

MRS. VASTIE TUCK, Admr., etc.,)
VS) IN THE CIRCUIT COURT OF
LOUISVILLE & NASHVILLE RAILROAD)
CO., ET AL.) BALDWIN COUNTY, ALA.

Comes the defendant Louisville & Nashville Railroad Company in the above entitled cause, and demurs to the complaint, and separately and severally each count thereof, and for ground of demurrer, assigns separately and severally the following:

1. No facts are alleged to show that plaintiff's intestate received her injuries as the proximate result of any negligence or breach of duty upon the part of this defendant.

2. The alleged negligence of this defendant is not set forth with sufficient certainty.

3. It is not alleged with sufficient certainty how or where said accident occurred.

4. Said count is vague and indefinite.

5. Said count states no cause of action against this defendant.

6. The place where said accident occurred is not alleged with sufficient certainty.

7. The averments of negligence are merely the conclusions of the plaintiff with no facts alleged in support thereof.

8. The alleged negligence of said servants or employees is not set forth with sufficient certainty.

9. For aught that appears, plaintiff's intestate had no right to be where he was at the time and place of said accident.

10. The averment in said count that this defendant negligently ran its engine against an automobile which plaintiff's intestate was occupying is merely the conclusion of the plaintiff with no facts alleged in support thereof.

11. Said averment does not constitute actionable negligence against this defendant.

12. Said count seeks to charge this defendant with willfulness and wantonness, and no facts are alleged therein to support said averments.

13. No facts are set up in said count to show that this defendant was guilty of any wantonness or willfulness with respect to said accident.

14. Said count seeks to charge this defendant with willfulness and wantonness, when no facts are alleged to show that the injury was willfully and wantonly caused, but merely that defendant's act was willful and wanton.

15. The averments of said count characterize the act and not the injury as being willful and wanton.

16. No facts are alleged in said count to show that plaintiff's intestate was injured as a proximate result of any willfulness or wantonness on the part of this defendant.

17. For aught that appears, plaintiff's intestate was injured as the proximate result of an unavoidable accident.

18. Said count is duplex in that it undertakes to set up two separate and distinct causes of action in the same count.

19. The facts set up in said count do not support the averments of willfulness or wantonness.

20. The facts set up in said count do not support the averments of negligence.

21. Said count is duplex in that it seeks to join this defendant with its agent for an alleged willful or or wanton act.

22. Said count is duplex in that it seeks to join in the same count one cause of action against this defendant, and another different cause of action against its employee.

23., Said count is duplex in that it seeks to charge this defendant and another defendant with an alleged joint cause of action, when no facts are alleged to show that they are jointly liable.

27. Said count is duplex in that it undertakes to charge this defendant and another defendant with joint liability, and the averments of said count only undertake to allege a single liability.

Henri Quinones
Queen Wilhelmina School Goose Bay
Barter Free

Attorneys for Defendant Louisville & Nashville Railroad Company, and John Farley.

MRS. VASTIE TUCK, Admrx., eto.

VS.

LOUISVILLE & NASHVILLE RAILROAD COMPANY, ET AL.

Plaintiff,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

DEMURRERS.

Filed this 7 day of December, 1935.

Robert S. Duck

Clerk.

engaged in said joint enterprise, or otherwise with a common purpose.

purpose.

82. Said count is dupli-
cate of joint liability against two defendants, when the aver-
ments thereof only undertake to allege liability against one.
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cate of joint liability against two defendants, when the aver-
ments thereof only undertake to allege liability against one.

and the averments of said count only undertake to allege a
charge this defendant and another defendant with joint liability,
single liability.

James D. [Signature]
James D. [Signature]
James D. [Signature]

James D. [Signature]
Nashville Railroad Company, and John
Attorneys for Defendant Louisville &

Circuit Court, Baldwin County

PLAINTIFF

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		50	Certificate with Seal, 50c. Without Seal	25		
Docketing Cause 25c. Ent. Appearance, 20c	45		45	Witness Certificate	25		
Subpoena for Witness	30		30	Taking Bond Not Above Mentioned	75		
Making Certificate of Judgment	50		30	Entering Order of Court not above named	30		
Filing	10		50	Administering Oath	25		
Trial and Incidents	75		75	Taking Bond for Costs of Non-Resident Plaintiff	75		
Entering Judgment, or copy of same	30		30	Copy of any paper not above named, 15c per hundred words			
Order for Continuance	10		30	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				Issuing copies of same, 15c per 100 words			
Order for Alias Summons and Complaint	30		50	Total Clerk's Fees			
Order to Dismiss Cause	30			SHERIFF'S FEES			
Order to Set Aside Dismissal	30			Serving and Returning Summons	\$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		
TOTAL FORWARDED				Answer of Garnishee			
				Trial Tax	3 00		
				Total	\$		

Received payment this _____ day of _____ 193 _____

ATTEST

Clerk Circuit Court, Baldwin County, Ala.

MRS. VASTIE TUCK, Admx.
of the Estate of Alvin
Tuck, Deceased,

Plaintiff,

VS.

LOUISVILLE & NASHVILLE
RAILROAD COMPANY, a
Corporation, ET AL,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

Come the Defendants, separately and severally, and
for answer to the Plaintiff's complaint and to each count
thereof, separately and severally, say:

FIRST:

That the facts therein alleged are untrue.

SECOND:

That they are not guilty.

THIRD:

Plaintiff's
That the/intestate was guilty of negligence which
proximately contributed to the injuries complained of in that
he failed to stop, look and listen before going upon the ^{said} track
of the Defendant's.

FOURTH:

That the Plaintiff's intestate was guilty of con-
tributory negligence which proximately contributed to the
injuries complained of in that he, before entering upon or
attempting to cross the ^{said} railroad track of the Defendant's,
failed to stop, look, or listen for any trains which might
be approaching said crossing, and if he had so stopped, look-
ed or listened, he would not have been injured.

FIFTH:

That the Plaintiff's intestate was guilty of negli-

gence which proximately contributed to the injuries complained of in that knowing of the approach and dangerous proximity of the Defendant's train, he caused or allowed himself to be on or so dangerously near the ^{said} Railroad Company's track as to be struck by a moving train then and there being operated on said track, and as a proximate consequence thereof was injured.

SIXTH:

That the Plaintiff's intestate was guilty of negligence which proximately contributed to the injuries complained of in that knowing of the approach and dangerous proximity of the Defendant's train, he stopped his car, or the car in which he was riding on the Defendant's ^{said} railroad track, and as a proximate consequence thereof was injured.

Stevens, C. C. & Co.
Stevens, M. C. & Co. & Co. & Co.
Becke & Hall
Attorneys for Defendants.

ANSWER:

RECORDED
Duck
7-446

MRS. VASTIE TUCK, Admx.
of the Estate of Alvin
Tuck, Deceased,

Plaintiff,

VS.

LOUISVILLE & NASHVILLE
RAILROAD COMPANY, a
Corporation, ET AL,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

Filed March 30 1936
Robert L. Duck

MRS. VASTIE TUCK, Admin-
istratrix of the Estate of
Alvin Tuck, Deceased,

Plaintiff,

-vs-

LOUISVILLE & NASHVILLE RAIL-
ROAD COMPANY, a Corporation,
and JOHN FARLEY,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Now comes the Plaintiff in the aforesaid cause, and files
the following Interrogatories to the Defendants, under Section 7764
of the Code of Alabama of 1923:-

FIRST INTERROGATORY:

Please state the number of the train that ran into or
against Alvin Tuck at the public road crossing at Dyas, Alabama,
on September 15th, 1955? Please state as near as possible the
time that said train ran into or against Alvin Tuck, Deceased, at
said crossing. Please state the name of the engineer who was in
charge of the locomotive which was pulling said train at the time
that said train ran into or against Alvin Tuck, Deceased. Was said
train running on schedule time? If not, how late was it? Please
state the residence of the engineer who was in charge of the loco-
motive that was pulling the train that ran into or against Alvin
Tuck, Deceased.

Hyatt & Chason
Attorneys for Plaintiff.

STATE OF ALABAMA,
BALDWIN COUNTY.

Before me, Mary D. Green, a Notary Public in and
for said State and County, personally appeared John Chason, who
being duly sworn deposes and says as follows:-

That he is one of the Attorneys for the Plaintiff in the
aforesaid cause, and that the Answer to the foregoing Interrogatories
by the Defendants will be material testimony for the Plaintiff in

(page two)

the trial of the same, and that, as such Attorney, he has a right to make this Affidavit.

John Phasor

Sworn to and subscribed before me, a Notary Public whose seal is hereto affixed, this 14th day of November, 1935.

Mary E. Green
Notary Public, Baldwin County,
State of Alabama.

926
Rec. in office
11/14/35
M. J. Wilkins

RECEIVED IN OFFICE
NOV 15 1935
Haygood Paterson, Sheriff

Executed by serving a copy of the within on
G.A. Creighton as Agent for the Louisville
and Nashville Railroad Company, a Corp.
This the 15th day of Nov, 1935.

Haygood Paterson, Sheriff
Wampold, D. S.

EXECUTED BY SERVING
a copy of the within on

John Farley
11/16/35

Haygood Paterson
Sheriff Montgomery County
L. J. L.

215-RECORDED
Duck
7-359

INTERROGATORIES.

MRS. VASTIE TUCK, Admin-
istratrix of the Estate of
Alvin Tuck, Deceased,

plaintiff,

-VS-

LOUISVILLE & NASHVILLE RAIL-
ROAD COMPANY, a Corporation,
and JOHN FARLEY,

defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Filed November 16, 1935
Richard Duck
Clerk.

LAW OFFICES
HYBART, HEARD-
& CHASON

STATE OF ALABAMA,
BALDWIN COUNTY.

IN THE CIRCUIT COURT-LAW SIDE.

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

You are hereby commanded to summon Louisville & Nashville Railroad Company, a Corporation, and John Farley, 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. Vastie Tuck, Administratrix of the Estate of Alvin Tuck, Deceased.

Witness my hand this 14 day of November, 1935.

Robert L. Leach
Clerk.

COMPLAINT.

MRS. VASTIE TUCK, Administra-
trix of the Estate of Alvin
Tuck, Deceased,

Plaintiff,

-vs-

LOUISVILLE & NASHVILLE RAIL-
ROAD COMPANY, a Corporation,
and JOHN FARLEY,

Defendants.

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

COUNT 1: The Plaintiff claims of the Defendants the sum of Two Thousand Nine Hundred Ninety-nine & 99/100 Dollars (\$2,999.99), as damages, for that, whereas, on, to-wit, September 15th, 1935, Defendant Louisville & Nashville Railroad Company was engaged in operating and running a railroad from Mobile, Alabama, to Montgomery, Alabama, through Baldwin County, Alabama, and over which the Defendant Louisville & Nashville Railroad Company did run its engines and cars, said engines being propelled by steam power, and said cars being pulled or shoved by said engines, and said Defendant did on, to-wit, September 15th, 1935, about four o'clock A. M., acting through its Agent, John Farley, who was then and there acting as engineer of its locomotive, and who was then and there acting within the line and scope of his employment,

(page two)

negligently ran one of the Defendant Louisville & Nashville Railroad Company's engines or trains against an automobile which Plaintiff's intestate was then and there occupying, and in which Plaintiff's intestate was then and there lawfully crossing said railroad at a public road crossing in the village of Dyas, Alabama, whereby Plaintiff's intestate was so badly injured, bruised and wounded that he was caused to die from the effects of said wounds on, to-wit, September 15th, 1935, and Plaintiff avers that said death was the proximate result of the negligence of the Defendant, Louisville & Nashville Railroad Company, acting through its servant or agent, John Farley, who was then and there acting within the line and scope of his employment in and about the running of said engine or said train, and the handling and control thereof, all of which was to the great damage of the Plaintiff in the sum aforementioned.

COUNT 2: The Plaintiff claims of the Defendants the sum of Two Thousand Nine Hundred Ninety-Nine & 99/100 Dollars (\$2,999.99), as damages, for that, whereas, on, to-wit, September 15th, 1935, Defendant Louisville & Nashville Railroad Company was engaged in operating and running a railroad from Mobile, Alabama, to Montgomery, Alabama, through Baldwin County, Alabama, and over which the Defendant Louisville & Nashville Railroad Company did run its engines and cars, said engines being propelled by steam power, and said cars being pulled or shoved by said engines, and said Defendant did on, to-wit, September 15th, 1935, about four o'clock A. M., acting through its Agent, John Farley, who was then and there acting as engineer of its locomotive, and who was then and there acting within the line and scope of his employment, willfully and wantonly run one of the Defendant Louisville & Nashville Railroad Company's engines or trains against an automobile which Plaintiff's intestate was then and there occupying, and in which Plaintiff's intestate was then and there lawfully crossing said railroad at a public road crossing in the village of Dyas, Alabama, whereby Plaintiff's intestate was so badly injured, bruised and wounded that he was caused to die from the effects of said wounds on, to-wit, September

(page two)

(page three)

15th, 1935, and Plaintiff avers that said death was the proximate result of the willful and wanton negligence of the Defendant Louisville & Nashville Railroad Company, acting through its servant or agent, John Farley, who was then and there acting within the line and scope of his employment in and about the running of said engine or said train and the handling and control thereof, all of which was to the great damage of the Plaintiff in the sum aforementioned.

Hyatt & Hasen
Attorneys for Plaintiff.

Plaintiff demands a trial
by Jury.

Hyatt & Hasen
Attorneys for Plaintiff.

926
Rec. in office
11/14/35
M. Wilkins - Sff

RECEIVED IN OFFICE
NOV 15 1935
Haygood Paterson, Sheriff

Executed by serving a copy of the within
on G.A. Creighton as Agent for the
Louisville and Nashville Railroad Company,
a Corp. This the 15th. day of Nov, 1935.

Haygood Paterson, Sheriff
Wampold, D.S.

EXECUTED BY SERVING
a copy of the within on

John Farley
11/16/35

Haygood Paterson
Sheriff
Fryze

Z 1 5- RECORDED
Duck.
7-358

SUMMONS & COMPLAINT.

MRS. VASTIE TUCK, Administratrix
of the Estate of Alvin Tuck,
Deceased,

Plaintiff,

-VS-

LOUISVILLE & NASHVILLE RAIL-
ROAD COMPANY, a corporation,
and JOHN FARLEY,

Defendants.

110 Maryland St

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Filed November 14, 1935
O. R. Duck
Clerk.

LAW OFFICES
HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA
110
Maryland