

Jefferson County Circuit Court
Case Files - Civil
Sept. 1886

Box

38 Folder 29

Schlaffke, Erdmann

vs.

The St. Louis Iron Mountain
& Southern Railroad Company

Negligence

Killed one ox; \$130 damages

Erdmann Schlaffke
Plaintiff

vs

The St. Louis, Iron Mountain
and Southern Railway Company
Defendants

In the Circuit
Court of Jefferson
County, Missouri,

State of Missouri,
County of Jefferson, ss.

Plaintiff states that the defendant, the
St. Louis Iron Mountain and Southern
Railway Company is a corporation duly
incorporated and existing under and
by virtue of the laws of the State of
Missouri, and that it is a common
carrier and a railway road company.
That before and at the time of the injury
hereinafter complained of, Plaintiff
owned a work ox, about 12 years
old and of a red color, called

That defendant operates a railroad
running among other places, through and
near the village of Horine, in Jefferson
County, State of Missouri.

~~Plaintiff further states~~ That on or about
the twenty second day of June A.D. 1886,
Plaintiff's said work ox strayed
upon the track of said railroad
at a point on the line of said railroad
about three hundred yards south

of the railroad crossing in said village
of Horine in said County of Jefferson
aforesaid, where the line of said
railroad was not fenced, but
might have been enclosed by
a lawful fence, said point
being also at no place where said
railroad is crossed by a public
highway, nor within the limits
of an incorporated town or city
and that said work ~~of~~ was then
and there at said point above
mentioned ^{negligently} struck by defendants
locomotive and cars and
killed.

Plaintiff states that said work
of was worth Sixty five dollars,
that by reason of the premises
he has been damaged in the
sum of Sixty five dollars.

Wherefore he prays judgment for
said sum of sixty five dollars,
interest and costs.

In a second cause of action plaintiff
states (reference being ~~had~~ made to the
foregoing count and the appropriate
allegations thereof being made part
hereof) that on or about the twenty second day
of June A.D. 1886 said defendant

with its locomotive and cars care-
lessly and negligently struck and
killed the aforesaid work of
to plaintiff's damage in the
sum of sixty five dollars. Wherefore
plaintiff prays judgment against
defendant for the sum of sixty
five dollars, interest and costs.

III For a third cause of action plaintiff
states (reference being made to the
foregoing counts and the appropriate
allegations thereof being made part
hereof) that at the point where the injury
heretofore ^{mentioned} occurred, and for some
distance above and below that
point, defendant's said railroad passes
along and adjoining uninclosed lands;
that at said point and for some distance
below and above the same defendant
has failed to fence the same, and
has failed to provide suitable crossings
and cattle guards. That by reason
of defendant's failure to erect such
fences and cattle guards, plaintiff's
said work of came from said
uninclosed lands upon the track
of defendant ^{at the point above mentioned in the 1st} and was on
the twenty second day of June A.D.
1886 killed at said point aforesaid

Count of the 20
petition

by the locomotive and cars of
said defendant.

Plaintiff states that by reason
of the premises, he has been damaged
in the sum of Sixty five dollars,
Wherefore he prays judgment for
double damages, to wit one hundred
and thirty dollars and interest
and costs.

Wesley M. Klenck
Att'y for Plaintiff

Eichmann Schaffke
Kantoff

VS
The St Louis & Iron
Mountain Railway
Company
reft.

Action for
Damages

Filed Aug. 16th 1886.
C. C. Thayer
Clerk

THE STATE OF MISSOURI } SS.
County of Jefferson.

The State of Missouri,

To the Sheriff of Jefferson County---Greeting:

We command you, that you summon

*The St. Louis, Iron
Mountain and Southern
Railway Company*

if found in your County, to be and appear before the Honorable Judge of our Circuit Court, on
the first day of the next term thereof, to be begun and holden at the town of Hillsboro, within
and for the County of Jefferson, on the *Second* Monday of *September*
next, then and there to answer unto

Erdmann Schlaffke

upon *his* original petition, a copy whereof is hereunto annexed and accompanies
this writ, and have you then there this writ

Witness, C. THO. HORINE, Clerk of our said Circuit
Court, with the seal thereof hereunto affixed, at
office in Hillsboro, this *18th* day of
August A. D., 188*6*.

C. Tho. Horine Clerk Circuit Court.

6381

1886

Sept. 14 1886 - after and fees 12.00

Original

Jefferson Circuit Court.
Sept. 1. Term 1886.
Edmund DeHoff to
The St. Louis Iron Mountain
and Southern
Railway Company

executed the within writ in the County of Jefferson in the State of Missouri on the 18th day of August 1886 by delivering a copy of the within writ and a certified ^{copy} of the annexed petition as furnished me by the clerk of the Circuit Court of Jefferson County of the County aforesaid to J. H. Kemman Assistant Superintendent of the St. Louis Iron Mountain and Southern Railway Company the within named defendant who was in the business office of the said Company at DeSoto, County aforesaid, and had charge thereof at the time of service, the President or any other higher chief officer could not be found in the County of Jefferson at the time of said service.

Fee \$100

Henry Hewitger
Shff Jeff Co Mo

State of Missouri }
County of Jefferson }

In the Circuit Court
September Term 1886

Edmann Schlaefke
Plaintiff

^{vs}
The St. Louis Iron Mountain
and Southern Railway Company
Defendant

Answer

Now comes the Defendant and
by answer to plaintiff's petition
admits each and every allegation
therein.

Geo. H. Benton
Supt. City

90

Edmund Schloffe

Planting

The St Louis Iron Mts.

By Geo. Spindant

Answer

Filed Sept. 14th 1886
C. H. H. H. H. H.
Clerk

STATE OF MISSOURI,
COUNTY OF JEFFERSON.

The State of Missouri, to

Robt. Vollmar

Chas. Gillman

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the *11th* day of *January*, 18*87*, at *9 a. m.*, at Hills-

boro, then and there to testify and the truth to say in a certain matter of controversy now pending in said Court, wherein

Crdman Schlaffke

is plaintiff, and

Wm. Sams, Dan Hamblin and Stephen Rylo.

defendant, on part of *Peff*; and herein

you are in no wise to fail.

WITNESS, C. THO. HORINE, Clerk of our said Court, with the Seal thereof hereunto affixed,

at office, this *27* day of *Decr*, 18*86*

Chas. Horine, Clerk.

County Office

Schlaffha

vs

Sid. & m & d, Ry. Co,

vs

Robt. Tollmer

Chas. Gillman

vs

Filed Jan'y 10th 1887

W. B. Morgan

clerk

I executed the within Subpoena in the County of Jefferson
in the State of Missouri on the 5th day of January 1887
by reading the same in the presence and hearing of
the within named Robert Tollmer and Chas
Gillman

Fee \$1.00

George W. M. Fry

Sheriff

by Kurtz Geo Deputy

STATE OF MISSOURI, } ss.
COUNTY OF JEFFERSON, }

The State of Missouri to

Henry Fabre

You are hereby commanded that, setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 11th day of January, 1887 at 9 a. m., at Hillsboro,

then and there to testify and the truth to say in a certain matter of controversy now pending in said Court, wherein

Erdmann Schlaffke is

plaintiff, and

Dr L. J. Mt. & D. Ry Co. is

Plaintiff

defendant, on part of

you are in no wise to fail.

; and herein

WITNESS, D. B. VEAZEY, Clerk of our said Court, with the Seal thereof hereunto affixed, at

office, this

11th

day of

January, 1887

D B Veazey

Clerk.

E Schlaefke

Orl'd m-story

Cell

Henry Fabre, 11/87

Filed

Jan'y 11/87

Dist. Clerk

Cell

I executed the within Subpoena in the County
of Jefferson in the State of Missouri on the
11th day of January 1887 by reading the same
in the presence & hearing of the within named
Henry Fabre.

Fee 50¢

Geo W M Fry
Sheriff

by Hc Hartgar Deputy

STATE OF MISSOURI, } ss.
COUNTY OF JEFFERSON,

The State of Missouri to

Richard Horner

You are hereby commanded that, setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the

day of *January*

, 18

at

a. m., at Hillsboro,

then and there to testify and the truth to say in a certain matter of controversy now pending in said Court, wherein

E Schaffke

plaintiff, and

Mr. L. J. Moser, Jr., Co

defendant, on part of

Drft

; and herein

you are in no wise to fail.

WITNESS, D. B. VEAZEX, Clerk of our said Court, with the Seal thereof hereunto affixed, at

office, this

12

day of

Jan

, 18*87*

Clerk.

D B Veazex

E. Schlafflin

Attest J. M. M. D. R. C.

Richard Hackett

Witnessed Jan. 12/87
J. M. M. D. R. C.
Clerk

I executed the within Subpoena in the County of
Jefferson State of Missouri on the 12th day of
January 1887 by reading the same in the pre-
sence & hearing of the within named Richard
Hackett

Fee 50 ¢

George W. M. Gray Shiff
by Huntgan Deputy

Jury in Case of E. Schlaffner vs. Sh. L. J. McDermott & Co.

D. C. McCormack	1
C. H. Smith	2
~~John Englebach~~	
A. J. Temming	3
~~H. W. Douglass~~	
~~J. A. Crossman~~	
John Harness	4
J. P. Speck	5
Stephen Becker	6
Philip Glatt	7
~~H. E. Page~~	
John Gowan	8
~~B. F. Butler~~	
~~John Shelton~~	
Henry Seemel	9
Heenan Pierce	10
Sam. Scott	11
Oliver Cromwell Jr	12
~~John Wagner~~	

E Schlaffke

or
St Louis & Mt A. Ry. Co

Panel

Filed Jan'y 17th 1887

D B Veazey
Clerk
W.

Edmann Schlaffke

vs.

The St. Louis Iron Mountain
and Southern Railway Company

The jury are instructed
that if they believe that the ox in the petition described
belonged to plaintiff, that it was struck by defendant's
locomotive at a spot not being in a public highway
and where the road was not fenced, though they further
believe that such spot was within switch limits, yet
the latter fact of itself did not make it unlawful
or improper for defendant to guard such spot with
suitable fencing and cattle guarding, unless such fencing
and cattle guarding would have inconvenienced the
public and defendant in the transaction of busi-
ness with defendant at such switch; ^{and under such finding the jury} they must
find for the plaintiff and assess his
damages at the sum ^{they} ~~may~~ may believe
from the evidence he has sustained
not exceeding \$65

Schlaaffe

vs
Dr L. J. M. Ry Co

Instructions

Filed Jan'y 12th 1887

L. J. Mearns

Att'y

W.

The court instructs the jury that - if they believe from the evidence in this case that the open and unenclosed grounds of the railroad at Horine were testified to by the witnesses were necessary ^{to be so} ~~to be~~ ^{unenclosed} for the use of the railroad and public both in transacting the business of the public at the depot and the business of the Company in discharges of its duties to the public and considering the safety and security of its employees, you will find a verdict for the defendant -

We the jurors find the issues for the
defendant in the case of Edward
Schlafke against The St. Louis, Iron
Mountain and Southern Railway
Company.