

DeForsen County Circuit Court  
Case Files - Civil  
September 1870, NO. 20

Warner, Charles G, Adm  
Warner, Daniel

vs

St. Louis and Iron Mountain Railroad Co.

Negligence

Defendant failed to erect fences and  
cattle guards allowing livestock to  
destroy plaintiff's crops; \$700 damages

Box 27 Folder 46

Charles G. Warner, Administrator }  
of the Estate of Daniel Warner, deceased, - Plaintiff }  
Against }  
The St. Louis and Iron Mountain }  
Rail Road Company, — Defendant, }  
In the Circuit Court of }  
Jefferson County Missouri }  
September Term 1870.

The Plaintiff, Charles G. Warner, states that he has been duly appointed by the County Court of Jefferson County Missouri, Administrator of all and singular the goods and chattels, rights and credits, which were of Daniel Warner deceased, at the time of his death. - And Plaintiff states that the said Daniel Warner was on the first day of June 1867, and at the time of his death, the owner of the following described Tract of Land, situate in Jefferson County Missouri, To wit, the North East fractional quarter of Section No. Thirty five, in Township Forty one of Range Five East, containing one hundred and twenty acres and  $\frac{3}{100}$  of an acre, And that said Daniel Warner had a farm in said Tract of Land in cultivation during said ~~said~~ years of 1867, 1868, and 1869, And Plaintiff states that the Defendant is an incorporate Company duly incorporated by law, under

the Corporate name of the St. Louis and Iron Mountain Rail Road Company; and that the Defendant as such Corporation is the owner of a Rail-Road, which passes through and along an inclosed and Cultivated field, belonging <sup>in 1868 and 1869</sup> to said Daniel Warner and situate within the Tract of land aforesaid; and that as such Corporation it was the duty of said Defendant to erect and maintain good and substantial fences on each side of its said railroad, where the same passes through or adjoining said inclosed and Cultivated field of Plaintiff's intestate, said Daniel Warner, of the height of five feet, with openings gates or bars, therein, and farm crossings of said Road, for the use of the owners of such lands, and also, to construct and maintain Cattle guards at all railroad Crossings where fences are required as aforesaid, suitable and sufficient to prevent horses, Cattle, mules and other animals from getting on such Rail Road. And the Plaintiff states that the Defendant neglected, failed and refused, for and during the years 1868, and 1869, to erect and maintain good and substantial fences on each side of its said Rail Road where the same passes through, along, and adjoining the inclosed and Cultivated field belonging to said Daniel Warner, <sup>at that time</sup> as aforesaid, as by law Defendant was required to do, - and

That Defendant neglected, failed, and refused to construct and maintain good and sufficient cattle guards at the several railroad crossings within said field, and where the said Railroad enters the same, so as to prevent horses, cattle, mules, and other animals from going into the said inclosed and cultivated field, belonging at the time to said Daniel Warner. Plaintiff states that by reason of such neglect and failure of the Defendant to erect and maintain such fences and cattle guards, as aforesaid, divers horses, cattle, and other animals, during the years 1868, and 1869, entered into the said field owned <sup>at the time</sup> by Daniel Warner as aforesaid, at divers times, and eat up and destroyed a large amount of wheat, corn, oats, and potatoes, then being and growing within the said field, To wit, wheat of the value of one hundred and fifty dollars, corn, of the value of one hundred dollars, oats, of the value of fifty dollars, and potatoes, of the value of fifty dollars, amounting in the aggregate to three hundred dollars.

By reason whereof, the Plaintiff says that he, as Administrator as aforesaid, has sustained damages to the amount of three hundred and fifty dollars; and he therefore asks Judgment for Seven hundred dollars, double the amount of damages as aforesaid, by

2540  
2500  
40,00

virtue of the statute in such cases made and  
provided,

W

Alfred Green  
Attorney for the Plaintiff

In the Circuit Court  
Jefferson County

Charles G. Warner  
Adm<sup>r</sup> of Daniel Warner  
vs.  
The St. Louis & Iron Mountain  
Railroad Co.

Petition

Let summons issue to  
Relf. Co, against Deft.  
A. Green  
for Relf.

Filed July 21<sup>st</sup> 1870  
C. J. Henry clk  
By L. W. P. 21

THE STATE OF MISSOURI, } SS.  
COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

TO THE SHERIFF OF THE COUNTY OF JEFFERSON—GREETING:

*We command you, that you summon*  
*the* **St Louis & Iron Mountain**  
**Rail Road Company**

if he be found in your County, that he be and appear before the Honorable  
Judge of our Circuit Court, on the first day of the next term thereof, to be  
begun and held at the town of Hillsboro, within and for the County of  
Jefferson. on the **First** ~~Monday after the fourth Monday~~  
of ~~Sept~~ *next*, then and there to answer unto

**Charles F. Warner** Administrator  
of **Est of D. Warner**  
upon *his* original petition, a copy whereof is hereunto annexed  
and accompanies this writ, and have you then there this writ.

Witness, **ELIAS F. HONEY**, Clerk of our said  
Circuit Court, with the seal thereof hereunto affixed,

at office in Hillsboro, this **26<sup>th</sup>**

day of **July** A. D. 1870

**Elias F. Honey** Clerk Circuit Court.

By **L. H. H. H.** Deputy.

34529

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

Sept Term, 1870

C. H. Maran, Admin  
of D. Maran Dec Plaintiff

AGAINST

J. D. Lewis & Bros Merchants

Debit Merchants Defendant

(Dry)

Served this 29<sup>th</sup> day  
of July and 9 months 1870

A. C. Day

The within was served on the 29<sup>th</sup> Day of July a D 1870 at Jeff Co Mo  
by delivering a copy of the within writ and Petition as delivered  
to me by the Clerk of the Court to ~~the~~ A Mitchell and Agent at  
employee of the St Louis & S M R R Co a corporation  
whose head officers do not live in my County

For 100

Fred Luckenbach Sheriff

J. Fred Vollmack Deputy

Charles G. Warner  
Administrator of Daniel  
Warner Dec pff

The St Louis Iron Mountain  
Real Road Company  
Def't

In the Circuit  
Court of Jefferson  
County  
Sept 7 1870

Now comes the defendant by its  
attorney James A. Billings petitions  
the Hon Court for a change of  
venue in the above entitled cause  
for the following reason that the inhab-  
itants of this the County of Jefferson State  
of Missouri are prejudicial against the  
defendant aforesaid so much so that said  
defendant cannot have a fair trial in this  
cause on account of said prejudice existing  
Therefore your petitioner prays the Court to  
make an order changing the venue in this  
cause to some other County in this fifteenth Ju-  
dicial Circuit where the cause aforesaid  
does not exist and as in duty bound  
your petitioner will ever pray

J. A. Billings  
Att for Def't

State of Missouri

County of Jefferson I, James A. Billings being duly  
sworn upon his oath states that he  
is the attorney and general business

agent of the defendant aforesaid and  
applicant for change of Venue - and  
the matters and things as therein stated  
are true to the best knowledge and belief  
of affiant and that the defendant aforesaid  
have just cause to believe that it cannot  
have a fair trial in Jefferson County  
Missouri on account of the causes  
alleged in said petition for change  
of Venue

Seen & Subscribed to  
before me this 5 day  
of September AD 1870  
Chas & Henry Atterch  
By H. H. Ford D.C.

J. A. Billings

No 20

Upper Creek Land

Ed. Warner Adm of  
Warren Dec

in

The State of Iowa  
Mountain Prairie Road  
Leaves any

Section for change of  
Name

Ed. J. Williams  
Wassenaar

Filed Sept 6 1870  
C. J. Smith

C. E. Warner admsr  
 of Daniel Warner }  
 vs }  
 The St Louis and Iron-  
 Mountain Railroad }  
 Company } Sept Term  
 1870.

By consent the time for  
 the defendant to answer or  
 demur to the petition in this  
 case is extended until the  
 first Monday of November  
 next. — Sept 6<sup>th</sup> 1870. —

A. Neen  
 Atty for Plff.

Dryden, Lindley & Dryden  
 with Reynolds for  
 Sept.

Warner's edwin

MS

Alon's & Son  
M. R. R. Co.

Agreement for  
time. —

7th Oct. 1986  
Edwin Warner