

Jefferson County Circuit Court
Case Files - Civil

January 1889

Box 40 Folder 39

Williams, Thomas A.

vs

St. Louis Iron Mountain and
Southern Railway Company

Appeal

Defendant appealed from JP
F.J. Sheible on \$40 damages
for killing 2 hogs, 1 sheep

Thomas A. Williams Plaintiff

Against

St. Louis Iron Mountain and

Southern Railway Company Defendant.

Before F. J. Sheible Justice of the
Peace Central Township Jefferson Co. Mo.

The Plaintiff states that defendant is now and was at date of injuries hereinafter mentioned, a Corporation duly organized and existing under and by virtue of the laws of the State of Missouri and was then and still is the owner of a certain Railroad extending from the City of St. Louis Missouri through Central Township in Jefferson County Missouri; that on the 8th day of January 1888 plaintiff was the owner of two hogs of the value of Eight dollars each; that on said 8th day of January 1888 said hogs strayed and came upon defendant's said Railroad at a point thereon in Central Township Jefferson ^{County Missouri}, where said Railroad passes through along and adjoining enclosed and cultivated fields, and not at the crossing of a public highway nor within the limits of an incorporated town or City, and at which said point said defendant had negligently failed to ^{erect} maintain lawful fence on the sides of its said railroad by reason of which failure of defendant to erect and maintain such fences said hogs on the date aforesaid at the place aforesaid came upon said railroad track and were then and there struck and run over by the cars of engines and cars of defendant.

ant and killed - Plaintiff says that said hogs were killed as aforesaid by reason of the failure of defendant to erect and maintain lawful fences on the sides of its said Railroad at said point, - Therefore plaintiff prays judgment against defendant for thirty two dollars double the damage sustained by him as provided by section 809 of the Revised Statutes of Missouri.

For a further Cause of action against defendant, plaintiff ~~refers to the appropriate allegations of the foregoing statement as to the incorporation of defendant~~ and says that defendant is now and was at the date of the injury hereinafter mentioned, a corporation duly organized and existing and was then and still is the owner of and engaged in operating a certain Railroad extending southward from the City of St. Louis Missouri and passing through Central township in Jefferson County Missouri, and is the owner of certain engines and cars used and run on said Railroad; that plaintiff on the 30th day of March 1888 was the owner of a certain Cotswold sheep of the value of four dollars; that defendant negligently failed to erect and maintain good and lawful fences on the sides of its said railroad at a point on said Railroad in Central township Jefferson County Missouri where said road passes through along and adjoining

enclosed and cultivated fields, that on the
30th day of March 1888 by reason of the fail-
ure of defendant to maintain a good and
sufficient fence at the point aforesaid said
sheep of plaintiff, came upon defendant's
railroad track at said point, which
point was not at the crossing of ~~a~~
public highway nor within the limits of
an incorporated town or ~~City~~ ^{defendants} and at said
point was struck by a train of ^{defendants} cars on said
Railroad and killed - Plaintiff says said
injury was occasioned by the negligent
failure of defendant to maintain a ~~good~~
lawful fence at said point of its said
Railroad, wherefore he prays judgment
for the sum of Eight dollars double the
value of said sheep as provided by
sec 809 of the Revised Statutes of Missouri

Thomas A. Williams

Plaintiff

Thomas A. Williams
DEA

As
Superintendent

Southern Ry Co

Action for Damages

Statement

Witnesses

James P. Goff
Christ Ruppelle Jr.

Filed, October 1, 1888

J. D. McKee Jr.

Filed Dec. 3, 1888

A. D. D. Veary
Clerk

SUMMONS. J. P.

—0—

The State of Missouri to the Constable of *Central* Township,

in the County of Jefferson, State of Missouri, Greeting:

We command you to summon

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

to appear before the undersigned, one of the Justices of the Peace

of *Cental* Township, in Jefferson County aforesaid, on the *17th* day of *October*

18*88*, at 10 o'clock in the forenoon, at his office, in the same Township, to answer the complaint of

Thomas C Williams

founded upon *an action for damages for killing two hogs and one sheep*

and wherein he demands

Forty

DOLLARS.

Given under my hand this *first* day of

October

, 18*88*

J. L. Shulze

Justice of the Peace.

No.

SUMMONS.

Thos. A. Williams

Plaintiff,

vs.

Sh. L. J. M. & Co.

Defendant.

BEFORE

F. J. Shindler

Justice of the Peace.

Plaintiff's Demand, .	\$	40.00
Costs Already Accrued, \$	2	30
Constable's Commission, \$	0	0
Constable's Fee, . . . \$	3	0
Constable's Mileage, . . \$	2	0
Total, ...	\$	43.40

Filed Dec 3rd 1888
D. B. Veagey
Clerk

County, Missouri.

Fee, \$. . . ; Mileage, \$. . .

Edmund Tomlinson, Constable.

on the 1st day of

October

, 1888, in

Centine

Township, Jefferson

I HEREBY CERTIFY That I have executed the within writ by delivering to *Edmund Tomlinson* a ~~several~~ ^{single} station of defendant a true copy of the ^{original} ~~writ~~ ^{summons together with a copy of the annexed} ~~plaint~~ ^{complaint} and returned

T. A. Williams

Plaintiff.

VS.

ST. LOUIS IRON MOUNTAIN & SOUTHERN RAILWAY CO.
DEFENDANT.State of Missouri }
County of Jefferson } ss.
Before F. J. Shibley
Justice of the Peace.

STATE OF MISSOURI.

County of Jefferson } ss.

Now, at this day, comes the defendant, by its Agent, and moves the Court to grant an appeal from the judgment rendered in said cause, and states that the application for this appeal is not made for vexation or delay, but because he believes the appellant is injured by the judgment of the Justice.

Sworn to and subscribed before me, this 24th day of October 1888.
Witness my hand and seal.

C. Marsden
Agent.

We, the undersigned, ST. LOUIS IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY, as principal, and M. Cole & W. H. Swift as sureties, acknowledge ourselves indebted to T. A. Williams plaintiff in the above entitled cause, in the sum of One Hundred Dollars, to be void upon this condition: Whereas, ST. LOUIS IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY has appealed from the judgment of F. J. Shibley a Justice of the Peace, in an action between T. A. Williams Plaintiff, and the ST. LOUIS IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY, Defendant. Now, if said Defendant will prosecute its appeal with due diligence to a decision, and on such appeal the judgment of the Justice be affirmed, or if, on the trial anew in the Circuit Court, judgment be given against appellant, and it shall satisfy such judgment, or if its said appeal shall be dismissed, and it shall pay the judgment of the Justice, together with the cost of appeal, this recognizance shall be void.

St. Louis Iron Mountain & Southern Railway Company.

By

F. J. Shibley President.

[SEAL.]

M. Cole

[SEAL.]

W. H. Swift

[SEAL.]

day of

1888

Justice.



State of *Missouri*
County of *Jefferson* } ss.

James O. Williams
vs.

St. Louis, Iron Mountain and Southern
Railway Co.

APPEAL BOND.

Filed Dec 30th 1888

Before F. J. Shibley, Justice of the Peace for Central Township,
Jefferson County, Missouri.

Thomas A. Williams, Plaintiff } Action for
vs. } damages for

The St. Louis, Iron Mountain and } killing two hogs
Southern Railway Company, a } and one sheep.
Corporation. Defendant. } Filed, Oct 1, 1888.

Now, on this October 1, 1888, comes plaintiff,
and files his statement, stating that on January
8, 1888, defendants' engine and cars run over
and killed two hogs, the property of plaintiff,
valued at eight dollars each; and that on
the 30th day of March, 1888, plaintiff lost a
sheep valued at four dollars, by defendants'
cars running over and killing it, through
negligence, by not having good lawful
fences, and plaintiff prays for double
damages, under section 809, Revised Statutes
of Missouri, whereupon summons is issued
against defendant and given to Edwin
Fennel, constable, returnable October 17, 1888.

F. J. Shibley, J. P.

And, on this 17th day of October, 1888, comes
the plaintiff, in person, and by attorney, but defendant
comes not ~~and~~ ^{but} makes default, and whereupon the
cause is submitted to the Justice upon the evidence
offered on part of the plaintiff; and from the
evidence the Justice doth find that the plaintiff
is entitled to recover from the defendant for two
hogs of the value of eight dollars each, and one sheep
of the value of four dollars, which stock was killed
by defendants' cars and train, in Central township,

Jefferson County, about January 1888, at a point on
defendants' railway ^{road} where the same passes through
said township, and where it was required by law
to maintain good fences, and failed to maintain
the same, and by reason of such failure
plaintiff's stock was run over and killed.

whereupon the Justice doth find for
the plaintiff and adjudges that plaintiff recover
from defendant the sum of forty dollars,
double the value of the property aforesaid, as
in such cases provided, together with costs.

F. J. Sheible, J. P.

And on this 24th day of October, 1888, comes
defendant, by C. Marsden, agent, and files affidavit
for appeal, ~~and~~ together with appeal bond,
which bond is approved and appeal granted.

F. J. Sheible, J. P.

Fee Bill

F. J. Sheible, J. P.	Filing, docketing and indexing	1.10
	Summons (2)	20
	Judgment	50
	Transcript	80
	Certificate thereof	15
	Total	\$ 3.30
Edwin Forrest, Constable,	Summons	30
	Mileage	20
State of Missouri,		50
County of Jefferson	ss.	

Thomas A. Williams, Plaintiff

vs.
St. Louis, Iron Mountain & Southern Railway Co., a corporation, Defendant

I, F. J. Sheible, a Justice of the Peace within and for
the Township of Central, in the County of Jefferson

aforsaid, 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 G. Williams, plaintiff, against the St. Louis, Iron Mountain and Southern Railway Company, a corporation, defendants, 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 29th day
of October, 1888. F. J. Sheible, J. P.

436

Thompson's

Thomas A. Williams

Mr. J. D. M. & Co.

#

79 Shreve, 903

Free Dec 3/1888

W. D. Hager
Clem

SUBPOENA.--CIRCUIT COURT.

STATE OF MISSOURI, COUNTY OF

J. Jefferson } ss.

No. 19

THE STATE OF MISSOURI, To

Christophe Ruepke Jr & James Doty

You are Hereby Commanded, That setting aside all manner of excuse and delay, you be and

appear in proper person, before the Judge of our Circuit Court, at the Court House in the Town

of Steelton

within and for said County, on Tuesday

the

15th

day of

January

A. D. 1889, then and there

to testify and the truth to speak, in a certain matter of controversy now pending in our said Court,

wherein

Thomas McLeans vs

Plaintiff,

and

McLeans & Son Merchants & Dealers Ry. Co.'s Defendant,

on the part of said

McLeans

, and this you shall in no

wise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

WITNESS my hand and the seal of our said Court. Done at

office in

Steelton

in said County, this

15th

day of

January

A. D. 1889

By

Deputy Clerk.

H. J. Neasey

Clerk.

SUBPENA.

No. 19

CIRCUIT COURT

Of _____ Co., Mo.,

Term, 1889

Jury
Thos. Williamsvs.
H. L. D. M. & Co.

PLAINTIFFS' }

DEFENDANTS' } WITNESSES.

Day of Trial

James Boley
Chas. Ruppel Jr.
James BoleyFiled Jan 15th 1889
D. B. Venger
Clerk

Fee, \$ 1.00

RETURN.

I hereby certify that I served the within Writ in the County of Jefferson
and State of Missouri, on the 11th day of January, 1889, byReading the within Subpoena to James Boley
and by Reading same to Chas. Ruppel Jr.

B. J. Maudlin

Sheriff

SUBPOENA.--CIRCUIT COURT.

STATE OF MISSOURI, COUNTY OF

Jefferson } ss.No. *39*THE STATE OF MISSOURI, To *John Doby, Martin Doby*
*and Frank Vaughan**You are Hereby Commanded,* That setting aside all manner of excuse and delay, you be and

appear in proper person, before the Judge of our Circuit Court, at the Court House in the

of *Jefferson*

, within and for said County, on

*Monday*the *15th*day of *January*A. D. 18*89*, then and there

to testify and the truth to speak, in a certain matter of controversy now pending in our said Court,

wherein

Thos. A. Williams vs

Plaintiff,

and

St Louis & N. O. R. Co.

Defendant,

on the part of said

Dea. J. H.

, and this you shall in no

wise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

WITNESS my hand and the seal of our said Court. Done at

office in

St. Louis

in said County, this

14th day of*January* A. D. 188*9**W. B. Taylor*

Clerk.

By

Deputy Clerk.

SUBPENA.

No. 39

CIRCUIT COURT

Of _____ Co., Mo.,

January Term, 1889

Thos A. Williams

VS.

St. L. & M. & S. R. Co.

PLAINTIFFS'

WITNESSES.

DEFENDANTS'

Day of Trial Jan'y 15th 1889

John Boly

Martin Cagle

Frank Vaughan

Filed Jan'y 15th 1889
R. B. Veazey
clerk

Fee, \$1.00

RETURN.

I hereby certify that I served the within Writ in the County of _____ and State of Missouri, on the

15th day of

January,

1889, by

By Reading with attachment
to Martin Cagle & Frank Vaughan

The Court instructs the Jury that this action is brought to recover damages by reason of killing of 2 hogs and 1 sheep the property of the plaintiff, and if you find for the plaintiff you will simply return a verdict finding the value of said hogs and said sheep.

If you believe from the evidence that about day of January 1888 defendant failed to keep and maintain a fence along the sides of its railroad in Central Township Jefferson County Missouri composed of posts and rails posts and palings ~~or~~ posts and wire or posts and plank at least $4\frac{1}{2}$ feet high and sufficiently close to prevent stock coming upon its right of way and that by reason of such failure plaintiff hogs mentioned in the petition came upon defendant's railroad in said township and were killed by defendant's trains you will find the issues for the plaintiff in the first count of his petition and assess his damages at such sum as you believe said hogs to be worth not exceeding

\$8⁰⁰ each - in estimating the value of such hogs & you will deduct the value of such portion of the meat used by plaintiff, if any, as the testimony shows was saved by him. If you further find from the evidence that defendant failed to maintain such fence as described in the foregoing instruction and that by reason of such failure one of plaintiff's sheep came upon defendant's track at a point in Central Township Jefferson Co Mo about March 1887 ~~and was~~ at a point on said Railroad where the same passes through along or adjoining enclosed or cultivated fields and by reason of such failure to maintain such fence ^{it} was struck by defendant's cars & killed you will find the issue for plaintiff on the second count of the petition & assess his damages at such sum as ~~&~~ you find the said sheep was worth not exceeding \$4⁰⁰ -

If you find that defendant erected a fence along its ^{said} track at the point where said hogs & sheep came upon

said ~~the~~ railroad tracks and that from time to time said fence got out of repair then the defendant was entitled to a reasonable time in which to repair the same after it was discovered, or by the exercise of reasonable diligence might have been discovered that it was out of repair, and if you find from the evidence that defendant did in a reasonable time after they discovered by the exercise of reasonable diligence might have discovered that the fence was out of repair put it in repair and made it a fence such as above described plaintiffs can not recover for any damages done while it ~~was so out of repair~~ it so maintained such fence. The burden of proof in this case to make out his case by a preponderance of the evidence is on plaintiff.

The Court instructs the jury that if you believe from the evidence that the hogs got upon the railroad track through an open gate at plaintiff's private crossing, the plaintiff cannot recover and your verdict should be for the defendant on the first count.

Thos H Williams

=24=

Chas. W. W. Co.

Instructions

Filed June 15th 1889

W. B. May
Clerk

1	John Gowan	1
2	Stephen Pounds	2
3	B. F. Butler	3
4	~~R. H. Schute~~	1
5	W. Parkinson	4
6	Chas. Herscher	5
7	Marion Hale	6
8	W. H. Craig	7
9	W. C. Greaves	8
10	Joseph Robinson	9
11	Ed. Craft	10
12	J. T. Burgess	11
13	~~Adam Votaw~~	
14	Phil Bumgarth	12
15	George Zeigler	
16	John Bremer	
17	~~Horace Drake~~	
18	~~A. Seyfoltowski~~	
	~~George Zeigler~~	

Wm Williams

or

A. L. & M. H. Co.

Paul

Filed June 15/1885

W. B. Taylor
clerk

We the jury find the issues
for the plaintiff on the first
Count of his petition and award
his damages thereon at the
sum of ~~Fifteen~~ — dollars,
And we further find the
issues for the plaintiff on
the second Count of his petition
and award his damages thereon
at the sum of Two + $\frac{50}{100}$ dollars.

W. E. Graves

Foreman

Thomas A Williams
vs.
H. L. I. M. & Co. Reg. Geo.

No.

STATEMENT OF COSTS.

DATE.	ITEMS.	Plaintiff's Costs.	Defendant's Costs.	TOTAL.
	D. B. Veazey Clerk			
	10 files ⁵⁰ / 2 docu ¹⁰ / 2 opus ⁵⁰ / Appr ²⁰ /		1 30	
	Jury ⁷⁵ / 2 verdicts ⁶⁰ / Judgt ⁵⁰ /		1 85	
	docu ¹⁰ / Satisfaction ²⁵ / Fee bill ¹⁰		45	
	Making Costs ²⁵ / Copy ²⁵ / Cert. Copy ¹⁰ /		1 25	
	3 affa to mt claim ¹⁰		15	
				5 00
	E. B. Maupin Shff			
	Serving 4 opus ¹⁰⁰ / 5 calls ²⁵ /			1 25
	F. J. Sherble Justice			
	docu filing & index in		1 10	
	Summons ³⁵ / Statement ³⁵ /		70	
	Judgt ⁵⁰ / Trans. ⁸⁵ / Cert ¹⁵		1 50	3 30
	E. Forreth Constable			
	Summons ³⁰ / 4 miles ²⁰			50
	Jury Regular panel 12 men			12 00
	Witnesses			
	Martin F. Ogle 1 day 12 miles		1 60	
	Frank Vaughn 1 " 12 "		1 60	
	Chris Ruppel Jr 1 " 12 "		1 60	4 80
				26 80

William

as
Railroad Company
m m

Bill of Cost

Filed ~~Sept~~ 4th 1889
of L 2203 Perry
Case

6417

No. Box

Lincoln Court,

County.

Thomas A. Williams

VS

St Louis Iron Mountain
Northern Railway Co.

Cause of Action damages for
wrong doing

Filed December 3rd 1888

A. D. Verney CLERK.

J. A. Green PLAINTIFF'S ATTORNEY.

Geo. W. Benton DEFENDANT'S ATTORNEY.

LIST OF PAPERS IN THIS SUIT.