

Tofferson County Circuit Court  
Case Files - Civil  
August 1869

Mislizins, Frederick, A

vs

Rosenstein, David H

Appeal

Defendant appealed from JP  
H.M. Parker on \$20 damages  
for tearing down Plaintiff's fence  
on lot 2 in Windsor Harbor

Box

24

Folder

29

Exhibit - D. -

A. F. Wislizenus  
vs.  
David H. Rosentime

Before Justice  
Parker

Plaintiff states  
that on the day of June 1869  
at the County of Jefferson in the  
State of Missouri defendant without  
leave and wrongfully entered  
on Lot No. Two in the town of Windsor  
Harbor in said County and State  
in Survey No. 2028 of which the  
plaintiff was then the owner and  
then and there voluntarily threw  
down and tore away a certain  
fence belonging to the plaintiff and  
did then and there leave the same  
open, by which acts and doings of  
the defendant plaintiff was damaged  
to the amount of twenty dollars  
~~damages~~ for which and the penalty  
of five dollars, with double damages  
the plaintiff asks judgment.

A. F. Wislizenus  
by his attorney  
P. P. P. P.

A. F. Wislizenus  
vs

Dr. A. Rosenthal

Complaint

Filed June 18/69

H. M. Parker

J. R.

The State of Missouri, to the Sheriff  
or the Constable of Little Rock Town-  
ship, Debb. Co. Mo.

Greeting:-

You are  
hereby commanded to Summon D.  
H. Rosenstein of the County of Jefferson  
to appear before the undersigned, as  
Justice of the Peace within & for said  
County at Sulphur Springs in said  
County on the 25<sup>th</sup> day <sup>(Friday)</sup> of June A.D.  
1869 at the hour of 10 o'clock in  
the forenoon of that day, then and  
there to answer and defend against  
the Complaint of A. F. Wislizenus  
for Trespass Made by the said D. H.  
Rosenstein (as is alleged in Complaint)  
upon the land of the said A. F. Wislizenus  
Shame & on then & there this writ, with  
the return of proceeding therein.

Given under my hand, this 18<sup>th</sup> day  
of June A.D. 1869.

H. M. Parker  
Justice of the Peace

A. F. Wislizenus

—, vs. —

D. H. Rosenstein  
Complaint &  
Summons.

Returnable June 25/69

Claim

#

J.P. Fees —

Filed Aug 30<sup>th</sup> 1869  
Elias F. Honeycutt

Law June 18-1868

Exceeded this writ in the Township of Suffolk  
Rock J. J. B. County of Suffolk. This 18<sup>th</sup> day of June  
1868 by decree of the Court of Sessions and Sessions  
of the County of Suffolk D. H. Rosenstein with in name  
within a return over his age at the time of return.

The State of Missouri } ss  
County of Jefferson }

I Joseph Huerter - To Fred Ludwig  
You are hereby summoned that, all persons  
X O days being set aside, you personally  
be and appear before the undersigned, to  
survive at the place within than the  
fourth of the next month in the early - of  
Methuen on the 25 day of June  
A.D. 1869 at 10 o'clock at the of that  
day to testify in the case of Dr. H.  
F. Ludwig vs Dr. H. Huerter  
an heir of H. H. - Where ready at  
your best,  
given and by her this June 1869

To Mr. Huerter  
Juries

Subpeana

To  
Fred. Wislizenus  
Joseph Hensler

A. F. Wislizenus

- vs -

D. H. Rosenstam

Return Date 25-1869

J. P. Fees

Cost "

" " 6 miles -

35  
30  
30  
1.15

Paid Aug 30<sup>th</sup> 1869

A. F. Wislizenus  
Const

Received the within bill - by reading the within  
to the within named Joseph Hensler & an the  
within named Fred. Wislizenus by leaving  
a true copy of the within at the said place  
of the within named Fred. Wislizenus in the house  
of Joseph Hensler who is captain of the said  
said bill is better than any other bill, for

The State of Missouri County of Jefferson  
To Jaily Stramer Morboe and John Graham  
You are hereby commanded, that all excuses and delays  
being set aside you personally be and appear before the undersigned  
a Justice of the Peace within and for the County of said Jefferson  
Co. on the 10 day of July 1869 at the hour of 10 o'clock P.M.  
at his office in said County to testify on the trial of a case  
between Dr. Williams is Plaintiff, and D. M. Rosenstine is  
defendant on the part of the defendant and of this you are not  
to fail at your peril.

Given under my hand this 25<sup>th</sup> day of June 1869  
H. M. Parker Justice

Subpoena  
from  
W. M. Parker  
Justice of the Peace for Rock Town  
To Fritz Steamer, N. B. Harlow  
and John Graham

Filed Aug 30 1869

Executed this writ in Jeff  
County this 10. day of  
July 1869 by reading  
the same to the within  
named John Graham  
N. B. Harlow and  
Fritz Steamer  
H. C. Bonacker  
Const

The State of Missouri }  
County of Jefferson } 25

To Isaac Baker  
You are hereby commanded, that, all —  
excuses & Delays being set aside, you  
be personally before the undersigned  
Justice of the Peace within &  
between Little Rock Township in  
Jeff. Co., Mo., on the 10<sup>th</sup> (Tenth) day  
of July 1869 at the hour of 10 o'  
clock in the forenoon of that  
day at his Office in Sulphur  
Spring to testify in a case  
wherein A. F. Wislizing is  
Plaintiff & J. H. Rosenstein  
is Deft. on the Part of Defendant.  
Thereof bail not at your peril.

Given under my hand this 25<sup>th</sup> day  
of June A. D. 1869

H. M. Parker  
Justice of the Peace,  
#

Subpoena.

A. F. Wislizenus  
— vs. —

J. H. Rosenstem

---

To

Isaac Baker

Returnable July  
10-1869

---

J. J. Fees — 35  
cost " <sup>10m</sup> — 75

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I acknowledge service of the  
within subpoena

June 30<sup>th</sup> 1869

Isaac S. Baker

H. C. Bonacker  
Const

Filed Aug 30<sup>th</sup> 1869  
E. F. Huxley

Exhibit "E"

Of F. Wislicenus

v

David H. Rosenstein

} Before Justice Parker.

And now comes the defendant and for answer and defence to the plaintiffs statement & claims of damages. denies that he defendant in the County of Jefferson and State of Missouri wrongfully entered on lot no two in the Town of Winchen Harbor in said State and County in Survey No 2028 and then and there wrongfully threw down and tore away a certain fence or that the plaintiff by any act of defendants has been damaged to the amount of twenty dollars or any part of five dollars with double damages. But defendant states that he has been in the quiet and peaceable possession of said fence and the lot upon which it was erected for about six years past and that the plaintiff without giving him six months notice in writing voluntarily threw down said fence and removed the same and attempted to rebuild said fence at a different place on grounds long in the possession of defendant which defendant undertook to prevent causing the complaint of the plaintiff and the suit of plaintiff against this defendant Defendant.

Therefore by the same statutory provisions  
relies on by the Plaintiff and a party -  
Present against the Plaintiff in the same  
of twenty five dollars and five dollars  
penalty and also double the amount  
of the damages by reason of talking obscene  
and obscene & lewd fences without  
giving him the notice required by the  
statute as well as for his having no right  
to said fence or the removal of the  
same

W. H. Parsons Esq.

Exhibit "E."  
A. F. Wislicenus  
vs  
O. H. Rosenstein

Answer to  
Complaint

Filed June 25-1869  
H. M. Parker  
Justice of the Peace

Filed Aug 30-1869

H. F. Wislizing } Pastors  
                    } Below H. M. Butler  
S. H. Parmenter } Q. Q.

are the only firm for the  
S. H. ~~Madison~~ ~~the~~ ~~clear~~ ~~as~~  
as the ~~same~~

Butler Parmenter

Let. Co. Me. July 10-1869

May 30<sup>th</sup> 1869

# STATE OF MISSOURI,

County of *St. Louis*

ss.

THE STATE OF MISSOURI,

To any Constable of *St. Louis* Township, in the County of *St. Louis*—GREETING!

Whereas,

*A. H. Davis*

on the

*10<sup>th</sup>*

day of

*July*

1869 obtained judgment before the

undersigned, a Justice of the Peace of the Township of *St. Louis*, in the County of *St. Louis*,

against

*S. H. Cassenstein*

for

*Twenty*

dollars for

*his attorney*

and also for

*Twenty One & 80<sup>ths</sup>*

dollars

for *his*

cost.

You are therefore commanded to levy the same of the goods and chattels of the said *S. H. Cassenstein* according to law.

You are further commanded to return this writ to the undersigned Justice, within

*10*

days from date.

Given under my hand, this

*16<sup>th</sup>*

day of

*July* 1869

*H. M. Carter*

JUSTICE.

# EXECUTION.

No. 786

A. F. Wislizenus

vs. } Fi. Fa. July 10 - 1869.

J. H. Rosenstein

Returnable in 30 days -

Damages \$ 20. -

Costs

~~22.30~~

21.80

~~\$ 42.30~~

Total Judgment 41.80  
& costs July 10 / 69

Filed Aug. 30<sup>th</sup> 1869

County of Jefferson, State of Missouri  
A. J. Wislizenus  
vs  
D. H. Rosenstem } Suit before H. M. Parker  
Justice of the Peace

D. H. Rosenstem being sworn upon his  
oath says that his application for an appeal  
is not made for vexation or delay but because  
he believes the appellant to be injured by the  
judgement of the justice

D. H. Rosenstem (ver)

Sworn to and subscribed before me  
this seventeenth day of July 1864  
H. M. Parker,  
Justice of the Peace

H

Albin and brother  
A. F. Westling  
— no. —

J. H. Rosenstein  
4

Filed Aug 17/1869

we, the undersigned J. H. Rosenstem  
and John Widmer acknowledge  
themselves indebted to A. F. Wislizenus  
in the sum of Forty Dollars  
& he waived upon this condition  
whereby J. H. Rosenstem has appeared  
from the Judgment of H. M. Parker -  
a Justice of the Peace in an action  
between A. F. Wislizenus Plff. & J. H.  
Rosenstem Def.

Now if on such appeal, the Judgment  
of the Justice be affirmed or if a final  
award in the Circuit Court Judgment be  
given against said applicant - & he  
shall satisfy such Judgment of the  
Justice together with Costs of appeal,  
Then this recognizance shall be void.

Attest  
H. M. Parker }  
Justice of the Peace }  
J. H. Rosenstem (seal)  
John Widmer (seal)

Jeff. Co. Mo. July 17/1869

Bond for Appeal

H. F. Wislizenus  
— vs —

D. H. Rosenheim

Depts: Bond

Filed July 17-1869

H. M. Dyer  
J. J.

Filed Aug 20<sup>th</sup> 1869  
Elias P. Honeycutt

June.

Docket Entries

Suit for Trespass, 1869

A. F. Widginius

vs.

J. H. Rosenstein

Before H. M. Parker  
Justice of the Peace.

Complaint. Plaintiff filed June 18-1869 for Suit-The following statement. Plaintiff states that on the day of June 1869 at the County of Jefferson in the State of Missouri Defendant without leave & wrongfully entered on Lot No. Two in the Town of Amis or Harbor in said County & State, in Survey No. 2028 of which the Plaintiff was then the owner & then & there, voluntarily throw down & tear away a certain Fence belonging to the Plt. & did then & there leave the same open, by which acts & doings of the Def. Plt. was damaged to the amt. of \$20.- for which & the penalty of five dollars, with double damages the Plt. asks Judgement. -

(Signed) A. F. Widginius  
by his Attorney  
P. Pipkin

Sum. Issued. Thereupon I issued a summons this 18<sup>th</sup> day of July A.D. 1869 & delivered to Const. H. C. Bonacker made returnable June 25<sup>th</sup> 1869  
June 25-1869 The summons Issued in this Suit - is this day returned Endorsed as follows - "Executed this writ -

in the Township of Little Rock, Deft. Co., Mo.  
This 18 day of June 1869 by leaving a true  
copy of the original Summons & Complaint  
at the usual place of the Deft. J. H. Rosenstein  
within named with a person over the  
age of fifteen years. —  
Signed J. C. Bonacker  
Constable

Continued. And on this 25<sup>th</sup> day of June A.D. 1869 the  
parties being called both Plt. & Deft.  
appeared, the former with P. Pipkin &  
as his atty. & Deft files his answer  
marked Exhibit "E" denying the alle-  
gations of Plt. & also ask a continuance  
upon the ground of a material  
witness (heretofore named) & the Justice  
grants a continuance at request of Deft.  
Rosenstein & the costs of continuance  
taken by Deft. & Rosenstein and case  
continued to the 10<sup>th</sup> day of July 1869 at  
10 o'clock A.M. & all parties notified  
in open court to appear at that time  
& place & Subpoena ordered & issued  
by Deft. & Issued for Isaac Baker,  
Fritz Stracher & N. B. Harlow,  
& delivered to Constable Bonacker.

Trial. And on this 10<sup>th</sup> day of July A.D. 1869  
both the Plt. & Deft. appeared the former  
with P. Pipkin & his atty. & the latter  
conducted his own case and the  
defendants demanded a Jury

The Justice ordered a Jury & the following  
men were sworn to try the case -  
viz: Thos. May, Jacob Haeger, Thos.  
Burgess Jr. Frank Stork & Francis  
Munson (fine men & agreed of both  
Plt. & Def.) who having heard the  
case evidence bring in the fol-  
-lowing Verdict: "We the Jury find  
for the Plaintiff and assess his  
damages at the sum of \$20.-  
Sept. Co. Mo. July 10<sup>th</sup> 1869  
(Signed) Jacob Haeger  
Foreman

Judgement. It is therefore ordered by the Justice,  
that Plaintiff have ~~Execution~~  
Execution against Sept. and  
that Plt. have Execution  
therefor. - Judgment for \$20.- Damages  
for \$21.<sup>25</sup>/<sub>100</sub> for his costs. -

Execution. Execution issued July 16<sup>th</sup> 1869 on above  
Judgment returnable in 60 day and  
Deliv. to Constable Banader  
H. M. Parker  
J.P.

Appeal. And on this 17<sup>th</sup> day of July A.D. 1869,  
comes the Def. & files his Affidavit  
& Bond for Appeal, with John  
and mer of security - which is granted  
by the Justice & the Execution Issued  
is recalled. -

H. M. Parker  
Justice of the Peace  
4

Certificate of Justice to Transcript:

State of Missouri }  
County of Jefferson }

I H. M. Parker a Justice  
of the Peace within the County of Jefferson do  
do certify the foregoing to be a full, true, and  
complete Transcript of the entries & proceedings  
in the case of A. F. Gurslignius vs J. H. Rosenstein  
of the same case of Record in my docket, and  
that the papers thereto attached are all the  
original papers on file in my office.  
Witness my hand this 17<sup>th</sup> day of July A.D. 1867.

H. M. Parker  
Justice of the Peace.

# Fee Bill.

Suit - *Amiliginus vs Rosenstein*  
 Before H. M. Parker J.P. from June  
 18<sup>th</sup> 1869 to Aug 17-1869. -

|                                      |                    |      |            |
|--------------------------------------|--------------------|------|------------|
| Justice Parker Fees up to June 18/69 | Complaint & Copy   | 1.25 |            |
| " " " " " "                          | Summons            | 1.00 |            |
| " " " " " "                          | 2 Subpoenas        | .70  |            |
| " " " " " "                          | Entering Suit Book | .15  |            |
| " " " " " "                          | Continuance        | .50  |            |
| " " " " " " July 19/69               | 3 Subpoenas        | 1.05 | Total 3.60 |
| " " " " " "                          | venire for Jury    | 1.00 |            |
| " " " " " "                          | Stenography Jury   | .80  |            |
| " " " " " "                          | 15 oaths           | .75  |            |
| " " " " " "                          | 1 Subpoena         | .35  |            |
| " " " " " "                          | Rendering Judgment | .80  |            |
| " " " " " "                          | Execution          | .85  |            |
| " " " " " "                          | Stenog. to & from  | .25  |            |
| " " " " " " Aug 17/69                | aff. Vol. ph. Bond | 1.00 |            |
| " " " " " "                          | Transcript         | 2.50 | Total 8.35 |
| Total Justice Fees                   |                    |      | \$11.88    |

|                                       |                 |      |
|---------------------------------------|-----------------|------|
| Const. Banacker Fees up to June 18/69 | Summons         | .35  |
| " " " " " "                           | 4 Subpoenas     | 1.00 |
| " " " " " "                           | Mileage         | .60  |
| " " " " " " July 10/69                | 7 Subpoenas     | 1.70 |
| " " " " " "                           | 2 miles         | 1.00 |
| " " " " " "                           | Stenog. Jury    | 1.00 |
| " " " " " "                           | Mileage 2.5 mi. | 1.25 |

Total Const. Banacker Fees — \$6.90

|                         |                            |     |
|-------------------------|----------------------------|-----|
| Witness Fees June 25-69 | J. B. Dover                | .50 |
| " " " " " "             | F. D. Waters               | .50 |
| " " " " " " July 10/69  | Joseph Kracker             | .50 |
| " " " " " "             | John Graham                | .50 |
| " " " " " "             | Isaac Baker                | .50 |
| " " " " " "             | J. B. Dover                | .50 |
| " " " " " "             | Freid. Steiner             | .50 |
| " " " " " "             | H. C. Banacker Interpeller | .50 |

Total witness Fees — \$4.00

|                      |                 |                                                              |
|----------------------|-----------------|--------------------------------------------------------------|
| Jury Fees July 10/69 | Thos. Mon       | } 5 Jury Total Jury Fees } \$2.50<br>Paid by Pllt July 10/69 |
| " " " " " "          | Jacob Haeger    |                                                              |
| " " " " " "          | Thos. Bayes Jr. |                                                              |
| " " " " " "          | Frank Stair     |                                                              |
| " " " " " "          | Francis Mirion  |                                                              |

Total costs Before Parker Judge \$25.25  
 Judgment in favor of Pllt for cost & Damages 20.00  
 Total Judgment & Costs. — \$45.25

Aug 17-1869 Dep. Co. Mo. H. M. Parker  
 J.P.

Transcript.

A. T. Wislizinus

— vs. —

D. H. Rosenstein

From June 18-1869 to

July 17-1869 -

Before H. M. Parker J.P.

Judgments Against Rosenstein

July 10/69 for Damage \$20. -

Costs 25.25

Total Judgments } \$45.25  
for Damage & Costs }

Filed Aug 30<sup>th</sup> 1869

Elias P. Honeywell

Trespass Suit - \$80.00,  
A. F. Louisignies }

S. H. Rasmussen }

Filed July 10 - 1869

Philip Tipton & Company Plt.  
S. H. Rasmussen vs. Sept.

Thos. Moss

Jacob Hager

Thos. Burger

Frank Clark

Francis Mireon

Jurors  
Sworn to  
Try the  
Case

Ex Jurors by agreement of

Plt. & Sept - H. H. H.

Statement to Jury of Case by Tipton

Dr. A. F. Louisignies, Sworn, C. V. Re. P.

Joseph Knecker " Ex & Re P.

Fred. Louisignies " " " " "

Isaac Bauer " " " " "

J. B. Jones " " " " "

J. B. Morrow " " " " "

Thos. H. Morrow " " " " "

H. C. Rasmussen Sworn Interpleader

Capt. S. H. Rasmussen Sworn & Ex -

Filed Aug 30 1869

Frederick A. Wislenegus, Plaintiff } In the Jefferson  
27 } Circuit Court.  
David H. Rorenstein, Defendant }

For answer to the petition of the Plaintiff filed herein the Defendant comes and denies that Plaintiff was on the 1<sup>st</sup> day of May 1869 or at any other time entitled to the possession of the land ~~sued for~~ described in said petition or that the Defendant unlawfully withholds the possession of the same from Plaintiff to Plaintiff's damage in the sum of fifty dollars or any other sum. He denies that the value of the monthly rents and profits of said premises is five dollars or any other sum. He states that he is the owner of said land and is therefore entitled to the possession thereof. He denies that Plaintiff is entitled to recover the possession of said land or any portion thereof or fifty dollars damages or any sum whatever or any sum for monthly rents and profits of said premises.

John H. Thomas  
for Defendant.

F. A. Wislizenus

2

D. H. Rosenthal

Answer.

Filed July 5<sup>th</sup> 1870

E. J. Honeycutt

By L. H. W. Ford