

IN THE CIRCUIT COURT OF _____ COUNTY, _____

NAME OF PLAINTIFF

V.

NAME OF DEFENDANT

NO. _____

COMPLAINT

Comes now _____, Plaintiff in the above styled and numbered cause and files this his Complaint against _____, Defendant, and in support thereof would show unto the Court the following facts, to wit:

1. That the Plaintiff is an adult resident citizen of _____ County, _____.
2. That the Defendant is a resident corporation under the laws of one of the several states of the United States as a common carrier by rail; and for the purpose hereof did operate locomotives, railroad cars and repair facilities and transacted substantial business in and about the State of _____, and may be served with process by serving its registered agent _____, _____, (address).
3. That the Plaintiff has been employed for several years with _____ in _____ County, _____. The Plaintiff was engaged in the performance of his duties as an employee of _____ at the time in which he was injured as hereinafter alleged.
4. That during the course of the Plaintiff's employment, _____ was engaged in interstate commerce as a common carrier by rail, and all or part of the duties of Plaintiff were in furtherance of and did closely, directly and substantially affect interstate commerce; wherefore the rights and liabilities of the parties were and are governed by the Federal Employers' Liability Act, 45 U.S.C., Section 1, et seq., which Act grants this Court jurisdiction over this action.
5. That during the Plaintiff's term of employment with Defendant, he has been subjected to excessive, constant and extremely loud levels of noises throughout his daily work period, caused by various machines and machinery owned and operated by Defendant, ultimately resulting in Plaintiff sustaining severe and permanently disabling hearing loss.
6. That the Plaintiff was exposed to hazardous and unhealthy work conditions with no adequate testing, monitoring, protection or relief provided by the Defendant.
7. The Defendant was careless, reckless and negligence in the following ways, to wit:

- (a) Defendant failed to exercise due care in providing Plaintiff with a reasonably safe and healthy work environment;
- (b) Defendant failed to take reasonably adequate precautionary steps to protect Plaintiff from reasonably foreseeable danger;
- (c) Defendant failed to provide Plaintiff with an adequate in-house safety training program;
- (d) Defendant failed to protect Plaintiff from extremely loud and excessive noise levels through the use of personal protective equipment;
- (e) Defendant failed to warn Plaintiff of the potential risk and hazards associated with extreme and constant high levels of noise;
- (f) Defendant failed to adequately administer a continuing hearing conservation program;
- (g) Defendant failed to conform to the occupational safety and health standards promulgated under the Occupational Safety and Health Act of 1970; the Federal Railway Administration and the Walsh-Healey Act of 1969; and,
- (h) Any and all other acts of negligence as may be brought out at the trial of this cause.

8. That the Plaintiff's injuries were also caused and/or furthered as a proximate result of numerous misrepresentations made by Defendant to Plaintiff. Defendant additionally withheld and concealed vital information regarding Plaintiff's condition to the further detriment of Plaintiff. The Defendant failed to exercise reasonable care and/or competence in obtaining and communicating such false information and in withholding and concealing such information. The Defendant intended that Plaintiff rely upon information communicated to Plaintiff by Defendant and Plaintiff did, in fact, rely upon such information.

9. That as a direct and proximate result of the aforementioned conduct of the Defendant he has sustained severe permanently disabling injuries resulting in extreme hearing loss, loss of balance, neurological injuries and permanent ringing in his ears. As a result of the injuries sustained by Plaintiff, he has undergone medical treatment to those portions of his body adversely affected.

10. That the Plaintiff has suffered, and because such injuries are permanent in nature, will in the future suffer pain, nervousness, mental anguish and emotional distress. That the Plaintiff's sense of hearing has been permanently impaired, thereby adversely affecting his ability and capacity to earn a living. Additionally, the injuries herein complained of have irreversibly diminished the Plaintiff's ability to live and enjoy a normal life.

11. That the Plaintiff's ability to work in labor in the future has been severely and permanently diminished. In this regard, the Plaintiff would show that he has suffered a decrease

in his future wage earning capacity. The Plaintiff also stated that he will sustain significant medical expenses in the future, in the exact amount of which cannot be determined at this time.

WHEREFORE, Plaintiff demands judgment of and from the Defendant in the amount of \$00.00 and all costs of Court.

Respectfully submitted,
