

In the Matter of the Removal  
to the District Court of the  
United States for the Southern  
District of Alabama, Southern  
Division, of the case of:

SEXTER BELL,

Plaintiff,

Vs

LOUISVILLE AND NASHVILLE  
RAILROAD COMPANY, a corporation,

Defendant.

2887

TO: Hon. Alice Duck, Clerk  
Circuit Court of Baldwin  
County, Alabama

Pursuant to the provisions of law in such cases made and provided, there is hereby filed with you a copy of the petition of the defendant in the above entitled cause to remove said cause to the United States District Court for the Southern Division of the Southern District of Alabama. The said petition, accompanied by a bond with good and sufficient surety conditioned as is required by law, has been this day filed in the said United States District Court for the Southern Division of the Southern District of Alabama.

Written notice of the filing of the aforesaid petition and bond has been this day given to attorney for the plaintiff herein by this day delivering such notice, together with a copy of the said petition for removal, to Hon. J. B. Blackburn, attorney for the plaintiff, at his address in Bay Minette, Alabama, and you are hereby notified that the filing of a copy of the aforesaid petition with you as Clerk of the Circuit Court of Baldwin County, Alabama, effects the removal of said cause to the aforesaid United States District Court.

Dated this 23 day of July, 1958.

W B Hand  
Attorney for Defendant  
622 First National Bank Building  
Mobile, Alabama

OF COUNSEL:

HAND, ARENDALL, BEDSOLE, GREAVES & JOHNSTON  
and CHASON & STONE

of the United States of America, thereunto appertaining. Defendant avers that he has filed in response no pleadings to the amended complaint, and that the time in which this defendant is permitted by law to file his said petition for removal has not expired; and that defendant has a good defense to said cause. Defendant simultaneously with the filing of this petition, filed a copy of all process, pleadings, orders, and depositions served upon it and filed in said cause which constitute the record as it exists in the Circuit Court of Baldwin County, Alabama.

4. Petitioner desires to remove this action to this Court on the ground of diversity of citizenship existing therein between the plaintiff and the defendant, pursuant to the Acts of Congress in that behalf provided. Petitioner therefore files and offers herewith bond with good and sufficient surety in the penal sum of Five Hundred Dollars (\$500.00), conditioned that the defendant will pay all costs and disbursements incurred by reason of this said removal proceedings, should it be determined that this action was wrongfully or improperly removed to this said Court.

5. Petitioner represents that promptly upon the filing of this petition and the said bond filed herewith, this petitioner shall give written notice thereof to the adverse party and shall file a copy of the petition with the Circuit Court of Baldwin County, Alabama, wherein said action is now pending.

WHEREFORE, your petitioner prays that the said bond filed herewith be accepted as good and sufficient and that

SEXTER BELL,

Plaintiff,

vs.

LOUISVILLE & NASHVILLE  
RAILROAD COMPANY, a  
corporation, and E. F.  
MINDER,

Defendants,

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

Come the Defendants in the above styled cause and demur to the Complaint filed in said cause and each and every Count thereof separately and severally, and assign the following separate and several grounds, viz:

1. That said Complaint does not state a cause of action.
2. That Count One of said Complaint claims damages of both Defendants, but fails to allege that the Defendant, E. F. Minder, was in any way responsible for such accident.
3. That Count One of said Complaint fails to allege that the accident occurred in Baldwin County, Alabama.
4. That the allegation in Count One of said Complaint that the Defendant, Louisville & Nashville Railroad Company, was engaged in operating a railroad and one of the tracks of said railroad crossed a paved public road in said County at Carpenter Station, fails to allege in what County said railroad was operating.
5. That Count One does not allege that the Defendants negligently injured the Plaintiff.
6. That Count One of said Complaint does not sufficiently allege where the accident occurred.
7. That Count One of said Complaint claims damages both to person and property.
8. That Count One of said Complaint does not sufficiently allege the amount of time that the Plaintiff lost from his work.
9. That Count One of said Complaint is vague and indefinite.
10. That the public road referred to in Count Two of said Complaint is not sufficiently identified.
- 11.. That Count Two of said Complaint fails to allege the amount of time that the Plaintiff lost from his work.

12. That Count Two of said Complaint seeks to join an action for personal injury and for property damage.

13. That Count Three of said Complaint fails to allege which Defendant operated a railroad in Baldwin County, Alabama.

14. That Count Three of said Complaint fails to allege which Defendant ran trains for the transportation of freight and passengers for hire.

15. That Count Three fails to allege the name of the Defendant whose agent was running said train.

16. That Count Three of said Complaint fails to allege which Defendant was the owner of the railroad.

17. That Count Three of said Complaint does not allege that the train was in charge of and under the control of the Defendant, E. F. Minder.

18. That Count Three of said Complaint does not allege that the Defendants wantonly injured the Plaintiff.

19. That there is a misjoinder of parties Defendant in said Counts.

20. That said Counts attempt to join an action of trespass with an action on the case in the same Count.

21. That said Counts improperly join separate causes of action in the same Count.

22. That said Counts fail to allege any duty owing by the Defendants to the Plaintiff.

23. That Count Three of said Complaint fails to allege how much time the Plaintiff lost from his work.

*Filed Apr. 19, 1956*  
*Alice J. Clark*  
*clerk*

  
Attorneys for Defendants.

2887

DEMURRER

SEXTER BELL,

Plaintiff,

vs.

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, a corporation, and  
E. F. MINDER,

Defendants.

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

FILED

APR 19 1956

ALICE J. DUCK, Register  
LAW OFFICES

CHASON & STONE  
BAY MINETTE, ALABAMA

SEXTER BELL,	)	
	)	
VS.	)	IN THE CIRCUIT COURT OF
	)	
	)	BALDWIN COUNTY, ALABAMA
LOUISVILLE & NASHVILLE RAIL-	)	
ROAD COMPANY, a corporation,	)	AT LAW
and E. F. MINDER,	)	
	)	
Defendants.	)	

AMENDED COMPLAINT

COUNT ONE

The plaintiff claims of the defendants the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the defendant, Louisville & Nashville Railroad Company, a corporation, operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or over a paved public highway or road at Carpenter Station in Baldwin County, Alabama, and then and there defendant, E. F. Minder, the agent, servant or employee of the defendant, Louisville & Nashville Railroad Company, a corporation, while acting within the line and scope of his said employment, negligently ran a locomotive or train into or upon plaintiff's automobile, and as a proximate result and consequence thereof the plaintiff suffered the following injuries and damages, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in about his effort to heal and cure his said wounds and injuries. The plaintiff's automobile was also demolished.

COUNT TWO

The plaintiff claims of the defendant, Louisville and Nashville Railroad Company, a corporation, the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the said defendant operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or over a paved public road at Carpenter Station in Baldwin County, Alabama, and the defendant's agent, servant or employee, E. F. Minder, while engaged in running an engine or locomotive of the said defendant and in the conduct of the business of the said defendant, then and there wantonly ran the said engine or locomotive against, into or upon plaintiff's automobile and as a proximate consequence thereof plaintiff suffered the following injuries, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries, and the plaintiff's automobile was demolished.

J. B. Blackburn  
Attorney for plaintiff.

Plaintiff demands a trial of this cause by jury.

J. B. Blackburn  
Attorney for plaintiff.

*Filed Aug-18, 1956*

2887 *Jury*  
AMENDED COMPLAINT

SEXTER BELL,

Plaintiff,

VS.

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, a corporation, and  
E. F. MINDER,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

FILED

AUG 18 1956

ALICE J. DUCK, Register

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA



SEXTER BELL,

Plaintiff,

vs.

LOUISVILLE & NASHVILLE RAIL-  
ROAD COMPANY, a corporation,  
and E. F. MINDER,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

Come now the Defendants in the above styled cause and demur to count one and two of the amended complaint filed by the Plaintiff in said cause, separately and severally and assign the following separate and several grounds viz:

1. That said complaint does not state a cause of action.
2. For aught that appears from the complaint the railroad was above the public highway referred to in said complaint.
3. That said complaint does not allege that Plaintiff was in his automobile when it was struck by the train referred to therein.
4. For aught appearing from said complaint the Plaintiff was not driving his automobile along the public highway referred to in said complaint at the time it was struck by such train.
5. That said complaint does not state any duty owing by the Defendant to the Plaintiff.
6. That the allegation in such complaint that Defendant's railroad ran across or over a paved public highway is but a conclusion of the pleader and does not allege that the railroad track and the paved highway were on the same level and intersected each other.
7. That such complaint does not sufficiently allege the time of the injury.
8. For aught that appears from said complaint the Plaintiff was trespassing at the time of his alleged injury.
9. That said complaint does not allege that the Plaintiff's automobile was on a public highway at the time that it was struck by the Defendant's train.
10. That said complaint does not allege that the Defendants negligently injured the Plaintiff.

11. That said complaint does not allege how much time that the Plaintiff lost from his work.

12. That said complaint seeks to join in one count an action in trespass and on the case.

13. That said complaint improperly joins separate causes of action in the same count.

*Filed 8-21-56*  
*Walter J. Luck, Clerk*

*James Stone*  
Attorneys for Defendants

2887

SEXTER BELL,

Plaintiff,

vs.

LOUISVILLE & NASHVILLE RAIL-  
ROAD COMPANY, a corporation,  
and E. F. MINDER,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

DEMURRER

*Filed 8.21.56  
A. J. Stone  
clerk*

LAW OFFICES

**CHASON & STONE**

BAY MINETTE, ALABAMA

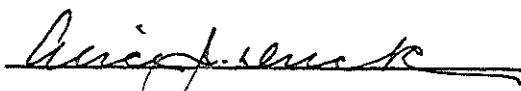
SUMMONS

STATE OF ALABAMA )  
                          \*  
BALDWIN COUNTY     )

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon the Louisville & Nashville Railroad Company, a corporation, and E. F. Minder 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 Sexter Bell.

WITNESS my hand this 30th day of March, 1956.

  
Clerk of the Circuit Court

The defendant, Louisville & Nashville Railroad Company, a corporation, can be served by delivering a copy of this summons and complaint to L. Forte, as its agent, Bay Minette, Alabama.

The defendant, E. F. Minder, resides at 2755 Sumpter Avenue, Montgomery, Alabama.

COMPLAINT

SEXTER BELL, )  
 )  
Plaintiff, )  
VS. ) IN THE CIRCUIT COURT OF  
 )  
LOUISVILLE & NASHVILLE RAIL- ) BALDWIN COUNTY, ALABAMA  
ROAD COMPANY, a corporation, )  
and E. F. MINDER, ) AT LAW  
 )  
Defendants. )

COUNT ONE

The plaintiff claims of the defendants Fifty Thousand Dollars (\$50,000.00) as damages for that on, to-wit, the 3rd day of April, 1955, the defendant, Louisville & Nashville Railroad Company, a corporation, was engaged in the business of operating a railroad, and one of the tracks of the said railroad crossed a paved public road in said County at Carpenter Station and on, to-wit, April 3, 1955, there was a collision on said public road crossing between a locomotive on said railroad track and an automobile on said public road that was being driven by the plaintiff, and as a proximate result and consequence of the said collision the plaintiff suffered the following injuries, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries. The plaintiff's automobile was also demolished. Plaintiff further avers that the said collision was proximately caused and the plaintiff was injured as the proximate result and consequence of the negligence of the said defendant in the conduct of its said business.

## COUNT TWO

The plaintiff claims of the defendants Fifty Thousand Dollars (\$50,000.00) as damages for that on, to-wit, the 3rd day of April, 1955, the plaintiff was driving an automobile upon a public road over a railroad crossing at Carpenter Station in Baldwin County, Alabama, and then and there the defendant, E. F. Minder, the agent, servant or employee of the defendant, Louisville & Nashville Railroad Company, a corporation, while acting within the line and scope of his said employment, negligently ran a locomotive or train upon or against the said automobile driven by the plaintiff and as a proximate result and consequence of the said negligence the plaintiff suffered the following injuries, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and bout his effort to heal and cure his said wounds and injuries. The plaintiff's automobile was also demolished; hence this suit.

## COUNT THREE

The plaintiff claims of the defendant, the Louisville & Nashville Railroad Company, a corporation, the sum of Fifty Thousand Dollars (\$50,000.00) as damages for that on, to-wit, April 3, 1955, the said defendant operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that the said railroad ran across or over a paved public road at Carpenter Station in Baldwin County, Alabama, and the defendant's agent, servant or employee, E. F. Minder, while engaged in running an engine or locomotive of the said defendant and in the conduct of the business of the said defendant then and there wantonly ran the

said engine or locomotive against, into or upon plaintiff's automobile and as a proximate consequence thereof plaintiff suffered the following injuries, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries. The plaintiff's automobile was also demolished.

*J. T. Blackburn*

Attorney for plaintiff.

Plaintiff demands a trial of this cause by jury.

*J. T. Blackburn*

Attorney for plaintiff.

*Filed Mar. 30, 1956*  
*Alice J. Smith, Clerk*

*Executed 4-6-56*



404

Received 30 day of Mar 1956  
 and on 30 Mar 1956  
 I serve: A & C  
 on 7 & 7 Railroad Co.

By service 7-2005

RECEIVED IN OFFICE  
 EXECUTED BY SERVING diff  
 COPY OF THE Writ  
 APR 1 1956 D.S.  
 M. S. BUTLER, Sheriff

E. F. Mender  
4-6-56

M. S. Butler  
 Sheriff Montgomery County

By M. S. Butler  
 Deputy Sheriff

The Sheriff claims 7 miles  
 miles at 10¢ per mile for a total  
 of \$ 70.00  
 M. S. Butler, Sheriff  
 Montgomery County, Ala.

RECEIVED IN OFFICE  
 MAR 31 1956

no 2887  
 Original Summons and Com-  
 plaint.

SEXTER BELL,  
 VS. Plaintiff,  
 VS.

LOUISVILLE & NASHVILLE RAILROAD  
 COMPANY, a corporation, and  
 E. F. MENDER,  
 Defendants.

IN THE CIRCUIT COURT OF  
 BALDWIN COUNTY, ALABAMA  
 AT LAW NO. \_\_\_\_\_

FILED  
 MAR 30 1956  
 ALICE L. DUCK, Clerk

J. B. BLACKBURN  
 ATTORNEY AT LAW  
 BAY MINETTE, ALABAMA



SEXTER BELL,	)	
	Plaintiff, )	
VS.	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
LOUISVILLE & NASHVILLE RAIL-	)	
ROAD COMPANY, a corporation,	)	AT LAW.
and E. F. MINDER,	)	
	Defendants.)	

AMENDED COMPLAINT

COUNT ONE

The plaintiff claims of the defendants the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the defendant, Louisville & Nashville Railroad Company, a corporation, operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or over a paved public highway or road at Carpenter Station in Baldwin County, Alabama, and then and there defendant, E. F. Minder, the agent, servant or employee of the defendant, Louisville & Nashville Railroad Company, a corporation, while acting within the line and scope of his said employment, negligently ran a locomotive or train into or upon plaintiff's automobile which was being driven by plaintiff, and as a proximate result and consequence thereof the plaintiff suffered the following injuries and damages, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit, one (1) year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries. The plaintiff's automobile was also demolished.

### COUNT TWO

The plaintiff claims of the defendant, Louisville & Nashville Railroad Company, a corporation, the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the said defendant operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or over a paved public road at Carpenter Station in Baldwin County, Alabama, and the defendant's agent, servant or employee, E. F. Minder, while engaged in running an engine or locomotive of the said defendant and in the conduct of the business of the said defendant, then and there wantonly ran the said engine or locomotive against, into or upon plaintiff's automobile, which was being driven by the plaintiff, and as a proximate consequence thereof plaintiff suffered the following injuries, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit, one (1) year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries, and the plaintiff's automobile was demolished.

### COUNT THREE

The plaintiff claims of the defendant, Louisville & Nashville Railroad Company, a corporation, the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the said defendant operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or

over a paved public road at Carpenter Station in Baldwin County, Alabama, and the defendant's agent, servant or employee, E. F. Minder, while engaged in running an engine or locomotive of the said defendant and in the conduct of the business of the said defendant, then and there wantonly ran the said engine or locomotive against, into or upon plaintiff's automobile, which was being driven by the plaintiff, and as a proximate consequence thereof plaintiff suffered the following injuries, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit, one (1) year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries, and the plaintiff's automobile was demolished.

Plaintiff avers that E. F. Minder, the defendant's said agent, servant or employee, acting within the line and scope of his employment as such agent, servant or employee, at said time and place wantonly injured plaintiff by wantonly running the said engine or locomotive of the defendant against the said automobile which plaintiff was then and there driving at said time and place, and as a proximate consequence of said wanton conduct plaintiff avers that he was caused to sustain and did sustain the injuries and damages complained of and set out in the preceding paragraph.

#### COUNT FOUR

The plaintiff claims of the defendant, E. F. Minder, the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the said defendant operated an engine or locomotive on the railroad track of the Louisville & Nashville Railroad Company, a corporation, for the transportation

of freight for hire in Baldwin County, Alabama, and that on the said date the said railroad ran across or over a paved public road at Carpenter Station in Baldwin County, Alabama, and the said defendant, at the said time and place, then and there wantonly ran the said engine or locomotive which he was then and there operating into or upon plaintiff's automobile, which he was then and there driving, and as a proximate consequence plaintiff suffered the following injuries and damages, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit, one (1) year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries, and the plaintiff's automobile was demolished.

Plaintiff avers that the said defendant wantonly injured the plaintiff by wantonly running the engine or locomotive, which he was then and there operating, against the automobile, which plaintiff was then and there driving, and as a proximate consequence of said wanton conduct the plaintiff avers that he was caused to sustain and did sustain the injuries and damages complained of and set out in the preceding paragraph.

#### COUNT FIVE

The plaintiff claims of the defendant, E. F. Minder, the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the said defendant wantonly injured the plaintiff by so wantonly operating an engine or locomotive along and upon the railroad track of the Louisville & Nashville Railroad Company, a corporation, in Baldwin County, Alabama, at a point where the said railroad track ran across or over the paved

public road at Carpenter Station in Baldwin County, Alabama, as to cause the said engine or locomotive, which he was then and there operating, to run into or upon the plaintiff's automobile, which he was then and there driving, and as a proximate consequence the plaintiff suffered the following injuries and damages, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit, one (1) year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries, and the plaintiff's automobile was demolished, all on account of the wantonness of the defendant as aforesaid; wherefore, plaintiff brings this action and asks judgment in the above sum.

J. B. Blackburn  
Attorney for plaintiff

Plaintiff demands a trial of this cause by jury.

J. B. Blackburn  
Attorney for plaintiff

*Filed Feb. 15, 1957*  
*Oliver J. Duck, Clerk*

2887

AMENDED COMPLAINT

SEXTER BELL,

Plaintiff,

VS.

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, a corporation, and  
E. F. MINDER,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

FILED  
FEB 15 1957

ALICE A. DUCK, CLERK

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

SEXTER BELL,	)	
	)	
Plaintiff,	)	
VS.	)	IN THE CIRCUIT COURT OF
	)	
LOUISVILLE & NASHVILLE RAILROAD	)	BALDWIN COUNTY, ALABAMA
COMPANY, a corporation,	)	
	)	AT LAW
Defendant.	)	

# AMENDED COMPLAINT

Now comes the plaintiff and amends the complaint heretofore filed in this cause so that, as amended, it will read as follows:

## COUNT ONE

The plaintiff claims of the defendant the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the Louisville & Nashville Railroad Company, a corporation, operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or over a paved, public highway or road at Carpenter Station in Baldwin County, Alabama, and then and there E. F. Minder, the agent, servant or employee of the defendant, while acting within the line and scope of his said employment, negligently ran a locomotive or train into, upon or against plaintiff's automobile, which was then and there being driven by the plaintiff, and as a proximate result and consequence thereof the plaintiff suffered the following injuries and damages, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit: one year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries.

### COUNT TWO

The plaintiff claims of the defendant the sum of Two Thousand Dollars (\$2,000.00) as damages for that on, to-wit, April 3, 1955, the Louisville & Nashville Railroad Company, a corporation, operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or over a paved, public highway or road at Carpenter Station in Baldwin County, Alabama, and then and there E. F. Minder, the agent, servant or employee of the defendant, while acting within the line and scope of his said employment, negligently ran a locomotive or train into, upon or against plaintiff's automobile, which was then and there being driven by the plaintiff, and as a proximate result and consequence thereof plaintiff's 1953 Ford automobile was demolished.

### COUNT THREE

The plaintiff claims of the defendant the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the defendant, Louisville & Nashville Railroad Company, a corporation, operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the defendant's railroad ran across or over a paved, public highway or road at Carpenter Station in Baldwin County, Alabama, and at the said time and place the defendant's agent, servant or employee, E. F. Minder, while engaged in running an engine and cars over and upon the said railroad at the said place, and while acting within the line and scope of his authority as such agent, servant or employee, willfully, wantonly or intentionally ran said engine or cars into, upon or against the plaintiff's automobile which was then and there being driven by the plaintiff, and as a proximate result and consequence thereof the plaintiff suffered the following injuries and damages, to-wit:



Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit: one year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries.

COUNT FOUR

The plaintiff claims of the defendant the sum of Two Thousand Dollars (\$2,000.00) as damages for that on, to-wit, April 3, 1955, the defendant, Louisville & Nashville Railroad Company, a corporation, operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the defendant's railroad ran across or over a paved, public highway or road at Carpenter Station in Baldwin County, Alabama, and at the said time and place the defendant's agent, servant or employee, E. F. Minder, while engaged in running an engine and cars over and upon the said railroad at the said place, and while acting within the line and scope of his authority as such agent, servant or employee, willfully, wantonly or intentionally ran said engine or cars into, upon or against the plaintiff's automobile, which was then and there being driven by the plaintiff, and as a proximate result and consequence thereof plaintiff's 1953 Ford automobile was demolished.

J. B. Blackburn  
Attorney for plaintiff

Plaintiff demands a trial of said cause by jury.

J. B. Blackburn.  
Attorney for plaintiff

*Filed July 16, 1958*

SEXTER BELL,

Plaintiff,

vs.

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, A Corporation, and  
E. F. MINDER,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

Come the Defendants in the above styled cause, separately and severally, and amend their pleas filed in said cause and for answer to Count One of the complaint as last amended, file the following separate and several pleas:

1. Not guilty.
2. The general issue.
3. Each Defendant, separately and severally, denies the allegations of the complaint are true.
4. That at the time and place complained of in said count the Plaintiff was himself guilty of negligence which proximately contributed to his alleged injury and damages in that he so negligently operated his motor vehicle as to cause or to allow the same to run into, upon or against the train of the Defendant, Louisville & Nashville Railroad Company, a corporation.
5. For futher answer, Defendants say that at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was a traveler upon a public highway crossing a railroad track of the Defendant, Louisville & Nashville Railroad Company in Baldwin County and Plaintiff failed to stop, look and listen for approaching trains before going upon and crossing said railroad track.
6. For further answer, Defendants say that at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was a traveler upon a public highway crossing a railroad track of the Defendant, Louisville & Nashville Railroad Company in Baldwin County and Plaintiff negligently failed to

stop, look and listen for approaching trains before going upon and crossing said railroad track.

7. For further answer, Defendants say that at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was driving his automobile at a negligent and unlawful speed as he approached and entered upon said railroad crossing.

8. For further answer, Defendants say that at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was driving his automobile at a negligent speed as he approached and entered upon said railroad crossing.

9. For further answer, Defendants say that at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was driving his automobile at an unlawful speed as he approached and entered upon said railroad crossing.

Comes the Defendant, Louisville and Nashville Railroad Company, a corporation, and for answer to Count Two of the complaint as last amended files the following separate and several pleas:

- a. Not guilty.
- b. The general issue.
- c. It denies that the allegations of the complaint are true.
- d. That at the time and place complained of in said complaint, the Plaintiff was himself guilty of negligence which proximately contributed to his alleged injury and damages in that he so negligently operated his motor vehicle as to cause or to allow the same to run into, upon or against the train of the Defendant, Louisville & Nashville Railroad Company, A Corporation.
- e. That at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which

proximately contributed to his damage in that Plaintiff was a traveler upon a public highway crossing a railroad track of Defendant, Louisville & Nashville Railroad Company in Baldwin County, and Plaintiff failed to stop, look and listen for approaching trains before going upon and crossing said railroad track.

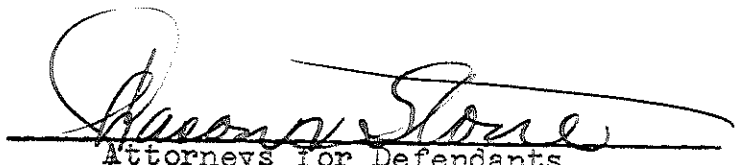
f. That at the time and place set forth in the complaint and in the same accident for which plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was a traveler upon a public highway crossing a railroad track of Defendant, Louisville & Nashville Railroad Company in Baldwin County and Plaintiff negligently failed to stop, look and listen for approaching trains before going upon and crossing said railroad track.

g. That at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was driving his automobile at a negligent and unlawful speed as he approached and entered upon said railroad crossing.

h. That at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was driving his automobile at a negligent speed as he approached and entered upon said railroad crossing.

i. That at the time and place set forth in the complaint and in the same accident for which Plaintiff claims damages in his complaint, Plaintiff then and there was guilty of negligence which proximately contributed to his damage in that Plaintiff was driving his automobile at an unlawful speed as he approached and entered upon said railroad crossing.

*Filed 9-11-58*

  
Attorneys for Defendants

2887

PLEAS

SEXTER BELL,

Plaintiff,

vs.

LOUISVILLE & NASHVILLE  
RAILROAD COMPANY, a corpor-  
ation, and E. F. MINDER,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

*Filed 9-11-52  
Alice J. Stone  
Clerk*

LAW OFFICES

**CHASON & STONE**

BAY MINETTE, ALABAMA

SEXTER BELL,

Plaintiff

v.

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, a corporation, and  
E. F. MINDER,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

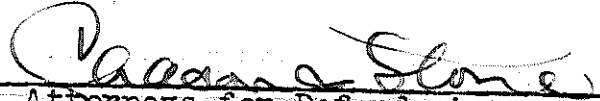
Come defendants, separately and severally, in the above styled cause and for answer to the complaint, as last amended, and to each count thereof, separately and severally, plead as follows:

1. Not guilty.
2. The general issue.
3. Each defendant, separately and severally, denies that the allegations of the complaint are true.
4. For further answer, defendants say that at the time and place set forth in the complaint and in the same accident for which plaintiff claims damages in his complaint, plaintiff then and there was guilty of negligence which proximately contributed to his damage.
5. For further answer, defendants say that at the time and place set forth in the complaint and in the same accident for which plaintiff claims damages in his complaint, plaintiff then and there was guilty of negligence which proximately contributed to his damage in that plaintiff was a traveler upon a public highway crossing a railroad track of defendant Louisville and Nashville Railroad Company in Baldwin County and plaintiff failed to stop, look and listen for approaching trains before going upon and crossing said railroad track.
6. For further answer, defendants say that at the time and place set forth in the complaint and in the same accident for which plaintiff claims damages in his complaint, plaintiff then and there was guilty of negligence which proximately contributed to his damage in that plaintiff was a traveler upon a public highway crossing a railroad track of defendant Louisville and Nashville Railroad Company in Baldwin County and plaintiff negligently failed to stop, look and listen for approaching trains before going upon and crossing said railroad track.
7. For further answer, defendants say that at the time and place set forth in the complaint and in the same accident for which plaintiff claims

damages in his complaint, plaintiff then and there was guilty of negligence which proximately contributed to his damage in that plaintiff was driving his automobile at a negligent and unlawful speed as he approached and entered upon said railroad crossing.

8. For further answer, defendants say that at the time and place set forth in the complaint and in the same accident for which plaintiff claims damages in his complaint, plaintiff then and there was guilty of negligence which proximately contributed to his damage in that plaintiff was driving his automobile at a negligent speed as he approached and entered upon said railroad crossing.

9. For further answer, defendants say that at the time and place set forth in the complaint and in the same accident for which plaintiff claims damages in his complaint, plaintiff then and there was guilty of negligence which proximately contributed to his damage in that plaintiff was driving his automobile at an unlawful speed as he approached and entered upon said railroad crossing.

  
Attorneys for Defendants

*Filed 8/22/56*

SEXTER BELL, )  
Plaintiff, ) IN THE CIRCUIT COURT OF  
VS. ) BALDWIN COUNTY, ALABAMA  
LOUISVILLE & NASHVILLE RAIL- ) AT LAW.  
ROAD COMPANY, a corporation, )  
and E. F. MINDER, )  
Defendants.)

AMENDED COMPLAINT

COUNT ONE

The plaintiff claims of the defendants the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the defendant, Louisville & Nashville Railroad Company, a corporation, operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or over a paved public highway or road at Carpenter Station in Baldwin County, Alabama, and then and there defendant, E. F. Minder, the agent, servant or employee of the defendant, Louisville & Nashville Railroad Company, a corporation, while acting within the line and scope of his said employment, negligently ran a locomotive or train into or upon plaintiff's automobile, which was being driven by plaintiff, and as a proximate result and consequence thereof the plaintiff suffered the following injuries and damages, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit, One (1) year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in about his effort to heal and cure his said wounds and injuries. The plaintiff's automobile was also demolished.



COUNT TWO

The plaintiff claims of the defendant, Louisville and Nashville Railroad Company, a corporation, the sum of Seventy-five Thousand Dollars (\$75,000.00) as damages for that on, to-wit, April 3, 1955, the said defendant operated a railroad in Baldwin County, Alabama, over and upon which the said defendant ran trains for the transportation of freight and passengers for hire, and that on the said date the said defendant's railroad ran across or over a paved public road at Carpenter Station in Baldwin County, Alabama, and the defendant's agent, servant or employee, E. F. Minder, while engaged in running an engine or locomotive of the said defendant and in the conduct of the business of the said defendant, then and there wantonly ran the said engine or locomotive against, into or upon plaintiff's automobile, which was being driven by the plaintiff, and as a proximate consequence thereof plaintiff suffered the following injuries, to-wit:

Both legs were broken; both ankles were broken; his pelvis was fractured; his right heel was broken; his right clavicle bone was broken; his left eyelid was lacerated; he suffered a brain concussion, shock, numerous abrasions, bruises and contusions, and he was permanently injured. He was caused to suffer great mental and physical pain; caused to lose time from his work, to-wit, One (1) year, and was put to great trouble, inconvenience and expense for medicine, medical attention, care and nursing in and about his effort to heal and cure his said wounds and injuries, and the plaintiff's automobile was demolished.

J. B. Blackburn  
Attorney for Plaintiff.

Plaintiff demands a trial of this cause by jury.

J. B. Blackburn,  
Attorney for Plaintiff.

*Filed 8-23-56*

*Oliver J. Luck, Clerk*

AMENDED COMPLAINT

SEXTER BELL,

Plaintiff,

VS.

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, a corporation, and  
E. F. MINDER,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

*Filed 8/23/56  
Hudson  
Judy*

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

SEXTER BELL,

Plaintiff,

vs.

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, a corporation, and  
E. F. MINDER,

Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

Come the Defendants in the above styled cause, separately and severally, and for further answer to the Complaint as last amended, and to each count thereof, separately and severally, say:

10. That at the time and place complained of in said count, the Plaintiff was himself guilty of negligence which proximately contributed to his alleged injury and damages in that he so negligently operated his motor vehicle as to cause or to allow the same to run into, upon and against the train of the Defendant, Louisville & Nashville Railroad Company, a Corporation.

*Filed Sept 4, 1956*  
*Alice J. Luck, Clerk*

*James Stone*  
Attorneys for Defendants

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

Come defendants in the above styled cause and refile to the complaint as last amended, and separately and severally each count thereof, their demurrer to the original complaint, and refile their demurrer to the amended complaint, and separately and severally each count thereof, and in addition assign the following grounds of demurrer separately and severally:

14. For aught that appears, defendants breached no duty owing to plaintiff.

15. Said count characterizes the act rather than the injury as wanton.

16. For aught that appears from said count plaintiff's alleged damages were not proximately caused by the negligence of defendants.

17. For aught that appears from said count plaintiff's alleged damages and injuries were not caused by the wantonness of defendants.

18. For aught that appears from said count the alleged agent, servant or employee of defendant Louisville and Nashville Railroad Company was not acting within the line and scope of his employment at the time and place of said accident.

19. It affirmatively appears from said count that the alleged agent, servant or employee of defendant Louisville and Nashville Railroad Company was not acting within the line and scope of his employment at the time and place of said accident.

20. Said count seeks to join a cause of action of trespass with a cause of action in case.

21. Said count seeks to recover damages from only one defendant

when two defendants are sued.

22. Said count does not seek to recover from both defendants sued.

23. There is a misjoinder of causes of action.

*Filed Aug. 24, 1956*  
*Elmer J. Smith, Clerk*

*Garson Stone*  
Attorneys for Defendants

SEXTER BELL,	)	
	)	
Plaintiff,	)	
VS.	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
LOUISVILLE & NASHVILLE RAILROAD )		
COMPANY, a corporation, and )		AT LAW
E. F. MINDER,	)	
	)	
Defendants.	)	

DEMURRER TO PLEAS

Now comes the plaintiff and demurs to pleas Numbered 4, 5, 6, 7, 8 and 9, each separately and severally, and as grounds for such demurrer assigns, separately and severally, the following:

1. It does not constitute a defense to the amended complaint and raises an immaterial issue.
2. It does not constitute a defense to Count 2 of the amended complaint and raises an immaterial issue.
3. The allegations of the plea are conclusions of the pleader.
4. No facts are alleged to show how or in what respect the plaintiff was negligent.
5. No facts are alleged to show that the plaintiff was negligently operating his automobile at the time of the alleged accident.
6. No facts are alleged to show when plaintiff was operating his automobile at a negligent speed.
7. No facts are alleged to show when plaintiff was operating his automobile at an unlawful speed.
8. No facts are alleged to show that the plaintiff was operating his automobile at a negligent speed at the time and place of the alleged accident.
9. No facts are alleged to show that the plaintiff was operating his automobile at an unlawful speed at the time and place of the alleged accident.
10. No facts are alleged to show the speed of the plaintiff's automobile at the time of the alleged accident.

*Filed 9-4-56*  
*Hallett M. Hall*