

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No. 6874

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Louisville and Nashville Railroad  
Company, a Kentucky Corporation

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  
and Nashville Railroad Company, a Kentucky Corporation, Defendant.....  
by Thomas Packer and Emily Packer

....., Plaintiff.....

Witness my hand this 22 day of February 19 66

David J. Luck, Clerk

THOMAS PACKER and	)	IN THE CIRCUIT COURT OF
EMILY PACKER	)	BALDWIN COUNTY, ALABAMA
Plaintiffs,	)	CIVIL CASE NO. <u>4874</u>
Vs.	)	
LOUISVILLE and NASHVILLE	)	
RAILROAD COMPANY, a	)	
Kentucky Corporation	)	
Defendant.	)	

COUNT ONE

The Plaintiffs claim of the Defendant Twenty-One Thousand Three Hundred Ten (\$21,310.00) Dollars as damages, for that heretofore, to-wit, 20 May, 1965, defendant was running and operating a railroad through Baldwin County, Alabama, and was running and operating a locomotive thereon, which said locomotive was pulling certain tank cars filled with flammable liquids therein; that plaintiffs owned a certain house which contained plaintiffs' personal clothing and effects and household furnishings, automobile, fence, trees, shrubbery and plants upon a certain lot or parcel of land near to the said railroad, which said land is described as follows, to-wit:

Lots 6-43-52 Havard Addition to Perdido, Baldwin County, Alabama;

that defendant negligently caused or allowed said house, together with Plaintiffs' personal clothing and effects and household furnishings, automobile, fence, trees, shrubbery and plants to be greatly damaged or destroyed by means of a fire communicated from or by means of said locomotive, or the said tank cars pulled thereby, all to plaintiffs' damages of Twenty-One Thousand Three Hundred Ten (\$21,310.00) Dollars, hence this suit.

COUNT TWO

The Plaintiffs claim of the Defendant Twenty-One Thousand Three Hundred Ten (\$21,310.00) Dollars, as damages, for that on or about the 20th day of May, 1965, the Defendant was engaged in operating a railroad through Baldwin County, Alabama, and while so operating said railroad one of its trains in or near Perdido, located in Baldwin County, Alabama, permitted its said train to be negligently operated upon its said tract, in or near said Perdido, so as to cause one or more of the railroad tank cars, which were filled with flammable liquids, to become derailed, turned over and wrecked, and as a result of the carelessness and negligence of the defendant, flammable liquid contained in or leaking from the said wrecked railroad tank car or cars was ignited, and the fire from the burning flammable liquids thereof was negligently permitted by the defendant to spread to the building and premises of your plaintiffs, located on lots 6-43 and 52 of Havard's Addition to Perdido, Baldwin County, Alabama, causing plaintiffs' house, together with all personal clothing and effects and household furnishings, automobile, fence, trees, shrubbery and plants to be greatly damaged or destroyed by means of said fire, all to plaintiff's damages of Twenty-One Thousand Three Hundred Ten (\$21,310.00) Dollars, hence this suit.

*Kenneth Cooper*  
Attorney For Plaintiffs

Plaintiff request a trial  
by jury in this cause.

*Kenneth Cooper*  
Attorney For Plaintiffs

Service upon defendant can be obtained by serving its agent at  
its depot in Bay Minette, Alabama.

*Kenneth Cooper*  
Attorney For Plaintiffs

Executed  
3-1-66

Daylin Wrenks Sh... 1966

by W. Chambers  
RG

FILED  
MAY 1 1966  
CLERK  
BAY MINETTE



8301

Received 21 day of Feb 1966  
day of Mar 1966  
I received a copy of the within of 6  
Chambers & Chambers  
Barbours Co  
by service on My supply  
dup  
TAYLOR WALKINS, Sheriff  
Ed Chambers

CIVIL CASE NO. 6874

TOILET TISSUE AND  
BABY PACKETS

PLAINTIFFS

VS.

HOUSWELL FOOD MART, INC.  
FARM ROAD COMPANY  
CENTRE OF VORLICATION

merchandise dept

FOURTH CIRCUIT COURT OF

BALTIMORE COUNTY, MARYLAND

KENNETH COOPER  
ATTORNEY AT LAW

105 EAST LANSFORD  
BALTIMORE, MARYLAND

FILED

FEB 22 1966

ALC I DUA CLERK  
REGISTER

FILED

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REC'D SHERIFF'S  
CLERK



THOMAS PACKER and  
EMILY PACKER,

Plaintiffs,

vs.

LOUISVILLE and NASHVILLE  
RAILROAD COMPANY, a  
Kentucky Corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

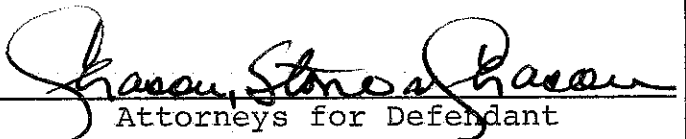
NO. 6874

DEMURRER

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

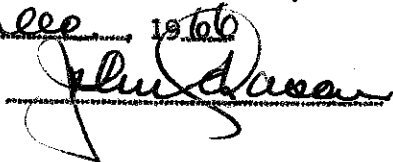
1. That said amended complaint does not state a cause of action.
2. That said amended complaint does not allege any duty owing by the Defendant to the Plaintiffs.
3. That said amended complaint does not properly charge the Defendant with any negligence on its part which caused the damages complained of.
4. That the place where the accident occurred is not sufficiently set out.
5. That the quo modo of the Defendant's negligence is attempted to be set out in each count of the amended complaint without alleging sufficient negligence on the part of the Defendant as a matter of law.
6. That each count of the amended complaint is vague and indefinite.
7. The allegation in amended count one of the complaint to the effect that the Defendant negligently caused or allowed the

property of the Plaintiffs to be damaged or destroyed by means of a fire communicated from or by means of a locomotive or the tank cars pulled thereby does not sufficiently allege any negligence on the part of the Defendant which would be the basis of a cause of action against such Defendant.

  
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 1<sup>st</sup> day of December, 1966



**FILED**

DEC 1 1966

**W. J. DUCK, CLERK  
REGISTERED**

6874

THOMAS PACKER and EMILY PACKER,

Plaintiffs,

vs.

LOUISVILLE and NASHVILLE RAIL-  
ROAD COMPANY, a Kentucky Cor-  
poration,

Defendant.

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DEMURRER

\*\*\*\*\*

FILED  
DEC 1 1966  
JIMMY CLEARY  
RECORDS

THOMAS PACKER and  
EMILY PACKER,

Plaintiffs,

Vs.

LOUISVILLE and NASHVILLE  
RAILROAD COMPANY, a  
Kentucky Corporation,

Defendant.

) IN THE CIRCUIT COURT OF  
)  
) BALDWIN COUNTY, ALABAMA  
)  
) CIVIL CASE NO. 6874

AMENDED AMENDED COMPLAINT

Come now the Plaintiffs in above-styled cause by their attorney of record, Kenneth Cooper, and amend their AMENDED COMPLAINT heretofore filed in this cause, as follows, to-wit:

1. On line 3 of AMENDED COUNT ONE delete the date of "20 May, 1965", and substitute in lieu thereof the date "19 May, 1965"; in all other respects said Count remains unchanged.

2. On line 3 of AMENDED COUNT TWO delete the date of "20 May, 1965", and substitute in lieu thereof the date "19 May, 1965"; in all other respects said Count remains unchanged.

*Kenneth Cooper*  
ATTORNEY FOR PLAINTIFFS

I hereby certify that I have served a copy of the foregoing AMENDED AMENDED COMPLAINT upon Hon. John Chason, Attorney At Law, Bay Minette, Alabama, by depositing a copy of same in United States mail, postage prepaid, at Bay Minette, Alabama, on this 5<sup>th</sup> day of December, 1966.

FILED  
DEC 6 1966  
ALICE L. BUCK, Sec'y

*Kenneth Cooper*  
ATTORNEY FOR PLAINTIFFS



THOMAS PACKER and  
EMILY PACKER,

Plaintiffs,

vs.

LOUISVILLE and NASHVILLE  
RAILROAD COMPANY, A  
Kentucky Corporation,

Defendant.

X  
X  
X  
X  
X  
X  
X  
X  
X

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
CIVIL CASE NO. \_\_\_\_\_

DEMURRER

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

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 Plaintiffs.
3. The allegation in Count One of the complaint that the Defendant negligently caused or allowed the Plaintiffs' house to burn does not properly allege that the Defendant negligently allowed such house to burn.
4. The allegation in Count One of the complaint that the Plaintiffs' property was damaged or destroyed by means of a fire communicated from or by means of the Defendant's locomotive or the tank cars pulled thereby is but a conclusion of the pleader and does not sufficiently set out how or in what manner the Defendant was negligent.
5. That Count One of the complaint does not allege that

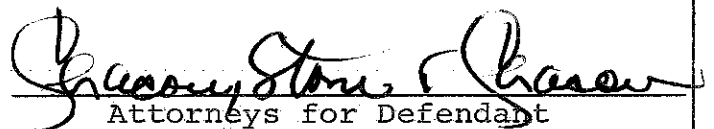
the Defendant did anything that a reasonable prudent person would not do or that the Defendant failed to do anything that a reasonable prudent person would do under like circumstances.

6. Count One of the complaint is vague and indefinite.

7. That Count One of the complaint states conclusions and not facts.

8. That Count One of the complaint does not set out sufficient facts that show that there was any negligence of any kind on the part of the Defendant.

9. Count Two of the complaint attempts to set out the manner in which the Defendant was negligent without setting out sufficient facts to constitute negligence of the Defendant as a matter of law.

  
Attorneys for Defendant

FILED

MAR 4 1966

ALICE A. DICK, CLERK  
REGISTER



THOMAS PACKER and	)	IN THE CIRCUIT COURT OF
EMILY PACKER,	)	BALDWIN COUNTY, ALABAMA
Plaintiffs,	)	CIVIL CASE NO. <u>6874</u>
Vs.	)	
LOUISVILLE and NASHVILLE	)	
RAILROAD COMPANY, a	)	
Kentucky Corporation,	)	
Defendant.	)	

# AMENDED COMPLAINT

Come now the Plaintiffs in above-styled cause, by their attorney of record, and amend their complaint, consisting of Counts One and Counts Two, heretofore filed in this cause, so that each of said Counts shall read as follows, to-wit:

# AMENDED COUNT ONE

The Plaintiffs claim of the Defendant Twenty-One Thousand Three Hundred Ten (\$21,310.00) Dollars as damages, for that heretofore, to-wit, 20 May, 1965, Defendant was running and operating a railroad through Baldwin County, Alabama, and was running and operating a locomotive thereon, which said locomotive was pulling certain tank cars filled with flammable liquids therein; that Plaintiffs owned a certain house which contained Plaintiffs' personal clothing and effects and household furnishings, automobile, fence, trees, shrubbery and plants upon a certain lot or parcel of land near to the said railroad, which said land is described as follows, to-wit:

Lots 6-43-52 Havard Addition to Perdido, Baldwin County, Alabama;

that Defendant, its servants, agents or employees, while acting within the line or scope of their employment, negligently caused or allowed said house, together with Plaintiffs' personal clothing and effects and household furnishings, automobile, fence, trees, shrubbery and plants to be greatly damaged or destroyed by means of a fire communicated from or by means of said locomotive, or the said tank cars pulled thereby, all to Plaintiffs' damages of Twenty-

One Thousand Three Hundred Ten (\$21,310.00) Dollars, hence this suit.

AMENDED COUNT TWO

The Plaintiffs claim of the Defendant Twenty-One Thousand Three Hundred Ten (\$21,310.00) Dollars, as damages, for that on or about the 20<sup>th</sup> day of May, 1965, the Defendant was engaged in operating a railroad through Baldwin County, Alabama, and while so operating said railroad one of its trains in or near Perdido, located in Baldwin County, Alabama, permitted its said train to be negligently operated upon its said tract, in or near said Perdido, so as to cause one or more of the railroad tank cars, which were filled with flammable liquids, to become derailed, turned over and wrecked, and as a result of the carelessness and negligence of the Defendant, its servants, agents or employees, while acting within the line and scope of their employment, flammable liquid contained in or leaking from the said wrecked railroad tank car or cars was ignited, and the fire from the burning flammable liquids thereof was negligently permitted by the Defendant, its servants, agents or employees, while acting within the line and scope of their employment, to spread to the building and premises of your Plaintiffs, located on Lots 6-43 and 52 of Havard's Addition to Perdido, Baldwin County, Alabama, causing Plaintiffs' house, together with all personal clothing and effects and household furnishings, automobile, fence, trees, shrubbery and plants to be greatly damaged or destroyed by means of said fire, all to Plaintiffs' damages of Twenty-One Thousand Three Hundred Ten (\$21,310.00) Dollars, hence this suit.

In all other respects the complaint remains unchanged.

*Kenneth Cooper*  
ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing on Hon. John Chason, Attorney for Defendant, by leaving a copy with him at his office. This the 30th day of November, 1966.

*Kenneth Cooper*  
Attorney for Plaintiffs

FILED

DEC 1 1966

Alice L. Duck



706674

Thomas Sackler vs. L.T. Miller

## JURY LIST - DECEMBER 12, 1966

1. Allen, Norman W., Farmer, Gateswood
2. Andress, Herbert E., Farmer, Foley
3. Boras, Anthony J., Farmer, Elberta
4. Cane, P. Gray, Oil Distributor, Bay Minette
5. Childress, Guy, Farmer, Robertsedale
6. Clark, Percy, Mill Worker, Stockton
7. Clay, Harris, Mechanic, Fairhope
8. Colgin, Ned, Farmer, Summerdale
9. Cooper, Grady, Farmer, Elberta
10. Cooper, Nolan P., Merchant, Rosinton
11. Dubose, James W., Gov't Emp., Gulf Shores
12. Gamble, I. Jack, Salesman, Bay Minette
13. Gipson, Leon Fisher, Mechanic, Bay Minette
14. Graham, James R., Laborer, Bay Minette
15. Grantham, Donald R., Farmer, Mag. Spgs.
16. Swaltney, William H., Clerk, Robertsedale
17. Hoiles, Thomas E., Gulf Gas Agent, Robertsedale
18. Jenkins, Marvin E., Civil Service, Stapleton
19. Jones, George, Business Operator, Daphne
20. Kane, James, Farmer, Loxley
21. Kriss, Frank, Farmer, Silverhill
22. Langer, Stanley, Machinist, Robertsedale
23. Lazzari, Joe, Jr., Farmer, Belforest
24. Lazzari, John, Farmer, Belforest
25. Mosley, Rufus, Farmer, Stapleton
26. Novoty, Milton J., Farmer, Robertsedale
27. Owen, L.D., Jr., Merchant, Bay Minette
28. Rhodes, Charles R., Farmer, Foley
29. Rhodes, Elbert M., Farmer, Summerdale
30. Rieben, Everett, Brookley, Bay Minette
31. Rieben, Ray, Paper Mill, Bay Minette
32. Roberson, Mutt, Laborer, Robertsedale
33. Robinson, Odell, Contractor, Bay Minette
34. Sadlock, Fred J., Farmer, Robertsedale
35. Sheppard, Lloyd, Farmer, Foley
36. Simon, Arthur, Farmer, Belforest
37. Smith, Columbus, Mill Worker, Stockton
38. Veal, Arthur, Attendant, Summerdale
39. Wilsen, George, Airport Oper., Foley
40. Wilsey, James, Clerk, Loxley
41. Yelding, Bailey, Sr., Carpenter & Bricklayer, Daphne
42. Mason, Jimmy, Salesman, Fairhope
43. Davidson, W.W., Turpentine Farmer, Bay Minette
44. Marino, Percy, Mobile Housing Board, Daphne
45. Heil, William, Farmer, Elberta
46. Bryars, Charles Henry, Jr., Farmer, Stockton
47. Childress, Mynatt, Farmer, Foley
48. Cook, John D., Merchant, Montrose
49. Cooper, Charles, Farmer, Rosinton
50. Eslava, Clarence, Farmer, Mag. Spgs.
51. McLeod, George, State Emp., Gulf Shores
52. Hodgeson, William M., Jr., Manufacturer, Bay Minette
53. Lamar, Reuben, Laborer, Foley

P XXXX XXXXX XXXXX XX

D XXXX XXXXX XXXXX XX

$$\begin{array}{r} 53 \\ 50 \\ 12 \\ \hline 38 \end{array}$$

$$\begin{array}{r} 53 \\ 47 \\ 12 \\ \hline 35 \end{array}$$

THOMAS PACKER and EMILY  
PACKER,

Plaintiffs,

VS

LOUISVILLE & NASHVILLE  
RAILROAD COMPANY, A  
Kentucky Corporation,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE NO. 6874

Comes the Defendant, in the above styled cause and for  
plea to Count One of the Amended Complaint, says:

1. Not guilty.
2. That the allegations of the complaint are untrue.

*James Stone & James*  
Attorneys for Defendants

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 2 day  
of Dec 1966

*James Stone*

FILED  
DEC 3 1966  
CLERK  
JAMES L. DIX  
REGISTER

THOMAS PACKER and EMILY PACKER,

Plaintiffs,

VS

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, A Kentucky Corporation,

Defendant.

\* \* \* \* \*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE NO. 6874

\* \* \* \* \*

PLEA

\* \* \* \* \*

We the jury find in  
favor of Plaintiff in the amount of  
Eleven Thousand Dollars (\$11,000).

L. M. McLeod, Foreman

Use the jury find for the plaintiffs  
and add to their damages at  
Eleven Thousand (\$11,000.00)  
Dollars.  
L. M. McLeod  
Foreman