

DeForsen County Circuit Court
Case File - Civil

Box

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May 1865, No. 35

Burgess, James, Jr., adm
Burgess, Jackson, decd.

vs

St. Louis and Iron Mountain Rail Road

Negligence

Killed one Jack; \$200 damages

James Burgess Jr. Administrator
(with the will annexed) of the
Estate of Jackson W. Burgess
Deceased, Plaintiff

Against
The Saint Louis and Iron
Mountain Rail Road
Company Defendant

In the Jefferson Circuit
Court, May Term 1865

Plaintiff states that Defendant is a duly
incorporated Company under the corporate
name and style of "The Saint Louis and
Iron Mountain Rail Road Company" and
that said Company is the owner of a rail
road leading from St Louis, through Jefferson
County to Pilot Knob in Iron County Mis-
souri.

Plaintiff further states that Jackson Burgess
deceased this life estate on or about the
day of 1864; that Plaintiff took out
letters testamentary, with the will annexed on
the estate of said testate; that he took the
required oath and entered into bond as such
administrator and he is now administering
said estate.

Plaintiff further states that said Defendant

by its agents, servants or employees, on the 14th day of November 1864, at the County of Jefferson Carelessly, wilfully and negligently Killed a young jack, the property of said Estate, by running over and striking said jack with a locomotive or train belonging to said Defendant and at the time under its control, at a point on the line of said rail road when it passes through enclosed or cultivated fields belonging to H. D. Waters, H. L. Brubaker & Copt — & at a point where there is no road crossing; that at the place on said road where said jack was run over and killed as aforesaid, it being in an enclosed field said Company has not erected and maintained nor did it maintain on the 14th day of November 1864, the day ^{on} which said jack was killed, fences on the sides of the said road, the property of said Company, of the height and strength of a division fence required by law, with openings, or gates or horse throw and farm crossings of the road for the use of the proprietors of the adjoining lands.

Plaintiff says said estate of said Estate has ^{been} damaged, by reason of the acts of aforesaid as above set forth, in the sum of Two hundred dollars for which he asks judgment.

John L. Thomas
att. for Plff

James Burgess makes oath that he be-
lieves the above petition and the matters
as therein stated are true.

Sworn to and Sub-
scribed before me James Burgess Jr
this 23 day of March

A.D. 1857

Samuel R. P. Pyck

James Augustus Adams

vs

At Law: & Adam R. Co

Petition for damages

Filed Nov 24th 1865

Oliver F. Moorey Clerk

Shad & Pgs

James Burges Jr. Administrator
with the will annexed of the Estate
of Jackson N. Burges deceased
Plaintiff

Against

The Saint Louis and Iron
Mountain Railroad Com-
pany Defendant.

In the Jefferson Circuit
Court May Term 1865

Plaintiff States that Defendant is a
duly incorporated company, under
the corporate name and style of
"The Saint Louis and Iron Mount-
ain Railroad Company" and that
said company is the owner of a Rail-
road leading from St Louis, through
Jefferson County to Pilot Knob, in
Iron County Missouri

Plaintiff further States, that
Jackson Burges, departed this life
testate, on or about the day of
1864, that Plaintiff took out
letters testamentary with the will an-
nexed, on the Estate of said testate, that
he took the required oath and entered
into bond as such administrator and
he is now administering said Estate

Plaintiff further states that said Defendant by its agents, servants or employees on the 14th day of November 1864 at the County of Jefferson carelessly, wilfully and negligently killed a young Jack, the property of said estate, by running over and striking said Jack with a locomotive or train belonging to said defendant, and at the time, under its control, at a point on the line of said railroad, where it passes through enclosed or cultivated fields belonging to J. W. Waters, H. L. Brolaski & Capt.

+ at a point where there is no road crossing: that at the place on said road, where said Jack was run over and killed as aforesaid, it being in an enclosed field said Company has not erected and maintained, nor, did it maintain on the 14th day of November 1864 the day on which said Jack was killed, fences on the sides of the said road the property of said Company of the height and strength of a division fence as required by law, with openings or gates or bars therein and furrows

Improvement of the road for the use of the
proprietors of the adjoining lands
Plaintiff says said Estate of said
estate has been damaged by reason
of the acts of Defendant as above set forth
in the sum of Two hundred dollars
for which he asks judgment

John L. Thomas
Atty for. Plff.

James Burges makes oath & says that
he believes the above petition and the
matters as therein stated are true
Sworn to and subscribed
before me this 23^d day } James Burges Jr
of March A D 1865 }
Samuel A. Rippy clk.

A true copy of the original pe-
tition and affidavit on file in my
office in said case

Witness my hand and
the seal of said Court this
24th day of March A D,
1865

Elias J. Hooney Clerk
Circuit Court



The State of Missouri, } ss.
COUNTY OF JEFFERSON.

To the Sheriff of the County of Jefferson---Greeting:

We command you, that you summon *The Saint Louis
and Iron Mountain Railroad
Company*

if they be found in your County, that they
be and appear before the Hon. 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 *May*, ~~next~~, then and there to answer unto
*James Burges Jr Admr of Jackson
N. Burges deceased*

upon *his* original petition, a copy whereof is hereunto annexed and ac-
companies 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 *Twenty fourth*
day of *March* A. D. 1865

Elias F. Honey
Clerk Circuit Court.

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TO JEFFERSON CIRCUIT COURT

2449
Sherry Term, 1865

James Burges &
Admr of Jackson
Burgess decd
vs & summons
St Louis & Iron
Mountain Railroad Co

Fletcher Sheriff fees 1.50

Filed March 29 "1865
Elias J. Honey clk.

within Court at the County of Jefferson
Ingram ^{Station} agent at Decoto of
on the 23rd day of March 1865 by
copy of said writ and the annexes
me by the clerk

Chas. Fletcher
Sheriff

James Burgess Jr Administrator
with the will annexed of the Estate
of Jackson N. Burgess deceased - Plaintiff
against

The St Louis and Iron Mountain Rail Road
Company - Defendant

Jefferson County
Circuit Court

May Term 1865

Defendants admit that they are a Corporation
as set forth in the Plaintiffs Petition, but whether on the fourteenth
day of November A.D. 1864 or at any other time, with their Locomotive
or train they ran over and killed "a young Jack" belonging to the
Estate of Jackson N. Burgess deceased, they have no knowledge or information
sufficient to form a belief and therefore leave the Plaintiff to make proof
thereof.

Defendants have no knowledge or information sufficient to form a
belief whether Jackson N. Burgess is deceased, or whether James Burgess
Jr is Administrator upon said Estate with the will annexed, But Defendants
deny, that any such injury as is alleged in the Plaintiffs Petition,
occurred through the willfulness, negligence or carelessness of any of the
servants, agents or employees of said Corporation or that said injury
occurred at any point where the Defendants were by law required
to construct or maintain fences or cattle guards, therefore Defendants
ask to be discharged and for their costs.

Sam'l H. Kellogg Defendants atty

State of Missouri

County of St Louis

Stephen D. Barlow President of the St Louis & Iron Mountain
Rail Road Company makes oath and says that the above petition
and matters therein stated are true

Subscribed and sworn to before me
this 25th day of April A.D. 1865

S. D. Barlow

Luther Babcock Notary Public St Louis County

James Buckley & Co^{rs} &c

Superior

111 N 2nd St Iron Mountain R.R. Co

Deposits Received

Check April 27th 1865

Charles J. Henry

Blank