving copy Notice on W H Hawkins atty for Plaintiff

RECORDED

W R Stuart

By C. M Armstrong

D S

In Dawes vs. Lorraine

Jury List, First Week, April 12, 1937.

1 ~~Henry E. Peterson, Farmer, Gateswood~~ D 4
2 ~~George W. Pittman, Farmer, Gateswood~~ D 1
3 Chester Nelson, Farmer, Point Clear
4 ~~Willie Dana, Fisherman, Point Clear~~ D 4
5 ~~Charles E. Taylor, Farmer, Bay Minette~~ D 9
6 ~~Americo Allegri, Farmer, Daphne~~ D 1
7 John Nelson, Oysterman, Bon Secour
8 ~~Mac Aylin, Forester, Bay Minette~~ P 8
9 ~~Robert E. Lawson, Produce, Bay Minette~~ P 7
10 Virgil O. McMillan, Naval Stores, Bay Minette
11 William Canaan, Merchant, Loxley
12 ~~Roy Sandbrook, Contractor, Robertsdale~~ D 10
13 ~~Blaine G. Dickman, Salesman, Bay Minette~~ P 2
14 Carl A. Gerhart, Farmer, Robertsdale
15 Fred Seibert, Farmer, Elberta
16 Eddie L. Hiles, Mechanic, Loxley
17 John E. Lindberg, farmer, Summerdale
18 ~~Wheeler M. Tunstall, Dairyman, Daphne~~ P 3
19 J. Bruce Beverage, Merchant, Bay Minette
20 ~~Frank Eubanks, Carpenter, Bay Minette~~ D 8
21 ~~Frank T. Peterson, Farmer, Gateswood~~ D 8
22 ~~Durward Stapleton, Farmer, Loxley~~ D 1
23 ~~George Edward Bryant, Farmer, Stockton~~ D 2
24 Paul McMillan, Mechanic, Stockton
25 ~~Homer C. Russel, Clerk, Foley~~ P 9
26 Frank Propst, Cattleman, Bay Minette
27 ~~J. Matt Broadus, Painter, Bay Minette~~ D 6
28 ~~John Miller, Oysterman, Bon Secour~~ P 5
29 ~~Adrian Ray, Mechanic, Bay Minette~~ D 7
30 George Yarbrough, Sr., Forester, Bay Minette
31 ~~John Lewis, Laborer, Robertsdale~~ P 6

31
12
19

P 9 / ~~IIII~~ IIII
D 10 / ~~IIII~~ ~~IIII~~

Mr Dowell
re
Lorrie

LOUISVILLE & NASHVILLE RAILROAD COMPANY

1814 (OLD 608) 8-27

REPORT No.

CLAIM FOR AND VALUATION

OF

STOCK INJURED

OR KILLED

STATION AGENTS, WILL ASSIST CLAIMANTS IN FILLING OUT THIS SHEET, AND ESPECIALLY ENDEAVOR TO OBTAIN INFORMATION AS TO THE TRAIN THAT STRUCK THE STOCK.

FORWARD THIS TO

STOCK CLAIM AGENT.

PERSONS HAVING STOCK KILLED OR INJURED ON THIS ROAD ARE REQUESTED TO ANSWER THE FOLLOWING QUESTIONS AND RETURN THE STATEMENT TO THE NEAREST STATION AGENT, WHO WILL SEND IT TO THE STOCK CLAIM AGENT.

1. YOUR NAME W. H. McDowell
COUNTY Lauderdale POST OFFICE Rogersville
2. WHAT KIND OF STOCK KILLED? Bull STATE Ala
3. IF INJURED, STATE FULLY HOW INJURED, AND IF IT WILL RECOVER WITH PROPER ATTENTION
4. WHAT IS ITS PRESENT CONDITION?
5. IF BLOODED STOCK, GIVE PEDIGREE
6. WHAT WAS COLOR OF ANIMAL? Black and white 7. HEIGHT? 8. WEIGHT? Good
9. WHAT WAS DATE OF ACCIDENT? THE 12 DAY OF Oct 1922
ON RAILROAD BETWEEN MILE POST No. 622 AND MILE POST No. 624
10. ~~WHAT WAS THE NEAREST STATION?~~
11. WAS THE INJURY DONE ON ROAD CROSSING OR WITHIN AN INCORPORATION, TOWN OR VILLAGE? No
12. DID YOU RAISE OR PURCHASE IT? Raised it
PURCHASE IT? OF WHOM DID YOU
13. WHAT WAS THE AGE OF THE ANIMAL WHEN PURCHASED? 14. WHAT DID YOU PAY FOR IT? $
15. WHAT AGE WAS ANIMAL WHEN KILLED? 5 years 16. WAS ANIMAL POOR OR FAT? Not
17. WHO SAW IT DONE?
18. WHO SAW IT ON OR NEAR THE TRACK AFTER IT WAS DONE? Southern Express
19. STATE FULLY HOW YOU KNOW ANIMAL WAS KILLED BY TRAIN Signs on track
on on crossing
20. STATE BY WHAT TRAIN, IF YOU KNOW
21. GIVE ANY INFORMATION THAT WILL ENABLE THE COMPANY TO FIND BY WHAT TRAIN IT WAS DONE
22. WHAT WAS THE CASH MARKET VALUE OF THE ANIMAL WHEN KILLED? $ 25.00

I DECLARE, ON HONOR THAT I HAVE ANSWERED THE FOREGOING QUESTIONS TRULY AND TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNED AT Rogersville THIS THE 9 DAY OF October 1924

WITNESS W. H. McDowell CLAIMANT.

STOCK CLAIM AGENT.

W. D. McDowell, Plaintiff,

vs. In Circuit Court Baldwin County.

L. & N. R. R. Co. a Corporation,

Defendant.

Comes the plaintiff-appellee in the above entitled cause and amends his complaint heretofore filed in J. P. court of J. M. Franklin to read as follows:-

First.

Plaintiff claims of the defendant, the Louisville & Nashville Railway Company, a corporation Forty ($40) Dollars damages for that heretofore on to-wit.:- April 10th. 1934, the defendant was engaged in the operation of a railroad in and through Baldwin County, Alabama, and plaintiff avers that on or about the date aforesaid, at or near Dyas, Alabama, in said Baldwin County, Alabama, the defendant's agents or servants, while acting within the line and scope of their employment, negligently ran one of its trains into, over or against a Holstein Bull, the property of the plaintiff, and as a proximate consequence thereof, the said bull died, to the damage of plaintiff in the said sum of $40.00 as aforesaid.

W. D. Hawkins

Attorney for Plaintiff.

101

W. D. McDowell
Plaintiff
vs
L & N. R. R. Co. a Corp.
Deft

ENDORSED
Duck

Amended Complaint
Filed Feb 18th
1935
Robert S. Duck
Clerk

W. H. Hawkins
Atty for Plaintiff

SUMMONS AND COMPLAINT.

MOORE PRINTING CO., BAY MINETTE, ALA.

The State of Alabama,
Baldwin County.

To Any Lawful Officer of Said County, Greetings :

Summon Louisville & Nashville Railway Company, a Corporation

to appear before me on the 26 day of October 1934, next at my office at 10 A. M.

in Bay Minette Baldwin County, Alabama, to answer the complaint of

W. D. McDowell

and then and there make a return of this summons.

Issued the 15th day of October 1934.

J. M. Franklin
J. M. Franklin Justice of Peace.

COMPLAINT

W. D. McDowell Plaintiff.	vs.	Louisville & Nashville Railway Company, a Corporation. Defendant.

The Plaintiff claims of the Defendant the sum of Forty ($40.00) Dollars

damages for the killing one Holstein Stock bull, belonging to plaintiff, on to-wit:- April 10, 1934, of the value of Forty Dollars.

M. S. Hawkins Plaintiff's Attorney.

Executed by personal service and notice of

Garnishment .....

this ..... day of ..... 193...

..... Constable.

By ..... D. C.

Executed Oct 16th 1934
by serving copy of within Summons
Complaint on
R. E. Cooley agent L&N RR Co

W R Stuart Sher.
By ..... Deputy Sher.

We the jury find for the defendant
J B Barnidge Foreman

Original.

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

THE STATE OF ALABAMA,

Baldwin County.

IN THE JUSTICE COURT OF

J. M. Franklin NP E4-098

Oct 26th Term, 1934

SUMMONS and COMPLAINT

~~XXXXXXXXXXXXXXXXXX~~

W. D. McDowell

Plaintiff

Vs.

L. & N. R. R. Co.

Defendant

The Defendant is hereby notified that Writ of Garnishment has been served on .....

..... J. P.

Location .....

MOORE PRINTING CO., BAY MINETTE, ALA.

W. D. M. Dowell
Plaintiff
v/s
L & N. R. R. Co.
Defendants

Comes the plaintiff appellee in the above cause, and demands a trial by jury.

L. W. Hopkins
Atty for Plaintiff

RECORDED

W. D. McDonald
Plaintiff

vs

L. & N. R. R. Co
Defendants

Demand for
jury trial

Received
and filed
Nov 6th 1934

Moore Printing Co. :::: Bay Minette, Ala.

Transcript of Civil Cases from Justice's Court of

_____, Baldwin County, Ala.

ATTORNEYS	NAMES OF PARTIES	CAUSE OF ACTION
W.H.Hawkins, Plaintiff	W.D.McDowell	Damages for killing one
	V-S	Holstein stock bull
~~W.W.W.H.Hall~~, Deft	Louisville and Nashville	
	Railroad Company	

DATES	DISPOSITION OF CASE
October 26th 1934	Bond and Affidavit Filed.
	Summons and Complaint Issued ret. Oct 15th 1934 returned executed Oct 16th 1934
	Ret. executed by W.R.Stuart
	Before me J.M.Franklin, a notary public ex-officio justice of the peace of Baldwin county come the parties before me this 26th day of October 1934 and after hearing the alligation and proof it is considered by the court that the said W.D.McDowell plaintiff recover of the said Louisville and Nashville Railroad company defendant the sum of thirty five dollars ($35.00) damages also cost of suit.
	Notice of appeal given bond fixed at $100.00. Plaintoff demands trial by jury
	J.M.Franklin N.P.Ex-O.J.P

ITEMIZED BILL OF COSTS

JUSTICE'S FEES			
Issuing Summons	$ 50		50
Issuing ..... Alias Summons	50		
Issuing ..... Subpoena ..... for each witness	15		60
Issuing ..... Execution and Taxing Cost	50		
Issuing ..... Summons to Garnishee and taking answer	50		
Issuing ..... Attachment Writ	50		
Attachment Bond and Affidavit	1 50		
Garnishment Bond and Affidavit	50		
..... Appeal or Certiorari, including Bond	1 00	1	00
..... Bond	50		
Administering Oath and Certifying Same	25		
1 Certificate not otherwise provided for	25		25
Docketing Cause	10		10
Judgment on Forthcoming Stay or Replevin Bond	50		
Judgment on Summary Proceeding	75		
Issuing ..... Venire Facias	50		
Transcript of Proceeding	50		50
Attending Trial or Right of Property	1 00		
..... Sci. Fa. or notice in nature thereof	50	$ 2	70
Making Return of Certiorari	50		
..... Notice to Defendant	15		
Release	25		
Sheriff CONSTABLE'S FEES CIVIL CASES			
Serving ..... Summons	1 00	1	50
Serving 4 ..... Summons on Each Witness	65 25	2	60
Serving ..... Garnishment	25		
Levying Attachment under $50.00	1 00		
Levying Execution under $50.00	1 00		
Making Money, 3 per cent, not less than	75		
Serving ..... Notice, etc., on each party therein	25		
Serving Sci Fa. or other like Notice	50		
Taking Bail or other Bond	50		
Keeping Property Levied on		$4	10
WITNESS' FEES			
4 Witness 4 Days ax	50	2	00
Garnishee's Fee			

RECORDED

To the Clerk of the Circuit Court of Baldwin County:

I hereby certify that the foregoing is a full, complete, and exact transcript from my docket of the judgment and proceedings in the above cause, and I herewith send to the Clerk of the Circuit Court of Baldwin County, Alabama, all the original and other papers pertaining to said cause.

Given under my hand this 26th day of Oct 1934

J. M. Franklin Justice of the Peace.

W. D. McDowell
Plaintiff

vs

L & N. R. R. Co.
Deft.

(101)

Plaintiff demurs to Plea four on the grounds that said plea is a mere conclusion of the ~~[illegible]~~ pleader.

W. H. Hawkins
Atty for Plaintiff

[redacted]

W. D. McDonald
Plaintiff
vs
L & N. R.R. Co
Deft

101

Filed February 28. 1955
Robert L. Deck
Clk

STATE OF ALABAMA,)
:
BALDWIN COUNTY.)

KNOW ALL MEN BY THESE PRESENTS, That we, Louisville & Nashville Railroad Company, a corporation, as principal, and R. E. Steiner and B. P. Crum, of Montgomery, Alabama, as sureties, are held and firmly bound unto W. D. McDowell in the sum of One Hundred ($100.00) Dollars, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our heirs, executors and administrators, jointly, severally and firmly by these presents, and as part of this undertaking we hereby waive all our rights under the Constitution and Laws of the State of Alabama, to have any of our property, real or personal, exempt from levy and sale in satisfaction hereof.

Sealed with our seals, and dated this 27th day of October, 1934.

WHEREAS, on to-wit: the 26th day of October, 1934, the said W. D. McDowell recovered a judgment in the Court of Honorable J.M. Franklin, Justice of the Peace of Baldwin County, Alabama, against Louisville & Nashville Railroad Company for the sum of Thirty-five ($35.00) Dollars, debt and damages, and the further sum of Five ($5.00) Dollars costs in that behalf expended; and whereas, on this day the said Louisville & Nashville Railroad Company, as such defendant, has made application for an appeal from said judgment to the next term of the Circuit Court of Baldwin County, Alabama, to be held of and for said State, to reverse said judgment, and also for a supersedeas of the execution of said judgment, which has been granted on entering into this bond.

NOW, THEREFORE, the condition of the foregoing obligation is such that if the said Louisville & Nashville Railroad Company shall prosecute its said appeal to effect, and satisfy such judgment as the Circuit Court of Baldwin County, Alabama, may render in this case, then the said obligation to be null and void; otherwise to remain in full force and effect.

LOUISVILLE & NASHVILLE RAILROAD CO., (L.S.)
Principal

By R. E. Steiner
Its Attorney.

R. E. Steiner (L.S.)
Surety.

B. P. Crum (L.S.)
Surety.

Approved, this
29th day of October,
1934.

J. M. Franklin
Justice of the Peace.

M P & C.

Appeal bond

ARCHIVED

L. D. McDonald

vs

L. & N. R. R. Co.

STATE OF ALABAMA,

COUNTY OF MORGAN.

KNOW ALL MEN BY THESE PRESENTS, that we, Louisville & Nashville Railroad Company, a corporation, as principal, and R. E. Stelle and E. E. Cain, of Morgan County, Alabama, as sureties, are held and firmly bound unto L. D. McDonald in the sum of one Hundred ($100.00) Dollars, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our heirs, executors and administrators, jointly, severally and firmly by these presents, and as part of this undertaking we hereby waive all our rights under the Constitution and laws of the State of Alabama, to have any of our property, real or personal, exempt from levy and sale in satisfaction hereof.

Sealed with our seals, and dated this 8th day of October, 1924.

WHEREAS, on to-wit: the 8th day of October, 1924, the said L. D. McDonald recovered a judgment in the Court of Moulton, Alabama, [illegible] Louisville & Nashville Railroad Company for the sum of Twenty-Five ($25.00) Dollars, debt and damages, and the further sum of Five ($5.00) Dollars costs in that behalf expended; and whereas, on this day the said Louisville & Nashville Railroad Company, as such defendant, has made application for an appeal from said judgment to the next term of the Circuit Court of Baldwin County, Alabama, to be held at and for said State, to reverse said judgment, and also for a supersedeas of the execution of said judgment, which has been issued on entering into this bond.

NOW, THEREFORE, the condition of the foregoing obligation is such that if the said Louisville & Nashville Railroad Company shall prosecute its said appeal to effect, and satisfy such judgment as the Circuit Court of Baldwin County, Alabama, may render in this case, then the said obligation to be null and void; otherwise to remain in full force and effect.

LOUISVILLE & NASHVILLE RAILROAD CO., (Seal.)
Principal.

By _____
Its Attorney.

R. E. Stelle (Seal.)
Surety.

E. E. Cain (Seal.)
Surety.

Approved, this
8th day of October,
1924.

_____
Judge of the Court.

Witnesses for Plaintiff.

W. D. McDowell, Tom Dean, Pete Stewart,

Brown Bryers and W. Joe Hall.

Sullivan Sawyer

(1)

I charge you Gentlemen of the Jury that if you believe the evidence