

Jefferson County Circuit Court
Case Files - Civil
September 1873, No. 2

Donaldson, James M.

vs
St Louis and Iron Mountain Railroad

Negligence

Killed one horse and wounding 3;
\$1,425 damages

Box 31 Folder 29

James M. Donaldson, Plaintiff

vs

The St. Louis and Iron Mountain
Rail Road Company, Defendant.

In the Circuit Court of Jefferson
County Missouri. Sept. Term 1873.

Plaintiff states that Defendant is a duly
incorporated Company under the laws
of Missouri under the style and name
of "The St. Louis and Iron Mountain
Rail Road Company" and as such
is now and was on the 16th day of May
1872 and for a long time prior thereto
had been the owner of a rail road
running from St. Louis through
Jefferson County to Iron Mountain
Missouri.

Plaintiff further states that on or about
the 16th day of May 1872 four horses of
the Plaintiff viz: one black mare
one bay mare, one light bay mare and
one dark horse came and stayed upon
the road owned by Defendant at or near
Bailey's station thereon in Jefferson County
Missouri at a point on said road where
it ran along by and through enclosed
~~fields~~ and cultivated ^{fields} belonging to
some farmer to the Plaintiff unknown
at which point Defendant was found

by the Statute in such Case made and provided
to erect, construct and maintain on both
sides said road good and substantial
fences and to construct and maintain
Cattle guards at all the public crossings
of said road but which fences and ^{Cattle guards} ~~crossings~~
Defendant at that time and yet has
wholly neglected and failed to erect, con-
struct and maintain and in consequence
of which neglect and failure on the part
of the Defendant to erect, construct and
maintain said fences and Cattle guards
~~said horse, ~~remained~~~~ at the point
on said road of or said said horses
came and strayed thereon and while
they were so on said road at the time
and place of or said the Defendant
by its agents, engineers and employees
~~was~~ a locomotive engine and train
of cars at, against and over said
said horses by which they were trooked
of said road and the light bay horse
of the value of one thousand dollars
was thereby killed and the black mare
of or said was injured and wounded in the
legs and other portions of the body and
the bay mare of or said was wounded and
injured in the legs and other portions of
the body and the sorrel horse ^{of or said} was wounded
and injured in the legs and other portions
of the body by means of which killing said

light bay mare and the wounding
of the other horses as aforesaid Plaintiff
has sustained ^{damages} in the sum of Fourteen
hundred and twenty five dollars. that is to say,
one thousand dollars for the killing
of said mare, three hundred dollars
for the wounding and injury of the
black mare, seventy five dollars
for the wounding and injury of the
said bay mare and fifty dollars for
the wounding and injury of said sound
horse all of which damage was occasioned
by and was the direct consequence of the
failure of Defendant to erect construct
and maintain fences and cattle guards
at the point on said road where said
horses came and strayed on it.

Wherefore Plaintiff asks judgment for
Two thousand eight hundred and fifty
dollars being double the amount
of damage done by Defendant as aforesaid
as is provided by statute in such cases,
more and provided and for all
other proper relief.

John L. Howard & Co
With H. M. Tyler
Attys for Plaintiff.

James M. Donaldson

v

H. Lewis, J. M. R. R. Co.

—

Petition for Double
Damage.

Filed May 10 1873

W. S. Boyce Clerk

Do, C. H. Stone
Deft

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
*and Iron Mountain Railroad
Company*

if ^{it} ~~it~~ be found in your County, that ^{it} ~~it~~ 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 *second*
~~Monday after the fourth Monday of~~ *September* next, then and there
to answer unto

James R. Donaldson
upon *this* original petition, a copy whereof is hereunto annexed
and accompanies this writ, and have you then there this writ.

Witness, W. S. BOYCE, Clerk of our said

Circuit Court, with the seal thereof hereunto af-
fixed, at office in Hillsboro, this *10th*

day of *May*

A. D. 1873

W. S. Boyce Clerk Circuit Court.

By *C. H. Hume*

Deputy.

I Executed the within writ at the County of Jefferson
 State of Missouri on the within named Defendants
 by Delivering a true copy to A. Mitchell a. agt
 of the St Louis and S. M. R.R. on the 9 day
 of May 1873

Boyer clk 83
 Files 100. per 75
 ex 50 with 500. 119 1.60
 Leave to and 20. 20 45
 cont 25 dock 25 50
 In 18 14 each 20 80
 Dec 35 .33
 4.03

Dellop my 100. 15
 115
 5.10

J. B. Mose
 Sheriff

to 2
 3879

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

TERM, 1873.

Sept. James M. Donaldson
 vs. The St. Louis and
 Iron Mountain Rail
 Road Co.

Sheriff fees \$100

Original

see may 10

I Executed the within writ & Return
 furnished me by said Clerk on Alfred Mitchell
 Agent for said Company by giving him a copy
 of the same May 9th 1873
 in State of Mo
 County Jefferson

J. B. Mose
 Sheriff
 By Mr. A. H. Williams
 Sept

James M. Donaldson Plff.

^{vs}
The St Louis & I. M. R. Road
Company Defs.

In the Circuit Court
of Jefferson County
State of Missouri:

The defendant by leave
of the Court first had and obtained now comes
and for answer to plaintiffs petition heretofore
filed denies that, on or about the 16th day
of May 1872 or at any other time, the said
plaintiff was the owner of any one or all of
the horses mentioned and described in his
said petition, and denies that he was on
said day or any other day the owner of one
black mare, one bay mare one light bay mare
or one sorrel horse as in petition alleged,
denies that any one, all or either of said
mentioned horses or mares, came and strayed
upon the said road on the said day or
at any other time, near Beilys Station ^{or elsewhere} in
Jefferson County Missouri, and denies that
they so strayed upon said road at a point
where said road ran along by and through
enclosed and cultivated fields, belonging
some farmer, or at a point on said road which
said defendant was bound by statute in such
case made and provided to erect construct
and maintain on both sides of said road
good and substantial fences, or bound to construct
and maintain cattle guards at all the

Public crossings of said road, and denies
that said fences and cattle guards at the
said time or any time ~~was~~ neglected ~~and~~ failed
to ^{be} erected constructed or maintained, and denies
that in consequence of said putative neglect
and failure to erect construct and maintain
said fences and cattle guards at said points
or any points on said road said horses
came and strayed thereon, and denies
that at said time and place or at any
time and place on said said road
the defendant by its agents engineers and
employees ran a locomotive engine and
train of cars at against and over said
horses or any of them, by which they were knocked
off said road, denies that said light bay
mare or any bay mare was of the value of one
thousand dollars or of any dollars, denies
that she the said bay mare or any
one of said mentioned horses was killed, or
injured or wounded in the legs or other parts
of the body or in any way whatever, and
denies, that by means of the said putative
killing and wounding and injury
aforesaid, the said plaintiff has sustained
fourteen hundred and twenty five dollars
damages, or any other damages, ~~denies~~
that is to say one thousand dollars for the killing

1
of said mare, three hundred dollars for the
wounding and injury of the black mare
Twenty five dollars for the wounding
and injury of the bay mare and
fifty dollars for the wounding and injury
of the sorrel horse. And denies that all
or any of said ~~proven~~ damages were
the direct consequence of the failure of said
defendant to construct and maintain
fences and cattle guards at the point
on said road where, it is alleged, said
horses came and strayed on said road.

Wherefore defendant denies that said
plaintiff is entitled to a judgment against
it for the sum of two thousand eight hundred
and fifty dollars damages, whether single
or double, or any damages whatever.

And having answered asks to be discharged
with costs.

J. E. Leonard

with P. P. O'Brien atty
for deft.

James M. Donaldson

vs

J. L. Lavis & J. M. R. R. Co

defendants answer

Filed Nov 21 1873

W. H. Dwyer

Attorney

for