

LOIS WILLIS and VELMA WILLIS,
a minor of the age of 12 years,
by LOIS WILLIS, her mother and
next friend,

Plaintiffs

- vs -

AMERICAN EMPLOYERS' INSURANCE
COMPANY, of Boston, Massachusetts,
a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

APPLICATION

TO THE HON. F. W. HARE, JUDGE OF THE CIRCUIT COURT, BALDWIN
COUNTY, ALABAMA:

Comes now Lois Willis, the above named plaintiff and respectfully shows to the Court that the defendant has refused to pay the compensation due and which is claimed in the complaint in the above entitled cause; that it is necessary that said cause be submitted to this Court to determine and enforce the right of the plaintiffs to such compensation; that plaintiff is incapable of properly presenting such matter and it is necessary that she employ an attorney for that purpose; that she has employed Lloyd A. Magney as such attorney and he has accepted such employment.

WHEREFORE your petitioner prays that your Honor will enter an order approving the employment of the said Lloyd A. Magney, and that in due time your Honor will fix the fee for the legal services rendered and the manner of its payment.

Dated this 14th day of March, 1935.

Lois Willis

128 - Civil Deck
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

LOIS WILLIS and VELMA WILLIS,
a minor of the age of 12 years,
by LOIS WILLIS, her mother and
next friend,

Plaintiffs

- vs -

AMERICAN EMPLOYERS' INSURANCE
COMPANY, of Boston, Massachusetts,
a Corporation,

Defendant.

APPLICATION

Filed March 25-1935

Robert H. Dyer

Chas

Lloyd A. Magney
Attorney
Foley, Alabama.

LOIS WILLIS and VELMA WILLIS,
a Minor of the age of 12 years
by LOIS WILLIS her mother and
next friend,

Plaintiffs,

-vs-

AMERICAN EMPLOYERS' INSURANCE
COMPANY, of Boston, Massachusetts,
a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

ORDER APPROVING LUMP SUM
SETTLEMENT

This cause coming on to be heard on the complaint and the application of the plaintiffs asking the approval of the Court of a lump sum settlement in the amount of SEVEN HUNDRED FIFTY & 00/100 (\$750.00) DOLLARS and it appearing to the Court therefrom that the wages of the deceased, W. A. Willis, were FIFTY FIVE & 00/100 (\$55.00) DOLLARS per month which is at the rate of TWELVE & 69/100 (\$12.69) DOLLARS per week and that the compensation provided by law in this case would be the sum of FIVE & 08/100 (\$5.08) DOLLARS per week for a total of THREE HUNDRED WEEKS (300) plus an allowance for funeral expenses in the amount of ONE HUNDRED & 00/100 (\$100.00) DOLLARS and that the present worth of such compensation and allowance would be approximately the sum of THIRTEEN HUNDRED & 00/100 (\$1,300.00) DOLLARS.

That there is some question under the law and the facts of this case as to whether or not plaintiffs are entitled to recover any compensation for the reason that the said W. A. Willis, at the time of the accident, which resulted in his death, was driving his truck after dark, without head lights or lights of any kind which is in violation of the laws of the State of Alabama; that while this precise question has never been passed upon by the Courts of the State of Alabama numerous other jurisdictions have held that if the employee meets with an accident at a time when he is violating an express law that this constitutes willful misconduct on the part of the employee, so as to deprive him of the benefits of the compensation law; whether this rule of law will be applied and enforced by the Courts of Alabama is a matter of some doubt and that it would be for the best interests of the plaintiffs in this case to accept a sum less than the maximum amount to which they might be

entitled and to avoid the risks of litigation which might result in said plaintiffs receiving nothing.

It is therefore ordered that the offer of compromise made by the defendant, which is to pay the sum of SEVEN HUNDRED FIFTY & 00/100 (\$750.00) DOLLARS to the plaintiffs, in addition to the costs of Court is, under all the circumstances fair and just and the same is hereby approved and the Clerk is directed to enter judgment nil dicit against the defendant for the sum of SEVEN HUNDRED & 00/100 (\$750.00) DOLLARS and costs of Court.

It is further ordered that the employment, by the plaintiffs of Lloyd A. Magney, as their attorney be and the same hereby is approved and that the payment of a fee to the said Lloyd A. Magney, out of the proceeds of said judgment, in the amount of 10% of the amount of said judgment, to-wit: The sum of SEVENTY FIVE & 00/100 (\$75.00) DOLLARS is hereby ordered and approved.

Dated this 10th day of May, 1935.

F. W. Hare

Judge

~~RECORD~~
back
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

LOIS WILLIS and VELMA WILLIS,
a Minor of the age of 12 years
by LOIS WILLIS her mother and
next friend,

Plaintiffs,

-VS-

AMERICAN EMPLOYERS' INSURANCE
COMPANY, of Boston, Massachusetts
a Corporation,

Defendant.

ORDER APPROVING LUMP SUM
SETTLEMENT

Filed - May 8, 1935
Robert S. Buck, Clerk

Lloyd A. Magney
Attorney
Foley, Alabama.

Circuit Court, Baldwin County

Louis Smith and John Smith vs. 12
By Louis Smith and John Smith

PLAINTIFF

VS.

James Ephraim Jones vs. of Boston Mass

DEFENDANT

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			
Copies of same, when over 200 words, 15c per 100	30		60	Copies, 5c per hundred words			
Issuing Alias Summons and Complaint	1 25			Citation to Appellee in Appeal, 20c per hundred words			
Entering Sheriff's Return on Summons and Complaint	20		20	Certificate with Seal, 50c. Without Seal	25		
Docketing Cause 25c. Ent. Appearance, 20c	45		120	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		10	Administering Oath	25		
Trial and Incidents	75		30	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			
Issuing copy of same	50			Filing Mandamus and Entering Return	15		
Entering Sheriff's Return on Execution, 15c per hundred words	20			Issuing Writ of Mandamus	75		
Final Record, 15c per hundred words		3	00	Issuing copies of same, 15c per 100 words			
Order for Alias Summons and Complaint	30		30	Total Clerk's Fees			
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				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			
Summons to Garnishee	50			Empanelling Jury	75		
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			
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			
Taking Certiorari Bond and Filing Same	75			Sheriff's Fees			
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		
Taking Appeal Bond and Filing same	75			Answer of Garnishee			
Taking Appeal Bond and Filing same	75			Trial Tax	3 00		
TOTAL FORWARDED				Total	\$	3	26

Received payment this _____ day of _____ 193 _____

ATTEST

Clerk Circuit Court, Baldwin County, Ala.

Circuit Court, Baldwin County

No. 128

Smiles

VS.

Anna A. Taylor Snow

Civil Cost Bill

Paid _____ 193_____

Clerk.

MOORE PRINTING CO., GAY HINETTE, ALA.

\$176.170

LOIS WILLIS and VELMA WILLIS,
a Minor of the Age of 12 years
by LOIS WILLIS her mother and
next Friend,

Plaintiffs,

-vs-

AMERICAN EMPLOYERS' INSURANCE
COMPANY, of Boston, Massachusetts,
a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

APPLICATION FOR ORDER

STATE OF ALABAMA)
BALDWIN COUNTY)

Lois Willis, being first duly sworn on her oath deposes and says that she is the plaintiff in this case and is in receipt of an offer of compromise from the defendant which she desires to accept.

That the reasons that induce her to desire to accept a lump sum settlement of less than the maximum amount of compensation, which she might collect, are as follows:

At the time of the accident which resulted in his death, her husband, W. A. Willis, was driving upon a public highway of the State of Alabama a truck which was without head lights or lights of any kind, after dark, and she is informed that this is a violation of the express statutes of the State of Alabama.

That she is further advised that there is some doubt, as a matter of law, as to whether or not such law violation by her said husband at the time of his death was such "willful misconduct" as to relieve his employer, the State Highway Department of Alabama, and the defendant Insurance Company carrying the compensation liability of said State Highway Department, from legal liability for the death of her said husband.

That the defendant intends to contest her claim on this and other grounds and she is advised that there is a possibility that she might not recover anything on her claim and that she cannot afford to speculate but would be better off to accept the sum of SEVEN HUNDRED FIFTY & 00/100 (\$750.00) DOLLARS which is offered to her in compromise than to take any chance of losing said sum by a contest of this suit.

WHEREFORE, she asks that the Court will approve the compromise of her claim in the amount of SEVEN HUNDRED ^{fifty} & 00/100 (\$750.00) DOLLARS plus the costs of Court.

She further states that in order to get an offer of any amount from the defendant she has been obliged to retain an attorney and to file suit and that she is willing to pay to said attorney, Lloyd A. Magney, a fee of 10% of the amount received by her and asks the Court to approve such payment.

Luis Willis

Subscribed in my presence and sworn to before me this 8 day of May, 1935.

[Signature]
Notary Public

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

Robert S. Duck

LOIS WILLIS and VELMA WILLIS,
a minor of the age of 12 years
by LOIS WILLIS her mother and
next friend,

Plaintiffs,

-vs-

AMERICAN EMPLOYERS' INSURANCE
COMPANY, of Boston, Massachusetts
a Corporation,

Defendant.

APPLICATION FOR ORDER

Filed May 8, 1935
Robert S. Duck, Clerk

LLOYD A. MAGNEY
Attorney
Foley, Alabama.

STATE OF ALABAMA)
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon American Employers' Insurance Company of Boston, Massachusetts, 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 the same, then and there to answer the complaint of Lois Willis and Velma Willis, a minor of the age of 12 years, by Lois Willis her mother and next friend.

WITNESS my hand this 25 day of March, 1935.

Robert L. Duck
Clerk

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LOIS WILLIS and VELMA WILLIS,
a minor of the age of 12 years,
by LOIS WILLIS, her mother and
next friend,

Plaintiffs

- vs -

AMERICAN EMPLOYERS' INSURANCE
COMPANY, of Boston, Massachusetts,
a corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

COMPLAINT

Come now the plaintiffs and for cause of action against the defendant allege and show to the Court:-

1. That the plaintiffs are residents of Foley, Baldwin County, Alabama, and the defendant is a corporation domiciled in the city of Boston, in the State of Massachusetts, but doing business in the State of Alabama, as an insurance company issuing policies of insurance in matters of workmen's compensation and employers' liability.

2. That on the 2nd day of June, 1934, and for several years prior thereto W. A. Willis, who was the husband of the plaintiff, Lois Willis, and the father of the plaintiff, Velma Willis, was in the employ of the State Highway Commission of--

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APPLICATION FOR ORDER

Filed May 8, 1935

Robert S. Duck, Clerk

LLOYD A. MAGNEY
Attorney
Foley, Alabama.

of Alabama, as a foreman in charge of the maintenance of certain of the state roads of the State of Alabama, to-wit: The section of road from Foley to Lillian, and the section of road from Foley to the Gulf of Mexico, in Baldwin County, Alabama.

3. That sometime prior to said 2nd day of June, 1934, the defendant issued and delivered to the said State Highway Commission of Alabama, its policy of insurance, which said policy was on said 2nd day of June, 1934, in full force and effect, insuring to the employees of said State Highway Commission of Alabama, the payment of any benefits due to any of such employees, or their dependents, under the provisions of the Workmen's Compensation Act and the laws of Alabama.

That said policy of insurance provided, in part, as follows:

"American Employers' Insurance Company of Boston, Massachusetts, (Hereinafter called the Corporation) does hereby agree with this Employer, named and described as such in the Declarations forming a part hereof, as respects personal injuries sustained by employees, including death at any time resulting therefrom as follows:

One. (a) To Pay Promptly to any person entitled thereto under the Workmen's Compensation Law and in the manner therein provided, the entire amount of any sum due, and all instalments thereof as they become due,

(1) To such person because of the obligation for compensation for any such injury imposed upon or accepted by this Employer under such of certain statutes, as may be applicable thereto, cited and described in an endorsement attached to this Policy, each of which statutes is herein referred to as the Workmen's Compensation Law, and

(2) For the benefit of such person the proper cost of whatever medical, surgical, nurse or hospital services, medical or surgical apparatus or appliances and medicines, or, in the event of fatal injury, whatever funeral expenses are required by the provision of such Workmen's Compensation Law."

That said policy of insurance further provided, in part, as follows:-

"The obligations of Paragraph One (a) foregoing are hereby declared to be the direct obligations and promises of the Corporation to any injured employee covered hereby, or, in the

event of his death, to his dependents; and to each such employee or such dependent the Corporation is hereby made directly and primarily liable under said obligations and promises. This contract is made for the benefit of such employees or such dependents and enforceable against the Corporation, by any such employee or such dependent in his name or on his behalf, at any time and in any manner permitted by law, whether claims or proceedings are brought against the Corporation alone or jointly with this Employer."

That said policy of insurance further provided, in part, as follows:-

"As between the employee and the Corporation, notice to or knowledge of this Employer of an injury or death covered hereby shall be notice or knowledge as the case may be of the Corporation; the jurisdiction of this Employer for the purposes of any Workmen's Compensation Law covered hereby shall be jurisdiction of the Corporation and the Corporation shall in all things be bound by and subject to the findings, judgments, awards, decrees, orders or decisions rendered against this Employer in the form and manner provided by such laws and within the terms, limitations and provisions of this Policy not inconsistent with such laws."

4. That the duties of the said W. A. Willis required him to direct the work of several other employees of said State Highway Commission in the maintenance, repair and upkeep of the state roads before mentioned, with machinery, tools and appliances furnished by said State Highway Commission; to inspect the work done by employees under his direction and control and to see that the same was done in accordance with the instructions of the Highway Commission; to take care of and maintain the tools, machinery and trucks of said Highway Commission entrusted to his care; to deliver to the pontoon bridge across the Intercoastal Canal on the highway from Foley to the Gulf of Mexico, such materials and supplies as were delivered to him by his employer for use at and upon said bridge; to keep at his place of residence in Baldwin County, Alabama, the trucks and other machinery of the Highway Department when the same were not in use upon the roads and to work with the other employees of the Highway Commission who were under his direction in the upkeep, maintenance and repair of the roads above mentioned and the bridges and culverts across them.

5. That on said 2nd day of June, 1934, the said W. A. Willis met with an accident arising out of and in the course of his said employment which said accident caused his death on said 2nd day of June, 1934, and that said accident occurred as follows:-

Among the other tools and appliances furnished to the said W. A. Willis by the State Highway Commission was a model T. Ford truck which was used in the road work required of the said Willis, which was kept at the home of the said Willis at night and when the same was not in use upon the road. Said Ford truck was not equipped with any head lights nor was any provisions made for lighting the same in any manner.

In the afternoon of said 2nd day of June, 1934, the said Willis had taken from his residence, where the same had been delivered to him by the Highway Commission, 5-gallons of oil, which was needed at the pontoon bridge across the Inter-coastal Canal in the Foley to the Gulf of Mexico Highway, and which it was the duty of the said Willis to deliver at said bridge, in the said model T. Ford truck and he had delivered the same as was his duty at said bridge. During the forenoon the said Willis had sent a part of the crew working under his direction to scrape the road between said pontoon bridge and the Gulf of Mexico with the tractor and scraper provided by the state Highway Commission, while the said Willis, himself, was engaged at another point upon the roads under his charge, and in order to inspect the work done in his absence by the scraper crew and to determine whether or not there were any repairs needed upon said road, after delivery of said oil as aforesaid, the said Willis drove said

truck from said pontoon bridge to the end of the road at the Gulf of Mexico and made an inspection of said road and after having completed said inspection, drove said truck towards his home where it was his duty to keep the said truck, when the same was not in use. That it was a part of the employment and in the course of the employment of the said Willis to return said truck to his home where it was kept every evening after its work upon the road was completed for the day.

That while driving said truck towards the place where it was kept and where it was his duty to place it each evening, said truck collided with an automobile moving in the opposite direction from that of the said truck of the Highway Commission being driven by the said Willis, and that as a result of said collision, the said Willis received injuries from which he died almost immediately.

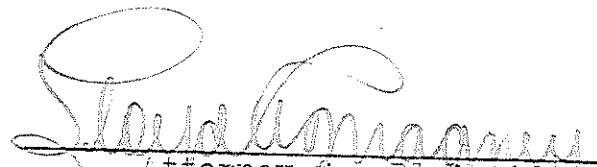
6. Plaintiffs aver that the said accident which resulted in the death of the said Willis, arose out of and in the course of the employment of the said Willis by the Highway Commission of Alabama.

7. Plaintiffs aver that they were wholly dependent upon their husband and father, the said W. A. Willis, for their support; that the said W. A. Willis received a salary from the Highway Commission of Alabama in the amount of \$55.00 per month, which is at the rate of \$12.69 per week and that these plaintiffs are entitled to 40% of the weekly earnings of said deceased, or the sum of \$5.08 per week, for 300 weeks, as compensation, and that no part of the same has been paid and the defendant refuses to pay any part of said compensation.

8. That the expenses of the burial of the said W. A. Willis were in excess of the sum of \$100.00

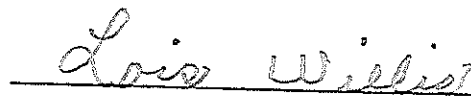
9. That both the employer of said Willis, the State Highway Commission of Alabama, and this defendant had actual knowledge of said accident and of the death of the said Willis within 90 days from the said 2nd day of June, 1934.

WHEREFORE, the plaintiffs claim of the defendant the sum of \$5.08 per week for a total of 300 weeks, and the further sum of \$100.00 for burial expenses.



Attorney for Plaintiffs

STATE OF ALABAMA }
BALDWIN COUNTY }

Lois Willis, being first duly sworn on her oath deposes and says that she is one of the plaintiffs in the above entitled cause; that she has read and knows the contents of the foregoing complaint and that the facts therein set forth are true.



Subscribed in my presence and sworn to before me this 21 day of March, 1935.


Notary Public

original

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

LOIS WILLIS and VELMA WILLIS
a minor of the age of 12
years, by LOIS WILLIS, her
mother and next friend,

Plaintiffs

- vs -

AMERICAN EMPLOYERS' INSUR-
ANCE COMPANY, of Boston,
Massachusetts, a Corporation,

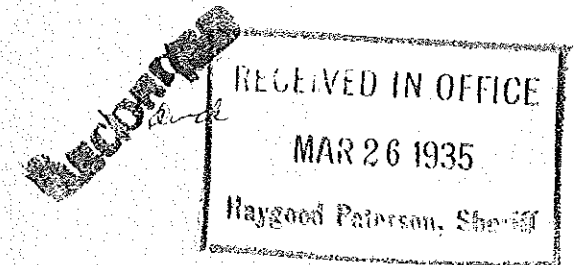
Defendant

SUMMONS AND COMPLAINT

Filed March 25, 1935
Robert S. Duck
Clerk

LLOYD A. MAGNEY
ATTORNEY AT LAW
FOLEY, ALABAMA

Rec'd in office 286
3/25/35
M. H. Wilkins - Sheriff



EXECUTED BY DELIVERING
a copy of the within
To *Frank N. Julian*
AS *Supt. of Ins.*
OF THE *State of Ala.*
AND SAID *Frank N. Julian*
WAS SUCH WHEN SO SERVED *3/26/35*
Haygood Paterson
Sheriff Montgomery County
By *Ed Wamphold*
Deputy Sheriff