

DeFerguson County Circuit Court
Case Files - Civil
January 1870

Box

25 Folder 34

Smith, Thomas D.

vs

St. Louis and Iron Mountain Railroad

Appeal

Defendant appealed from JP
Samuel Eaken on \$100 damages
for killing one cow

State of Missouri }
County of Jefferson } ss

This day personally
appeared before me the undersigned Justice of
the peace in and for the County aforesaid
came Tho. O. Smith who on his oath says
that on the evening of the 7th of October 1869
One cow belonging to him was killed by the
Southern bound passenger Train on the St.
Louis and Iron Mountain Rail Road One
Mile South of Bailey Station at the Smith
Crossing

Sworn to and Subscribed
before me this the 8th
day of October 1869
Samuel Eaker

Tho. O^{his} X Smith
mark

Witness
W. F. Osborn

Justice of the peace

Reported by Chris. Coyne, Section Foreman,
valued at \$80⁰⁰. The cow was killed at Smith
Crossing (don't know where same is.)

Monette
10 Smith
1 cow \$80.00
Killed
Oct 7th 1869

Killed this
31st Dec 1869
David Eakren
D. P.

Killed Jan'y 25 1870
E. H. Honeycutt

State of Missouri
County of Jefferson

ss

This day personally
appeared before me the undersigned
Justice of the peace in for the County and
State aforesaid came Joshua L. Goza and
James M Goza who being appointed
to appraise one certain Cow belonging
to Tho. O. Smith which was killed by
the St Louis & Iron Mountain ^{R.R. Company} Southern
bound train on the evening of the 7th of
October 1869 and on being duly sworn on
their oath say that they viewed said cow
and do appraise the same at Eighty Dollars

Sworn to and Subscribed
before me this the 8th day
of October 1869

Joshua L Goza
James M Goza
Samuel Eakin
Justice of the peace

I also claim twenty dollars damages
on the above

State of Missouri }
County of Jefferson } ss

This day personally
appeared before me the undersigned Justice
of the peace in and for the County and State
aforesaid W. T. Osborn and Mitchell

McCormack who being appointed to appraise
one certain Ox belonging to Josiah Nuel, Jr,
which was struck and so injured by the
Desoto accomodation train on the St. Louis
& Iron Mountain Rail Road on the Evening
of the 25th of December 1869 as to render
him of No Value to the Owner, and on being
duly sworn on their Oaths say that they
have viewed said Ox and do appraise the
same at Sixty dollars said Ox was struck
about two Hundred yards North of Hematite
Station

Sworn to and Subscribed
before me this the 27th
day of Dec^r 1869

W. T. Osborn
Mitchell McCormack

Samuel Eaker

Justice of the Peace

Samuel A. Hull

R.R.

Joachim on 1 ^{white stone of} ~~OK~~ value 40, Killed in
day of Dec. 1891.

The State of Missouri

To the Constable of
Joachim Township in the County of Jefferson
Greeting, We command you to Summon
the St Louis & Iron Mountain Rail Road
Company, to appear before the undersigned, One
of the Justices of the peace of Joachim Township
in Jefferson County, on the 15th day of January
1870 at 10 O'clock in the forenoon, at his Office, in
~~the~~ the said Township to answer the complaint
of Thomas O. Smith

Given under my hand, this 31st day of December
1869

Samuel Eaker
Justice of the peace

Saved the cutting of hemlock on the
cutting from Mountain Peak Road Company
by leaving a copy with E. J. Donnell agent of the
Mt Lewis and Iron Mountain Rail Road Company.
On the 31 day of Dec- 1869 at the County of Jefferson

Thos. C. Smith

28

The St Louis & Iron
Mountain Rail Road
Company Sept

Before \$100.00

Samuel Eaton
Justice of the peace

Filed Jan'y 25-1870

Efficiency 25

THE STATE OF MISSOURI,

TO *J. J. Goga & James M. Goga*

REETING:

You are hereby commanded to be and appear personally before me *Samuel Catlin*
one of the Justices of the Peace within and for *Leachville* Township, in the
County of Jefferson, on the *15th* day of *January* 18*70* at the hour of 10
of the clock in the forenoon of that day, at my office in the township and county aforesaid, to testify on
the trial of a cause wherein *Thomas O. Smith* is plaintiff, and
McDonald & J. M. R. Road is defendant, in behalf of *Plaintiff*
and hereof fail not at your peril.

Witness my signature this *5th* day of *January* 18*70*.

Samuel Catlin

Justice of the Peace.

Subpoena
J. L. Goza
James, M. Goza

At the Court and Request of the
Plaintiff & Authority W. J. Osborn
to execute the within writ

Samuel Catlin
J. J.

Filed Jan'y 22 1870
C. H. Hines

Served the within by Reading in their
presence of the 6 day of January 1870

W. J. Osborn Deput
Corrct

Thomas C. Smith
vs
The At. Savin and Shon Mountain
Rear Road Company vs
Byrd David Catlin a
Justice of the Peace

Now comes the Respondant by
their attorney D. C. Picking and moves the
Court to set aside the judgment by default
in the above entitled Cause and grant a
new trial

D. C. Picking
att. Genl

Ezra Eakin
Phos O Smith
vs
The St Louis & N O

motion to set aside
default & for new trial

Filed. January 25 1870
Eff Hony CK

Thos C. Smith } Plaintiff

VS.

Before Justice *Saml Eakin*

The St Louis Iron } Defendant
Mountain Rail Road Company

This Day personally appeared before *Isa E. Leonard* a Notary Public a Justice of the Peace in and for the County of *Jefferson*, in the State of *Missouri*, *James A. Billings* attorney for defendant who, being duly sworn, upon *his* oath, say that the application for an appeal, in the above entitled case, is not made for vexation or delay, but because *he* believe the appellants *are* injured by the judgment of the Justice.

Sworn to and subscribed before me, this

22nd day of *January* 18*96*

J. A. Billings

Isa E. Leonard
Notary Public
Justice of the Peace

WE, the undersigned, *The St Louis Iron Mountain Rail Road Company* and *James A. Billings* and *E. F. Donnell* acknowledge ourselves indebted to *Thomas C. Smith*

in the sum of *three hundred and fifty* dollars, to be void upon this condition: WHEREAS, *The St Louis Iron Mountain*

Rail Road Company has appealed from the judgment of *Samuel Eakin* a Justice of the Peace, in an action between

Thomas C. Smith Plaintiff, and

The St Louis Iron Mountain Rail Road Company, defendant:

Now, if on such appeal the judgment of the Justice be affirmed, or if on the trial anew in the *Circuit* Court

judgment be given against the appellant, and they shall satisfy such judgment, or if *this*

appeal shall be dismissed, and they shall pay the judgment of the Justice, together with the costs of appeal, the recognizance shall be void.

Attest: this _____ day of

18*96*

Justice.

The St Louis Iron Mountain
Rail Road Company
per J. A. Billings

Seal

James A. Billings

Seal

E. F. Donnell

Seal

Before Samuel Ecker's
Justice of the Peace

Thomas O. Smith
vs ^{PLB}

The St Louis Iron
Mountain Rail
Road Company

Defendant for Appeal
of Bond

Filed and approved
January 24th 1870

Samuel Ecker
J.P.

Filed January 25th 1870
E. H. Honeyaker

Thomas O Smith Plaintiff
v. S.

The St-Louis & Iron Mountain Rail Road Co. Deft
Plaintiff filed December 31st 1869 for Suit on
an action for damages. One hundred dollars
and directed a Summons to Issue which is
done and delivered to J. G. Johnston Constable,
And returnable January the 15th 1870 My
regular law day

Samuel Eaten
Justice of the peace

January the 15th 1870 It is ordered that
Plaintiff have Judgment by default for
Eighty dollars for his debt \$80.00

Damages

" 30.00

Cost as follows Justices fees

" 1.15

Constable

do

" 1.50

Witnesses fees 2 in Number

" 1.00

January 24th 1870 The above Judgment is now
Open by Application of the defendant and a
New trial granted by an appeal to the
Circuit Court

Fees for the above

15-

I certify the above to be a true and correct copy
of My Docket in the above Cause
Given under my hand this 24th Jan^y 1870

Samuel Eaten
Justice of the peace

Certified Copy

Thos O Smith
V. S.

The St Louis &
Iron Mountain
Rail Road Compa

Filed Jan'y 25th 1876
E. Honey & Co.

Charles Henry P. O.
Thomas D. Smith.

17

St Louis Iron Mountains
Rail Road Company

Black Hawk 20-1870
J. Henry O.K.

Thomas O. Smith Plaintiff

^{vs}
The St Louis and Iron Mountain
Rail Road Company, Defendant.

} Before
Justice
Samuel
Peckham.

Plaintiff states that Defendant is a duly incorporated Company under the laws of the State of Missouri and that Defendant by its servants, agents and employees at the Township of Joachim, Jefferson County Missouri, on or about the 7th day of October 1869 ~~killed~~ carelessly and negligently killed a cow the personal property of Plaintiff of the value of eighty dollars, by then and there willfully carelessly and negligently running a locomotive and train of cars belonging to said Company and then under the control of its agents and employees over said cow at a point on the Rail Road belonging to said Company where the same was not protected at that time on both sides thereof by fences of the height and kind as required by the Statute in such cases made and provided and at a point on said road where there was no public crossing and where said road was not protected by cattle guards as required by State. Plaintiff states that said cow at the time she was killed was trespassing

had a young calf which died simply by reason of
the death of its mother. Plaintiff states
that said Cow was worth to him at least
five dollars per month. Plaintiff
says he has been damaged by the killing
of said Cow by Dept. as aforesaid & the
sum of one hundred dollars for which
he asks judgment.

John L. Thomas.

Atty for Plaintiff.

Mr. Andrew A. Smith

77

A. L. & John R. R. Co.

Deerfield

Deerfield this 5th May
1870 Samuel E. Barker
d. Pa.

Deerfield June 4th 1870
C. B. H. H. H. H. H.

SUMMONS.

THE STATE OF MISSOURI,

JEFFERSON COUNTY,

To the Constable of *Joachim* Township,

in the County of *Jefferson* *CRUETTINQ.*
We Command you to *SUMMON* *The St Davis & Son*
Mountain R R Co

to appear before the undersigned, one of the Justices of the Peace of *Joachim*
Township, in *Jefferson* County, on the *21st* day of
May, 1870, at 10 o'clock in the forenoon, at his office, in the said
Township, to answer the complaint of *Thomas A Smith*

Given under my hand, this *5th* day of *May*, A. D. 1870
Daniel Baker

Justice of the Peace.

Summons

Thos A Smith

VS

St. L & N. R. R. Co

Damages \$ 100 00

Justices per 45

W. J. Osborn
St. L.

Served the within writ by leaving
a copy with the agent at Neenah
station on the 1st day of May 1870

At the suit and Request of the Plaintiff
I authorize Mr. J. Coker to execute and
return this writ Samuel Coker
J D

The State of Missouri

To James M. Goza and J.L. Goza Greeting
You are hereby commanded to be and
appear personally before me Samuel Eaker
one of the Justices of the Peace within
and for Joachim Township, in the
County of Jefferson on the 21st day
of May 1870 at the hour of 10 o'clock
in the forenoon of that day, at my office
in the Township ~~aforesaid~~ and County
aforesaid to testify on the trial of
a cause wherein Thos C. Smith is
Plaintiff and The St Louis & Iron
Mountain Rail Road Company is defend-
ant in behalf of Plaintiff and hereby
fail not at your peril,

Witness my Signature this 18th day of May
1870 Samuel Eaker

Justice of the Peace

Executed the within writ by acknowledgment
of the service by J. L. Goza And by reading
in the presence of James M. Goza on the
18th day of May 1870

W. T. Osborn
Supt. Court

James M. Goza
J. L. Goza
Subpoena

At the risk and request of the plaintiff
I authorize W. T. Osborn to execute and
return the within writ

Samuel Eaker
J. P.

Phas O. Smith ^{vs} } Before Samuel E. Cook
The St Louis Iron }
Mountain Rail Road }
Company, Def

Now this 25th day of May A D 1870
comes the defendant by their attorney,
Jas A Billings and moves the
Court to set aside the judgment
by default herein and grant a
new trial because he believe the
judgment was given contrary
to the law & evidence in the case

J. A. Billings
Atty for Def

Before Esq Carter

J C Smith

vs

The St L & N

RR Co

Motion for new
trial

filed this 25th day
May 1870

Samuel Eaker

J P

Thos O Smith

Plaintiff

VS.

The St Louis & Iron
Mountain Rail Road
Company

Defendant

Before Justice Samuel Eaker

THIS DAY personally before Samuel Eaker

a Justice of the Peace in and for the County of ~~St. Louis~~ ^{Jefferson}, in the State of Missouri, James

A Billings

who being duly sworn upon ~~his~~ oath, say that the application for an appeal, in the above entitled case, is not made for vexation or delay, but because ~~he~~ believe the applicant ~~is~~ injured by the judgment of the Justice.

Sworn to and subscribed before me, this

25 day of May 1880

Samuel Eaker
Justice of the Peace.

J. A. Billings

WE, the undersigned, The St Louis & Iron Mountain Rail Road Company and James A. Billings & E. F. Donnell acknowledge ourselves indebted to Thomas O Smith

in the sum of two hundred

dollars, to be void upon this condition: WHEREAS, The St Louis & Iron Mountain Rail Road Company has appealed from the judgment of

Samuel Eaker a Justice of the Peace, in an action

between Thomas O. Smith plaintiff,

and The St Louis & Iron Mountain Rail Road Company defendant;

Now if, on such appeal, the judgment of the Justice be affirmed, or if, on the trial anew in the

Circuit Court of Jefferson County

judgment be given against the appellants, and / they shall satisfy such judgment, or if this appeal shall be dismissed, and they shall pay the judgment of the Justice, together with the costs of appeal, the recognizance shall be void.

Attest, this 25 day of

May 1880
Samuel Eaker
Justice.

The St Louis & Iron Mountain
Rail Road Company



Wm A. Billings atty-



J. A. Billings



E. F. Donnell



St Louis & Iron mountain
R. R. Co

afforded & hand

filed and approved
the 25th day of May
1870

Samuel Eaker

I P

Thomas O Smith plaintiff
V S

St Louis & I. M. R. R Co Defendant
plaintiff filed 5th day of May 1870
a petition for damages to the amount
of one hundred dollars and directed a
summons to issue which is due and
delivered to W. J. Osborn Deputy Court Clerk
and made returnable the 21st day of May
1870 my regular law day Samuel Eaker
J. p.

May 21st 1870 the summons issued in this
cause is returnable executed as the law directs
and the cause having come on to be heard
and the Defendant being duly called came not
but made default and the plaintiff having made
proof of his demand it is therefore considered
by the Justice that plaintiff recover of the Defend-
ent the sum of one hundred dollars for his
damages also the sum of Three dollars & forty
cents for his cost Debt \$ 1.00 .00

Justices fees	1 30
Court Clerks fees	1 10
witnesses fees	1 00

Samuel Eaker J. p.

May 25 1870 This day came the defendant
by their attorney J. A. Billings and filed
his motion and bond with his affidavit
praying that the above judgment by default be
set aside and a new trial be granted by
an appeal to the circuit court which is done
and an appeal granted to the next term
of the circuit court which will be begun and
held on the first Monday of September 1870
in the town of Hillsboro Samuel Eaker
J. P.

I R

State of Missouri }
County of Jefferson } Thomas B. Smith
 plaintiff against

The St. Louis & I. M. R. R. Co. Defendant

I Samuel Eaker a Justice of the peace within and for the township of Joachim ~~in~~ in the County of Jefferson aforesaid hereby certify that the above and foregoing is a full true and complete transcript of all the entries made in my docket relating to said case of Thomas A Smith plaintiff against the S T Lewis & I M R R Co defendant and that such transcript is accompanied by all the process and other papers filed with the Justice relating to such suit given under my hand this the 31st day of May 1870 Samuel Eaker Justice for this 30th Justice of the peace

Thos B Smith

W B

St Louis & I M R R

Co

an appeal

Ho. O Smith
at
The S. L. Lumsden
Mountain Place
Rock

Dec. 3^d Jan 4 1878
O. H. Lumsden at

Thos O. Smith	}	In the Circuit Court
" deft		of Jefferson County
The St Louis & Iron		September 1 1878
Mountain Rail Road		Appealed from Saml
Company	deft	Eaten a Justice of the Peace

Now comes the defendant by
 their attorney James A Bellings and
 petitions the Hon Court for a change
 of venue in the above entitled Cause
 for the following reason that the
 inhabitants of this the County of
 Jefferson state of Missouri are pre-
 judiced against the defendant aforesaid
 so much so that said defendant
 cannot have a fair trial in this
 Cause on account of said prej-
 udice Therefore your petitioner
 prays the Court to make an order
 changing the venue in this
 Cause to some other County
 in this fifteenth judicial Circuit
 where the Cause aforesaid alleged
 does not exist and as in duty
 bound your petitioner will ever
 pray

J A Bellings
 Atty for Deft

State of Missouri
County of Jefferson } J. Charles A. Billings
being duly sworn upon his
oath states that he is the attorney
& general business agent of the
defendant aforesaid & applicant for
change of venue herein and that
the petition aforesaid for change of
venue & the matters & things as
therein stated are true to the best
knowledge & belief of affiant
and that the defendant aforesaid
have just cause to believe that it
can not have a fair trial in
Jefferson County Missouri on
account of the causes alleged in
said petition for change of venue

J. A. Billings

Subscribed to
before me this 5 day
of September A.D. 1870
Elias J. Honey Atty Genl
By Alfred L.

Pro
Jefferson Benedict
I have O Smith
The Adams' share
Mountain Route
Road Company
Plethora for Change
of Name

J. A. B. O'Connell
257 Broadway

Filed Sept 6th 1876
E. J. Newmyer