

JAMES A. CARNEY,

Plaintiff,  
VS.

LOUISVILLE AND NASHVILLE  
RAILROAD COMPANY,  
a corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

1st. The plaintiff claims of the defendant, which is a corporation, engaged in the operation of railroad trains through Baldwin County, Alabama, and which was so engaged at the time hereinafter mentioned, the sum of One Thousand Dollars as damages, for that, heretofore, to-wit, on May 18, 1914, plaintiff's barn, together with the contents thereof, then located West of the railroad tracks of the defendant, and near thereto, in the settlement known as Carney, in Baldwin County, Alabama, were destroyed by fire; which fire was communicated to plaintiff's said property from a locomotive then operated by a servant of the defendant, upon and along said railroad track by and through said station of Carney. And plaintiff avers that the said fire was approximately caused by the negligence of the defendant in operating or running said locomotive; all to plaintiff's damage in the sum aforesaid; hence this suit.

2nd. The plaintiff claims of the defendant, which is a corporation, the said sum of One Thousand Dollars as damages, for that, heretofore, to-wit, on the 18th day of May, 1914, the defendant negligently set fire to and destroyed the barn of plaintiff, together with the contents thereof, to plaintiff's damage as aforesaid; hence this suit.

3rd. The plaintiff claims of the defendant, which is a corporation, the said sum of One Thousand Dollars as damages for that, heretofore, to-wit, on May 18, 1914, in the settlement of Carney, in Baldwin County, Alabama, the defendant, acting by and through its servant, who was then acting within the line or scope of his duties, negligently set fire to and destroyed property of the plaintiff, to-wit, his barn, together with the contents thereof, of the value of, to-wit, One Thousand Dollars; hence this suit.

4th. The plaintiff claims of the defendant, which is a corporation, the said sum of One Thousand Dollars as damages, for that, heretofore, to-wit, on the 18th day of May, 1914, the defendant, by and through the negligence of its agents and servants, who were then and there engaged in the operation of an engine and train of cars upon defendant's railway track through Carney, Baldwin County, Alabama, negligently threw from said engine sparks which set fire to and destroyed property of the plaintiff in said settlement of Carney, to-wit, the barn, together with the contents thereof, of the value of, to-wit, One Thousand Dollars.

5th. The plaintiff claims of the defendant, which is a corporation, the said sum of One Thousand Dollars as damages, for that, heretofore, to-wit, on the 18th day of May, 1914, the defendant negligently caused the barn of plaintiff, together with the contents thereof, to be destroyed by fire, in this, that the defendant negligently caused or permitted its servants or agents to run and operate upon the railway tracks of the defendant through said settlement of Carney, a railway locomotive of the defendant, which locomotive then had a spark arrester

which was so defective or so improperly constructed that it allowed burning cinders and sparks of unusually large sizes and in unusually large quantities to escape from said locomotive and be thrown upon plaintiff's said barn, in such manner as to set fire thereto, and destroy the aforesaid property; all to plaintiff's damage in the sum aforesaid; hence this suit.

6th. The plaintiff claims of the defendant, which is a corporation, the said sum of One Thousand Dollars, as damages, for that, heretofore, to-wit, on the 18th day of May, 1914, in the settlement of Carney, in Baldwin County, Alabama, while the defendant was engaged as it is now, in the operation of railroad locomotives and trains through said settlement of Carney, the defendant, through its agents or servants, then acting within the line or scope of their duties, negligently used a defective spark arrester upon one of said locomotives, and, as a proximate result of said negligence and of the defective condition of said spark arrester, while said locomotive was pulling a passenger train of the defendant through the said settlement of Carney, on the day aforesaid, sparks or burning cinders or particles of unusual sizes and in unusual quantities were blown from said locomotive with such force as to be thrown upon and made to fall upon, set fire to and destroy the following property belonging to plaintiff, viz: His barn and contents; all of said property so destroyed being of the total value of, to-wit, One Thousand Dollars; hence this suit.

*R. L. & A. Austin*  
Attorneys for Plaintiff.

JAMES A. CARNEY,

Plaintiff,

vs.  
LOUISVILLE AND NASHVILLE RAILROAD COMPANY,  
Defendant.

CIRCUIT COURT BALDWIN CO.

COMPLAINT.

Rickarby & Austill,  
Attorneys for Plaintiff.

Attorneys for Plaintiff.

to-wit: One thousand Dollars; hence this suit.

all of said property so destroyed being of the total value of property belonging to plaintiff; viz: his barn and contents; noon and were to sell about twelve to and destroy the following were of the said locomotives and each of them as to be shown

circled articles and in numerous quantities settled at of Carney, in the said, sparks or burning use of the said locomotives, while said locomotives and, proximate cause of said negligence and of the need a defective spark arrester upon one of said locomotives, being within the line or scope of their duties; Negligently Carney, the defendant, through its agents or servants, then said locomotives and trains through said settlement of the defendant was engaged as it is now, in the operation of in the settlement of Carney, in Baldwin County, Alabama, while

said, for that, heretofore, to-wit: on the 10th day of May, 1914, a corporation, the said sum of One thousand Dollars, as per

9th. The plaintiff claims of the defendant, which is

to plaintiff's damage in the sum aforesaid; hence this suit.

as to set the same, and destroy the aforesaid property; all motive and be shown upon plaintiff's said barn, in which numerous and in numerous large quantities to escape from said locomotives burning circles and sparks of numerous large sizes which was so defective or so improperly constructed that it

SUMMONS AND COMPLAINT

The State of Alabama,

Baldwin County.

No.

CIRCUIT COURT.

Spring

Term, 1915

To any Sheriff of the State of Alabama:

You are hereby commanded to summon The Louisville and Nashville  
Railroad Company, a Corporation.

to appear at the next term of the Circuit Court to be held for said County at the place of hold-  
ing the same, then and there to answer the complaint of

James A. Carney.

Witness my hand, this 17th day of May 1915

*J. W. Richardson*

Clerk

COMPLAINT

Plaintiffs

vs,

Defendants

The plaintiff claim of the Defendant

Dollars, due

Plaintiffs Attorney

1st Original

No. ....

The State of Alabama,  
Baldwin County.  
CIRCUIT COURT.

James A. Carney

vs. Plaintiffs.

The Louisville and Nashville  
Railroad Company.

Defendants.

SUMMONS AND COMPLAINT.

Filed May 17th, 1915

T. W. Richman Clerk.

Defendant lives at

Rickaby and Austill  
Plaintiff's Attorney.

Defendant's Attorney.

THE BALDWIN TIMES PRINT

Received in office

May 17th, 1915

C. E. Eubanks Sheriff

I have executed this Writ

this May 20th 1915

by leaving a copy of the within sum-  
mons and complaint with

R. E. Cooley  
Agent for the  
Nashville and  
Nashville Railroad  
Company,

C. E. Eubanks Sheriff

T. W. Richman Deputy Sheriff

JAMES A. CARNEY, PLAINTIFF,

VS.

LOUISVILLE & NASHVILLE RAILROAD COMPANY,  
DEFENDANT.

NO. 1254: LAW.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY.

Comes the Plaintiff and by leave of Court amends  
each count of the complaint by substituting for the word  
"barn" the words "mill building", wherever found.

*Richard Austill & Beebe*  
Attorneys for Plaintiff.

NO. 1254 : LAW.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

JAMES A. CARNEY  
VS.  
LOUISVILLE & NASHVILLE R. R. CO.

AMENDMENT TO COMPLAINT.  
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*Filed 5/21/17*  
*T. W. Rice*  
*Clerk*

Rickarby, Austill & Beebe,  
Attorneys for Plaintiff.

JAMES A. CARNEY

VS.

LOUISVILLE & NASHVILLE  
RAILROAD COMPANY, A  
CORPORATION.

IN THE CIRCUIT COURT OF BALDWIN COUNTY.

Comes the defendant in said cause, and shows to the court that many months ago it filed in said cause, certain interrogatories to the plaintiff, in all respects as provided by sections 4049, et seq. of the Code of Alabama, a copy of said interrogatories having been duly served upon the plaintiff several months ago, and more than thirty days ago, and plaintiff has failed entirely to answer said interrogatories.

Wherefore, the defendant moves the Court to direct a non-suit or judgment by default in the said cause, or to tax the plaintiff with the costs of the cause, and continue the same until full answers are made, or to grant to the defendant such other relief as to the Court may seem just and proper.

J. C. Jenkins  
Thos M. Stevens  
ATTORNEYS FOR DEFENDANT.

JAMES A. CARNEY,  
PLAINTIFF,

VS.

LOUISVILLE & NASHVILLE RAILROAD  
COMPANY, A CORPORATION,  
DEFENDANT.

NO. 1254.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY

AT LAW.

PLAINTIFF'S ANSWER TO DEFENDANT'S INTERROGATORIES.

Comes James A. Carney, Plaintiff in the above styled cause, and, being first duly sworn, answers the several interrogatories as follows:

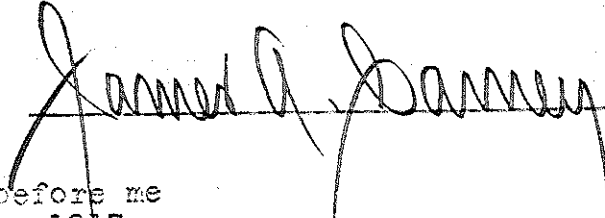
1st. The property burned and for which I claim compensation is, as described in the amended bill, not a barn but the buildings of a former saw mill plant located at Carney, Alabama, then in process of being dismantled, and includes the lumber that was taken from said plant and piled on the ground alongside preparatory to being removed to another location where I was preparing to erect another building with said lumber. This plant covered between two and three acres of ground and its nearest point to the railroad at Carney was about two hundred yards on the northwest side of the track. At its nearest point to the center of the track, it was between seventy-five and one hundred feet, extending therefrom in a northwesterly direction and covering the amount of space mentioned above.

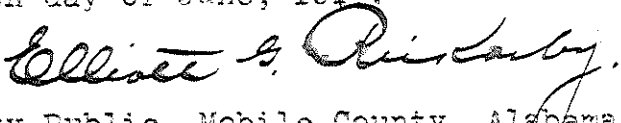
2nd. The fire that destroyed this property was communicated by sparks from defendant's train No. 7, locomotive No. 142, which train at that time was bound southwardly for Mobile on its regular run which brought it by Carney at about 9:50 A. M. on May 18th, 1914. This train had stopped at Carney Station to discharge passengers, and, in starting again, discharged an unusual number of sparks, one or more of which fell upon a pile of mill refuse and evidently smoldered for some minutes before bursting into flame. When discovered, owing to the high wind blowing at that time, it had gained too much headway to be checked.

The reason I know that this locomotive caused this fire was that the fire was discovered a few minutes after the train had passed and the same locomotive had on three or four different occasions during the preceding few weeks set fire to this same property, and it was on account of this danger of fire that I was wrecking these buildings to reconstruct with the lumber a barn out of range of sparks. This was the only locomotive on that line that had ever given us serious trouble, and I had some three or four weeks previous to that time called the attention of Superintendent J. I. McKinney to this fact. It was also this same engine that had a few weeks previous set fire to the property of Mr. John P. Brown just north of Carney Station.

3rd. The date of this fire was May 18th, 1914 about 10:00 A. M. when the fire was located. I have already stated above the number of the train and locomotive and its direction. I claim that the fire was communicated by sparks from this locomotive to mill refuse on the site of the former saw mill plant, and, before this could be checked, then to the buildings and the piled lumber. The fire was discovered by Otto R. King, who was in charge of the turpentine still near by, after it had obtained some little headway. A strong easterly wind was blowing at the time. About the time the fire was discovered the train should have been nearing Bay Minette. I have stated before that fires had been discovered previously right after this one locomotive had passed, and one of these fires was only prevented from doing serious damage by the presence of the section crew which helped me to extinguish it.

4th. As stated in the amended complaint, I am claiming nothing for the contents of the building which was not a barn and the lumber of which it was composed. but for the mill building. I had expected to build a large barn with the lumber of which this mill building was composed and which was destroyed.

  
Subscribed and sworn to before me  
this 20th day of June, 1917.

  
Notary Public, Mobile County, Alabama.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY.  
AT LAW.

JAMES A. CARNEY

VS.

L. & N. R. R. COMPANY.

*Filed June 20/917*  
*T. W. Nicolson*  
*Register*

Answer to Defendant's  
Interrogatories.

Rickarby, Austill & Beebe,  
Attorneys for Plaintiff.

*James A. Carney*  
*June 20/917*

James A. Carney

vs

Louisville & Nashville

Railroad Company, A

Corporation

In The Circuit Court of Baldwin County.

Comes the defendant in said cause, and shows to the court that many months ago it filed in said court, certain interrogatories to the plaintiff, in all respects as provided by section 4049 et seq of the code of Alabama, a copy of said interrogatories having been duly served upon the plaintiff several months ago, and more than thirty days ago, and plaintiff had failed entirely to answer said interrogatories.

Therefore, the defendant moves the Court to direct a nonsuit or judgment by default in the said cause, or to tax the plaintiff with the costs of the cause and continue the same until full answers are made or to grant to the defendant such other relief as to the Court may seem just and proper.

J. C. Perkins  
J. M. Starns

Attorneys for the Defendant.

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James A. Carney,  
Plaintiff,

vs.

Louisville & Nashville Railroad  
Company, a corporation,  
Defendant.  
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:  
:  
: IN THE CIRCUIT COURT OF BALDWIN  
: COUNTY, ALABAMA.  
:

INTERROGATORIES PROPOUNDED BY THE DEFENDANT TO  
THE PLAINTIFF IN THE ABOVE STATED CAUSE.

FIRST INTERROGATORY:

State the exact location of your barn which in this suit you claim was burned. State its location with respect to the Louisville & Nashville Railroad track, and the distance between it and the said railroad track.

SECOND INTERROGATORY:

Describe in detail the method by which you claim that fire was communicated thereto by defendant's locomotive, giving all of the facts upon which you rely to show that the defendant's locomotive caused the fire of which you complain.

THIRD INTERROGATORY:

State the exact <sup>date and</sup> time that the said fire occurred and state, if you know, the number of the train whose locomotive you claim caused the fire. Which way was the said train going, and at what time did it pass the barn in question? Do you claim that the fire was communicated direct and immediately from the locomotive to the barn? When and by whom was the fire first discovered? Where was the said train at that time? Give all the information in your possession tending to show or indicate what particular locomotive caused the damage of which you complain.

FOURTH INTERROGATORY:

State what was <sup>in</sup> the barn which was so destroyed, giving in detail its contents.

*J. M. Stearns*  
*S. C. Jenkins*  
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ATTORNEYS FOR DEFENDANT.

STATE OF ALABAMA,  
BALDWIN COUNTY.

Before me, *J. W. Robinson*, *Clerk*  
*Circuit Court*, in and for said State and County,  
personally appeared S. C. Jenkins, who being duly sworn deposes and says that he is one of the attorneys for the defendant in the above stated cause, and that the answers of the plaintiff to the foregoing interrogatories will be material testimony for the defendant in said cause.

Subscribed and sworn to before me  
this 11th day of October, 1915.

*J. W. Robinson*  
\_\_\_\_\_  
BALDWIN COUNTY, ALA.

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RECEIVED BY THE CLERK

Rec'd Copy on  
James A. Carney

Filed Oct 11th 1915,  
T. W. McIlwain  
Clerk

Rec in Office Oct 11th 1915 and executed  
Nov 3d 1915 By serving a copy of the  
within Enterpriser for James A. Carney

C. C. Pemberton  
Sheriff

RECEIVED BY THE CLERK