

3770

MRS. EDNA W. HOLLIMAN
individually, and MICHELLE
HOLLIMAN and ANTHONY HOLLI-
MAN, minors suing by their
mother and next friend, EDNA
W. HOLLIMAN,

Plaintiffs,

vs.

GULF LUMBER COMPANY, INC.,
a corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

Comes now Edna W. Holliman, her next friend and as the mother and next friend of Michelle Holliman and Anthony Holliman, minors, ages approximately seven years and two years, respectively, and represents unto the Court that on, to-wit: February 21, 1958, O. C. Holliman, an employee of the Defendant, who was at that time her husband and the father of her children, while acting within the line and scope of his employment for said Defendant, sustained personal injuries as a result of an accident suffered while in the course of his employment in the Defendant's service, as a consequence of which he died on February 23, 1958.

That she desires to prosecute her claim against the Defendant for compensation under the Workmen's Compensation law of the State of Alabama and in connection therewith desires to be represented therein by counsel.

WHEREFORE, the premises considered the Plaintiff prays that an order be made appointing Riddell & Dabbs, attorneys at law, Quitman, Mississippi, and Chason & Stone, attorneys at law, Bay Minette, Alabama, to represent her in all matters and things in and about the prosecution, settlement or adjustment of her claim for compensation.

Mrs Edna W. Holliman

Sworn to and subscribed
before me this 17th day
of August, 1959.

FILED

AUG 26 1959


ALICE J. DUCK, Clerk

W. F. Bentley, Ordinary Baldwin County Georgia
Notary Public, Mississippi

The above petition having been duly presented to the Court and the Court having been advised in the premises, and it appearing to the Court that reason exists therefor, it is hereby ORDERED, ADJUDGED AND DECREED that the foregoing petition be and the same hereby is granted and that Riddell & Dabbs, Attorneys at Law, Quitman, Mississippi, and Chason & Stone, Attorneys at Law, Bay Minette, Alabama, are hereby appointed as attorneys for Edna W. Holliman individually, and as the mother and next friend of Michelle Holliman and Anthony Holliman, minors, in all matters and things in and about the prosecution, settlement or adjustment of her claim for compensation.

Done at Bay Minette, Alabama, this the 26 day of August, 1959.

FILED
AUG 26 1959
ALICE L. DUCK, Clerk


Judge

MRS. EDNA W. HOLLIMAN ET AL.

Plaintiffs,

vs.

GULF LUMBER COMPANY, INC., a
corporation,

Defendant.

§ * * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

* * * * *

3770

FILED

AUG 26 1959

ALICE J. DUCK, Clerk

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

STATE OF ALABAMA

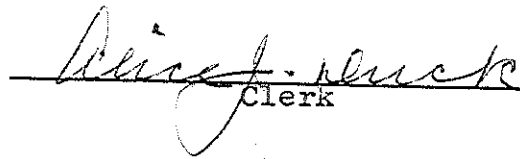
BALDWIN COUNTY

IN THE CIRCUIT COURT - LAW SIDE

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Gulf Lumber Company, 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 Mrs. Edna W. Holliman, individually, and Michelle Holliman and Anthony Holliman, minors suing by their mother and next friend, Edna W. Holliman.

Witness my hand this the 18th day of February, 1959.


Clerk

MRS. EDNA W. HOLLIMAN,	Y	IN THE CIRCUIT COURT
individually, and MICHELLE		
HOLLIMAN and ANTHONY HOLLIMAN,	Y	
minors suing by their mother		OF BALDWIN COUNTY,
and next friend, EDNA W.	Y	
HOLLIMAN,		
	Y	ALABAMA
Plaintiffs,		
	Y	
VS.		AT LAW
	Y	
GULF LUMBER COMPANY, INC.,		
a corporation,	Y	NO. _____
Defendant.	Y	

WORKMEN'S COMPENSATION COMPLAINT

ONE

Plaintiffs are all residents of Clarke County, Mississippi. The Plaintiffs Michelle Holliman and Anthony Holliman are minor children of the Plaintiff Edna W. Holliman and O. C. Holliman, deceased, and are approximately seven (7) years and two (2) years of age, respectively. The Defendant, Gulf Lumber Company, Inc., a corporation, has its principal place of business in, and is a resident of Mobile County, Alabama.

TWO

On February 21, 1958, O. C. Holliman, the husband of Plaintiff Edna W. Holliman, and father of the two minor Plaintiffs, suffered injuries from which he died on February 23, 1958, while an employee of the Defendant at or near Tensaw in Baldwin County, Alabama; that such injuries proximately resulted from an accident arising out of and in the course of his employment as such servant or employee of the Defendant as follows: that his injuries resulted from a skidder falling on him; that his average weekly earnings were more than Forty (\$40.00) Dollars and the Defendant had knowledge of his said injuries and death.

THREE

Prior to his death the said O. C. Holliman incurred reasonable necessary medical, surgical and hospital treatment and

attention, medicine, medical and surgical supplies in the approximate amount of Nine Hundred Fifty (\$950.00) Dollars, and upon his death burial expenses in excess of Two Hundred (\$200.00) Dollars; that the Plaintiffs are total dependents of the said O. C. Holliman, the said Edna W. Holliman being his dependent widow and the two minors his dependent children.

WHEREFORE, Plaintiffs ask Workmen's Compensation and for the other benefits hereinabove alleged, of and from the Defendant, under the Workmen's Compensation Law of the State of Alabama.

EDNA W. HOLLIMAN, individually,
MICHELLE HOLLIMAN and ANTHONY
HOLLIMAN, minors, by EDNA W.
HOLLIMAN, their mother and next
friend, Plaintiffs,

By:

Tally D. Riddeley
James Stone
Their Attorneys

STATE OF ALABAMA X

COUNTY OF MOBILE X

Before me, the undersigned authority in and for said State and County, personally appeared TALLY D. RIDDELL, who being by me first duly sworn on oath, deposes and says that he is informed and believes, and upon such information and belief, states that the facts set forth in the foregoing complaint are true as therein stated.

Tally D. Riddeley

Subscribed and sworn to before me
this the 17th day of February, 1959.

Mildred P. Bloss
Notary Public, Mobile County, Alabama.

149 M. 3770 / 2
MRS. EDNA W. HOLLIMAN, ET AL.,
Plaintiffs,

268 Jm vs.

GULF LUMBER COMPANY, INC., a
corporation,

B. Stimpson Agent
Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE

SUMMONS AND COMPLAINT

EXECUTED

This 26 day of Feb, 1959

by serving a copy of the within on

Billy Stimpson Agent

RAY D. BRIDGES, Sheriff

By Smith D. Sh

FILED

FEB 10 1959

ALICE J. DUCK, CLERK
REGISTER

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

INGE & TWITTY

LAWYERS

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

THOS. E. TWITTY
FRANCIS H. INGE
RICHARD H. INGE
THOS. E. TWITTY, JR.
JAMES J. DUFFY, JR.

MAILING ADDRESS:

P. O. BOX 1109
MOBILE, ALA.

CABLE ADDRESS:

TWINING
TELEPHONE:
HEMLOCK 3-5441

April 24, 1959

Mrs. Alice J. Duck
Clerk, Circuit Court of Baldwin County
Bay Minette, Alabama

Re: Mrs. Edna W. Holliman, etc., vs.
Gulf Lumber Company, Inc.

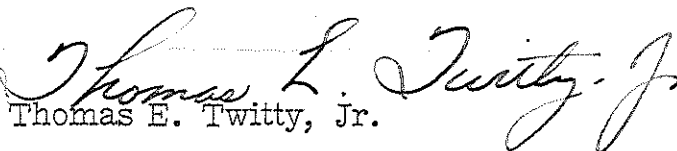
Dear Mrs. Duck:

We herewith appear on behalf of the defendant and file our answer to the bill of complaint. I am enclosing an extra copy of the answer for service upon Messrs. Chason & Stone, attorneys for plaintiffs.

Please confirm receipt and filing of the enclosed answer, and keep us fully advised of all settings of this case.

With kindest regards,

Cordially,


Thomas E. Twitty, Jr.

TET/ndu

Enclosures.

for

INGE & TWITTY

cc: Messrs. Chason & Stone

MRS. EDNA W. HOLLIMAN,)	IN THE CIRCUIT COURT
individually and MICHELLE		
HOLLIMAN and ANTHONY HOLLIMAN,)	OF BALDWIN COUNTY,
minors, suing by their mother and next		
friend, EDNA W. HOLLIMAN,)	ALABAMA
Plaintiffs,)	AT LAW
vs.)	NO. _____
GULF LUMBER COMPANY, INC.,)	
a corporation,		
)	
Defendant.)	

ANSWER TO COMPLAINT

Comes now Gulf Lumber Company, Inc., a corporation, Defendant in the above entitled cause, and for answer to Plaintiffs' Complaint says as follows:

ONE

Defendant denies each and every allegation of Paragraph One of the Complaint and demands strict proof thereof, except that Defendant admits that it is a corporation having its principal place of business in Mobile County, Alabama, and that Defendant is a resident of Mobile County, Alabama.

TWO

Defendant denies each and every allegation of Paragraph Two of the Complaint and demands strict proof thereof, except that Defendant admits that on or about February 21, 1958 O. C. Holliman suffered injuries from which he died on February 23, 1958; that said injuries resulted from a skidder falling upon him at or near Tensaw in Baldwin County, Alabama; and that Defendant had knowledge of said injuries and death.

THREE

Defendant denies each and every allegation of Paragraph Three of the Complaint and demands strict proof thereof.

GULF LUMBER COMPANY, INC.

By: Ben C. Stimpson
Its VICE PRESIDENT

STATE OF ALABAMA)

COUNTY OF MOBILE)

Personally appeared before me, the undersigned Notary Public in and for said State and County, Ben C. Stimpson, who is known to me to be the *VICE PRESIDENT* of Gulf Lumber Company, Inc., a corporation, and who, after having been first duly sworn on oath by me, stated that the facts and matters set forth in the foregoing answer are true and correct.

Filed
April 25, 1959
Alice J. Duck,
clerk

Thomas L. Smith Jr.
Notary Public, Mobile County, Alabama

3770

FILED

APR 25 1959

ALICE J. DUCK, CLERK
REGISTER

MRS. EDNA W. HOLLIMAN,
Individually, and MICHELLE
HOLLIMAN and ANTHONY
HOLLIMAN, minors, suing
by and through their mother and
next friend, EDNA W. HOLLIMAN,

Plaintiffs.

vs.

GULF LUMBER COMPANY, INC.,
a corporation,

Defendant.

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

NO. _____.

ORDER APPROVING LUMP SUM SETTLEMENT
AND PETITION

This cause coming on to be heard on petition of the parties hereto for approval of the settlement of this case upon the terms stated in said petition, and the Court having been fully advised in the premises, and it appearing that the allegations of said petition are true, the Court finds that the plaintiffs in this case are the widow and the only children of the said decedent, O. C. Holliman, and that the plaintiffs are residents of the State of Mississippi, and that said decedent, O. C. Holliman, met his death by accident which occurred on, to-wit, the 21st day of February, 1958, and that at the time of said accident, the said O. C. Holliman was engaged in cutting timber on lands in Baldwin County, Alabama, which timber the defendant had agreed to purchase, and that the said O. C. Holliman was performing said work under a contract made between him and the defendant, whereby the said O. C. Holliman was to be paid \$18.00 per thousand feet for all such timber cut and delivered by the said decedent to the defendant's saw mill and that the said decedent, under said contract, was required at his own expense to furnish and did furnish his own equipment, vehicles, tools, supplies, and personnel to do said work, and the defendant did not exercise any supervision or control over the method or manner in which the said O. C. Holliman did said work, and did not reserve the power to do so, except the right to refuse to accept and pay for any timber that was not covered by said contract, and the right to terminate said agreement upon failure

of the said decedent to perform said agreement, and that the average weekly earnings of said decedent at the time of the said accident was \$45.10; that under the said contractual arrangement between the defendant and the said O. C. Holliman, the defendant did not have or reserve any right to control the method or manner in which the said O. C. Holliman performed such work, or the right to hire or fire any of the persons engaged therein, and the defendant was obligated to pay the said O. C. Holliman for all such timber cut and delivered to defendant's saw mill by the said O. C. Holliman, irrespective of the manner in which the same was cut or removed or hauled; that the Court entertains considerable doubt that the said O. C. Holliman was an employee or workman of the said defendant within the meaning of the Workmen's Compensation Laws of Alabama, and the Court concludes that it is therefore to the best interest of each one of the plaintiffs that all of such issues herein be compromised and settled in accordance with the agreement heretofore reached between the parties to this cause as set out in said petition, which the Court finds has been entered into by the parties in good faith, and under which the plaintiffs will recover in a lump sum, approximately one-half of the amount of compensation which would be payable periodically under said Workmen's Compensation Act if applicable; the Court further finds that the sum of SEVEN HUNDRED FIFTY (\$750.00) DOLLARS is a reasonable attorneys' fee to be paid to the attorneys for the plaintiffs out of said lump sum herein recovered;

NOW, THEREFORE, it is ORDERED, ADJUDGED and DECREED by the Court that the said petition, settlement and agreement be and the same are hereby approved, and that the plaintiffs in this case shall have and recover of the defendant the sum of FIVE THOUSAND FORTY-SEVEN and 30/100 (\$5,047.30) DOLLARS, and the costs of this proceeding, for which let execution issue; and that, upon the payment of said sum by or in behalf of the defendant to the Clerk of this Court, the Clerk shall immediately pay the sum of THREE THOUSAND THREE HUNDRED SEVENTY-THREE and 00/100 (\$3,373.00) DOLLARS to the plaintiff, Edna W. Holliman,

for the benefit of herself and said minors, and the Clerk shall pay to John Chason, as one of the attorneys for the plaintiffs (for the benefit of himself and Terry D. Riddell, Esq. and all other attorneys of record for the plaintiffs) the sum of SEVEN HUNDRED FIFTY (\$750.00) DOLLARS, which payments will represent full settlement and satisfaction of any and all claims of the plaintiffs, and any of them, against the said defendant arising out of the premises, (including said funeral expenses heretofore paid by the widow) and the Clerk of this Court will, out of the proceeds of said judgment, also pay the following medical bills and expenses directly to the parties herein named, that is to say: Drs. Patton, Cowley & Mudd, 1720 Springhill Avenue, Mobile, Alabama, \$500.00; Mobile Infirmary, Mobile, Alabama, \$349.30; Dr. J. Richard Moore, 1308 St. Stephens Road, Mobile, Alabama, \$25.00; P. M. Hill (Registered Nurse) 1720 Springhill Avenue, Mobile, Alabama, \$50.00; and after the payment of said judgment to the Clerk of this Court, one of the said attorneys for the plaintiffs shall immediately satisfy the same on the records of this Court and the said defendant and its insurance carrier shall, without further formality, stand forever released and completely discharged from any and all claims arising out of or in any way connected with said accident, injuries and death, and from any and all obligations to pay any further or additional compensation, or any other sum of whatsoever kind or nature in the premises whether arising out of the Workmen's Compensation Laws of the State of Alabama or otherwise.

CONSIDERED, ORDERED, ADJUDGED and DECREED by the Court this, the 9th day of November, 1959.

Hubert M. Stea
CIRCUIT JUDGE

MRS. EDNA W. HOLLIMAN,	§	IN THE CIRCUIT COURT
Individually, and MICHELLE	§	
HOLLIMAN and ANTHONY	§	OF
HOLLIMAN, minors, suing	§	
by and through their mother and	§	BALDWIN COUNTY, ALA-
next friend, EDNA W. HOLLIMAN,	§	BAMA, AT LAW.
Plaintiffs,	§	
	§	
vs.	§	
	§	
GULF LUMBER COMPANY, INC.,	§	
a corporation,	§	
	§	
Defendant.	§	NO. _____.

AGREEMENT AND PETITION FOR APPROVAL OF
LUMP SUM SETTLEMENT

Come now the undersigned, being all of the parties to this proceeding, and show unto the Court that they, as such parties, have, subject to the approval of this Honorable Court, agreed upon a compromise settlement of all of the issues which are raised, or could be raised, in this case, and hereby petition that this Honorable Court approve the following agreement and settlement, and represent unto the Court as follows:

That the plaintiffs are all residents of Clark County, Mississippi, the plaintiff Edna W. Holliman being over the age of twenty-one (21) years and of sound mind, and the plaintiffs Michelle Holliman and Anthony Holliman are minor children of the said Edna W. Holliman, and her deceased husband, O. C. Holliman, said children being approximately eight (8) years and three (3) years of age, respectively, each of said children residing with their said mother in Clark County, Mississippi.

The defendant Gulf Lumber Company, Inc. is a corporation organized under the laws of the State of Alabama and has its principal place of business in Mobile County, Alabama. That on, to-wit, February 21st, 1958, the said O. C. Holliman, who was then the husband of the plaintiff Edna W. Holliman, and who was the father of the two minor children, Michelle Holliman and Anthony Holliman, suffered injuries from which he died on, to-wit, February 23rd, 1958, said injuries resulting from a skidder falling on him, while he was engaged

in performing the work of cutting and removing trees from certain lands in Baldwin County, Alabama, which trees the said defendant had contracted to purchase. The parties hereto further represent and show unto the Court that on, to-wit, March 27th, 1957, the defendant Gulf Lumber Company, Inc. entered into a contract with the owners of certain tracts of land in Baldwin County, Alabama, wherein the said defendant purchased or agreed to purchase all of the merchantable log content of all of the pine trees on the said land for a fixed sum per thousand feet of timber cut; that according to the said contract, the timber was to be cut from the land prior to January 1, 1960; that in order to enable the defendant to remove said timber from said lands, the defendant procured the cutting and delivery of such material by making an agreement with O. C. Holliman, (and others) whereby the said O. C. Holliman was to furnish his own equipment and employ his own men to cut the said trees and to deliver the same to the mill of the said defendant, and the said O. C. Holliman did, pursuant to said contract or agreement, begin the cutting and the removal of said trees, and while engaged in said operation, the said O. C. Holliman on the aforesaid date received said injuries from which he died as aforesaid; that under said contractual agreement, the said O. C. Holliman was to receive Eighteen (\$18.00) Dollars per thousand feet for all of said timber cut and delivered, and out of said payments he was to pay for his own services and for the work of any and all others whom he engaged to assist him, and was to pay for the expenses of equipment, tools and supplies. And the parties hereto further represent and show unto the Court that under said contractual arrangements between the defendant and the said O. C. Holliman, the defendant did not have, or reserve, any right to control the method or manner in which the said O. C. Holliman performed such work, or the right to hire or fire any of the persons engaged therein, and the said defendant was obligated to pay the said O. C. Holliman for all such timber delivered to the defendant's saw mill, irrespective of the manner in which the same

was cut or removed or hauled; the defendant did, however, reserve the right to refuse to pay for any timber which was not covered by the contract and the right to insist that the said O. C. Holliman and any other contractors, cut and remove from said lands all such timber as was covered by the contract, rather than cut over some of such land and leave some of the timber thereon which was covered by said contract.

The parties hereto further represent and show unto the Court that as shown by the pleadings in this case, a dispute has arisen between them as to whether or not the said O. C. Holliman, at the time of his said injuries as aforesaid, was an employee or workman of the said defendant Gulf Lumber Company, Inc. within the meaning of the Workmen's Compensation Law of Alabama, or whether the said O. C. Holliman was an independent contractor and was not covered by such statute. The plaintiffs in this case have concluded that it is very doubtful that the said O. C. Holliman was an employee or workman of the said defendant and very doubtful that the said claim herein asserted was or is covered by said Workmen's Compensation Law, and that the final determination of this proceeding would, therefore, be very uncertain, and that it would, therefore, be to the best interests of each one of the plaintiffs that all of such issues herein be compromised and settled in accordance with the agreement heretofore reached between the parties set out below.

The parties hereto agree that the said O. C. Holliman, in the year 1957, earned a total of \$2,345.21 or average weekly earnings of \$45.10, and that if said Workmen's Compensation Law applies to this case, the rate of compensation would be 55% of such weekly earnings or \$24.81 per week for a period of 300 weeks, payable to the said widow for the benefit of herself and said children; and that the medical and funeral expenses in this matter are correctly shown below.

In view of the facts and circumstances hereinabove set out, the parties have, subject to the approval of this Honorable Court, agreed as follows:

That a judgment will be entered in this case in favor of the plaintiffs and against the defendant in the total aggregate face amount of Five Thousand Forty-seven and 30/100 (\$5,047.30) Dollars, of which amount the sum of Four Thousand One Hundred Twenty-three and 00/100 (\$4,123.00) Dollars will immediately be paid by the Clerk of this Court to the plaintiff Edna W. Holliman, and to John Chason as her attorney, which payment will represent full settlement and satisfaction of any and all claims of the said plaintiffs and any of them against the said defendant arising out of the premises, (including said funeral expenses heretofore paid by the widow) and the Clerk of this Court will, out of the proceeds of the said judgment, pay the following medical bills and expenses directly to the parties named, that is to say: Drs. Patton, Cowley & Mudd, 1720 Springhill Avenue, Mobile, Alabama, \$500.00; Mobile Infirmary, Mobile, Alabama, \$349.30; Dr. J. Richard Moore, 1308 St. Stephens Road, Mobile, Alabama, \$25.00; P.M. Hill, \$50.00; and after the payment of said judgment to the Clerk of this Court, the said defendant and its insurance carrier shall, without further formality, stand forever released and completely discharged from any and all claims arising out of or in any way connected with said accident, injuries, and death, and from any and all obligations to pay any further or additional compensation, or any other sum of whatever kind or nature.

This settlement agreement contains the entire agreement between the parties, and the said defendant and its insurance carrier do not and have not assumed any express or implied obligation of any kind to the plaintiffs or to any of them except the payment of the said lump sum of Five Thousand Forty-seven and 30/100 (\$5,047.30) Dollars as hereinabove stated.

IN WITNESS WHEREOF, the parties hereto have executed these presents this, the 2nd day of November, 1959.

x Mrs. Edna W. Holliman
Plaintiff

Tacey D. Riddle, Quitman, Miss
Jason Stone
By Alice Casson
Attorneys for Plaintiff

GULF LUMBER COMPANY, INC.

By: Ray - Miley
As Its Attorneys

STATE OF GEORGIA
COUNTY OF GORDON

On this, the 2nd day of November, 1959, before me the undersigned Notary Public in and for said County and State, personally appeared EDNA W. HOLLIMAN, who is known to me to be the identical person described in the foregoing petition and who executed the foregoing instrument, and who acknowledged that the same is true except as to matters of information and belief, and as to such matters, she is informed and believes it to be true, and that, after having read the same or having the same read to her and with a full understanding of the terms and effect thereof, she executed the same as her free act and deed and for the uses and purposes therein expressed and in full and final settlement and satisfaction of all claims on account of, or in any way connected with, the said injuries, accident, and death, and any and all expenses connected therewith.

Given under my hand and Notarial Seal, this, the 2 day of November, 1959.

Det. F. Bentley
Notary Public, GORDON County, GEORGIA.
Ordinary

Filed
11-9-59
Alice J. Duke
clerk

FILED

11-9-1950

ALICE J. DUCK, CLERK
REGISTER

