
# Minnesota District Court (Carver County) Civil and criminal case files




Version 3
August 20, 2018

No. 3088

# DISTRICT COURT,

CARVER COUNTY, MINN.

In re the application of Orin C. Maker to vacate a portion of Plat of Minnewashta Lake Lots

Plaintiff.

Defendant.

W. C. Odell

Plaintiff's Attorney.

Defendant's Attorney

Date of Entry Aug. 2nd 1907

Register of Actions D. Page 505

Term Tried 19

Judgement for

Amount of Judgement $

Date of Judgement 19

Judgement Book Page

Default Judgement Book Page

Date of Docketing 19

Herald Publishing Co., Chaska, Minn.

State of Minnesota, County of Carver.
District Court, Eight Judicial District.

In the matter of the application of Orrin C. Meaker to vacate a portion of the Plat known as Plat of Meakers Minnewashta Lake Lots.

To Whom It May Concern:

Notice is hereby given that Orrin C. Meaker has filed with the Clerk of the said above mentioned court a petition reciting therein among other things that on and prior to the 10th day of October 1884 he, said petitioner, was the owner seized in fee and in possession of a tract of land situated in part in the County of Hennepin and in part in the County of Carver in said State, and that on, to-wit, said 10th day of October 1884 he caused the same to be surveyed and platted into blocks and streets as Plat of Meakers Minnewashta Lake Lots, setting forth upon said Plat and naming thereon all thoroughfares and giving the dimensions of all blocks and thoroughfares into which said tract of land was so platted. That said Plat was duly certified by the surveyor who made such survey and said Plat, and the same was duly acknowledged by said petitioner and his wife, Mary H. Meaker, and was duly filed and recorded in the office of the Register of Deeds in and for said County of Carver and duly recorded therein on the 14th day of April 1886.

That upon said Plat as so executed and recorded there is designated a public street or thoroughfare called Lake Street and which extends from the easterly boundary line of the tract so platted westerly across said tract to and connecting with First Avenue, a street designated and marked in said Plat and running in a northerly direction to the north line of the tract of land so surveyed and platted as aforesaid. That said Lake Street is 33 feet in width and is located along the southern boundary line of Blocks 6, 7 and 8 as surveyed and designated upon said Plat and the same has never been opened for public travel. That he, said petitioner, is now the owner seized in fee of all of the tract of land so by him platted into blocks and streets as aforesaid except Blocks No. 1 and 8 thereon and a strip of land lying south of said Block No. 8 and between said Lake Street and the shore of Lake Minnewashta and that he, said petitioner, is the owner and in possession of all of the lands which border upon or are adjacent to said Lake Street except said Block 8 and the strip of land so lying between said Lake Street and said Lake Minnewashta, and that all taxes assessed against said tract so platted by him, said petitioner, as aforesaid have been paid.

And praying the order and judgement of this honorable court vacating so much of said plat as is included within the limits of said street so designated thereon as Lake Street and vacating said Lake Street and terminating the public easement therein and adjudging the title to said Lake Street to be in the persons entitled thereto.

And said petition will be brought on for hearing before said court at a special term thereof to be held at the Court House in the Village of Glencoe in the County of Mc Leod in said State on Tuesday the 3d day of September A. D. 1907 at the opening of court on that day or as soon thereafter as counsel can be heard at which time all persons owning or occupying land that may be affected by the proposed vacation may be heard.

Dated Chaska, Minn., July 31, 1907.

W. C. Odell,
Attorney for Petitioner.

First pub. Aug. 1, 1907.

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Chaska Herald Print

**State of Minnesota,** } ss.
County of Carver

Came personally before me F. E. DuTost and, being duly sworn, deposes and says that he now is, and during all the time hereinafter mentioned has been, the editor and printer of THE WEEKLY VALLEY HERALD, a weekly newspaper printed and published in Chaska in said Carver county on Thursday of each week. That he knows of his own knowledge that the printed notice of To Whom It May Concern hereto attached, cut from the columns of said newspaper, was inserted, printed and published in said newspaper once in each week for Three successive weeks, and that all of said publications were made in the English language. That said notice was first inserted, printed and published in said newspaper on Thursday, the First day of August 1907 and was printed and published therein on each and every Thursday thereafter until and including Thursday the Fifteenth day of August 1907. That during all the time aforesaid said newspaper was a collection of general and local news, comments and miscellaneous literary items, and regularly issued and published on Thursday of each week from a known office of publication, said office being equipped with the necessary materials, presses, etc., and skilled workmen for producing the same, and has consisted of not less than four pages, of five columns or more to each page, each column not less than seventeen and three- fourths inches in length, and never made up wholly of patents, plates and advertisements, or either or any of them, and has not been substantially a duplicate of any other newspaper, and has been regularly delivered each week to more than two hundred and forty paid subcribers, and that said newspaper, composed and consisting as above set forth, was printed and published in the English language weekly, and generally circulated in Carver county for more than one year next preceding the date of the first publication of said notice. That the publishers of said newspaper have filed with the county auditor of said Carver county, an affidavit setting forth the facts required by section 2, chapter 33. of the Laws of the State of Minnesota for the year 1893, and amendments thereto.

F. E. DuTost

Subcribed and sworn to before me this 16th day of Aug. 1907.

Geo. A. DuTost
Notary Public, Carver County, Minn.

Comm. Exp. Oct 13/1913.

# Affidavit of Publication

~~District Court~~
~~County of Carver.~~

No. .....

*In the matter of the ~~Estate of~~ Petition*

of Orin C. Meeker for Vacation of
Plat Minnewaska Lake Lots ~~Deceased.~~

**Filed this**.....**day of**

.....**A. D. 190**.....

.....

**Judge of Probate.**

State of Minnesota
County of McLeod ss.

W. C. Odell being first duly sworn
Says that on the 9th day of August 1907 he
posted a copy of the printed Notice of Hearing
hereto attached, on the bulletin board at the
front door of the Court House in the City of
Chaska, in the County of Carver in said State.

Subscribed and Sworn to
before me this 3rd day of
September A.D. 1907.

W. C. Odell

John Linten
Clerk of Dist Court

W. C. Odell
Attorney for Petitioner
Chaska, Minn

State of Minnesota
County of McLeod ss.

O. C. Meeker being first
duly sworn says that on the 9th day
of August 1907 he posted copies of the
printed Notice of Hearing hereto attached
in two public places in the County of
Carver in said State, that is to say on
Lake Street referred to in said Notice.

Subscribed and Sworn to
before me this 3rd day of
September A.D. 1907

O. C. Meeker

John Linten
Clerk of Dist Court

CARVER COUNTY,
FILED
SEP 9 1907
H. O. Muehlberg Clerk.

(505)

State of Minnesota. District Court.

County of Carver. Eighth Judicial District.

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In the matter of the application of Orrin C. Meaker to vacate a portion of the Plat known as Plat of Meakers Minnewashta Lake Lots.

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To the Honorable:

The District Court of the Eighth Judicial District in and for the County of Carver, State of Minnesota:

Your petitioner, Orrin C. Meaker, respectfully states and shows to the court.

(1) That on and prior to the 10th day of October 1884 your petitioner was the owner seized in fee and in possession of a tract of land embracing 3.25 acres situated in Section 33 of Township 117 Range 23 lying and being in the County of Hennepin in said State and 16.50 acres situated in Lot 1 of Section 4 and 8.50 acres situated in Lot 2 of Section 5, of Township 116, Range 23, lying and being in the County of Carver in said State.

(2) That being so the owner of said tract of land your petitioner on, to-wit, said 10th day of October 1884 caused the same to be surveyed and platted into blocks and streets as Plat of Meakers Minnewashta Lake Lots, setting forth upon said Plat and naming thereon all thoroughfares and giving the dimensions of all blocks and thoroughfares into which said tract of land was so platted.

(3) That said Plat was duly certified by the surveyor who made such survey and said Plat, and the same was duly acknowledged by your petitioner and his wife, Mary H. Meaker, and was duly filed for record in the office of the Register of Deeds in and for said County of Carver and duly recorded therein on the 14th day of April 1886.

(4) That upon said Plat as so executed and recorded there is designated a public street or thoroughfare called Lake Street and which extends from the easterly boundary line of the tract so platted

westerly across said tract to and connecting with First Avenue, a street designated and marked upon said Plat and running in a northerly direction to the north line of the tract of land so surveyed and platted as aforesaid. That said Lake Street is 33 feet in width and is located along the southern boundary line of Blocks 6, 7 and 8 as surveyed and designated upon said Plat and the same has never been opened for public travel.

)5) That your petitioner is now the owner seized in fee of all of the tract of land so by him platted into blocks and streets as aforesaid except blocks numbered 1 and 8 thereon and a strip of land lying south of said Block No. 8 and between said Lake Street and the shore of Lake Minnewashta, and your petitioner is the owner and in possession of all of the lands which border upon or are adjacent to said Lake Street except said Block 8 and the strip of land so lying between said Lake Street and Lake Minnewashta, and all taxes assessed against said tract so platted by your petitioner as aforesaid have been paid.

Wherefore your petitioner prays the order and judgment of this honorable court vacating so much of said Plat as is included within the limits of said street so designated thereon as Lake Street and vacating said Lake Street and terminating the public easement therein and adjudging the title to said Lake Street to be in the persons entitled thereto. And your petitioner will ever pray etc.

Orrin C. Meaker

Petitioner.

W. C. Odell

Attorney for Petitioner.

Chaska, Minn.

State of Minnesota. SS.
County of Hennepin.

Orrin C. Meaker being first duly sworn says that he is the petitioner named in the foregoing application: that he has heard the same read and knows the contents thereof and that the same is true of his own knowledge, except as to matters therein stated on information

and belief and as to such matters he believes it to be true.

Subscribed and Sworn to before me

This 31 day of July A. D. 1907.

Geo A Erickson

Notary Public Hennepin Co.
Excelsior, Minnesota.

My commission expires July 3, 1909

District Court
County of Carver.

In re. The application of
Orrin C. Meaker to vacate
a portion of Plat of Meakers
Minnewashta Lake Lots.

Petition
ORIGINAL.

to be filed.

CARVER COUNTY.
FILED
AUG 2 1907
H. O. Muehlberg
(5 5)

W. C. Odell
Attorney for Petitioner
Chaska, Minn.

State of Minnesota. District Court.

County of Carver. Eighth Judicial District.

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In the matter of the application of Orrin C. Meaker to vacate a portion of the Plat known as Plat of Meakers Minnewashta Lake Lots.

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To Whom It May Concern:

Notice is hereby given that Orrin C. Meaker has filed with the Clerk of said above mentioned court a petition reciting therein among other things that on and prior to the 10th day of October 1884 he, said petitioner, was the owner seized in fee and in possession of a tract of land situated in part in the County of Hennepin and in part in the County of Carver in said State, and that on, to-wit, said 10th day of October 1884 he caused the same to be surveyed and platted into blocks and streets as Plat of Meakers Minnewashta Lake Lots, setting forth upon said Plat and naming thereon all thoroughfares and giving the dimensions of all blocks and thoroughfares into which said tract of land was so platted. That said Plat was duly certified by the surveyor who made such survey and said Plat, and the same was duly acknowledged by said petitioner and his wife, Mary H. Meaker, and was duly filed and recorded in the office of the Register of Deeds in and for said County of Carver and duly recorded therein on the 14th day of April 1886.

That upon said Plat as so executed and recorded there is designated a public street or thoroughfare called Lake Street and which extends from the easterly boundary line of the tract so platted westerly across said tract to and connecting with First Avenue, a street designated and marked in said Plat and running in a northerly direction to the north line of the tract of land so surveyed and platted as aforesaid. That said Lake Street is 33 feet in width and is located along the southern boundary line of Blocks 6, 7 and 8 as surveyed and designated upon said Plat and the same

has never been opened for public travel. That he, said petitioner, is now the owner seized in fee of all of the tract of land so by him platted into blocks and streets as aforesaid, except Blocks No. 1 and 8 thereon, and a strip of land lying south of said Block No. 8 and between said Lake Street and the shore of Lake Minnewashta and that he, said petitioner, is the owner and in possession of all of the lands which border upon or are adjacent to said Lake Street except said Block 8 and the strip of land so lying between said Lake Street and said Lake Minnewashta, and that all taxes assessed against said tract so platted by him, said petitioner, as aforesaid have been paid.

And praying the order and judgment of this honorable court vacating so much of said Plat as is included within the limits of said street so designated thereon as Lake Street and vacating said Lake Street and terminating the public easement therein and adjudging the title to said Lake Street to be in the persons entitled thereto.

And said petition will be brought on for hearing before said court at a special term thereof to be held at the Court House in the Village of Glencoe in the County of Mc Leod in said State on Tuesday the 3d day of September A. D. 1907 at the opening of court on that day or as soon thereafter as counsel can be heard at which time all persons owning or occupying land that may be affected by the proposed vacation may be heard.

Dated Chaska, Minn., July 31, 1907. W. E. Lovell

Attorney for Petitioner.

District Court
County of Carver.

In re. The application of Orrin C. Meaker to vacate a portion of Plat of Meakers Minnewaska Lake Lots

Notice of Application,

**ORIGINAL.**

CARVER COUNTY,
FILED
SEP 9 1907
H. O. Muehlberg Clerk.

(505)

W. E. Lovell
Attorney for Petitioner
Chaska, Minn.

3089

No. 5.

# DISTRICT COURT

CARVER COUNTY, MINNESOTA

Alma Radde
*Plaintiff*

vs.

Edward Radde
*Defendant*

S. R. Child & Benj Drake
*Plaintiff's Atty.*

W. C. Odell.
*Defendant's Atty.*

Date of Entry Aug. 21st 1907

Register of Actions, D. Page 506.

Term Tried ..... 190..

Judgment for .....

Amount of Judgment, $ .....

Date of Judgment ..... 190..

Judgment Book ..... Page .....

Default Judgment Book ..... Page .....

Date of Docketing ..... 190..

STATE OF MINNESOTA :
COUNTY OF CARVER ::

DISTRICT COURT.
EIGHTH JUDICIAL DISTRICT.

Alma Radde, Plaintiff,

-vs-

Edward Radde, Defendant.

.....

Plaintiff for a complaint against defendant alleges:

1. That the plaintiff's age Alma Radde, is thirty-three years, and that the age of defendant Edward Radde is 30 years.

2. That plaintiff and defendant are husband and wife and were married to each other at Waconia, in said county, on the 6th day of February, 1902.

3. That plaintiff is a resident of this state and has resided therein continuously for more than one year immediately preceding the exhibiting of this complaint.

4. That defendant has been in a state of habitual drunkenness for a space of one year immediately preceding the filing of this complaint.

II.

For a second cause of action, plaintiff re-alleges all the facts set forth in paragraphs 1,2,3 and 4 of this complaint.

2. That since two months subsequent to the marriage of plaintiff and defendant, defendant has treated plaintiffin a cruel and inhuman manner.

3. That within two months after said marriage as aforesaid, defendant began to strike plaintiff and pull her hair and pinch her arm and otherwise abuse and mistreat plaintiff, and that such treatment kept up from the time of the commencement of such abuse as aforesaid.

4. That plaintiff during the most of the time since their marriage, has been a habitual drunkard and has been in the habit of getting drunk and when so drunk, he has abused plaintiff by striking her and throwing her on the floor, pulling her hair and tearing off her clothes and otherwise abusing and mistreating plaintiff.

5. That on the 15th day of June, 1907, plaintiff came home drunk in the middle of the day and without cause or provocation, pulled plaintiff's hair, threw her down on the floor, stood plaintiff on her head and threatened to brain plaintiff with a stove lid, and that plaintiff was thereby rendered sore, sick and lame, and thereby suffered great bodily pain.

6. That on the 19th day of June, 1907, plaintiff came home in the night time drunk and without cause or provocation, came to plaintiff's room, pulled her hair, choked her, pinched her arms until they were black and blue and threatener to and tried to throw plaintiff out of the second story window, and that plaintiff thereby suffered great bodily and mental pain and anguish and was rendered sore, sick and lame.

7. That when plaintiff is drunk, he is ugly and abusive and strikes and abuses plaintiff as aforesaid and calls her vile and abusive names and epithets.

8. That there are living of the issue of said marriage, three children named Edward aged four years, Alton, aged two years and Howard aged nine months.

9. That the moral character of defendant is bad and such as to render him unfit to have the custody of said children and that defendant has no proper home for said children.

WHEREFORE Plaintiff demands judgment:

1. Dissolving the marriage relation of plaintiff and defendant.

2. Awarding the custody of the minor children of said marriage to plaintiff.

3. Awarding to plaintiff such alimony as to the court may seem just.

5. For the costs and disbursements of this action.

Plaintiff's Attorneys,
816 Lumber Exchange,
Minneapolis, Minn.

STATE OF MINNESOTA :
COUNTY OF HENNEPIN :SS.

Alma Radde being duly sworn says; that she is the plaintiff in the above entitled action: that the foregoing pleading is true of her own knowledge, except as to those matters stated on his information and belief, and as to those matters, she believes them to be true.

Subscribed and sworn to before me this 26th day of June, 1907.

Alma Radde

Notary Public, Hennepin County, Minn.
My commission expires Dec. 6th, 1907

STATE OF MINNESOTA :
:
COUNTY OF CARVER :

DISTRICT COURT.

FOURTH JUDICIAL DISTRICT.

Alma Radde, Plaintiff,

-vs-

Edward Radde, Defendant.

.....

The STATE OF MINNESOTA, To the above named Defendant :

You are hereby summoned and required to answer the complaint of the Plaintiff in the above entitled action, which complaint is hereto annexed and herewith served upon you, and to serve a copy of your answer to said complaint on the subscribers, at their office, in the City of Minneapolis in the County of Hennepin, within THIRTY ~~twenty~~ days after the service of this Summons upon you, exclusive of the day of such service, and if you fail to answer the said complaint within the time aforesaid, the Plaintiff in this action will ~~take judgment against you for the sum of~~ apply to the relief demanded in said complaint and for her costs and disbursements herein.

R. Ched Berry Doke

Attorneys for Plaintiff,

816 Lumber Exchange,

Minneapolis, Minn.

STATE OF MINNESOTA.

COUNTY OF CARVER.

.....

DISTRICT COURT.

.....

Alma Radde,

-vs-

Edward Radde.

.....

SUMMONS & COMPLAINT.

.....

CARVER COUNTY,
FILED
AUG21 1907
H.O. Muehlberg, Clerk
(506)

State of Minnesota, )
County of Carver. )
---------- )

(IN DISTRICT COURT.
(8th Judicial District.
(----------

Alma Radde,
Plaintiff.
-vs-
Edward Radde,
Defendant.
---------- )

At a Special Term of said Court duly held in and for Carver County, at Chaska, on the 9th day of July, A.D. 1907, the plaintiff, in the above entitled action, moved the court for an order directing the defend ant therein, to pay plaintiff's attorneys fees, temporary alimony during the pendency of said action sufficient for the support of the children named in the complaint and for suit money to enable the plaintiff to procure the attendance of witnesses at the trial of said cause.

Plaintiff further moved the court for an order restraining the defendant from disposing of 8 cows and 4 horses which have been in the possession of the plaintiff and the defendant on said farm whereon they have resided, or any interest therein, also any interest in the lease of the two farms leased in the name of the defendant or any crops growing thereon.

At said time and place said plaintiff further moved the court for an order to restrain defendant from visiting the plaintiff or in any manner interfering with her.

Said motion was made upon affidavits and the complaint of the plaintiff and upon the grounds stated in said notice of motion.

S.R. Child & Benj. Drake, appeared as attorneys of record for the plaintiff, in support of said motion.

W.C. Odell Esq; appeared as Counsel for the defendant in and in opposition to said motion.

After hearing the arguments of Counsel and giving all matters and things involved in said cause due consideration,

IT IS ORDERED:

1. That the said motion of the plaintiff for attorney's fees, alimony and suit money be, and the same hereby is denied, for the reason that there is nothing in the moving papers to enable the court to determine the value of the attorneys fees or that there are any witnesses that she desires to have in attendance at court, or what amount is reasonably necessary for the support of the plaintiff and her children during the pendency of said action or that she has not sufficient means to support herself.

2. That the motion of the plaintiff for an order restraining the defendant from disposing of the property and his interest in the lease mentioned in said notice of motion be, and the same hereby is granted.

3. That the motion of the plaintiff for an order restraining the defendant from visiting his wife be, and the same hereby is denied.

Dated at Norwood, Minnesota, this 3rd day of September, 1907.

C. L. Willcuts
Judge of said Court.

Filed Nov 7 1907
Geo. H. Cross
Co. Auditor
Carver County
Minn.

State of Minnesota.
County of Carver.

Alice Wade.
Plaintiff.
-vs-
Edward Wade.
Defendant.

Order

(In District Court.
8th Judicial District.

CARVER COUNTY
FILED
Sep 4 1907
H. O. Mueller, Clerk

(976)

At a Special Term of said Court duly held in and for Carver County, at Chaska, on the 4th day of July, A.D. 1907, the plaintiff, in the above entitled action, moved the court for an order directing the defendant herein, to pay plaintiff's attorneys fees, temporary alimony during the pendency of said action sufficient for the support of the children named in the complaint and for suit money to enable the plaintiff to procure the attendance of witnesses at the trial of said cause.

Plaintiff further moved the court for an order restraining the defendant from disposing of 8 cows and 4 horses which have been in the possession of the plaintiff and the defendant on said farm wherein they have resided, or any interest therein, also any interest in the lease of the two farms leased in the name of the defendant or any crops growing thereon.

At said time and place said plaintiff further moved the court for an order to restrain defendant from visiting the plaintiff or in any manner interfering with her.

Said motion was made upon affidavits and the complaint of the plaintiff and upon the grounds stated in said notice of motion.

E.E. Smith & Bert Lewis appeared as attorneys of record

State of Minnesota. District Court.
County of Carver. Eighth Judicial District.

---

Alma Radde,

Plaintiff.

-vs-

Edward Radde,

Defendant.

---

Memorandum Brief of Defendant.

I.

The plaintiff asks for a divorce in this action upon two grounds:

(a) Habitual drunkenness for a period of one year immediately preceding he filing of the complaint.

(b) Cruel and inhuman treatment.

I will discuss the different grounds separately, and first as to the allegations of habitual drunkenness.

As to this cause of action the proof utterly fails to show such a state of facts as would warrant the court in granting any relief whatever to the plaintiff.

To entitle the party to a divorce upon the ground of habitual drunkenness the statute requires that the condition must have existed for a period of one year "immediately preceding the filing of the complaint", and by the language "immediately preceding the filing of the complaint" is meant a full year next before the commencement of the action.

Stocking vs Stocking 76 Minn. 292.

In this case the testimony does not show that defendant was under the influence of intoxicating liquors to exceed three times during the year 1907, and the plaintiff herself testified that the defendant "swore off" as she expressed it for two or three months at a time and upon one occasion for a period of about one year, and that he "swore off" and refrained from indulgence in intoxicating liquors upon two different occasions during the year immediately preceding the

commencement of the action, while defendant testified, and his testimony was uncontradicted, that he did not touch liquors for a period of more than eight months during the year.

Such being the evidence the plaintiff failed to show facts constituting habitual drunkenness, within the meaning of the statute.

But the evidence as to the intoxication of the defendant falls far short of establishing habitual drunkenness. To give to this evidence its greatest weight it establishes simply that defendant occasionally indulged in intoxicating liquors to excess. That does not, however, constitute habitual drunkenness. To constitute habitual drunkenness the habit of becoming intoxicated must be persistent and such as to show the existence of a confirmed habit of indulging in liquors to excess and an inability to control the appetite. Occasional indulgence in intoxicating liquors is not sufficient to establish the offense.

14 Cyc 622.

II.

As to the charge of cruel and inhuman treatment.

I do not care to enter upon an extended discussion of the evidence touching this cause of action and shall refer to it but briefly. There are two specific acts of cruel treatment charged in the complaint. The one alleged to have been committed on the 15th day of June 1907 and the other on the 19th day of the same month. Upon the trial evidence was received tending to show similar acts of cruelty committed by the defendant at other times during the married life of the parties, and as my notes show the plaintiff testified to eight isolated instances of what she termed was cruel or improper treatment of her by the defendant during the year 1903 and down to the fall of 1906. Evidence as to the specific acts of cruelty which were not pleaded was properly received for the purpose of characterizing the acts which were pleaded but not as furnishing grounds for a divorce. The plaintiff must rely upon those acts which are alleged in her complaint as the substantive ground of her application and cannot recover because of cruel acts shown by the evidence but not pleaded.

Segelbaum vs Segelbaum 39 Minn. 260.

Westphal vs Westphal 81 Minn. 242.

The case then narrows itself down to the question as to whether the court would be justified in granting the plaintiff a divorce for the conduct of the defendant on the 15th and 19th days of June 1907, when taken in connection with the entire course of treatment of the defendant by the plaintiff as shown by the evidence. I think that I am warranted in claiming that the evidence shows conclusively that each and every act of cruelty or unkindness on the part of the defendant was occasioned by the conduct of the plaintiff. Over and over again upon the trial the plaintiff admitted that when the defendant came home under the influence of intoxicating liquors she invariably taunted and scolded him and excited his anger, and that whatever he did upon either of such occasions was the result of the condition of mind which the plaintiff's donduct had occasioned.

And the rule is well settled that if the defendant's cruelty is the natural and probable consequence of matrimonial ill-conduct in the plaintiff the divorce will not be granted. A wife's remedy in such a case is in her own power. She has only to change her conduct; otherwise the wife would have nothing to do but to misconduct herself, provoke the ill treatment, and then complain.

1 Bishop on Marriage and Divorce 765.
Segelbaum vs Segelbaum Supra.
Haver vs Haver 118 N.W. 382.

Divorce is a remedy for the innocent as against the guilty, and will not be granted where both parties are at fault.

14 Cyc 648.

I respectfully submit that upon the whole case the plaintiff is entitled to no relief and that her action should be dismissed.

W. C. Odell

Attorney for Defendant.

For a valuable consideration to me in hand paid by Herman Luedloff, I, Rudoolph Luedloff hereby sell, assign, transfer and set over to Herman Luedloff, all monies due and owing me from Edward Radde for and on account of certain personal property sold and delivered to said Radde in the year of 1906, for and on account of money loaned by me to said Radde in the year of 1906, and for all other rights of action whatever.

Dated June 26th, 1907.

Rudolph Luedloff

State of Minnesota
County of Carver
District Court

F. W. Radde } Plaintiff
vs.
Herman Ludloff. } Defendant.

It is hereby stipulated and agreed by and between the Plaintiff and Defendant in the above entitled action, that said action be and the same is hereby dismissed without costs, except that the defendant is to pay the sheriff's fees in said action, and it is agreed that the title to said property replevined is in the plaintiff as mortgagee and he is entitled to the possession thereof.

Dated Sept 30 1907.

F. W. Radde
Herman Ludloff

Dist. Court
Carver County.

F. W. Rocken Plff
vs
Herman Lieg Deft

Stipulation

Defts Ex G

CARVER COUNTY.
FILED
OCT 2 1907
H. O. Muehlberg Clerk

(506)

For a valuable consideration to me in hand paid, by Herman Luedloff, I Otto Luedloff, hereby sell, assignin, transfer and set over to Herman Luedloff, all monies due and owing me from Edward Radde for and on account of the threshing of wheat and oats, in the year of 1906, and for and on account of oats sold and delivered by me to said Radde in the year of 1906, and all other rights of action existing in favor of me for any cause whatsoever.

Dated June 26th, 1907.

Otto Luedloff

268 - Bill of Sale.

WALTER S. BOOTH & SON, TOWNSHIP AND LAW BLANK PUBLISHERS, MINNEAPOLIS, MINN.

**KNOW ALL MEN BY THESE PRESENTS;** That Ed Radde of the County of Carver and State of party of the first part, in consideration of the sum of One thousand 1000.00 DOLLARS, to him in hand paid by F W Radde of the County of Carver and State of Minnesota, party of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey unto the said party of the second part, his executors, administrators and assigns, forever, the following described Goods, Chattels and Personal Property, to-wit:

One mare Color bay 16 years old, one mare color black 12 years old Three sows with pigs one cow color red and white 7 years old one cow color white 7 years old one McCormick binder one McCormick mower one hayrake, one cultivator riding One hand plow One lumber wagon complete with box one single buggy one wooden drag, one steel drag, Two hayracks, one hay Tedder 2 sets of heavy working harness, one set of single harness, all the crop of every name and nature raised one the Bery and Born farm recently leased to Ed Radde according to a lease on file and of record in the Town Clerks office of Dahlgren Town Carver Co. Minn.

*TO HAVE AND TO HOLD THE SAME, Unto the said party of the second part, his executors, administrators and assigns, Forever. And the said party of the first part, for himself, his heirs, executors and administrators, covenant and agree to and with the said party of the second part, his executors, administrators and assigns, to Warrant and Defend the Sale of the said Goods, Chattels and Personal Property hereby made, unto the said party of the second part, his executors, administrators and assigns, against all and every person and persons whomsoever, lawfully claiming or to claim the same.*

*IN TESTIMONY WHEREOF, The said party of the first part ha hereunto set my hand and seal this 24th day of June 1907*

**Signed, Sealed and Delivered in Presence of**

Wm Meerwissen

C. Jorrissen

Ed. Radde (Seal)

(Seal)

(Seal)

(Seal)

**State of Minnesota,**

County of Carver } ss.
Town of Benton

On this 24th day of June A. D. 1907., before me, a Notary Public within and for said County, personally appeared Ed A Radde

to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Notary Seal

Wm Meuwissen
Notary Public
My Com. Expires Mar 14, 1909

#254

# BILL OF SALE

—FROM—

Ed Radde

—TO—

F W Radde

Filed in my office
this 24th day of June
1907 at 6 o'clock P.M.
F Miesler
Town Clerk of
Dahlgren

12310000

State of Minnesota
County of Carver } ss.
Town of Dahlgren

I hereby certify that
the within is a true copy
of the original Bill of sale
on file in my office
F. Miesler
Town Clerk of
Dahlgren

(506)

Compared

$198.62

Cologne Minn. 6/28. 1907.

Received from Edward Radde
One hundred and ninety eight and 62/100 dollars
in full for all claims as hereto attached.
including claim of Otto Sundeloff and R. Sundeloff
as per assignment hereto attached.

Signed in presence of
Wm Emmerich
F. W. Radde

Herman Sundloff

(506)

[illegible]

State of Minnesota. District Court.

County of Carver. Eighth Judicial District.

-;--------

Alma Radde,

Plaintiff.

-vs-

Edward Radde,

Defendant.

State of Minnesota.
SS.
County of Carver.

Said defendant for his answer in the above entitled action respectfully states and shows to the court.

(1) He admits that plaintiff and defendant were married at the time and place stated in the complaint and that they now are husband and wife; that plaintiff and defendant are aged respectively as in said complaint stated and that there are 3 children living, the issue of said marriage, whose names and ages are as in said complaint stated.

(2) He admits that plaintiff is a resident of this State and has resided therein continuously for more than one year immediately preceding the exhibiting of her complaint.

(3) And save as so admitted said defendant denies the complaint and each and every allegation thereof. Wherefore defendant demands judgment that plaintiff take nothing by this action and that he be hence dismissed.

W. C. Powell

Defendant's Attorney.

Chaska, Minn.

State of Minnesota,

County of Carver } ss.

Edward Radde being first duly sworn upon oath says that he is ——— the defendant in the foregoing within entitled action; that he has heard read the foregoing Answer that the same is true ——— of his own knowledge, except as to matters therein stated on information and belief, and as to such matters he believes it to be true, ~~to the best of his knowledge, information and belief, and that the reason why this verification is not made by the ——— herein is that said ——— is absent from this County wherein resides this affiant, his attorney.~~

Edward Radde.

Subscribed and sworn to before me this 8th day of July 1907

NOTARIAL SEAL

My Commission Expires Dec. 31st, 1912.

Jacob D. Kramer

Notary Public Carver County, Minnesota.

State of Minnesota,

County of ——— } ss. ——— Court,

———

———

against Plaintiff.

SUMMONS.

State of Minnesota,

County of Carver.

District Court.

Alma Radde
Plaintiff,

vs.

Edward Radde,
Defendant.

Answer.

Due and personal service of the within Answer admitted this 8 day of July 1907

[illegible]

Attorney for Plff & Dft

CARVER COUNTY,
FILED
SEP 4 1907
H. O. Muehlberg Clerk

W. C. Odell
Attorney for Defendant.

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(506)

State of Minnesota, } ss.

County of ..... being first duly sworn upon oath deposes and says that at the ..... in said County and State, on the ..... day of ..... 19..., he served the within ..... upon ..... the ..... therein named, personally, by ..... leaving with said ..... at the house of the usual abode of said ..... with ....., a person of suitable age and discretion, then resident therein, a true and correct copy of said ..... ....., that said ..... is to affiant well known to be the same

259¾—Chattel Mortgage.

WALTER S. BOOTH & SON, TOWNSHIP AND LAW BLANK PUBLISHERS, MINNEAPOLIS, MINN.

**Know all Men by these Presents,** That I, Edward Radde

by occupation Farmer of Cologne County of Carver in the

State of Minnesota, for the purpose of securing the payment of One Hundred Eighty dollars

Dollars and interest according to the conditions of one promissory note viz:

One note, date March 7 190 7, for $ 180.00 due March 7 190 8

One note, date 190, for $ due 190

One note, date 190, for $ due 190

One note, date 190, for $ due 190

hereby sell and mortgage unto of

assigns, the following described property, now in my possession, owned by me and free from incumbrance, to-wit:

One grey mare 11 years old, one grey mare 9 years old, one black cow, one black & white cow, One red Cow, one red cow, one red cow, one red cow

PROVIDED, That if the undersigned shall pay the said debt, according to the said note , then this mortgage shall be void. And it is hereby agreed that if shall be made in the payment of said debt or any part thereof, or if any attempt be made to remove or dispose of said property, or if at any time the said The Bank of Cologne shall deem the said debt unsafe or insecure hereby authorized, either by himself or agent, to enter upon the premises where the said property may be and remove and sell the same at public sale, with notice as provided by law, and without demand of performance, and out of the proceeds retain the amount then owing on said debt, with expenses attending the same, including $ 25.00 Dollars attorney's fees, rendering to the undersigned the surplus, after the whole of said debt shall have been paid, with charges aforesaid; said attorney's fees and expenses shall become absolutely due and payable whenever foreclosure hereof is commenced, and the delivery of this mortgage to any party with the intent to have the same foreclosed, shall be understood and construed to be a commencement of foreclosure.

WITNESS my hand and seal this 7 day of March 190 7

PRESENCE OF Bertha B. Bell — Edward Radde [SEAL]

Geo. J. Bell — [SEAL]

Geo. J. Bell

**State of Minnesota,**

County of Carver } ss.

*On this* 7th *day of* March *A. D. 190*7*., before me, a* Notary Public *within and for said County, personally appeared* Edward Radde

*to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as* his *free act and deed.*

Geo. J. Bell

Notary Public Carver Co.

#248 Copy

# CHATTEL MORTGAGE

No. 248

Edward Radke

—TO—

State Bank of Cologne

STATE OF MINNESOTA,
COUNTY OF Carver } ss.
Town of Dahlgren

I hereby certify that the within Instrument was filed in this office for record on the 9th day of Mar A. D. 1907, at 1 o'clock P. M., and was duly entered in Chattel Mortgage Index Book 1 on page 54

G. Meissler Jr.
Town Clerk

STATE OF MINNESOTA,
COUNTY OF Carver } ss.
Town of Dahlgren

I hereby certify that I have compared the within Instrument with the original Instrument No. 248 now on file in my office, and that it is a true and correct copy of the same, and of the whole thereof, and that the above is a true copy of the filing thereon.

Dated Mar 9th 1907

G. Meissler Jr.
Town Clerk

4-02-5000

(506)

STATE OF MINNESOTA :
:
COUNTY OF CARVER :

DISTRICT COURT.

EIGHTH JUDICIAL DISTRICT.

Alma Radde, Plaintiff,

-vs-

Edward Radde, Defendant.

NOTICE OF MOTION.

.....

To The above named defendant:

Take NOTICE: That on the pleadings that are herewith served upon you and on the affidavits of which copies are herewith served upon you, the defendant will move said court at chambers at Norwood, Minnesota, on the 8th day of July, 1907, at one o'clock P.M., for an order directing defendant to pay plaintiff attorney's fees herein, temporary alimony during the pendency of this action and sufficient for the support of the children named in the complaint and for suit money to enable plaintiff to obtain the attendance of witnesses upon the trial of said cause.

Plaintiff will further move said court for an order restraining defendant from disposing of eight cows and four horses which have been in the possession of plaintiff and defendant on the farm whereon they have resided, or any interest therein, also any interest in the lease of the two farms leased in the name of defendant or any crops growing thereon.

Plaintiff will further move said court to restrain defendant from visiting plaintiff or in any manner interfering with her.

Said motion will be made and upon said affidavits and complaint upon the ground that plaintiff has begun an action against defendant for divorce, and that plaintiff is attempting to and has threatened to dispose of all of his property and on the ground that temporary alimony , witness fees and suit money are necessary for her support during the pendency of this action and for the prosecution of said action

S.R.CHILD & BENJ. DRAKE,

Attorneys for Plaintiff,

816 Lumber Exhange,
Minneapolis, Minn.

Upon the affidavit hereto attached and the verified complaint herein, it is hereby ORDERED that the defendant show cause before this court at the time and place named in the foregoing notice of motion, why said motion should not be granted.

Until the hearing of said motion and the further order of the court, defendant Edward Radde is hereby enjoined and restrained from disposing of the 8 cows, four horses, five hogs, crops on land leased to him or the leases for the same or any part thereof and is hereby restrained and enjoined from visiting or in any way interfering with plaintiff and from taking or interfering with ~~plaintiff and from taking or interfering with~~ plaintiff and defendant's children.

Let a copy of this order be served upon defendant in the same manner as is required for the service of a summons.

Dated, Norwood, Minn. June 27 1907.

P W Morrison

DISTRICT JUDGE.

STATE OF MINNESOTA :
:SS.
COUNTY OF HENNEPIN :

Alma Radde being first duly sworn says:

that she is the plaintiff in the above action: that plaintiff and defendant rented two farms in the Town of Dahlgren, for the season of 1907, the leases of which were taken in the name of defendant: that one of said farms have been sowed with wheat, oats, barley, potatoes, and thirty acres of corn: that plaintiff in addition to taking care of their three children, assisted in planting and sowing the crops upon said farms, and in plowing and harrowing the same, and paid herself all of the money, $25.00 that has been paid upon the rent of said premises: that defendant left plaintiff and the house wherein plaintiff and defendant were living, the 19th day of June, 1907, without any means of support or help and without letting plaintiff know where defendant was going and plaintiff has been obliged to take care of the stock upon said farm, consisting of eight head of milk cows, and four horses, five hogs: that notwithstanding defendant's absenting himself as aforesaid, he has, as affiant is informed and believes, been during the time of his absence, up to June 22nd, lurking about the premises and the house wherein plaintiff and defendant lived and affiant was afraid to live alone in said house and was afraid that defendant was planning serious injury to her and has removed to her brother's house and taken her children with her: that she is afraid of defendant and fears that he will come to do her bodily harm and fears that he will take away from plaintiff said children as he has threatened to do: Affiant further says: that since their marriage, plaintiff has paid into the family and for the family's support, and for the property consisting of said cows and horses together with the property that went to purchase the same, $800.00 which she received from her father's estate: that said eight cows were purchased by her money and the proceeds thereof and claims that the crops ~~and~~ growing upon said farms belongs to her equally with defendant: that affiant has no money or means of support other than as above referred to and affiant asks the order of this court restraining defendant from selling or disposing of

Affiant further says that when defendant left the premises as aforesaid with the care of the stock, she was unable to care for the same and placed said four horses in the care of affiant's brother, Herman Luedloff and that F.W.Radde, brother of defendant now claims to own said four horses and has replevied the same and has taken the same from the care and custody of said Herman Luedloff. That defendant has no property of substantial amount other than above specified and affiant believes that unless restrained by order of the court, defendant will dispose of all of said property for the purposes of depriving plaintiff from any interest therein. Affiant further asks the order of this court restraining defendant from selling or disposing of said eight cows and horses or hogs or any thereof, and from selling and disposing of said crops or said leases. Affiant further asks the order of this court restraining defendant from visiting this affiant or in any manner interfering with her, and from taking said children or interfering with them till the further order of this court.

Affiant further asks for such temporary alimony for her own and children's support, attorney's fees and suit money as to this court will seem right and proper.

Subscribed and sworn to before me

this 26th day of June, 1907.

E. M. CHILD,

Notary Public,Hennepin County, Minn.

ALMA RADDE.

My commission expires Dec. 6th, 1907.

(L.S.)

Copy

District Court
~~Hennepin County~~
CARVER COUNTY.

Alma Radde,

-vs-

Edward Radde.

NOTICE OF MOTION AND
RESTRAINING ORDER.

6/28/07

CARVER COUNTY,
FILED
SEP 4 1907
H. O. Muehlberg, Clerk.

S. R. CHILD AND BENJ. DRAKE, JR.
ATTORNEYS AT LAW
635 TO 637 LUMBER EXCHANGE
MINNEAPOLIS, MINN.

(506)

Form No. 62. 2M-1-4-06.

# COURT.

(NOTE—Write FIRM name in title. Write NAMES of both Plaintiff's and Defendant's Attorneys.)

No. .....

## District Court,

CARVER COUNTY.
~~HENNEPIN COUNTY~~.

Alma Radde,

AGAINST

Edward Radde.

# NOTE OF ISSUE.

S.R.CHILD & BENJ.DRAKE, Attorney for Plaintiff.

W.C.Odell, Attorney for Defendant.

*Will the clerk please file this note of issue and enter the cause on the* General *Term Calendar of said Court for the* 30th *day of* Sept. *190*7.

*Yours, etc.,*

S.R.CHILD & BENJ.DRAKE,

*Attorney for* plaintiff.

**LAST PLEADING SERVED.**

July 8th, 1907.

(506)

CARVER COUNTY,
FILED
AUG 16 1907
H. O. Muehlberg Clerk.

State of Minnesota.
County of Carver.

District Court.
Eighth Judicial District.

-:--------

Alma Radde,

Plaintiff.

-vs-

Edward Radde,

Defendant.

State of Minnesota.
County of Carver. SS.

Said defendant for his answer in the above entitled action respectfully states and shows to the court.

(1) He admits that plaintiff and defendant were married at the time and place stated in the complaint and that they now are husband and wife; that plaintiff and defendant are aged respectively as in said complaint stated and that there are 2 children living, the issue of said marriage, whose names and ages are as in said complaint stated.

(2) He admits that plaintiff is a resident of this State and has resided therein continuously for more than one year immediately preceding the exhibiting of her complaint.

(3) And save as so admitted said defendant denies the complaint and each and every allegation thereof. Wherefore defendant demands judgment that plaintiff take nothing by this action and that he be hence dismissed.

W. G. Dunell
Defendant's Attorney.
Chaska, Minn.

State of Minnesota
County of Carver District Court

Alma Radde Plaintiff
against
Eduard Radde Defendant.

State of Minnesota,
County of Carver } Alma Radde being duly sworn says that she is the ~~plaintiff~~ plaintiff herein: That she has read the affidavit of defendant in opposition to affiants application for temporary alimony and for an injunction and for other purposes herein:

That at the time defendant left home June 19th as stated in affiants affidavit in chief he did not inform affiant where he was going, and defendant was then drunk and had been for four days prior thereto and was morose and ugly. That defendant not having returned home by the June 21st and having taken a team of horses with him when he went away, affiant on the 21st day of June 1907, started out to find defendant, and found the horses at Degen's livery stable in Chaska Minnesota where they had been left on June 19th but affiant was unable to learn anything about defendants whereabouts: That she took said team from the livery ~~as set forth in affiant~~ and took them it to her brothers house to keep for her. That affiant became sick and nervous from defendants treatment of her as set out in the complaint and affidavits in chief and, was unable and afraid to remain at home longer and took the stuff set out in the defendants affidavit which the four horses wagon, buggy, 3 sets harness ~~2 sets fly nets~~ have been taken from affiants possession by defendants brothers under writ of replevin

That the four cows which affiant took away with her were her sole and exclusive property

That affiant reasserts and reavers all the facts set forth in her affidavit herein in chief

Affiant further says that none of the property referred to in the defendants affidavit was his exclusive property and much of the same

is plaintiffs exclusive property.

Affiant further says that the property referred to by defendant as having been sold to his brother F W Radde was never delivered to him and the possession thereof never changed and that any sale or attempted sale of said property or any part thereof was fictitious and colorable and without any consideration therefor and was made for the purpose of removing the same from the jurisdiction of the court herein

Affiant further denies that she has refused to return to defendant or that she has had any chance to so refuse, inasmuch as defendant has never spoken to affiant since he left home June 19th, 1907

Affiant further says that defendant when he lets liquor alone is an able bodied man and is able to earn a good living for himself and family

Wherefore affiant asks that the court grant the motion asked in these proceedings

Alma Radde

Subscribed and sworn to before me this 8th day of July 1907

John G. Talley
Notary Public
Carver County Minnesota.

NOTARY PUBLIC, Carver Co., Minn.
My Commission expires April 1, 1909.

CARVER COUNTY,
FILED
SEP 4 1907
H. O. Muehlberg, Clerk.

(506)

State of Minnesota. District Court.

County of Carver. Eighth Judicial District.

---

Alma Radde,

Plaintiff.

-vs-

Edward Radde,

Defendant.

State of Minnesota.
SS.
County of Carver.

Edward Radde being first duly sworn says that he is the defendant in the above entitled action: that he has read the affidavit of said plaintiff in support of her application for Temporary Alimony and Suit Money, and for a Restraining Order, and that the same is untrue except as to those portions thereof which are herein expressly admitted to be true or are herein qualified.

Affiant further says that he is the lesee of two farms situated in the Township of Dahlgren in said County and that one of said farms is cropped with barley, oats and corn and the other is cropped with wheat: that on the 19th day of June 1907 he left home to go to the City of Minneapolis on business and while he was absent plaintiff left his home and went to the home of her brother in said Township taking with her the children of plaintiff and defendant and all household furniture, all of defendant's wearing apparel, 4 horses, 4 cows, wagon, buggy, 3 sets harness, 1 single harness, 2 sets Fly-nets, 4 milk cows, 3 milk pails and other personal property, and that plaintiff has since remained at the home of her brother and has refused to return to defendant, and affiant avers that plaintiff so left his home without any just cause or provocation whatever for so doing.

Affiant further says that at the time plaintiff so left his home he had no property whatsoever except 4 horses, 8 cows, 3 sows, 1 Binder, 1 Mower, 1 Hay Rake, 1 Cultivator, 1 Plow, 1 Wagon, 1 Buggy, 2 Drags, 2 Hay

Racks, 1 Hay Tedder, 3 set Harness, 1 Single Harness, and the crops growing upon the farms of which he was so the lesee. That the State Bank of Cologne then held a Chattel Mortgage upon a portion of said property, to-wit, 2 horses and 6 cows to secure the payment of the sum of $180.00 and interest, a copy of which said Mortgage is hereto attached.

That affiant was then largely indebted to his brother, F. W. Radde for money advanced and loaned to him by his said brother, and was also indebted to Herman Luedloff, Otto Luedloff and Rudolph Luedloff, brothers of plaintiff. That after plaintiff left defendant said Herman Luedloff brought suit against affiant in this court to recover for the indebtedness so owing by affiant to said Herman Luedloff, Otto Luedloff and Rudolph Luedloff, and at the request of affiant his brother, said F. W. Radde paid the claims upon which said suit was based and in so doing expended the sum of $198.62 as shown by a receipt herewith presented and exhibited to the court.

That on the 24th day of June 1907 affiant sold and delivered to said F. W. Radde all of the property of which he was then the owner and which is herein before particularly mentioned and as evidence of such sale executed and delivered to said F. W. Radde a Bill of Sale which is also herewith exhibited to the Court. That the consideration for such sale was the indebtedness so owing by affiant to said F. W. Radde, and the indebtedness so owing by affiant to said Herman Luedloff, Otto Luedloff and Rudolph Luedloff which said F. W. Radde agreed to pay and which he did pay as herein before stated, and since said 24th day of June 1907 affiant has not been and is not now the owner of any property whatever, except his household furniture and wearing apparel and the value thereof does not exceed $100.00.

That affiant at the time he so sold to said F. W. Radde said personal property and growing crops entered into an agreement with said F. W. Radde by the terms of which affiant agreed to remain upon the farms so leased by him and care for the crops growing thereon and to harvest and secure such crops for said F. W. Radde, and for his services in so doing said F. W. Radde agreed to pay affiant the sum of $25.00 per month and affiant says that he has no income whatever and no means of support other than said amount so to be paid for his services aforesaid.

That plaintiff now has in her possession from Cologne all household furniture and about sixty chickens, some geese and ducks, which she took with her when she left defendant

That plaintiff did not pay $800.00 towards the purchase price of defendant's personal property but affiant admits that she did let him have $387.00 which was expended in the purchase of horses and cows and necessaries for the family, and that the cows so purchased with said money plaintiff now has in his possession, as well as all property which defendant had upon his farm.

That affiant is informed and believes that said F. W. Radde has commenced an action of replevin to recover certain of the property sold by affiant when as in said affidavit stated.

Further affiant says not except that he has in no manner interfered with or molested plaintiff and does not intend so to do.

Subscribed and Sworn to before me
This 8th day of July A. D. 1907.

Edward. Radde.

Jacob C. Krayer
Notary Public
Carroll Co. Mont.

My Commission Expires Dec. 31st, 1912.

District Court
County of Carver.

Alma Radde

-vs-

Edward Radde

Affidavit

CARVER COUNTY,
FILED
SEP 4 1907
H. O. Muehlberg Clerk

W. L. Odell
Attorney for Defendant
(506)

State of Minnesota, District Court,

County of Carver. Eighth Judicial District.

----------o----------

ALMA RADDE, Plaintiff,

against

EDWARD RADDE, Defendant.

----------o----------

At the City of Chaska, in Carver county, Minnesota, the above entitled cause came on for trial and determination. After the proof was closed, counsel for the respective parties agreed to submit the case to the Court for determination upon written briefs; and on this 31st day of January, A. D. 1908, counsel for the plaintiff submitted his brief in said cause.

At the trial S. R. Child, Esquire, appeared as counsel for the plaintiff; and W. C. Odell, Esquire, appeared as counsel for the defendant.

After hearing the evidence adduced at the trial, reading the briefs of counsel for the respective parties, and giving all matters and things involved in said cause due consideration, the Court makes the following

F I N D I N G S O F F A C T :

1. That the plaintiff's name is Alma Radde, and her age is 33 years; and that the defendant's name is Edward Radde, of the age of 30 years.

2. That plaintiff and defendant are husband and wife and were married to each other at Waconia, in said Carver county, on the 6th day of February, 1902; that the plaintiff is a resident of this State, and has resided therein continuously for more than one year immediately predeeding the commencement of this action.

3. That during the year 1907, the defendant indulged in intoxicating liquors, and on three different occasions became intoxicated; but that said defendant was not in a state of habitual drunkenness for a period of one year immediately preceeding the filing of the com-

plaint, and that the allegations of the plaintiff respecting the habitual drunkenness of the defendant for a period of one year immediately preceeding the commencement of her action, as alleged in paragraph 4 of her complaint, is not true.

4. That on the 15th day of June, 1907, the defendant came home from town intoxicated, and quarrelled with the plaintiff; and that on the 19th day of June, 1907, the defendant came home in the night time under the influence of liquor, and quarrelled with the plaintiff; and pinched her arms and scolded her; but on both of said occasions the quarrel so had by and between the plaintiff and the defendant was induced by the plaintiff's conduct towards the defendant, and by her taunting and scolding him until she excited his anger; and whatever the defendant did on such occasions was the result of the condition of mind which plaintiff's conduct had occasioned.

5. That the above mentioned acts of cruelty are alleged in paragraphs 5 and 6 of plaintiff's complaint, and are the only specific acts of cruelty upon which the plaintiff seeks to prevail in this action; and each of said allegations so alleged in plaintiff's complaint are found not true.

6. That there are living of the issue of said marriage, three children, named respectively Edward, aged four years; Alton, aged two years; and Howard, aged nine months.

As C O N C L U S I O N S O F L A W , the Court finds:

1. That the evidence is insufficient to warrant the Court in granting the plaintiff a divorce upon either of the grounds stated in her complaint

2. That her action be dismissed upon the merits.

Let judgement be entered accordingly.

Dated at Norwood, Minnesota, this 31st day of January, A. D. 1908.

R. W. Morrison

Judge of said Court.

M E M O R A N D U M .

The evidence in this case satisfies the Court that the defendant

does not conduct himself toward his wife in the way and manner ~~in~~ which his duty to her demands, but many of these quarrels might be avoided if the plaintiff would refrain from scolding and taunting him.

I see no reason from a careful examination of the evidence why those young people cannot reconcile their differences and live together as husband and wife in accordance with the marriage obligations which each has seen fit to assume. They owe a duty to each other and also a sacred duty to the children for whose existence they are responsible. The duty to the children ought to be given due consideration, and if each is mindful of such duties, these little quarrels might not occur in future.

I think under the evidence in this case that it would be for the best interests of all concerned that the parties to this case be given opportunity to resume their marriage relations and make another effort to live happily together.

R. W. Morrison
Judge of said Court.

State of Minnesota
District Court
Second Judicial District

Alma Radde
— vs —
Edward Radde

Pltff.
Deft.

Findings and Decision

CARVER COUNTY,
FILED
FEB 3 1908.
H. O. Muehlberg, Clerk.

(506)

No. 3090

# DISTRICT COURT,
## CARVER COUNTY, MINN.

Wilhelmine Borkowski
*Plaintiff.*

*vs.*

Carl Borkowski
*Defendant.*

Chas A. Dinkey
*Plaintiff's Attorney,*

Thos F. Craven
*Defendant's Attorney.*

*Date of Entry* Aug 17, 1907

*Register of Actions* D *Page* 507

*Term Tried* 1

*Judgment for*

*Amount of Judgment $*

*Date of Judgment* 1

*Judgment Book* *Page*

*Default Judgment Book* *Page*

*Date of Docketing* 1

Herald Pub. Co., Chaska, Minn.

STATE OF MINNESOTA DISTRICT COURT

County of Mille Lacs Seventh Judicial District.

---

Wilhelmine Berkowski, Plaintiff

- VS.-

Carl Berkowski, Defendant

---

To the above named Plaintiff and to Chas.A.Dickey,Esq.,Atterney for said Plaintiff in the above entitled action:

You,and each of you,will please take notice that the above named Defendant,William Carl Berkowski,does hereby demand that the venue and place of trial of the above entitled action be changed from the County of Mille Lacs State of Minnesota,where said action was commenced in said above named Court,to the County of Carver State of Minnesota,where resides the said defendant, upon the ground that at the time of the commencement of said action,and at the time of the service of the summons in said action upon said Defendant, the said defendant did then and does still reside in said County of Carver,State of Minnesota

Said demand is made and based upon the affidavit of said Defendant hereto attached and herewith served upon you

Swan Lee Poffle

Thos A Graves

Atterney for said Defendant, Chaska Minn.

Filed in the Office of District Court
Mille Lacs County, Minn.
August 14 A. D. 1907
Robt H. King Clerk

STATE OF MINNESOTA DISTRICT COURT,

County of Mille Lacs ::- Seventh Judicial District.

Wilhelmine Berkowski,

Plaintiff

- VS.-

Carl Berkowski,

Defendant.

::

State of Minnesota
ss.
County of Carver.

Carl Berkowski, being first duly sworn, deposes and says, that he is the defendant in the above entitled action, that at the time of the commencement of said action, and at all times for more than twenty years next immediately preceeding the commencement of said action, and at the time of the service of the summons therein on said defendant, said defendant then was and still is a resident of said County of Carver, State of Minnesota; that at the time of the commencement of said ion the County of said Defendant's residence was and now is the said County of Carver.

This affidavit is made as the basis of a demand that the venue and place of trial of said action be changed from said County of Mille Lacs, where d action was commenced, to the County of Carver, State of Minnesota, where said Defendant resided at the time of the commencement of said action, and at the time of the service of the summons in said cause upon him, which summons was so served on, to-wit, the 8st day of August A.D.1907.

Carl Berkowski

Subscribed and swern to before me this
7th day of August A.D.1907.

Thos F. Growns
Notary Public in and for Carver Co., Minn
(My Commission expires Aug.16,1909)

Filed in the Office of District Court,
Mille Lacs County, Minn.
August 14 A.D. 1907
[illegible] Clerk.

Originals

STATE OF MINNESOTA,

County of Millacs

District COURT.

Wilhelmine Borkowski
Plaintiff.

vs.

Carl Borkowski
Defendant.

Affidavit of Notice of Change of Venue and Place of Trial

Due and personal service of the within Affidavit of Notice is hereby admitted this 13th day of August A. D. 190 7

Chas. G. Dickey
Attorney for Plaintiff

Thos E. Graves
Attorney for Defendant
Chaska, Minn.

C. F. GREENWOOD, MANKATO, MINN

(507)

State of Minnesota, } ss.
County of

first duly sworn upon oath, deposes and says, that at the ..... being in said County and State, on the ..... day of ..... 19 ....., he served the within ..... upon ..... the ..... therein named, personally, by ..... leaving with said ..... at the house of the usual abode of said ..... with ..... a person of suitable age and discretion, then resident therein, a true and correct copy of said ..... that said ..... is to affiant well known to be the same ..... .....

CARVER COUNTY,
FILED
AUG 17 1907
H. O. Muehlberg, Clerk.

3091

No. [illegible]

# DISTRICT COURT

CARVER COUNTY, MINNESOTA

Edith W. Wilcoxen, as Admx.
*Plaintiff*

vs.

Minneapolis & St. Louis R.R. Co.
*Defendant*

Albert E. Clarke,
*Plaintiff's Atty*

John T. Dille,
H. J. Peck,
*Defendant's Attys*

Date of Entry Aug. 6th 1907.

Register of Actions, D. Page 508-22

Term Tried Case dismissed 190

Judgment for Oct 17/11

Amount of Judgment $

Date of Judgment 190

Judgment Book Page

Default Judgment Book Page

Date of Docketing 190

Summons for Relief, Complaint Served.

MUNSON PRINT. MPLS.

**State of Minnesota,** Carver } ss.

County of

**District Court,**

Eighth **Judicial District.**

Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, deceased, Plaintiff,

-vs-

The Minneapolis and Saint Louis Railroad Company and Robert Conklin, Defendants.

**THE STATE OF MINNESOTA, To the above named Defendant :**

*You are hereby summoned and required to answer the complaint of the Plaintiff in the above entitled action, of which a copy is hereto annexed and herewith served upon you, and to serve a copy of your answer to said complaint on the subscriber, at his office, Room 508, Minnesota Loan and Trust Building, in the City of Minneapolis, Hennepin County, Minnesota, within twenty days after the service of this Summons upon you, exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the complaint.*

*Dated* October 12th *190* 7.

Albert E. Clearly

*Plaintiff's Attorney,* Minneapolis, *Minn.*

STATE OF MINNESOTA. DISTRICT COURT.

County of [redacted] CARVER. Eighth [redacted] Judicial District.

| | |
|---|---|
| Edith U. Wilcoxen, as administratrix of the estate of Clifford W. Wilcoxen, deceased, Plaintiff. | |
| -vs- | COMPLAINT. |
| The Minneapolis and Saint Louis Railroad Company, and Robert Conklin, Defendants. | |

---

1. The plaintiff is the duly appointed and qualified Administratrix of the Estate of Clifford W. Wilcoxen who died intestate at Chaska, Minnesota, on December 24th, 1906, as hereinafter set forth, leaving as his surviving heirs at law, his father, W. H. Wilcoxen and his mother Edith U. Wilcoxen.

2. At all times herein referred to the defendant, The Minneapolis and St. Louis Railroad Company, was, and still is a railroad corporation of this state, with its principal offices and place of business in the City of Minneapolis, Hennepin County, owning and operating a line of railroad extending from said City of Minneapolis to and through said Chaska, in Carver County in said state.

3. Prior to December 24th, 1906, said Clifford W. Wilcoxen was employed by the defendant railroad company to act as a freight train brakeman, and to perform the usual and customary duties connected with such employment. The train crew of which he became a member, pursuant to such employment, was required by the defendant Railroad Company to engage in weighing and switching cars at a beet sugar factory at Chaska, Minnesota, a station on the line of said railroad; and pursuant to such requirement, the decedent was at said date, required and obliged to act as a switchman, the duties of which employment are much more dangerous

than the duties of a brakeman; and by reason of such requirement he was subjected to dangers and risks not contemplated by his contract of employment, and of such character that none but skilled and experienced men can perform them safely.

4. The defendant Robert Conklin was at and during the time deceased was in defendant's service, the conductor in charge of the train crew of which deceased was a member, and had charge of the work of weighing and switching cars at said beet sugar factory.

5. On said December 24th, 1906, said Clifford W. Wilcoxen who was then twenty-one years old, and without previous experience in railroad service, while engaged in weighing and switching loaded cars upon s aid railroad, at said factory as hereinbefore stated, was required and obliged to go upon the track upon which said cars were standing, for the purpose of opening a knuckle of the coupling apparatus of one of said cars. While he was rightfully,properly and necessarily upon said track in the line of his duty, which he was performing in the usual proper and customary manner, and while properly engaged in rendering the service required of him, the said defendants' agents and servants in charge of and control of the engine with which said cars were being moved and switched, negligently and recklessly caused said engine and cars to be moved without notice, signal or warning to the decedent, whereby certain cars were recklessly, wantonly and negligently kicked and propelled against the said Clifford W. Wilcoxen, and he was caught between two of the cars upon said track and so crushed and mangled that he died.

5. At the time of said accident the defendant, Robert Conklin, was acting as conductor in said work, and had charge and control thereof, and was directing the movement of said engine and cars, which were moved in obedience to his signals. The accident was due to, and caused by the wanton, reckless and negligent acts and neglect of duty of the said Robert Conklin

while acting for and on behalf of the defendant railroad company in doing s aid work. Said Robert Conklin was careless, negligent and reckless in failing to give the proper signals to said engineer and in giving improper signals in obedience to which said engine and cars were wrongfully,carelessly and negligently moved; thus causing the accident. Said Conklin was without sufficient and necessary experience to control and direct said work, and his employment therein was negligent.

6. Said accident was caused wholly by the negligence of the defendants, which negligence consisted in part, in moving said cars against said decedent without warning or notice, and without waiting until he had attained a place of safety; in kicking and moving said cars so suddenly, and, at such speed that he was unable to escape; in handling said cars in an unusual, unsafe, and unnecessarily dangerous manner and in the control of the movement of said cars by inexperienced and incompetent persons.

7. At the time of his death as aforesaid said Clifford W. Wilcoxen was twenty-one years old, well and strong and capable of earning nine hundred dollars per annum.

8. By reason of the matters hereinbefore set forth, plaintiff has sustained damages in the sum of five thousand dollars.

WHEREFORE plaintiff demands judgment against the defendant for five thousand dollars and the costs and disbursements of this action.

Albert Edelart

Attorney for Plaintiff,
507 Minnesota Loan & Trust Bldg.,
Minneapolis, Minnesota.

**ORIGINAL**

In the District Court of
Carver County, Minnesota.

---

Edith U. Wilcoxen, as Adm'x
of the Estate of Clifford
W. Wilcoxen, deceased,
Plaintiff,

-vs-

The Minneapolis and Saint
Louis Railroad Company and
Robert Conklin,
Defendants.

---

SUMMONS AND COMPLAINT.

Due service of the within
by copy is hereby admitted
at Minneapolis, Minnesota,
this 11th day of November
A. D. 1907.

THE M. & ST. L. R. R. CO.

by J. S. Nickel
City Ticket Agent.

**ALBERT E. CLARKE**
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.



(522)

Summons for Relief, Complaint Served.

MUNSON PRINT. MPLS.

**State of Minnesota,** ) ss. **District Court,**

**County of** Carver ) Eighth **Judicial District.**

EDITH U. WILCOXEN, as Administratrix of the Estate of Clifford W. Wilcoxen, deceased,

Plaintiff,

-vs-

THE MINNEAPOLIS AND SAINT LOUIS RAILROAD COMPANY,

Defendant.

THE **STATE OF MINNESOTA, To the above named Defendant :**

*You are hereby summoned and required to answer the complaint of the Plaintiff in the above entitled action, of which a copy is hereto annexed and herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber, at his office, Room 508, Minnesota Loan and Trust Building, in the City of Minneapolis, Hennepin County, Minnesota, within twenty days after the service of this Summons upon you, exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the complaint.*

*Dated* August 1st *190* 7.

Albert E. Clark

*Plaintiff's Attorney.* Minneapolis, *Minn.*

**State of Minnesota,** )
ss.
**County of** )

I hereby certify and return

being first duly sworn, deposes and says: That at the of in said County of

on the day of 19, I served the within Summons

upon

said Defendant personally, by handing to and leaving with said

a true and correct copy of said Summons

Subscribed and sworn to before me, this

day of A. D. 19

FEES—Service, $

Travel, $

$

CARVER COUNTY.
FILED
AUG 6 1907
H. O. Muellberg Clerk.

STATE OF MINNESOTA, DISTRICT COURT,
COUNTY OF CARVER, EIGHTH JUDICIAL DISTRICT.

- - - - - - -

EDITH U. WILCOXEN, as Administratrix of the
Estate of Clifford W. Wilcoxen, deceased,
Plaintiff,

-vs- COMPLAINT.

THE MINNEAPOLIS AND SAINT LOUIS
RAILROAD COMPANY,
Defendant.

- - - - - - - - - - - - - - - - - - -

1. The plaintiff is the duly appointed and qualified Administratrix of the Estate of Clifford W. Wilcoxen who died intestate at Chaska, Minnesota, on December 24th, 1906, as hereinafter set forth, leaving as his surviving heirs at law, his father W. H. Wilcoxen and his mother Edith U. Wilcoxen.

2. At all times herein referred to the defendant was and still is a railroad corporation of this state, with the principal offices and place of business in the City of Minneapolis, Hennepin County, and owning and operating a line of railroad extending from said City of Minneapolis to and through said Chaska, in Carver County in said state.

3. On said date, the said Clifford W. Wilcoxen, who was then twenty one years old, and without previous experience in railroad service, was in the employ of the defendant as a brakeman; and while engaged in the performance of his duties as such brakeman was required and obliged to go upon a railroad track upon which certain cars were standing, for the purpose of opening a knuckle of the coupling apparatus of one of said cars. While said decedent was rightfully, properly, and necessarily upon said track in the line of his duty, and while properly engaged in rendering the service required of him by the defendant,

the defendant's servants, agents, and employes in charge and control of the engine and cars with which the decedent was working, negligently and recklessly caused said engine and cars to be moved without notice, signal, or warning to said decedent, whereby certain cars were carelessly, recklessly, and negligently kicked and propelled against the said Clifford W. Wilcoxen and he was caught between two of said cars upon said track at the point where he was at work and was so crushed and mangled that he died.

4. Said accident was caused wholly by the negligence of the defendant's employes, which negligence consisted in part, in moving said cars against said decedent without warning or notice and without waiting until he had attained a place of safety; in kicking and moving said cars so suddenly, and, at such speed that he was unable to escape; in handling said cars in an unusual, unsafe, and unnecessarily dangerous manner and in placing the control of the movement of said cars in the hands of inexperienced and incompetent persons.

5. At the time of his death as aforesaid said Clifford W. Wilcoxen was 21 years old, well and strong and capable of earning nine hundred dollars per annum.

6. By reason of the matters hereinbefore set forth plaintiff has sustained damages in the sum of five thousand dollars.

WHEREFORE plaintiff demands judgment against the defendant for five thousand dollars and the costs and disbursements of this action.

Albert E. Clark
Attorney for Plaintiff,
Office, #507-508 Loan & Trust B'g,
Minneapolis, Minn.

Residence, #15 Hampshire Arms,
Minneapolis, Minn.

**ORIGINAL**

In the District Court of
Carver County, Minnesota.

- - - - - - -

Edith U. Wilcoxen, as Adm'x
of the Estate of Clifford
W. Wilcoxen, deceased,
Plaintiff,

-vs-

The Minneapolis and Saint
Louis Railroad Company,
Defendant.

SUMMONS AND COMPLAINT.

Due service of the within
by copy is hereby admitted
at Minneapolis, Minnesota,
this 2nd day of August,
1907, A. D.
The Minneapolis & St Louis RR Co
By Jno Rickel
City Ticket & Pass. Agent

**ALBERT E. CLARKE**
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(508)

CARVER COUNTY,
FILED
AUG 6 1907
H. O. Muehlberg Clerk.

No. 982—Clerk's List of Jurors. Class A.

STATE OF MINNESOTA, } ss. DISTRICT COURT,

Carver Co. 8th Judicial District

Edith U Wilcox as Administratrix Etc Plaintiff

No. 1 Against

The Minneapolis & St Louis Railroad Company Defendant

List of Jurors.

| Attorneys Mark Here | | NAMES | REMARKS |
|---|---|---|---|
| | 1 | Harry Scheppers | |
| | 2 | Andrew Gripe | |
| | 3 | Daniel Hebron | |
| | 4 | Henry Baylar | |
| | 5 | ~~Adolph Krause~~ | excused on account of general disqualifications |
| | 6 | William Schruff. | |
| | 7 | ~~Adam Rolf~~ | excused on account of general disqualifications |
| | 8 | Valentine Rose | |
| | 9 | H. Mielke | |
| | 10 | August Johnson | |
| | 11 | Julius Laus | |
| | 12 | C. F. Gongoll | |
| | 13 | Paul Mohlke | |
| | 14 | ~~John Dale~~ | |
| | 15 | Joseph S. Metz | |
| | 16 | | |
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Pf 1

No. 1

STATE OF MINNESOTA,

County of Carver

**DISTRICT COURT.**

Edith U. Wilcox

as Administratrix Etc

*Plaintiff*

*Against*

The Minneapolis & St Louis

Railroad Company

*Defendant*

# JURY LIST.

FILED
DISTRICT COURT,
OCT 17 1911
CARVER COUNTY,
O. L. Lundstrom
Clerk of Court.

No. 982.

STATE OF MINNESOTA. DISTRICT COURT.

COUNTY OF CARVER. EIGHTH JUDICIAL DISTRICT.

---

| | |
|---|---|
| Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, deceased, Plaintiff, -vs- The Minneapolis and St. Louis Railroad Company and Robert Conklin, Defendants. | STIPULATION TO CONTINUE CASE. |

---

It is hereby stipulated that this action may be continued until the next regular term of this Court.

Dated this 22nd day of September, A.D. 1909.

Albert Elleart
Attorney for Plaintiff.

W. H. Brenne
Attorney for Defendants.

ORIGINAL

In the District Court,
State of Minnesota,
Carver County.

---

Edith U. Wilcoxen, Admx.
of estate of Clifford W.
Wilcoxen, deceased,
Plaintiff,

-vs-

The M. & St.L. Railroad
Co. and Robert Conklin,
Defendants.

Stipulation to Continue
Case.

CARVER COUNTY,
FILED
SEP 23 1909.
H. O. Muehlberg Clerk

ALBERT E. CLARKE
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(522)

STATE OF MINNESOTA. DISTRICT COURT.

COUNTY OF CARVER. EIGHTH JUDICIAL DISTRICT .

---

| | |
|---|---|
| Edith U. Wilcoxen, Administratrix of the Estate of Clifford W. Wilcoxen, deceased, Plaintiff, -vs- The Minneapolis and St. Louis Railroad Company and Robert Conklin, Defendants. | STIPULATION. |

---

It is hereby stipulated that the above entitled action shall be continued until the September 1909 general term of this Court.

Dated this 26th day of February, A.D. 1909.

Albert Ellerbe
Attorney for Plaintiff.

John Dill
Attorney for Defendants.

**ORIGINAL**

In the District Court,
State of Minnesota,
County of Carver.

---

Edith U. Wilcoxen, Admx.
of the Estate of Clifford
W. Wilcoxen, deceased,

Plaintiff,

-vs-

The Mpls. and St. Louis
R.R. Company and Robert
Conklin,

Defendants.

STIPULATION.

CARVER COUNTY,
FILED
MAR 1 1909
H. O. Muehlberg Clerk

**ALBERT E. CLARKE**
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

STATE OF MINNESOTA. DISTRICT COURT.

COUNTY OF CARVER. EIGHTH JUDICIAL DISTRICT.

---

| | |
|---|---|
| Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, deceased, Plaintiff, -vs- The Minneapolis and St. Louis Railroad Company and Robert Conklin, Defendants. | STIPULATION TO CONTINUE CASE. |

---

It is hereby stipulated that this action may be continued until the next regular term of this Court.

Dated this 3rd day of March, A.D. 1910.

Clarke & Carmichael
Attorneys for Plaintiff.

L. A. Brenner
Attorney for Defendants.

**ORIGINAL**

In the District Court
State of Minnesota,
County of Carver.

---

Edith U. Wilcoxen, as Admx.
of the Estate of Clifford
W. Wilcoxen, deceased,

Plaintiff,

-vs-

The Minneapolis and St. Louis
Louis Railroad Company and
Robert Conklin,

Defendants.

STIPULATION TO CONTINUE
CASE.

CARVER COUNTY,
FILED
MAR 5 1910
H. O. Muehlberg ..Clerk.

**ALBERT E. CLARKE**
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(522)

STATE OF MINNESOTA. DISTRICT COURT.

COUNTY OF CARVER. EIGHTH JUDICIAL DISTRICT.

---

| | |
|---|---|
| Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, deceased, Plaintiff, -vs- The Minneapolis and St. Louis Railroad Company and Robert Conklin, Defendants. | STIPULATION TO CONTINUE CASE. |

---

It is hereby stipulated that this action may be continued until the next regular term of this Court.

Dated this 27th day of September, A.D.1910.

Clarke and Carmichael
Attorneys for Plaintiff.

W. H. Brenna
Attorney for Defendant.

**ORIGINAL**

In the District Court,
State of Minnesota,
Carver County.

---

Edith U. Wilcoxen, Admx.
estate of Clifford W. Wilcoxen, deceased,
Plaintiff,

-vs-

The Mpls. and St. Louis Rd.
Co. Defendants.

Stipulation extending stay over term.

CARVER COUNTY,
FILED
SEP 28 1910
H. O. Muehlberg Clerk.

LAW OFFICES OF
CLARKE & CARMICHIEL
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(522)

STATE OF MINNESOTA, DISTRICT COURT,
COUNTY OF CARVER, EIGHTH JUDICIAL DISTRICT.

oooOooo

EDITH U. WILCOXEN, as Administratrix of the
Estate of Clifford W. Wilcoxen, deceased,

Plaintiff,

-vs-

STIPULATION.

THE MINNEAPOLIS AND SAINT LOUIS
RAILROAD COMPANY,

Defendant.

ooOoo

It is hereby stipulated that the above entitled action shall be and is hereby continued until the March, 1908, General Term.

Dated September 28th, 1907.

Albert Elcock
Attorney for Plaintiff.

Wm. J. Dill
Attorney for Defendant.

**ORIGINAL**

In the District Court of
Carver County, Minnesota.

---

Edith U. Wilcoxen, as Adm'x
of the Estate of Clifford
W. W.Wilcoxen, deceased,
Plaintiff,

-vs-

The Minneapolis and Saint
Louis Railroad Company,
Defendant.

---

STIPULATION.

CARVER COUNTY,
FILED
SEP30 1907
H. O. Muehlberg Clerk.

**ALBERT E. CLARKE**
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(508)

STATE OF MINNESOTA. DISTRICT COURT.

COUNTY OF CARVER. EIGHTH JUDICIAL DISTRICT.

---

| | |
|---|---|
| Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, deceased, Plaintiff, -vs- The Minneapolis and St. Louis Railroad Company and Robert Conklin, Defendants. | STIPULATION TO CONTINUE CASE. |

---

It is hereby stipulated between the parties to the above entitled action, that this case may be continued until the September 1911 general term of said court.

Dated this 1st day of March, A.D. 1911.

Daniel F. Carmichael
Attorney for Plaintiff.

H. H. Brenner
Attorney for Defendants.

**ORIGINAL**

In the District Court,
State of Minnesota,
County of Carver.

---

Edith U. Wilcoxen, Admx.

Plaintiff,

-vs-

The M. & St.L. Rd. Co. and
Robert Conklin,

Defendants.

Stipulation to Continue
Case.

CARVER COUNTY,
FILED
MAR 6 1911
O. S. Lundstrom Clerk.

**DANIEL F. CARMICHIEL**
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(522)

State of Minnesota. District Court.

County of Carver. Eighth Judicial District

| | | |
|---|---|---|
| Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, Deceased, | : | |
| Plaintiff, | : | |
| vs | : | ANSWER |
| The Minneapolis & St. Louis Railroad Company and Robert Conklin, | : | |
| Defendants. | : | |

Comes now the defendants and for answer to plaintiff's complaint deny each and every allegation therein contained.

For a second and additional answer to plaintiff's complaint defendants says that the accident mentioned in the complaint and all of the injuries, if any, sustained by plaintiff's deceased, were caused by and resulted from his failure to exercise,due, proper and ordinary care for his own safety, and that the negligence of plaintiff's deceased and his failure to exercise due, proper and ordinary care for his own safety contributed to and caused the accident and injuries alleged in the complaint.

WHEREFORE, defendants asks judgment for costs.

Geo W Simers
General Counsel

John D Ellis
Attorney for Defendants

STATE OF Minnesota

County of Carver

Dist COURT

Edith W. Wilcox
Admrx
*Plaintiff*,

*vs.*

The Minneapolis & Lake
R R Co
*Defendant*.

Answer

*Due service of the within by copy is hereby admitted at* Minneapolis *Minn.* *this* 14th *day of* November, *A. D. 19*07

Albert E Clarke
*Attorney for* Plaintiff

*JOHN I. DILLE,*
*Attorney for* Defendant
*1104 Guaranty Loan Building,*
*Minneapolis, Minn.*

*GEORGE W. SEEVERS,*
*General Counsel.*

CARVER COUNTY,
FILED
SEP 8 1908
H. O. Muehlberg
(528)

State of Minnesota. District Court.

County of Carver. Eighth Judicial District.

| | | |
|---|---|---|
| Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, Deceased, | : | |
| Plaintiff, | : | ANSWER |
| vs | : | |
| The Minneapolis & St. Louis Railroad Company, | : | |
| Defendant. | : | |

Comes now the defendant The Minneapolis & St. Louis Railroad Company, and for answer th plaintiff's complaint denies each and every allegation therein contained not herein specifically admitted.

The defendant admits; that the allegations in paragraph two of plaintiff's complaint are true.

As to whether the allegations in paragraph one of plaintiff's complaint are true, this defendant has neither knowledge nor information sufficient to form a belief and therefore denies the same.

For a second and additional answer to plaintiff's complaint, defendant says that the accident mentioned in the complaint and all of the injuries, if any, sustained by plaintiff's decedant, were caused by and resulted from his failure to exercise due, proper and ordinary care for his own safety, and that the negligence of the deceased and his

failure to exercise due, proper and ordinary care for his own safety, contributed to and caused the accident and injuries alleged in the complaint.

WHEREFORE, Defendant asks judgment for its costs.

John A Dille
Attorney for Defendant

Geo W Simms
General Counsel

STATE OF Minn

County of Carver

First COURT

Edith W. Nelson

Admx

*Plaintiff*,

*vs.*

Wpls St Paul RR

Co

*Defendant*.

Answer

*Due service of the within by copy is hereby admitted at* Minneapolis *Minn this* 20 *day of* August *A. D.* 1907

Albert E. Clark

*Attorney for* Plaintiff

W. J. Leck

*Attorney for* Defendant

*1104 Guaranty Loan Building,*
*Minneapolis, Minn.*

*GEORGE W. SEEVERS,*
*General Counsel.*

CARVER COUNTY,
FILED
SEP 24 1907
H. O. Muehlberg
(508)

# District Court

Eighth Judicial District

County of Carver

Edith. U. Wilcoxen, Adm'x

etc -vs-

The M. & St. L. R. R. Co.

## NOTE OF ISSUE

*Issue of* law and fact

*LAST PLEADING SERVED*

August 21st, 1907.

Albert E. Clarke
*Attorney for Plaintiff*

John I. Dille
*Attorney for Defendant*

*Will the Clerk please file this Note of Issue, and enter the cause on the Calendar for the* September 30th *A. D.* 1907 General *Term of this Court.*

*Yours respectfully,*

Albert E. Clarke

*Attorney for* Plaintiff.

*Filed* August 31st 1907

191—861500

(508)

190—Notice of Trial



**State of Minnesota,** } ss.
County of Carver.

**District Court,**
Eighth Judicial District.

Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, deceased, Plaintiff,

-vs-

The Minneapolis and Saint Louis Railroad Company, Defendant.

**Sir : You Will Please to Take Notice,** *That the issue of* law and fact *in the above entitled action will be brought on for* trial *at the next* General *Term of the District Court to be held in and for the County of* Carver *at the Court House, in the* City of Chaska *in said County, on the* 30th *day of* September *190*7*, at the opening of said Court on that day, or as soon thereafter as Counsel can be heard.*

*Dated* August 29th, *190*7

*Yours respectfully,*

Albert E. Clarke

*Attorney for* Plaintiff.

*To* John I. Dille,

*Attorney for* Defendant.

ORIGINAL.

# District Court

Eighth Judicial District

County of Carver.

Edith U. Wilcoxen, as Adm'x of the estate of Clifford W. Wilcoxen, deceased, Plaintiff,

-vs-

The M. & St. L. R. R. Co., Defendant.

## Notice of Trial

*Due service of the within Notice is hereby admitted this* 29th *day of* August *1907, at* Minneapolis, Minn.

John J. Dille

*Attorney for* Defendant.

*Attorney for*

116000

CARVER COUNTY,
FILED
AUG 31 1907
H. O. Muehlberg
(508)

STATE OF MINNESOTA, DISTRICT COURT,
COUNTY OF CARVER, EIGHTH JUDICIAL DISTRICT.

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EDITH U. WILCOXEN, as Administratrix of the
Estate of Clifford Wilcoxen, deceased,
Plaintiff,

-vs- REPLY.

THE MINNEAPOLIS AND SAINT LOUIS
RAILROAD COMPANY,
Defendant.

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Now comes the plaintiff and for reply to the affirmative allegations in the answer herein says:

She denies that the accident or any of the injuries sustained by plaintiff's intestate were caused by or resulted from his failure to exercise due, proper and ordinary care for his own safety, and denies that the negligence of the deceased, or his failure to exercise due, proper and ordinary care for his own safety, contributed to or caused the accident or injuries alleged in the complaint.

WHEREFORE plaintiff renews her prayer for the relief demended in the complaint.

Dated August 21st, 1907.

Albert Elcart
Attorney for plaintiff.

**ORIGINAL**

In the District Court of Carver County, Minnesota.

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Edith U. Wilcoxen, as Adm'x of the Estate of Clifford W. Wilcoxen, deceased,
Plaintiff,

-vs-

The Minneapolis and Saint Louis Railroad Company,
Defendant.

---

REPLY.

Due service of the within by copy is hereby admitted at Minneapolis, Minnesota, this 21st day of August, A. D. 1907.

John Wille
Attorney for Defendant.

**ALBERT E. CLARKE**
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(508)

CARVER COUNTY,
FILED
AUG 27 1907
H. O. Muehlberg Clerk

STATE OF MINNESOTA, DISTRICT COURT,
COUNTY OF CARVER, EIGHTH JUDICIAL DISTRICT.

oooOooo

EDITH U. WILCOXEN, as Administratrix
of the Estate of Clifford W. Wilcoxen,
deceased, Plaintiff,

-vs- REPLY.

THE MINNEAPOLIS AND SAINT LOUIS
RAILROAD COMPANY AND ROBERT CONKLIN,
Defendants.

--oooOooo--

Now comes the plaintiff and for reply to the affirmative allegations in the answer of the defendants, says:

She denies that the accident or any of the injuries sustained by the plaintiff's intestate were caused by or resulted from his failure to exercise due, proper, and ordinary care for his own safety, and denies that the negligence of the deceased, or his failure to exercise due, proper, and ordinary care for his own safety, contributed to or caused the accident or injuries alleged in the complaint.

WHEREFORE plaintiff renews her prayer for the relief demanded in the complaint.

Dated at Minneapolis, Minnesota, November 20th, 1907.

Albert E. Edwards

Attorney for Plaintiff.

ORIGINAL

In the District Court of Carver County, Minnesota.

---

EDITH U. WILCOXEN, Admin'x of the Estate of Clifford, W. Wilcoxen, deceased,
Plaintiff,

-vs-

THE MINNEAPOLIS AND SAINT LOUIS RAILROAD COMAPNY and ROBERT CONKLIN,
Defendants.

---

REPLY.

Due service of the within by copy is hereby admitted at Minneapolis, Minnesota, this 21st day of November, A. D. 1907.

John J. Dillon
Attorneys for Defendants.


ALBERT E. CLARKE
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.




(522)

State of Minnesota. District Court.

County of Carver Eighth Judicial District.

| | | |
|---|---|---|
| Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, Deceased, | : | |
| Plaintiff, | : | AMENDED ANSWER |
| vs | : | |
| The Minneapolis & St. Louis Railroad Company and Robert Conklin, | : | |
| Defendants. | : | |

Comes now the defendants and for their amended answer to plaintiff's complaint deny each and every allegation therein contained.

For a second and additional answer to plaintiff's complaint defendants say that the accident mentioned in the complaint and all of the injuries, if any, sustained by plaintiff's deceased, were caused by and resulted from his failure to exercise due, proper and ordinary care for his own safety, and that the negligence of plaintiff's deceased and his failure to exercise due, proper and ordinary care for his own safety contributed to and caused the accident and injuries alleged in the complaint.

For a third and additional answer to plaintiff's complaint the defendants say that for some months prior to the time of the accident mentioned in plaintiff's

complaint, plaintiff's decedent had been in the employ of the defendant The Minneapolis & St. Louis Railroad Company as a brakeman upon its road and a switchman in its yards at Chaska and upon and over the tracks that were being used at the time of the accident in question; that during all of said time he was thoroughly acquainted with the conductors and other members of the trains and switching crews, was acquainted with their skill and capacity or lack of it in the discharge of their respective duties in doing switching and the handling of cars in trains and was familiar with their method and manner of transacting their business as trainmen and switchmen; that at and during all of the times mentioned in plaintiff's complaint, on the day and prior to the time of the accident resulting in the death of Clifford W. Wilcoxen, the deceased knew the method and manner of the conductor and other switchmen and enginemen of doing said work and knew of the rapidity with which the same was being done and participated therein, and knew of all of the risks, hazzards and dangers incident to working with said crew and each member thereof, and incident to the method and manner in which such work was being done, and by reason of all of the above and foregoing facts assumed all of the risks and dangers mentioned in plaintiff's complaint and any and all risks and dangers that resulted in or in any way contributed to his injuries and death.

WHEREFORE, Defendants ask judgment for their costs and disbursements herein.

John D. Gill
Wm. J. Peet
Attorneys for Defendant.

Original

STATE OF Minnesota
County of Carver
District COURT

Edwin W. Nickerson, Admr
*Plaintiff*,
*vs.*
The Mpls & St Louis
R R Co
*Defendant*.

Amended Answer

*Due service of the within by copy is hereby admitted at* Minneapolis
Minn *this* 26th
*day of* June *A. D.* 1908
Albert E. Clark
*Attorney for* Plaintiff

*JOHN I. DILLE,*
*Attorney for* Defendant
*1104 Guaranty Loan Building,*
*Minneapolis, Minn.*

*GEORGE W. SEEVERS.*
*General Counsel.*

CARVER COUNTY,
FILED
SEP 8 1908
H. O. Muehlberg, Clerk
(522)

# District Court

Eighth Judicial District

County of Carver

Edith H. Wilcoxen, Adm'x etc.

-vs-

The M. & St. L. R. R. Co. and

Robert Conklin.

## NOTE OF ISSUE

*Issue of* law and fact

*LAST PLEADING SERVED*

November 21st *190*7

Albert E. Clarke,
*Attorney for Plaintiff*

John I. Dille,
*Attorney for Defendants*

*Will the Clerk please file this Note of Issue, and enter the cause on the Calendar for the* March 2nd *A. D. 190*8 General *Term of this Court.*

*Yours respectfully,*

Albert E. Clarke

*Attorney for* Plaintiff.

*Filed* ..... *190*....

191—273000

(522)

CARVER COUNTY
FILED
NOV 23 1907
H. O. Muehlberg

190—Notice of Trial



**State of Minnesota,** } ss.
County of Carver

**District Court,**
Eighth Judicial District.

Edith U. Wilcoxen, as Administratrix of the Estate of Clifford W. Wilcoxen, deceased, Plaintiff,

-vs-

The Minneapolis and Saint Louis Railroad Company and Robert Conklin, Defendants.

**Sir : You Will Please to Take Notice,** *That the issue of* law and fact *in the above entitled action will be brought on for* trial *at the next* General *Term of the District Court to be held in and for the County of* Carver *at the Court House, in the* City of Chaska, *in said County, on the* second *day of* March *190* 8, *at the opening of said Court on that day, or as soon thereafter as Counsel can be heard.*

*Dated* November 21st *190*7.

*Yours respectfully,*

Albert Elo earl

*Attorney for* Plaintiff.

*To* John I. Dille,

*Attorney for* Defendants.

Original

# District Court

Eighth Judicial District

County of Carver.

Edith U. Wilcoxen, Adm'x of Est. of Clifford W. Wilcoxen, deceased,

-vs-

The Minneapolis and Saint Louis Railroad Co. & Robert Conklin.

## Notice of Trial

*Due service of the within Notice is hereby admitted this* 21st *day of* November *1907*, *at* Minneapolis, Minn.

John T. Dille
Phelps

*Attorney for* Defendants.

*Attorney for*

1164000

CARVER COUNTY,
FILED
NOV 23 1907
H. O. Muehlberg, Clerk.

(522)

STATE OF MINNESOTA. DISTRICT COURT.

COUNTY OF CARVER. EIGHTH JUDICIAL DISTRICT.

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| | |
|---|---|
| EDITH U. WILCOXEN, AS ADMINISTRATRIX OF THE ESTATE OF CLIFFORD WILCOXEN, deceased, Plaintiff, -vs- THE MINNEAPOLIS AND SAINT LOUIS RAILROAD COMPANY, and ROBERT CONKLIN. Defendants. | STIPULATION TO CONTINUE CASE. |

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It is hereby stipulated that the above entitled action be and is hereby continued until the next regular term of this Court.

Dated at Minneapolis, Minnesota, this 24th day of September, A.D. 1908.

Albert E. Clark
Attorney for Plaintiff.

John D. Dill
Attorney for Defendants.

Duplicate
~~COPY~~
Original

District Court of the
State of Minnesota,
County of Carver.

---

Edith U. Wilcoxen, as Administratrix of the Estate of Clifford Wilcoxen, deceased,
Plaintiff,

-vs-

The Minneapolis and Saint Louis Railroad Company, and Robert Conklin,
Defendants.

STIPULATION TO CONTINUE CASE.

CARVER COUNTY,
FILED
SEP 28 1908
H. O. Mashlberg Co. C.

ALBERT E. CLARKE
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(622)

STATE OF MINNESOTA, DISTRICT COURT,
COUNTY OF CARVER, EIGHTH JUDICIAL DISTRICT.

##########

EDITH U. WILCOXEN, AS ADMINISTRATRIX
OF THE ESTATE OF CLIFFORD W. WILCOXEN,
deceased,
Plaintiff,

-vs- STIPULATION.

THE MINNEAPOLIS AND SAINT LOUIS
RAILROAD COMPANY and ROBERT CONKLIN,
Defendants.

#######

It is hereby stipulated that the above entitled action shall be continued over the March, 1908, term of Court, and until the next General term of said Court.

Dated at Minneapolis, Minnesota, February 27th, 1908.

Albert E. Clearwater
Attorney for Plaintiff.

John S. Dille
Attorney for Defendant.

**ORIGINAL**

In the District Court of Carver County, Minnesota.

---

EDITH U. WILCOXEN, Adm'x of the Estate of Clifford W. Wilcoxen, deceased,
Plaintiff,

-vs-

THE MINNEAPOLIS AND SAINT LOUIS RAILROAD COMPANY AND ROBERT CONKLIN,
Defendants.

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STIPULATION.

CARVER COUNTY,
FILED
FEB 28 1908
H. O. Muehlberg ... Clerk

**ALBERT E. CLARKE**
ATTORNEY AT LAW
508 MINNESOTA LOAN AND TRUST BLDG.
MINNEAPOLIS, MINN.

(522)