

Circuit Court, Baldwin County

127

Mrs. Zoe Mathers, Admrx. of the Estate of
Evangeline Mathers, Deceased,
vs.

PLAINTIFF

Louisville and Nashville Railroad Company,

DEFENDANT

#127

BILL OF COST

CLERK'S FEES		Dollars	Cts.	AMOUNT BROUGHT FORWARD		\$	Cts.
Issuing Summons and Complaint	\$1 25	1	25	Transcript to Supreme Court, 15c per hundred words		4	00
Copies of same, when over 200 words, 15c per 100	30		50	2 Copies, 5c per hundred words		2	00
Issuing Alias Summons and Complaint	1 25			Citation to Appellee in Appeal, 20c per hundred words			50
Entering Sheriff's Return on Summons and Complaint	20		20	Certificate with Seal, 50c. Without Seal	25		
Docketing Cause 25c. Ent. Appearance, 20c	45		45	Witness Certificate	25		
Subpoena for Witness	30			Taking Bond Not Above Mentioned	75		
Making Certificate of Judgment	50		50	Entering Order of Court not above named	30		
Filing	10			Administering Oath	25		
Trial and Incidents	75			Taking Bond for Costs of Non-Resident Plaintiff	75		
Entering Judgment, or copy of same	30			Copy of any paper not above named, 15c per hundred words			
Order for Continuance	10			Filing Writ of Prohibition and Entering Return	15		
Issuing Execution	50			Issuing Writ of Prohibition	75		
Docketing Execution	25			Issuing copies of same, 15c per 100 words	15		
Issuing copy of same	50			Filing Mandamus and Entering Return	15		
Entering Sheriff's Return on Execution, 15c per hundred words	20	4	00	Issuing Writ of Mandamus	75		
Final Record, 15c per hundred words	30			Issuing copies of same, 15c per 100 words			
Order for Alias Summons and Complaint	30			Total Clerk's Fees		14	15
Order to Dismiss Cause	30			SHERIFF'S FEES			
Order to Set Aside Dismissal	30			Serving and Returning Summons	\$1 50	1	50
Order Overruling Motion to Set Aside Dismissal	75			Serving and Returning Subpoenas	65		
Order Granting New Trial	30			Collecting Execution for Costs	1 50		
Order Overruling Motion for New Trial	30			Serving and Returning Sci. Fa. Notice, etc.	65		
Order Overruling Motion for Continuance	30			Executing Writ of Possession	2 50		
Order Overruling Motion to Set Aside Default	30			Levying Attachment	3 00		
Order for Notice to Non-Resident Defendant	30			Entering and Returning Attachment	25		
Issuing Notice for Publication and Copy 20c per hundred words	30			Entering and Returning Execution	25		
Order to Give Security for Costs	30			Summoning and Returning Garnishee	1 50		
Order to Give Additional Bond	30			Taking and Approving Garnishee Bond	75		
Order to Execute Writ of Inquiry	30			Serving and Returning Writs	1 50		
Order of Sale in Attachment	30			Serving and Returning Summons on Forcible Entry	1 00		
Order for Leave to Amend Complaint	30			Executing Writ of Restitution in such cases	2 00		
Order for Leave to Amend Pleas	30			Taking and Approving Bonds of Every Kind	1 00		
Order for Leave to Amend Writ of Process	30			Taking and Approving Claim Bond	1 00		
Order for Attachment for Witness	30			Taking and Approving Forthcoming Bond	1 00		
Filing Deposition	10			Taking and Approving Bail Bond	1 00		
Issuing Commission to Take Deposition	75			Taking and Approving Plaintiff's Detinue Bond	1 00		
Issuing copy of same, per hundred words	15			Taking and Approving Defendant's Detinue Bond	1 00		
Issuing Copy of Interrogatories, 15c per hundred words, but not less than	50			Making Deed	2 50		
Endorsing each Pet. Deposition Opened	10			Serving Attachment for Contempt of Court	1 50		
Taking Bond in Garnishment on Summons	75			Collecting Money on Execution	75		
Summons to Garnishee	50			Empanelling Jury			
Copies of same, 20c per hundred words				Sheriff's Commission for Property Sold under Attachment			
Notice to Defendant in Garnishee on Summons, and copy, per hundred words	20			Seizing Personal Property on Writ of Detinue	3 00		
Swearing Garnishee and Recording Answer, 15c per hundred words, but not less than	50			Total Sheriff's Fees		1	50
Filing Attachment	10			RECAPITULATION			
Issuing Attachment Writ and Taking Bond	1 00			Judgment			
Issuing Copies of Attachment Writ, 15c per hundred words				Interest			
Filing Certiorari and Entering Return	15			Clerk's Fees		14	15
Taking Certiorari Bond and Filing Same	75			Sheriff's Fees		1	50
Issuing Writ of Certiorari	75			Justice's Fees			
Issuing copies of same, 15c per 100 words				Constable's Fees			
Issuing Writ of Scieri Facias, or Notice in Nature of	75			Witnesses' Fees			
Issuing copies of same, 15c per 100 words				Commissioners' Fees			
Taking Supersedeas Bond and Filing same	75			Printer's Fees			
Taking Appeal Bond and Filing same	75			Stenographer's Fees	5 00		
				Answer of Garnishee		3	00
				Trial Tax	3 00		
				Total			18 65
TOTAL FORWARDED			7 65				

Costs to March 28th, 1935.

Received payment this _____ day of _____ 193_____

ATTEST

Clerk Circuit Court, Baldwin County, Ala.

NOTICE OF REMOVAL

Mrs. Zoie Mathers, Admrx. of
the Estate of Evangeline
Mathers, deceased,
 plaintiff,

VS.

IN THE Circuit COURT OF
Baldwin COUNTY,
ALABAMA.

LOUISVILLE & NASHVILLE RAILROAD
COMPANY, a Corporation,
Defendant.

To Mrs. Zoie Mathers, Admrx. etc plaintiff in the above entitled
cause, or Hybard, Heard & Chason, his Attorney of Record:

YOU ARE HEREBY NOTIFIED that the defendant in the above entitled cause will, on the 21st day of March, 1935, file in said cause in the Circuit Court of Baldwin County, Alabama, its petition and bond for removal of said cause to the District Court of the United States for the Southern Division of the Southern District of Alabama, and will on said day present said petition and bond to the Honorable F. W. Hare, Judge of said Court, and will move the Court for an order removing said cause to the District Court of the United States for the Southern Division of the Southern District of Alabama, in accordance with the petition and bond of the defendant, copies of which are hereto attached.

This the 20 day of March,, 1935.

Becker & Hall
Attorneys for Defendant.

We hereby acknowledge service of a copy of the foregoing notice, together with a copy of the petition and bond therein referred to.

This the 20th day of March, 1935.

Hyatt Heard & Chason
Attorney of Record for Plaintiff.

1-1127

~~CONFIDENTIAL~~

Notice of Removal

Filed March 20, 1935
Robert S. Duck
Clerk

PETITION FOR REMOVAL

Mrs. Zoie Mathers, Administratrix)
of the Estate of Evangeline Mathers,)
deceased Plaintiff,)

VS.)

LOUISVILLE & NASHVILLE RAILROAD)
COMPANY, a Corporation,)

Defendant.)

IN THE Circuit COURT OF

Baldwin COUNTY,

ALABAMA.

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Louisville & Nashville Railroad Company, a corporation, the defendant in the above entitled cause, represents and shows unto your Honor and this Honorable Court, that at the time of the institution of this suit plaintiff was and now is a citizen and resident of the county of Baldwin, Alabama, in the Southern Division of the Southern District of Alabama; that the defendant, Louisville & Nashville Railroad Company, was at the time of the institution of this suit, and now is, a corporation created, organized and existing under the laws of the State of Kentucky, and a citizen of the State of Kentucky.

Petitioner avers that this suit is of a civil nature, and the amount and matter in controversy therein, as shown by and in the complaint filed, exceeds Three Thousand Dollars, exclusive of interest and costs; that the plaintiff is suing for Fifteen Thousand Two Hundred Fifty (\$15,250.00) Dollars, as damages on account of the alleged negligently ~~(\$15,250.00) on account of~~ killing of her intestate, and negligently destroying the automobile of her intestate in a crossing accident in Baldwin County on, to wit: February 5, 1935, all of which will more fully appear from said complaint, and the defendant denying all negligence and liability for said claim; that the time within which petitioner is, by the Alabama law and rules and practice applicable to said cause in this Honorable Court, required to plead, answer or demur to the complaint in said cause, has not yet expired.

Petitioner herewith files a bond with good and sufficient surety, conditioned upon its entering in the District Court of the United States for the Southern Division of the Southern District of Alabama, within thirty days from the date of the filing of this petition, a certified copy of the record in this suit, and paying all costs that may be awarded by said District Court should

said District Court hold that this suit was wrongfully or improperly removed thereto.

Petitioner further shows and avers that it has given

written notice to the plaintiff in the above entitled cause of the filing of this petition, and of the bond filed herewith by serving such notice on the attorney of record for the plaintiff, a copy of which notice is hereto attached, marked Exhibit "A", and made a part hereof.

Your petitioner therefore prays that this Honorable Court will proceed no further herein, except to make the order of removal, as required by law, and to accept the bond presented herewith, and cause the record and suit herein to be removed into the District Court of the United States for the Southern Division of the Southern District of Alabama; and your petitioner will ever pray, etc.

Edna M. Jones

Stearns & Nash

Attorneys for Petitioner, and Defendant, Louisville & Nashville Railroad Company.

THE STATE OF ALABAMA,)
Montgomery)
COUNTY.

Before me, Edna M. Jones, a Notary Public in

and for said County, in said State, personally appeared B. E.

Stearns, Jr., who being by me first duly sworn, deposes and says

that he is Local Attorney of the Louisville & Nash-

ville Railroad Company, a corporation, the defendant and petitioner

in the foregoing petition, and is authorized for and on its behalf

to make this affidavit; that he has read said petition, and the

facts stated therein are true,

Edna M. Jones

Sworn to and subscribed before me

this the 18th day of March, 1935.

Edna M. Jones Notary Public, Montgomery County, Alabama.

~~RECORDED~~
Duck

127

Petition for Removal

Filed March 25, 1937

Robert S. Duck
clerk

BOND FOR REMOVAL.

STATE OF ALABAMA,)
Baldwin COUNTY.)

KNOW ALL MEN BY THESE PRESENTS: That the Louisville & Nashville Railroad Company, a corporation, as principal, and Beebe & Hall and Steiner, Crum & Weil, as sureties, are held and firmly bound unto Mrs. Zoie Mathers, Admr. of the estate of Evangeline Mathers, Deceased, the plaintiff in this cause, in the penal sum of Five Hundred Dollars (\$500.00), lawful money of the United States, for the payment whereof, well and truly to be made, we and each of us firmly bind ourselves, our successors, assigns, heirs, executors, and administrators, jointly and severally, by these presents.

Signed and sealed this 18 day of March, 1935.

The condition of the above obligation is such that, whereas the said Louisville & Nashville Railroad Company has filed in the Circuit Court of Baldwin County, State of Alabama, its petition for the removal of a certain cause therein pending wherein the said Mrs. Zoie Mathers, Admr. etc is plaintiff, and the Louisville & Nashville Railroad Company is defendant, to the District Court of the United States in and for the Southern Division of the Southern District of Alabama;

Now, therefore, if the said Louisville & Nashville Railroad company shall enter in the said District Court of the United States a certified copy of the record in said suit, within thirty days after the petition and bond for removal are filed, and shall well and truly pay all costs that may be awarded by the said District Court, if the said District Court shall hold that said suit was wrongfully or improperly removed thereto, then this obligation shall be void; otherwise it shall remain in full force and effect.

LOUISVILLE & NASHVILLE RAILROAD COMPANY, (L.S.)

By Samuel B. E.
As its Dist. Atty.

Approved this 25 day
of March, 1935.

Samuel B. E. (L.S.)

Robert L. Duck
Clerk of the Circuit
Court of Baldwin County

Beebe & Hall (L.S.)

Bond

Filed March 25 1935
Robert S. Quirk
Clerk

ORDER OF REMOVAL.

Mrs. Zoie Mathers, Admrx. of
the Estate of Evangeline Mathers,
deceased,

Plaintiff,

VS.

LOUISVILLE & NASHVILLE RAIL-
ROAD COMPANY, a Corporation,

Defendant,

IN THE Circuit COURT OF
Baldwin COUNTY,
ALABAMA.

This cause coming on for hearing, upon application of the defendant herein for an order transferring and removing this cause to the United States District Court for the Southern Division of the Southern District of Alabama, and it appearing to the court that the defendant has filed its petition for such removal in due form and as provided by law, and has also filed its bond duly conditioned, with good and sufficient sureties, as provided by law; and that due and legal notice, as provided by law, has been given plaintiff; and it appearing to the court that this is a proper cause for removal to said District court;

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that this cause be and is hereby removed to the said District court of the United States for Southern Division of Southern District of Alabama, and the clerk of this court is hereby directed forthwith to make up a certified copy of the record in said cause for transmission to the said District court of the United States.

This 23rd day of March, 19 35.

J. W. Hale
Judge of the

21st Judicial Circuit of
Alabama

H

RECEIVED
No 127 Duck

Mrs Joe Matthews
admx

VS

L. & N. Railroad Co

~~Order~~ & Order for
Removal

Filed March 25, 1935
R. S. Duck
Clerk

4
RECORDED
No 127-2000

Mrs Joe Matthews

adm

VS

L. & N. Railroad Co

Return & Order for
Removal

Filed March 25, 1935

R. S. Duck

Clerk

(page two)

ken, pelvis being broken, and several ribs were broken, from which said wounds and bruises and cuts the Plaintiff's intestate died on, to-wit, February 11th, 1935, and Plaintiff alleges that said death was caused by the negligence of the servants or employees of Defendant in and about the running of said engine and cars on or over said railroad, and that her said death was the proximate result of the negligence of Defendant through its servants or employees in and about the running of said engine and cars and the management and control thereof, all of which was to the great damage of the Plaintiff as aforementioned.

COUNT 2: The Plaintiff claims of the Defendant the sum of Fifteen Thousand Dollars (\$15,000.00), as damages, for that whereas, on, to-wit, February 5th, 1935, Defendant was engaged in operating and running a railroad in Baldwin County, Alabama, between the Towns of Bay Minette, Alabama, and Foley, Alabama, through the Town of Robertsdale, Alabama, in said County, on and over which the Defendant did run its engines and cars, said engines being propelled by steam power, and said cars being pulled by said engines, and said Defendant did, on, to-wit, February 5th, 1935, through its agents and servants, wantonly and willfully and with reckless disregard of the probable consequences of this act, run its said engine or train against Plaintiff's intestate while she was crossing said railroad at a populous street crossing in the Town of Robertsdale, thereby causing the death of Plaintiff's intestate, to her great damage in the sum aforementioned.

COUNT 3: The Plaintiff claims of the Defendant the sum of Fifteen Thousand Dollars (\$15,000.00), as damages, for that whereas, on, to-wit, February 5th, 1935, Defendant was engaged in operating and running a railroad in Baldwin County, Alabama, through the Town of Robertsdale, Alabama, a populous community in said County, and Plaintiff avers that on said date, to-wit, February 5th, 1935, that while Plaintiff's intestate was attempting to cross Defendant's railroad at a public street

(page two)

STATE OF ALABAMA,
BALDWIN COUNTY.

IN THE CIRCUIT COURT-LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETING:-

You are hereby commanded to summon Louisville & Nashville Railroad Company, a Corporation, to appear within thirty days from the service of this writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the Complaint of Mrs. Zoe Mathers, Administratrix of the Estate of Evangeline Mathers, Deceased.

Witness my hand this 5 day of March, 1935.

Robert S. Duck
Clerk.

COMPLAINT.

MRS. ZOE MATHERS, ADMINISTRA-
TRIX OF THE ESTATE OF EVANGELINE
MATHERS, DECEASED,

Plaintiff,

-vs-

LOUISVILLE & NASHVILLE RAIL-
ROAD COMPANY, a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
LAW SIDE.

COUNT 1: The Plaintiff claims of the Defendant the sum of Fifteen Thousand Dollars (\$15,000.00), as damages, for that, whereas, on to-wit, February 5th, 1935, Defendant was engaged in operating and running a railroad in Baldwin County, Alabama, between the Towns of Bay Minette, Alabama, and Foley, Alabama, in said County, on and over which Defendant did run its engines and cars, said engines being propelled by steam power, and said cars being pulled by said engines, and said Defendant did, on, to-wit, February 5th, 1935, carelessly and negligently run one of its said engines against an automobile in which the Plaintiff's intestate was riding, and which Plaintiff's intestate was then and there crossing said railroad at a public street crossing in the Town of Robertsdale, Alabama, whereby Plaintiff's intestate was so badly injured, bruised, wounded, cut, her collar bone being bro-

crossing in said town of Robertsdale, she was struck by a locomotive, receiving the wounds from which she died, and Plaintiff further avers that said injury was inflicted upon her in testate through the willful, reckless and wanton acts of Defendant's agents and servants, in this, that the said public street crossing was one in which great numbers of people were, and had for several years, been continuously passing on foot, horseback and in vehicles, and was at a populous locality, all of which was well known to Defendant, and to its agents and servants, and with such knowledge Defendant's agents and servants, without ringing the bell or blowing the whistle, approached and crossed said crossing at a highly dangerous rate of speed, to-wit, about thirty-five or forty miles an hour, and with a reckless disregard of the peril of Plaintiff's said estate, and of such of the community in general as might be crossing or traversing said crossing, ran said locomotive at such rate of speed upon and against said Plaintiff's estate while crossing said railroad track at said public crossing, inflicting upon her wounds from which she died, all to the great damage of the Plaintiff in the sum aforementioned.

COUNT 4: The Plaintiff claims of the Defendant the sum

of Two Hundred Fifty Dollars (\$250.00) as damages, for that, where- as, on, to-wit, February 5th, 1935, Defendant was engaged in oper- ating and running a railroad in Baldwin County, Alabama, between the town of Bay Minette and the town of Foley, in said County, on and over which Defendant did run its engines and cars, said engines being propelled by steam power and said cars being pulled by said engines, and said Defendant did, on, to-wit, February 5th, 1935, negligently run one of its said engines against an automobile which was the property of Plaintiff's estate, and which was then and there being driven across said railroad at a public street crossing in the town of Robertsdale, Alabama, by Plaintiff's estate; that said car, by reason of said col- lision, was so badly injured that it was caused to be of no practical value, and Plaintiff alleges that the destruction of

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said car by said collision was caused by the negligence of the servants or employees of Defendant in and about the running of said engine and cars on or over said railroad, and that said damages to said car are the proximate result of the negligence of Defendant through its servants or employees in and about the running of said engines and cars and the management and control thereof, all to the damage of Plaintiff in the sum aforementioned.

Wybark, Heard & Chason
Attorneys for Plaintiff.

The Plaintiff demands a trial
of this cause by Jury.

Wybark, Heard & Chason
Attorneys for Plaintiff.

Rec. in office March 5
1935

S.D.D. 9 M.H. Wilkins

to be filed this 5th
day of March 1935 by
serving a copy of the
summons & complaint
on R.E. Cooley as
agent for the L & N
Rail Road Company
M.H. Wilkins
Sheriff

127
Jury Duck
SUMMONS & COMPLAINT.

MRS. ZOE MATTERS, ADMINISTRAT^{OR}
TRIX OF THE ESTATE OF EVANGEL^{INE}
LINE MATTERS, DECEASED,

Plaintiff,

--VS--

LOUISVILLE & NASHVILLE RAIL-
ROAD COMPANY, a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Filed March 5th, 1935

Robert S. Duck
Clerk.

LAW OFFICES
HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA