

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Louisville and Nashville Railroad Company, a Corporation, to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint of Oneida DuBose.

Witness my hand this the 27 day of July, 1970.

Alice J. Clark  
Clerk

\* \* \* \* \*

ONEIDA DuBose

Plaintiff,

Vs.

LOUISVILLE and NASHVILLE  
RAILROAD COMPANY, A  
Corporation,

Defendant.

X  
X  
X  
X  
X  
X  
X  
X  
X  
X

IN THE CIRCUIT COURT

BALDWIN COUNTY, ALABAMA

AT LAW

NUMBER:

9402

I

The Plaintiff claims of the Defendant FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), for that Defendant on to-wit August 5, 1969 so negligently maintained its right-of-way over and through which its engines and trains ran on its track at or near the intersection of such tracks with Baldwin County Highway Number 36, also known as Greenwood Road, a public highway in Baldwin County, Alabama as to allow grass, weeds and vegetation to grow upon and over its said right-of-way; that such grass, weeds and vegetation blocked and obscured the vision of Plaintiff who was then and there operating a motor vehicle on said Highway 36 at said time and place so that Plaintiff was unable to see the train of Defendant approaching the said intersection thereby causing or allowing the train of Defendant and the said automobile which Plaintiff was then and there operating to collide and that as a proximate result of such negligence the Plaintiff was injured in that her head, legs, body and arm were lacerated, bruised and broken, and that she was caused to suffer fractured bones, cerebral contusions, lacerations, cuts and bruises of both

knees, cuts and bruises and blows about the head and shoulders and that she was caused to be hospitalized for the treatment of such injuries for a long period of time, incurring medical, hospital and doctor's bills and charges, ad quod damnum.

## II

The Plaintiff claims of Defendant FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), for that on to-wit August 5, 1969, Defendant so negligently operated his train at the intersection of his track with Baldwin County Highway Number 36, also known as Greenwood Road, a public highway in Baldwin County, Alabama, where vision was obstructed by grass, weeds and vegetation had then and there been allowed to grow up and around the track of Defendant, as to cause or allow the train of Defendant to collide with the automobile which Plaintiff was then and there driving, and that as a proximate result of such negligence, Plaintiff was injured in that her head, legs, body and arm were lacerated, bruised and broken, and that she was caused to suffer fractured bones, cerebral contusions, lacerations, cuts and bruises of both knees, cuts and bruises and blows about the head and shoulders and that she was caused to be hospitalized for the treatment of such injuries for a long period of time, incurring medical, hospital and doctor's bills and charges, ad quod damnum.

## III

Plaintiff claims of Defendant FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), for that Defendant so willfully and wantonly operated its train on to-wit the 5th day of August, 1969 by driving the said train at an excessive rate of speed into and through the crossing of Defendant's track with Baldwin County Highway Number 36, also known as Greenwood Road, a public highway in Baldwin County, Alabama, where the vision of the engineer or operator of the said train was obscured by grass, weeds and vegetation, as to cause or allow a collision with the vehicle which was then and there operated by Plaintiff and that as a proximate result thereof, Plaintiff was injured in that her head, legs, body and arm were lacerated, bruised and broken, and that she was caused to suffer fractured bones, cerebral contusions, lacerations, cuts and bruises of both knees, cuts and bruises

and blows about the head and shoulders and that she was caused to be hospitalized for the treatment of such injuries for a long period of time, incurring medical, hospital and doctor's bills and charges, ad quod damnum.

IV


Plaintiff claims of the Defendant FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for that on to-wit the 5th day of August, 1969, Defendant so negligently operated his train at the intersection of his tracks with Baldwin County Highway Number 36, also known as Greenwood Road, a public highway in Baldwin County, Alabama at which intersection vision was blocked or obscured by grass, weeds and vegetation so as to render it a blind intersection or crossing, by not continuously blowing its whistle as required by law as a warning, and that as a proximate result of such failure to warn the automobile which Plaintiff was then and there operating, the said automobile and Defendant's train did then and there at said crossing collide and that as a proximate result of such negligence, Plaintiff was injured in that her head, legs, body and arm were lacerated, bruised and broken, and that she was caused to suffer fractured bones, cerebral contusions, lacerations, cuts and bruises of both knees, cuts and bruises and blows about the head and shoulders and that she was caused to be hospitalized for the treatment of such injuries for a long period of time, incurring medical, hospital and doctor's bills and charges, ad quod damnum.

V

Plaintiff claims of Defendant FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), for that on to-wit the 5th day of August, 1969 Defendant so negligently operated its train at the intersection of its track with Baldwin County Highway Number 36, also known as Greenwood Road, a public highway in Baldwin County, Alabama, at which intersection vision of the Engineer or operator of the train was blocked or obscured by grass, weeds or vegetation, so as to render it a blind intersection or crossing, by not continuously blowing its whistle as required by law as a warning, and that as a proximate result of such failure to warn, the automobile which

Plaintiff was then and there driving was then and there caused or allowed to collide with the train of Defendant, in that as a proximate consequence of such negligence, Plaintiff was injured in that her head, legs, body and arm were lacerated, bruised and broken, and that she was caused to suffer fractured bones, cerebral contusions, lacerations, cuts and bruises of both knees, cuts and bruises and blows about the head and shoulders and that she was caused to be hospitalized for the treatment of such injuries for a long period of time, incurring medical, hospital and doctor's bills and charges, ad quod damnum.

HAYES & BOGGS

  
Wilson Hayes  
Attorney's for Plaintiff

Plaintiff demands trial  
by jury.

**FILED**

JUL 27 1970

**ALICE J. DUCK** CLERK  
REGISTER

9400

8-5 Mr. Dudley  
Sept.

8266

Unida DuBose  
R Ptz

Louisville & Nashville  
Railroad Co. a corp.

EXECUTED

This 5 day of August, 1920  
by serving a copy of the within on  
~~Louisville and Nashville Railroad Co.~~  
~~by service on Mr. Dudley, Sept.~~  
RAY D. BRIDGES, Sheriff  
By C. Fitzpatrick D.S.

FILED

JUL 27 1970

ALICE J. DUCK

CLERK  
REGISTER

W. Hayes

Received 29 day of July 1920  
and on day of 1920  
I served a copy of the within  
on J & H Agent

By service on


TAYLOR WILKINS, Sheriff  
D. S.

ONEIDA DuBOSE,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
	X		
vs.	X	BALDWIN COUNTY, ALABAMA	
	X		
LOUISVILLE AND NASHVILLE	X	AT LAW	NO. 9400
RAILROAD COMPANY, A	X		
Corporation,	X		
Defendant.	X		

Comes the Defendant in the above styled cause and for plea to Count One of the Amended Complaint filed in said cause and assigns the following separate and several pleas, viz:

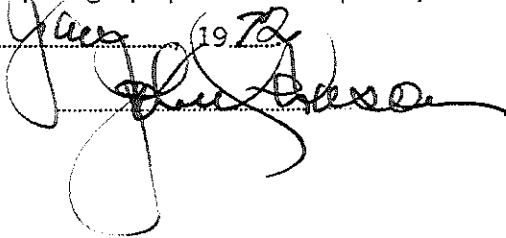
1. Not guilty.
2. That at the time and place alleged in Count One of the Amended Complaint, the Plaintiff herself was guilty of negligence which was the proximate cause of her injuries and damages in that she failed to stop before entering upon the right-of-way of the Defendant, hence she can not recover in this suit.
3. That at the time and place alleged in Count One of the Amended Complaint, the Plaintiff herself was guilty of negligence which was the proximate cause of her injuries and damages in that she drove the automobile in which she was riding at a high rate of speed onto the right-of-way of the Defendant as the train was then approaching, hence she can not recover in this suit.
4. That at the time and place alleged in Count One of the Amended Complaint, the Plaintiff herself was guilty of negligence which was the proximate cause of her injuries and damages in that she drove the automobile in which she was riding into or against the side of the engine owned by the Defendant

and which was then and there crossing the highway right-of-way,  
hence she can not recover in this suit.

  
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 5 day  
of June, 1972



FILED

JAN 5 - 1972

EUNICE B. BLACKMON CIRCUIT  
CLERK

ONEIDA DuBOSE,

Plaintiff,

VS.

LOUISVILLE AND NASHVILLE  
RAILROAD COMPANY, A  
Corporation,

Defendant.

\* \* \* \* \*

PLEAS

\* \* \* \* \*



WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

September 29, 1971

• Mrs. Eunice B. Blackmon, Clerk  
Circuit Court, Baldwin County  
Bay Minette, Alabama 36507

Re: Oneida DuBose v L & N  
Case #9400

• Dear Eunice:

Please file the enclosed amended complaint in  
the above noted case.

With kind regards, I am

Yours very truly,

  
Wilson Hayes

mm  
Enc.

cc w/enc: Chason, Stone & Chason

ONEIDA DuBOSE,	§	IN THE CIRCUIT COURT OF
Plaintiff,	§	BALDWIN COUNTY, ALABAMA
Vs.	§	AT LAW
LOUISVILLE and NASHVILLE	§	
RAILROAD COMPANY,	§	NUMBER: 9400
A Corporation,	§	
Defendant.	§	

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

I

The Plaintiff claims of the Defendant FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), for that Defendant on to-wit August 5, 1969 so negligently maintained its right-of-way over and through which its engines and trains ran on its track at or near the intersection of such tracks which Baldwin County Highway Number 36, also known as Greenwood Road, a public highway in Baldwin County, Alabama as to allow grass, weeds and vegetation to grow upon and over its said right-of-way; that such grass, weeds and vegetation blocked and obscured the vision of Plaintiff who was then and there operating a motor vehicle on said Highway 36 at said time and place so that Plaintiff was unable to see the train of Defendant approaching the said intersection thereby causing or allowing the train of Defendant and the said automobile which Plaintiff was then and there operating to collide and that as a proximate result of such negligence the Plaintiff was injured in that her head, legs, body and arm were lacerated, bruised and broken, and that she was caused to suffer fractured bones, cerebral contusions, lacerations, cuts and bruises of both knees, cuts and bruises and blows about the head and shoulders and that she was caused to be hospitalized for the treatment of such injuries for a long period of time, incurring medical, hospital and doctor's bills and charges, ad quod damnum.

II

The Plaintiff claims of Defendant FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), for that on to-wit August 5, 1969, Defendant

so negligently operated his train at the intersection of his track with Baldwin County Highway Number 36, also known as Greenwood Road, a public highway in Baldwin County, Alabama, where vision was obstructed by grass, weeds and vegetation had then and there been allowed to grow up and around the track of Defendant, as to cause or allow the train of Defendant to collide with the automobile which Plaintiff was then and there driving, and that as a proximate result of such negligence, Plaintiff was injured in that her head, legs, body and arm were lacerated, bruised and broken, and that she was caused to suffer fractured bones, cerebral contusions, lacerations, cuts and bruises of both knees, cuts and bruises and blows about the head and shoulders and that she was caused to be hospitalized for the treatment of such injuries for a long period of time, incurring medical, hospital and doctor's bills and charges, ad quod damnum.

Attorneys for Plaintiff  
HAYES & BOGGS

By: Wilson Hayes

Wilson Hayes

**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 29 day of Sept 1971, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mail as follows: by United States Mail, properly addressed, with first class postage prepaid.

Wilson Hayes

**FILED**

SEP 30 1971

EUNICE B. BLACKMON CIRCUIT CLERK

August 25, 1972

Mrs. Hobson Du Bose  
Rt. 1  
Summerdale, Alabama

Dear Mrs. Du Bose:

I am in receipt of your check for \$38.00 in the case of Oneida Du Bose vs: Louisville & Nashville Railroad Co. a Corp. The bill which was mailed to you was composed from this office before court day and therefore the witness fees had not been charged to us at this time. I am sending you and itemized cost bill in this case which includes the fees charged by witnesses appearing on the case.

I fail to understand to whom I am to pay the extra \$7.50 for depositions of James Frank Noblin.

Thank you so much for your courtesy and attention in this case.

Yours very truly,

---

Clerk, Circuit Court  
Baldwin County, Alabama

EBB/asg

ONEIDA DeBOSE,	X		
Plaintiff,	X		
			IN THE CIRCUIT COURT OF
	X		
vs.			
	X		BALDWIN COUNTY, ALABAMA
LOUISVILLE and	X		
NASHVILLE RAILROAD			
COMPANY, A Corpora-	X	AT LAW	NO. 9400
tion,			
	X		
Defendant.			
	X		

DEMURRER

Comes now 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 fails to state a cause of action.
2. That said Complaint fails to allege any duty owing by the Defendant to the Plaintiff.
3. That said Complaint attempts to set out the quo modo of the negligence of such Defendant but the facts, as alleged, in each Count of the Complaint, fails to show negligence of such Defendant as a matter of law.
4. That Count I of said Complaint fails to allege any negligence on the part of the Defendant as to the manner in which the train was being operated at the time and place set out in the Complaint.
5. The allegation in Count I of the Complaint that grass, weeds and vegetation on the right-of-way of the Defendant blocked and obscured the vision of the Plaintiff is but a conclusion of the pleader and fails to allege that such vision was blocked at or about the time she entered upon the right-of-way of the Defendant.

6. That Count I of the Complaint fails to allege sufficient facts to show that the Plaintiff could not have seen the approaching train of the Defendant if she had looked in the direction from which it was coming.

7. For aught that appears from Count I of the Complaint, the Defendant was blowing its whistle and ringing its bell as it approached the intersection where the collision occurred.

8. The allegation in Count I of the Complaint that the automobile in which the Plaintiff was riding collided with the train of the Defendant as the proximate result of the grass, weeds and vegetation growing upon the right-of-way is but a conclusion of the pleader.

9. That Count I of the Complaint fails to allege the height or density of the grass, weeds and vegetation referred to in such Complaint.

10. That Count II of the Complaint claims damages of a corporation but alleges that such Defendant negligently operated his train at a place referred to in the Complaint without stating who owned the train or the tracks upon which it was being operated.

11. For aught that appears from Count II of the Complaint, the grass, weeds and vegetation referred to were growing upon the highway right-of-way and not the railroad right-of-way.

12. That the allegations of Count II of the Complaint are vague and indefinite and it is impossible to determine from such Count what negligence of the Defendant is being complained of.

13. For aught that appears from Count II of the Complaint the vision of the Plaintiff was not obstructed at or near the place where the accident occurred.

14. Count III of said Complaint does not allege that the Defendant wilfully or wantonly injured the Plaintiff.

15. The allegation in Count III that the Defendant wilfully and wantonly drove its train at an excessive rate of speed into the crossing where the accident occurred is but a conclusion of the pleader and fails to allege sufficient facts to justify such allegation.

16. The allegation in Count III of the Complaint that the vision of the engineer or operator of the train was obscured by grass, weeds and vegetation fails to allege that his vision was obstructed in the direction from which the Plaintiff was coming.

17. Count III of the Complaint fails to allege that the vision of the Plaintiff as she approached the railroad crossing where the accident occurred was obscured in any manner.

18. Count IV of the Complaint sues a corporation defendant but alleges that such Defendant negligently operated his train on his tracks without any allegation as to who owned such train or tracks.

19. Count IV of the Complaint fails to allege sufficient facts to show that the intersection of the railroad and Highway 36 was in fact a blind intersection or crossing.

20. The allegation of Count IV of the Complaint is vague and indefinite and fails to allege whose vision was blocked or obscured by the grass, weeds and vegetation.

21. Count V of the Complaint is vague and indefinite and fails to allege the negligence of the Defendant as a matter of law.

22. For aught that appears from Count V of the Complaint, the Plaintiff could have seen the train of the Defendant approaching for a sufficient distance to enable her to stop her automobile before she entered upon the tracks of the Defendant.

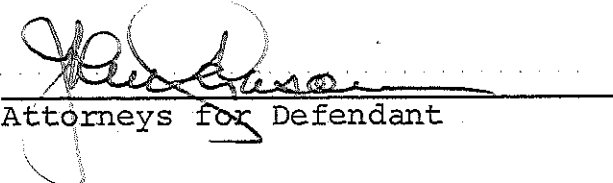
23. For aught that appears from all Counts of the Complaint, the Plaintiff could have prevented the accident by observing the stop sign which was placed near the tracks of the Defendant and which the Plaintiff had to pass before entering into the intersection.

24. For aught that appears from all Counts of the Complaint, the grass, weeds and vegetation referred to would not have caused an accident by the train and any motor vehicle had the driver of the motor vehicle observed the laws of the State of Alabama as she operated her automobile at the time and place complained of.

  
Attorneys for Defendant

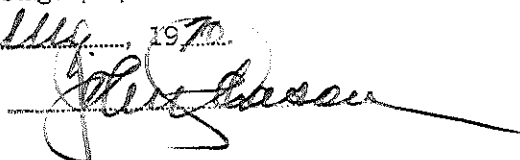
The Defendant demands a trial  
of this cause by a jury.

CHASON, STONE & CHASON

By:   
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 21 day of July, 1970.



**FILED**

AUG 21 1970

**ALICE J. DUCK** CLERK  
REGISTER



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Handwritten notes and signatures in the middle left section of the document.

**FILED**

**AUG 21 1970**

**ALICE J. DUCK**  
CLERK  
REGISTER

Multiple lines of handwritten notes and signatures in the lower half of the document.

ONEIDA DuBOSE,	X		
Plaintiff,	X	IN THE CIRCUIT COURT OF	
	X		
vs.	X	BALDWIN COUNTY, ALABAMA	
	X		
LOUISVILLE AND NASHVILLE	X	AT LAW	NO. 9400
RAILROAD COMPANY, A			
Corporation,	X		
Defendant.	X		

DEMURRER TO AMENDED COMPLAINT

Comes now the Defendant in the above styled cause and demurs to the amended 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 amended Complaint fails to state a cause of action.

2. That said amended Complaint fails to allege any duty owing by the Defendant to the Plaintiff.

3. That said Complaint attempts to set out the quo modo of the negligence of such Defendant but the facts, as alleged in each Count of the amended Complaint, fails to show negligence of such Defendant as a matter of law.

4. That Count I of said amended Complaint fails to allege any negligence on the part of the Defendant as to the manner in which the train was being operated at the time and place set out in the amended Complaint.

5. The allegation in Count I of the amended Complaint that grass, weeds and vegetation on the right-of-way of the Defendant blocked and obscured the vision of the Plaintiff is but a conclusion of the pleader and fails to allege that such vision was blocked at or about the time she entered upon the right-of-way of the Defendant.

6. That Count I of the amended Complaint fails to allege sufficient facts to show that the Plaintiff could not have seen the approaching train of the Defendant if she had looked in the direction from which it was coming.

7. For aught that appears from Count I of the amended Complaint, the Defendant was blowing its whistle and ringing its bell as it approached the intersection where the collision occurred.

8. The allegation in Count I of the amended Complaint that the automobile in which the Plaintiff was riding collided with the train of the Defendant as the proximate result of the grass, weeds and vegetation growing upon the right-of-way is but a conclusion of the pleader.

9. That Count I of the amended Complaint fails to allege the height or density of the grass, weeds and vegetation referred to in such amended Complaint.

10. That Count II of the amended Complaint claims damages of a corporation but alleges that such Defendant negligently operated his train at a place referred to in the amended Complaint without stating who owned the train or the tracks upon which it was being operated.

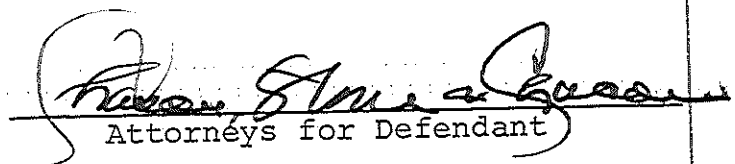
11. For aught that appears from Count II of the amended Complaint, the grass, weeds and vegetation referred to were growing upon the highway right-of-way and not the railroad right-of-way.

12. That the allegations of Count II of the amended Complaint are vague and indefinite and it is impossible to determine from such Count what negligence of the Defendant is being complained of.

13. For aught that appears from Count II of the amended Complaint the vision of the Plaintiff was not obstructed at or near the place where the accident occurred.

14. For aught that appears from both Counts of the amended Complaint, the grass, weeds and vegetation referred to would not have caused an accident by the train and any motor vehicle had the driver of the motor vehicle observed the laws of the State of Alabama as she operated her automobile at the time and place complained of.

15. That said amended Complaint fails to sufficiently set out the injuries to the Plaintiff with sufficient certainty.

  
Attorneys for Defendant

FILED

OCT 21 1971

EUNICE B. BLACKMON CIRCUIT  
CLERK

1971  
and postage prepaid on this  
United States Mail, properly addressed  
mailing the same to each by First Class  
for all parties to this proceeding, by  
pleading has been served upon counsel  
I certify that a copy of the foregoing

CERTIFICATE OF SERVICE

DEMURRER TO AMENDED COMPLAINT

ONEIDA DuBOSE,  
Plaintiff,

vs.

LOUISVILLE AND NASHVILLE  
RAILROAD COMPANY, A  
Corporation,  
Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW NO 9400

FILED

OCT 21 1971

EUNICE B. BLACKMON CIRCUIT  
CLERK

ONEIDA DuBOSE

X

Plaintiff,

X

IN THE CIRCUIT COURT OF

X

vs.

X

BALDWIN COUNTY, ALABAMA

LOUISVILLE and  
NASHVILLE RAILROAD  
COMPANY, A Corpora-  
tion,

X

AT LAW

NO. 9400

X

X

Defendant.

X

NOTICE OF TAKING DEPOSITION UPON ORAL  
EXAMINATION

TO: HONORABLE WILSON HAYES, ATTORNEY AT LAW, BAY MINETTE, ALABAMA  
TO: WILLIAM P. BOGGS, ATTORNEY AT LAW, SPANISH FORT, ALABAMA,  
ATTORNEYS FOR PLAINTIFF.

Please take notice that the deposition of J. F. Noblin,  
as a witness for the Defendant, will be taken upon oral examination  
on Wednesday, June 28, 1972, at 10:00 A.M., before Louise Dusenbury,  
a Notary Public in and for the State of Alabama, at Large, who is  
hereby designated as the officer before whom such deposition shall  
be taken, at her office in the Courthouse in Bay Minette, Baldwin  
County, Alabama.

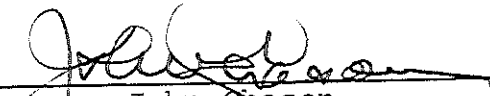
Dated this 9<sup>th</sup> day of June, 1972.

CHASON, STONE & CHASON

By: [Signature]  
Attorneys for Defendant

I, John Chason, one of the attorneys of record for the  
Defendant in the above styled cause, do hereby certify that I have  
this day mailed a copy of the foregoing Notice of Taking Deposition  
Upon Oral Examination to Honorable Wilson Hayes and Honorable  
William P. Boggs, the attorneys of record for the Plaintiff,

postage prepaid and properly addressed to them at their offices  
in Bay Minette, Alabama and Spanish Fort, Alabama.

  
John Chason

FILED

JUN 9 1972

EUNICE B. BLACKMON CIRCUIT  
CLERK

VOL 69 PAGE 96

ONEIDA DuBOSE,

Plaintiff,

vs.

LOUISVILLE and NASHVILLE RAIL-  
ROAD COMPANY, A Corporation,

Defendant.

\* \* \* \* \*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW                      NO. 9400

\* \* \* \* \*

NOTICE OF TAKING DEPOSITION  
UPON ORAL EXAMINATION

\* \* \* \* \*



Total Fees & Cost. \$ 30.50  
So Copy of deposition 7.50  
of James Frank Hobbs  
Taken under Act 375  
Case No 9400

Mrs Mary Allen DuBois

Try the FFF Brands--they're Better

10.00  
 1.50  


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 11.50  
 26.50  


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 38.00

10,499

10.00  
 4.50  
 3.00  
 938-2308  
 Ronald Keith

Sharon Securities