

Mercer Quarterly Court.

E. N. Ransdell

Plaintiff

-v-

Statement.

Southern Railway Company in Kentucky

Defendant.

The Plaintiff for a statement of facts upon which his cause of action is founded states that the defendant is a corporation under the laws of Kentucky having an office in Mercer County; that it operates and owns a line of railway running from Danville, Ky to Louisville, Ky in part, and keeps and maintains a right of way throughout Mercer County Kentucky.

He states that at a point in Mercer County said right of way crosses the Salvisa and Kirkwood turnpike, and that at this point the defendant has for many years customarily kept and maintained a cattle guard where said right of way strikes the line of the turnpike right of way, and along this line has for many years kept and maintained a fence running from this cattle gap out on each side of the track to the outside edges of the right of way, all of which it is in duty and law bound to do and maintain.

But he says that said cattle gap and the fence running from the cattle gap to the outside edges of the right of way during the months of August and September and for several months prior thereto had been suffered and permitted by the defendant to be and become out of repair and in such a condition as that it could not and would not turn stock and to be incomplete and dangerous and out of repair, all of which was well known to the defendant and to its servants and agents.

He states that on the day of September 1916 his steer calf by reason of the defective conditions and lack of repair of said fencing and cattle gap or guard passed from the said turnpike into and upon the right of way of the defendant where it was run over and killed by one of defendant's trains.