

2589

STATE OF ALABAMA)
BALDWIN COUNTY) IN THE CIRCUIT COURT - LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Newport Industries, Inc., A Corporation, 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 Hiram C. Taylor.

Witness my hand this 22 day of April, 1955.

Deise J. J. J.
Clerk.

HIRAM C. TAYLOR, I
Plaintiff, I IN THE CIRCUIT COURT OF
vs. I BALDWIN COUNTY, ALABAMA
NEWPORT INDUSTRIES, INC., I AT LAW.
A Corporation, I
Defendant. I

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) damages for that the Defendant operates and was operating before the commencement of this suit a chemical industry or plant and is at the present time operating such industry or plant in the City of Bay Minette, Baldwin County, Alabama, and that during said time Plaintiff was and now is the owner and in possession of the following described lands in Baldwin County, Alabama, to-wit:

Beginning at the Northeast corner of the South half of the Northeast Quarter of Section 15, Township 2 South, Range 3 East, run West along the North line of said South half of the Northeast Quarter 2005 feet to a point, run thence South 660 feet, run thence West 220 feet, run thence South 1076 feet to a point in the Northerly line of Brady Road, run thence South 82° 30' East along the North

line of said Brady Road 529 feet, run thence South 62° East 500 feet along said Road, run thence South 69° East 265 feet along said Road, run thence South 86° East 1000 feet, more or less, to a point in the East line of said Section 15, run thence North 2244 feet to the point of beginning, SAVE AND EXCEPT 10 acres formerly owned by D. C. Byrne and located immediately North of said Brady Road.

ALSO:

Beginning at the Northeast corner of the South half of the Northeast Quarter of said Section 15, Township 2 South, Range 3 East, run thence North with the East line of said Section 15 745 feet to a point, run thence South 55° 45' West 394.5 feet to a point, run thence South 68° West 585 feet to a point, run thence South 51° 45' West 493 feet to a point in the South line of the Northeast Quarter of the Northeast Quarter of said Section 15, run thence East 1255.5 feet to the point and place of beginning.

That in and about the operation of the Defendant's chemical plant, aforesaid, the Defendant dumped and dumps certain refuse and waste into a stream of water which runs in a Southerly direction from the Defendant's said plant and by and through the lands of the Plaintiff. And the Plaintiff further alleges that before the commencement of this action the Defendant's servants, agents or employees, while acting within the line and scope of their employment, did dump or place or caused to be placed large quantities of refuse and waste consisting of poisonous chemicals and other matter and Plaintiff further alleges that by reason of the said poisonous matter, waste and refuse being dumped into a stream of water, aforesaid, that said stream became polluted and made black and filthy and rendered useless for domestic use and for stock and other purposes and did, thereby destroy and kill a large quantity of timber growing upon the land of the Plaintiff and permanently injured the land of the Plaintiff and rendered it less valuable for farming purpose and pasturage.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Ten Thousand Dollars (\$10,000.00) as damages for that the Defendant operates a chemical plant in the City of Bay Minette, Alabama, and has operated such plant for a period of one year preceding the filing of this action and that the Defendant in and about the operation of said plant did dump or discharge into a stream of water certain waste from said plant consisting of poisonous chemicals and other matter, which stream flows in a Southerly direction from the location of said plant through and across lands of the Plaintiff described as follows:

Beginning at the Northeast corner of the South half of the Northeast Quarter of Section 15, Township 2 South, Range 3 East, run West along the North line of said South half of the Northeast Quarter 2005 feet to a point, run thence South 660 feet, run thence West 220 feet, run thence South 1076 feet to a point in the Northerly line of Brady Road, run thence South 82° 30' East along the North line of said Brady Road 529 feet, run thence South 62° East 500 feet along said Road, run thence South 69° East 265 feet along said Road, run thence South 86° East 1000 feet, more or less, to a point in the East line of said Section 15, run thence North 2244 feet to the point of beginning, SAVE AND EXCEPT 10 acres formerly owned by D. C. Byrne and located immediately North of said Brady Road.

ALSO:

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and of which he is the owner and in possession and that as a result of the placing of said poisonous matter into the said stream of water the said stream became polluted and greatly damaged the land of the Plaintiff in this: the water was rendered unfit for domestic use and his stock and other purposes, a great quantity of timber located on the lands of the Plaintiff was killed and destroyed, the Plaintiff was unable to maintain fences in the immediate vicinity of said stream of water, the stream and the vicinity thereof gave off an obnoxious and offensive odor rendering the land of the Plaintiff uncomfortable, and the land has been rendered less valuable for farming purposes and pasturage and said land has been permanently injured. And the Plaintiff alleged that all of the damages, aforesaid, were caused by the dumping or placing of said poisonous matter by the Defendant in the stream of water, aforesaid, wherefore, the Plaintiff brings this suit and asks judgment in the above amount.

Respectfully submitted,

CHASON & STONE

By: Marlene G. Stone

Plaintiff demands a trial of this cause by a jury.

CHASON & STONE

By: Marlene G. Stone

Received 27 day of April 1955
and on 26 day of April 1955
served a copy of the within Q.C.
in New Port Ind. Co.

By service on M. D. Reid, Officer mgr.
Newport Ind. Co.

TAYLOR WILKINS, Sheriff

By J. H. Ham D. S.

Jury
no 2589
HIRAM C. TAYLOR,

Plaintiff,

vs.

NEWPORT INDUSTRIES, INC., A
Corporation,

Defendant.

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

SUMMONS AND COMPLAINT

FILED
APR 22 1955
ALICE J. DUCK, Clerk

LAW OFFICES
CHASON & STONE
BAY MINETTE, ALABAMA

HIRAM C. TAYLOR,) IN THE CIRCUIT COURT OF
 Plaintiff)
 vs) BALDWIN COUNTY, ALABAMA
NEWPORT INDUSTRIES, INC.)
a corporation,)
 Defendant) AT LAW

Comes the defendant in the above styled cause and demurring to plaintiff's complaint and to each count thereof separately and severally says:

1. That it does not appear from the said complaint that the damages complained of were the proximate result of the breach of any duty owing by the defendant to the plaintiff.

2. That it does not appear from the said complaint that the damages complained of were the proximate result of any act of the defendant, its agents, servants or employees.

3. That it does not appear that the damages complained of were caused by any act of the defendant, its agents, servants or employees.

4. That the complaint does not allege any facts showing a breach of duty owing by the defendant to the plaintiff.

5. That the complaint does not allege facts showing that the damages complained of were the proximate result of any act of the defendant, its agents, servants or employees.

6. That the complaint does not allege facts showing that the damages complained of were caused by any act of the defendant, its agents, servants or employees.

BEEBE & SWEARINGEN

BY


Attorneys for Defendant