

HENRY HADLEY,
Plaintiff,

vs.

L. & N. RAILROAD COMPANY,
A Corporation,
Defendant.

1667
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW.

Comes the Defendant in the above styled cause and demurs to the amended Complaint filed in said cause on February 29, 1952, 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 is vague and indefinite.
3. That it does not appear whether the accident occurred in the day time or at night.
4. That the time that said accident occurred is not sufficiently set out.
5. That the allegation in count 1 of the amended Complaint that the accident occurred at a cow-crossing, is but a conclusion of the pleader.
6. That it is not affirmatively shown that the place where the accident occurred had been officially set apart for a cow-crossing.
7. For aught that appears the accident did not occur at a street crossing.
8. That the allegation that such accident occurred at or near Perdido is vague and indefinite and does not sufficiently inform the Defendant where it is alleged that such accident occurred.
9. For aught that appears in count 1 of the amended complaint the accident did not occur in Baldwin County, Alabama.
10. That sufficient jurisdictional facts are not alleged in said amended complaint.
11. That it is not alleged in count 1 of the complaint that the agents, servants or employees of the Defendant were acting within the line and scope of their employment.

12. That it is not sufficiently alleged which one of Defendant's trains ran into, over or against said cow.

13. That said amended complaint does not allege a duty owing by the Defendant to the Plaintiff.

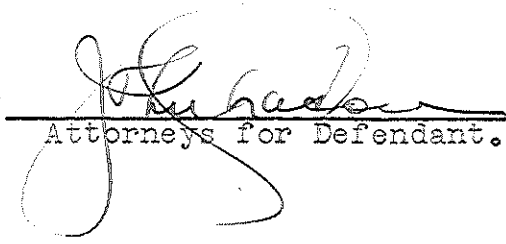
14. For aught that appears from said complaint the cow of the Plaintiff had no right to be on the track of the Defendant at the time and place the accident occurred.

15. That count 2 of the amended complaint does not sufficiently set out the time or place that the accident occurred.

16. That count 2 of said amended complaint does not allege that the defendant's agents or servants were acting within the line and scope of their employment as agents or servants of the Defendant.

17. That count 2 of said amended complaint does not sufficiently set out what train of the Defendant ran into, over or against said cow.

CHASON & STONE

By: 

Attorneys for Defendant.

RECORDED
DEMURRER

HENRY HADLEY,

Plaintiff,

vs,

L. & N. RAILROAD COMPANY,
A Corporation,

Defendant.

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

Filed: March 14th, 1952.

W. J. French
Clerk.

LAW OFFICES
~~W. J. French~~ CHASON & STONE
BAY MINETTE, ALABAMA

AMENDED COMPLAINT

HENRY RADLEY

PLAINTIFF

VS

L. & N. RAILROAD COMPANY,
a corporation.

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

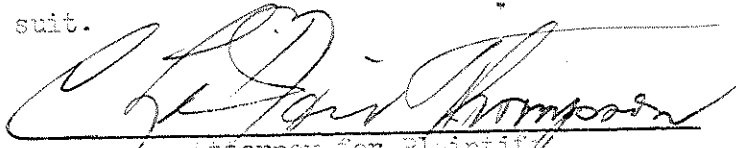
Comes now the Plaintiff in the above styled cause and amends his complaint to read as follows:

1.

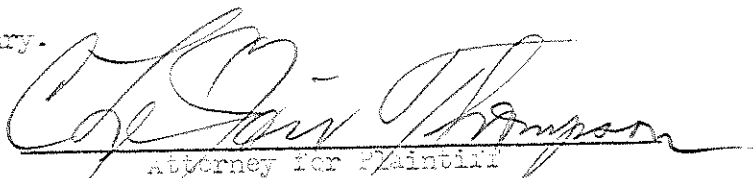
The Plaintiff claims of the Defendant the sum of One Hundred Seventy Five Dollars (\$175.00), as damages, for that heretofore, on to-wit: September 1, 1950, the Plaintiff's cow was crossing the Defendant's railroad track at a cow-crossing, at or near Perdido, Alabama, and that then and there the agents servants or employees of the Defendant negligently did run one of the Defendant's trains into, over, or against the said cow, the cow being the property of the Plaintiff, and as a direct proximate consequence and result thereof, the Plaintiff's cow was killed, all to the loss of the Plaintiff in the amount aforesaid.

2.

Plaintiff claims of the Defendant Five Hundred (\$500.00) Dollars, damages for that heretofore on, to-wit, September 1, 1950, the Defendant was engaged in the operation of a railroad in Baldwin County, Alabama, and the Plaintiff says that on the date aforesaid at or near Perdido, Alabama, in said county, the Defendant's agents or servants, while acting within the line and scope of their employment, willfully or wantonly ran one of its trains into, over, or against a cow, the property of the Plaintiff, and as a proximate consequence thereof the cow died; hence this suit.


Attorney for Plaintiff

Plaintiff demands trial by jury.


Attorney for Plaintiff

~~1768?~~
1667
RECORDED

HENRY HADLEY

PLAINTIFF

VS

L. & N. RAILROAD COMPANY,
a corporation.

DEFENDANT

From the law offices of
C. LeNoir Thompson

*Filed 2-29-52
Henry Hadley
Clerk*

HENRY HADLEY

Plaintiff

vs

L. & N. RAILROAD COMPANY,
a Corporation,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

CASE NO. _____

INTERROGATORIES TO THE DEFENDANT L. & N. RAILROAD COMPANY, A Corporation:

Comes the Plaintiff in the above styled cause desiring the testimony of the Defendant, L. & N. Railroad Company, a Corporation, and propounds the following interrogatories to be answered by said Defendant:

1. On the 4th day of September 1950, did this Defendant operate a railroad in Baldwin County, Alabama?
2. Did the Defendant have trains operating on a track running through Perdido, Alabama?
3. If the answer to question number two is yes; give the number of trains going through Perdido on above said date, the numbers or names by which they are designated, the schedule of each as relates to the time they ran through Perdido, the direction each was going and the names of the crews of each of these trains.
4. If Defendant operates trains in Baldwin County, please state the time same passed Perdido, Alabama from noon September 4, 1950, to noon September 5, 1950.
5. Did a train which said Defendant operated or controlled strike a cow at or near Perdido on above setout date?
6. If so, what is the number or name of the train that struck this cow?
7. Did any Engineer on any of Defendant's trains report that he struck an animal near Perdido, Alabama on either of these dates?
8. If so, was such animal described as a Hereford cow?
9. If the answer to number eight is yes, and the answer to question number seven is known, give the names of the crew members of this train and the position of each of these crew members.
10. If the answer to number four is yes, give the exact location at which the cow was struck.
11. In what direction was the train traveling that struck the cow?
12. At what speed was it traveling at the time of the impact?

13. How far was the train from the cow at the first time the cow was seen?
14. Was any effort made to avoid striking the cow?
15. If so what?
16. After the cow was seen, was any effort made to slow the train?
17. Please state where the Engineer was in his engine at the time of striking the cow.
18. Please state whether the Engineer reported he saw the cow before striking her.
19. If there was a report made of this accident attach a copy as the answer to this interrogatory.
20. What was the position of the engineer at the time the cow was struck?
21. In what direction was the engineer looking at the time the cow was struck?
22. Was the visibility good at the time this accident occurred?
23. Was the Railroad track straight at the place the cow was struck?
24. If not were the necessary precautions taken as the train approached the curve?
25. What were these precautions?
26. On or about September 4, 1950, did he report the finding of a Hereford cow on or near the L. & N. tracks just Northeast of the Perdido section house or anywhere from there to the Escambia County Line?
27. What is the name of the Engineer who reported the finding of the Hereford cow at the place named?
28. What is the address of said Engineer?
29. Was the cow running or standing still when struck by Defendant's engine?
30. How far was the Engineer from the cow when he first saw the cow?
31. Was the cow struck on the fenced portion of Defendant's track or on open track?
32. Did the Defendant make any attempt to find who was the owner of the cow?
- 33.- Was the Plaintiff in this case identified as the owner of the cow?


Attorney for the Plaintiff.

STATE OF ALABAMA
BALDWIN COUNTY

Before me, _____, a Notary Public, in and for said County in said State, personally appeared C. LeNoir Thompson, known to me, who being first duly sworn, deposes and says: that he is of counsel for the plaintiff in the above styled cause; that the answers to the foregoing interrogatories truthfully made will be material evidence for the plaintiff in the trial of said cause.

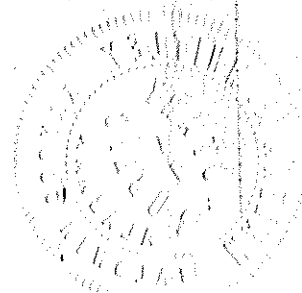
C. LeNoir Thompson

Sworn to and subscribed to by me this the 1st day of October, 1951.

Malena M. Whitely

1667

RECORDED



FILED

JAN 29 1951

HENRY HADLEY,

Plaintiff,

VS

L.&N. RAILROAD COMPANY,
a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Comes defendant, and for answer to the interrogatories heretofore propounded to it by plaintiff, says:

1. No.

2. Louisville and Nashville Railroad Company.

3. Kentucky.

4. Yes.

5. Yes.

6. While this defendant did operate a train in Baldwin County on September 12, 1950, defendant submits that it is immaterial as the complaint alleges the accident occurred on September 4, 1950.

7. Yes.

8. While defendant submits this inquiry is totally immaterial, since the complaint alleges that the accident occurred on September 4, 1950, the information inquired about is contained in Exhibit A attached hereto. None of those trains was involved in the accident alleged and sued upon.

9. While defendant submits this inquiry is totally immaterial, since the complaint alleges that the accident occurred on September 4, 1950, the information inquired about is contained in Exhibit A attached hereto.

10. No.

11. Answered in 10.

12. No.

13. Answered in 12.

14. Answered in 12.

15. Answered in 12.

16 to 33 inclusive: Answered in 12.

34. Yes.

35. About twice a week.

36. No.

37. Yes.

38. While defendant submits this inquiry is totally immaterial, since the complaint alleges that the accident occurred on September 4, 1950, defendant is not informed that there was any storm on September 12, 1950 of intensity.

39. No.

40 and 41: No such report as inquired about.

42. Defendant is advised that this question calls for illegal, irrelevant and incompetent testimony, and involves a legal question, and upon advice of counsel, defendant declines to answer the same.

43. No animal struck at or near the time or place inquired about.

44 to 46 inclusive: Answered in 43 above.

47. Defendant is advised that this question calls for illegal, irrelevant and incompetent testimony, and upon advice of counsel, defendant declines to answer the same.

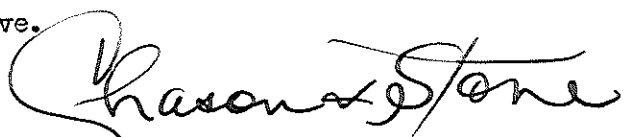
48. While defendant submits this inquiry is totally immaterial, since the complaint alleges that the accident occurred on September 4, 1950, defendant is not informed as to the condition of the weather at the time inquired about.

49 and 50: Answered in 43 above.

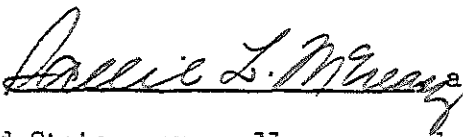
51 to 54 inclusive: Defendant is advised that these questions call for illegal, irrelevant and incompetent testimony, and upon advice of counsel, declines to answer the same.

55. It is the duty of the engineer to operate the engine, and in doing so to watch carefully all of the gauges and other instruments within his cab so as to see that all of them are properly operating. Consistent with such duties, as well as his other duties in operating the engine, he keeps a lookout for obstructions on the track, but his many other duties prevent his doing so at certain times.

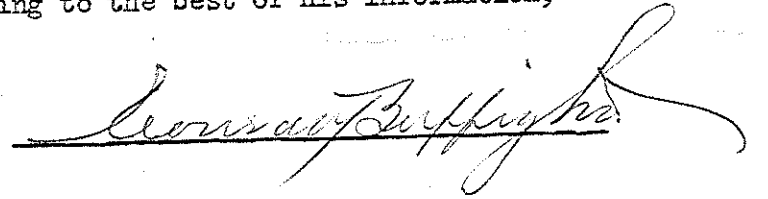
56. Answered in 43 above.


Attorneys for Defendant.

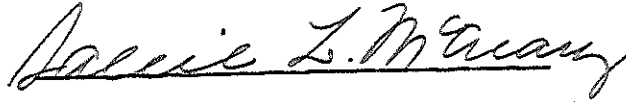
STATE OF ALABAMA |
COUNTY OF BALDWIN. |

Before me,  a Notary Public in and for said County, in said State, personally appeared Conrad Buffington, who being

by me first duly sworn, deposes and says that he is Claim Agent of defendant Louisville and Nashville Railroad Company, and is familiar with the facts contained in the foregoing answers, is authorized to make this affidavit, and that said answers are true according to the best of his information, knowledge and belief.

A handwritten signature in cursive script, appearing to read "Leonard Burpitt", written over a horizontal line.

Subscribed and sworn to before me
this 9th day of July, 1951.

A handwritten signature in cursive script, appearing to read "Jannie L. McQuary", written over a horizontal line.

Notary Public,
Montgomery County, Alabama.

EXHIBIT A.

8.

			<u>Conductor</u>	<u>Engineer</u>
No. 98	North	at 2:12 a.m.	Walker	Pendergras
Extra 822	"	" 2:22 "	Clements	J.T.Bayne
No. 99	South	" 3:22 "	Gentry	J.C.Wood
No. 38	North	" 3:52 "	C.W.Goodwin	Fagean
Ex. 1571	South	" 4:48 "	Mitchell	Rutherford
No. 33	"	" 6:02 "	Lamar	Farley
No. 5	"	" 6:06 "	J.W.Presley	McDonald
Ex. 830	North	Ar. 5:01 "		
		Dep. 6:08 "	Ely	Webb
No. 7	South	at 8:43 "	Hinson	Palmer
No. 8	North	" 11:36 "	Gentry	Wood
Ex. 813	South	" 10:09 p.m.	Davis	Huggins
No. 4	North	" 1:46 "	Lamar	Farley
No. 1	South	" 2:47 "	Gantt	Hestle
No. 6	North	" 3:10 "	J.W.Presley	DeVinney
No. 37	South	" 3:14 "	J.E.Walker	Barker
No. 20	North	Arr. 3:33 "		
		Dep. 4:22 "	Amos	Johnson
No. 19	South	Arr. 4:09 "		
		Dep. 4:29 "	L.B.Goodwin	Hawkins
Ex. 829	North	at 4:52 "	J.E.Watson	West
Ex. 1796	South	" 7:58 "	E.H.Griffin	Smith
Ex. 802	South	" 9:46 "	Bedgood	Downing
No. 34	North	" 10:08 "	Henson	Palmer
Ex. 1575	"	" 10:36 "	Mitchell	J.F.Rutherford

9.

From noon September 12th to midnight September 12th, see answer to No. 8.

From midnight until noon September 13th:

1:50 a.m.	3:56 a.m.	5:25 a.m.	9:18 a.m.
2:08 "	4:19 "	6:57 "	9:47 "
2:53 "	5:05 "	8:19 "	11:32 "
3:53 "			

1667

RECORDED

ANSWER TO INTERROGATORIES

HENRY HADLEY,

Plaintiff,

L. & N. RAILROAD COMPANY,
a Corporation
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

FILED: JULY 24, 1951

Ulice French
Clerk

LAW OFFICES
HYBART, CHASON & STONE
BAY MINETTE, ALABAMA

HENRY HADLEY

PLAINTIFF

VS

L. & N. RAILROAD COMPANY

DEFENDANT

IN THE CIRCUIT COURT OF

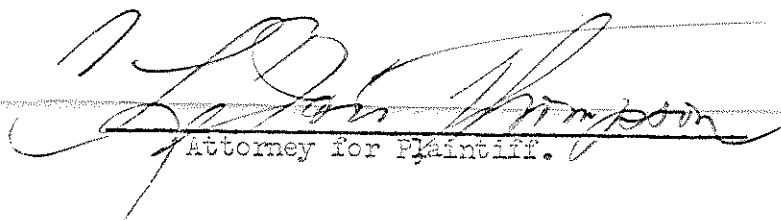
BALDWIN COUNTY, ALABAMA

AT LAW.

Comes now the Plaintiff in the above styled cause and amends the first count of his complaint to read as follows:

COUNT ONE

The Plaintiff claims of the Defendant the sum of One Hundred Seventy-five (\$175.00) Dollars, damages for that heretofore on to-wit: September 4, 1950 at approximately eight (8:00) A. M., the Defendant was engaged in the operation of a railroad in Baldwin County, Alabama, and the Plaintiff says that on the date and at the time aforesaid, approximately one-half mile North of the L. & N. Railroad Station at Perdido, Alabama, in said County and State, the Defendant's agents, servants, or employees, while acting within the line and scope of their employment negligently ran one of it's trains into, overor against a cow, property of the Plaintiff, and as a direct, proximate consequence and result thereof the said cow died all to the loss of the Plaintiff in the aforesaid amount, hence this suit.


Attorney for Plaintiff.

1667

RECORDED

FILED
JAN 26 1961
ALICE J. DUCK, CLERK

HENRY HADLEY

Plaintiff,

vs

L. & N. RAILROAD COMPANY,
a Corporation,
Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

CASE NO. _____.

INTERROGATORIES TO THE DEFENDANT L. & N. RAILROAD COMPANY, A Corporation:

Comes the Plaintiff in the above styled cause desiring the testimony of the Defendant, L. & N. Railroad Company, a Corporation, and propounds the following interrogatories to be answered by said Defendant:

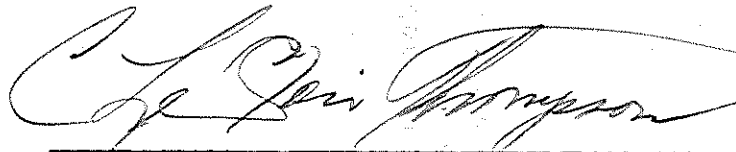
1. Is the Defendant properly designated in this case?
2. If not, what is the correct legal designation of this defendant?
3. In what state was this defendant incorporated?
4. Is the defendant licensed to do business in Alabama?
5. If so, does defendant do business in Baldwin County, Alabama?
6. On the 12th day of September 1950, did this defendant operate a railroad in Baldwin County, Alabama?
7. Did this defendant have trains operating on a track running through Perdido, Alabama?
8. If the answer to question number seven is yes; give the number of trains going through Perdido on above said date, the numbers or names by which they are designated, the schedule of each as relates to the time they ran through Perdido, the direction each was going and the names of the crews of each of these trains.
9. If defendant operates trains in Baldwin County, please state the time same passed Perdido, Alabama from noon September 12, 1950, to noon September 13, 1950.
10. Did a train which said defendant operated or controlled strike a cow at or near Perdido on above setout date?
11. If so, what is the number or name of the train that struck this cow?
12. Did any Engineer on any of defendant's trains report that he struck an animal near Perdido, Alabama on either of those dates?

13. If so, was such animal described as a Hereford cow?
14. If the answer to number ten is yes, and the answer to question number nine is known, give the names of the crew members of this train and the position of each of these crew members.
15. If the answer to number ten is yes, give the exact location at which the cow was struck.
16. In what direction was the train traveling that struck the cow?
17. At what speed was it traveling at the time of the impact?
18. How far was the train from the cow at the first time the cow was seen?
19. Was any effort made to avoid striking the cow?
20. If so what?
21. After the cow was seen, was any effort made to slow the train?
22. Please state where the Engineer was in his engine at the time of striking the cow.
23. Please state whether the Engineer reported he saw the cow before striking her.
24. If there was a report made of this accident attach a copy as the answer to this interrogatory.
25. What was the position of the engineer at the time the cow was struck?
26. In what direction was the engineer looking at the time the cow was struck?
27. Was there a public crossing at or near the place where this cow was struck?
28. If the answer to question number twenty-seven is yes, was there a warning given as this crossing was approached?
29. If the answer to question number twenty-seven is yes, is it not the duty of the engineer to keep a sharp lookout to observe whether the crossing was clear or not?
30. Was the visibility good at the time this accident occurred?
31. Was the Railroad track straight at the place the cow was struck?
32. If not were the necessary precautions taken as the train approached the curve?
33. What were these precautions?
34. Do you employ anyone to inspect the track from Perdido, Alabama, Northeast to the Baldwin-Escambia County Line?

35. At what intervals does he inspect the track?
36. On or about September 13, 1950, did he report the finding of a Hereford cow on or near the L. & N., tracks just Northeast of the Perdido section house or anywhere from there to the Escambia County Line?
37. Are the cattle guards in that vicinity in good condition?
38. Was there a storm on the night of September 12, 1950?
39. Was this storm of such velocity that it blew down trees in the vicinity of Perdido?
40. What is the name of the Engineer who reported the finding of the Hereford cow at the place named?
41. What is the address of said Engineer?
42. Will defendant admit that the doctrine of Res Ipsa Loquitur will apply in this case?
43. Was the cow running or standing still when struck by defendant's engine?
44. How far was the Engineer from the cow when he first saw the cow?
45. Was the cow struck on the fenced portion of defendant's track or on open track?
46. Did the Engineer make any effort to stop the engine to keep from striking the cow?
47. Did the Engineer make any recommendation to the defendant, concerning paying for the cow?
48. Was the night of September 12, 1950 dark, and stormy or clear?
49. Did the defendant make any attempt to find who was the owner of the cow?
50. Was the plaintiff in this case identified as the owner of the cow?
51. If so, did defendant make said owner an offer of settlement?
52. If the answer to question fifty-one is yes, how much did defendant offer?
53. Does defendant desire to settle this matter without litigation?
54. If defendant so desires, what amount will defendant settle for?
55. Is it the duty of the locomotive engineer to keep a close watch for obstructions on the track?

56. If the answer to question fifty-five is yes, what prevented him from seeing the cow?

57. Is it not the custom of the Railroad to oppose any claim of this kind, regardless of its justice?


Attorney for the Plaintiff.

Received in Sheriff's Office
this 21 day of June, 1951
TAYLOR WILKINS, Sheriff

Executed June 21, 1951
by serving copy of within Summons and
complaint on

Mr. L. L. Fort
Station agent
for L. & N. Rail
Road
Taylor Wilkins Sheriff
George J. Duck Deputy Sheriff

NO
1667

RECORDED

HENRY HADLEY

Plaintiff

vs

L. & N. RAILROAD COMPANY,

Defendant

From the law offices of
C. LeNoir Thompson
Day Minette, Alabama

FILED

JUN 21 1951

ALICE J. DUCK, Clerk

L
Mr Fort Station agent

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon L. & N. RAILROAD COMPANY, 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 HENRY HADLEY.

WITNESS my hand, this 31st day of May, 1951.

Bright-Hersick
Register

HENRY HADLEY

PLAINTIFF

VS

L. & N. RAILROAD
COMPANY

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

1.

Plaintiff claims of the defendant One Hundred Seventy-five (\$175.00)

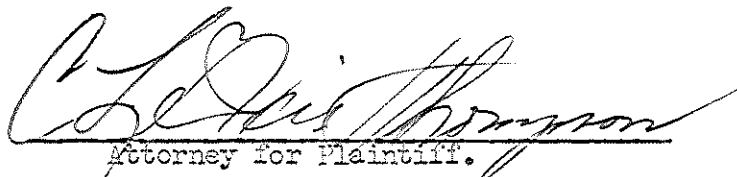
Dollars, damages for that heretofore on, to-wit, September 4, 1950, the defendant was engaged in the operation of a railroad in Baldwin County, Alabama, and the plaintiff says that on the date aforesaid at or near Perdido, Alabama, in said county, the defendant's agents or servants, while acting within the line and scope of their employment, negligently ran one of its trains into, over, or against a cow, the property of the plaintiff, and as a proximate consequence thereof the cow died; hence this suit.

2.

Plaintiff claims of the defendant Five Hundred (\$500.00) Dollars,

damages for that heretofore on, to-wit, September 4, 1950, the defendant was engaged in the operation of a railroad in Baldwin County, Alabama, and the plaintiff says that on the date aforesaid at or near Perdido, Alabama, in said county, the defendant's agents or servants, while acting within the line and scope of their employment, willfully or wantonly ran one of its trains into, over, or against a cow, the property of the plaintiff, and as

a proximate consequence thereof the cow died; hence this suit.


Attorney for Plaintiff.

Plaintiff demands trial by jury.


Attorney for Plaintiff.

Received in *Sum.* 1951
this *1* day of *June* 1951
TAYLOR WILKINS, Sheriff

107667
RECORDED

HENRY HADLEY

PLAINTIFF

VS

L. & N. RAILROAD COMPANY

DEFENDANT

Recorded *6-2* 1951
by serving copy of within Summons and
Complaint on

Louis Fort agent for
L. N. Railroad Co.

Taylor Wilkins Sheriff
By *H. F. Hall* Deputy Sheriff

FILED
MAY 31 1951
ALICE J. DUCK, Clerk

From the law offices of
C. LeNoir Thompson
Bay Minette, Alabama

HENRY HADLEY,

Plaintiff,

vs.

L. & N. RAILROAD COMPANY

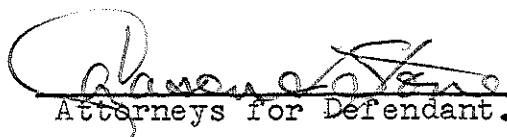
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

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

1. That said Complaint does not state a cause of action.
2. That said Complaint does not sufficiently state the time of the injury complained of.
3. That said Complaint does not sufficiently state the place where the injury occurred.
4. That said Complaint does not allege that the defendant's agents or servants were acting within the line and scope of their employment by the defendant.
5. That said complaint does not state that the defendant negligently injured or killed the cow referred to.
6. That said Complaint does not sufficiently state which train operated by the defendant ran into said cow.
7. That said Complaint affirmatively shows that such cow was on the track of the defendant where it did not have the right to be.
8. That said Complaint does not allege that the Plaintiff was injured in the amount sued for.
9. That said Complaint does not allege a duty owing by the Defendant to the Plaintiff.
10. That Count 2 of said Complaint alleges willful and wanton negligence in the alternative.


Attorneys for Defendant.

1667 RECORDED

DEMURRER

HENRY HADLEY,
Plaintiff,

vs.

L. & N. RAILROAD COMPANY,
Defendant.

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

FILED: JUNE 9th, 1951.

Alice J. Hensick
Clerk.

Refiled as to Count 1
as amended.

10-12-51

LAW OFFICES

~~H. B. ART~~ CHASON & STONE

BAY MINETTE, ALABAMA