

12-23-16

December 22, 1916.

NANCY ANN HERD VS. L. & N. R. R. CO. ... LEE COUNTY.

B. D. Warfield, Esq.
District Attorney,
Louisville, Ky.

Dear Sir:-

At the November Term, 1916, of the Lee Circuit Court, we tried the above styled cause. This suit came within the jurisdiction of Judge Samuel M. Wilson, but owing to important business engagements which Judge Wilson was forced to keep, we, at his request, assisted Mr. Sam Hurst and Judge G. W. Gourley in trying it. We presume that Local Attorney Hurst has sent to Judge Wilson and Judge Wilson has forwarded to you, a report of proceedings, together with the file, as there is no file in our office pertaining to it. On a trial of the case, the jury returned a verdict for \$199. and costs. We filed motion and grounds for a new trial, and made one of the grounds, newly discovered evidence. Judge Adams, however, overruled the motion and declined to grant the new trial, and as the verdict was for less than \$200. it will have to be paid.

Nancy Ann Herd was entitled to a small recovery, as she was carried by her station, and had she remained at the station to which she was carried, until the next train came, she would have been delayed. The recovery to which she was entitled, in our judgment, being liberal, ought not to have exceeded \$25., but the verdict of the jury and not our opinion is conclusive of the matter.

The amount due from the company is made up as follows:-

PLAINTIFF'S COSTS	
To principal of judgment	\$ 199.00
To tax on suit	.50
To jury fee	4.00
To C. B. Burke, former Clerk	1.15
To A. H. Bowman, present Clerk	8.15
To L. F. Flanery, Sheriff	3.85
To Matt Johnson, witness	2.00
To Flora Johnson, "	2.00
To Nerva Stepp, "	2.00
To Anthony Vanderpool, witness	2.00
To Alice, "	2.00
To A. D. Johnson, "	2.00
To J. P. Sutton, "	2.00
To total -----	\$ 230.65
DEFENDANT'S COSTS	
To C. B. Burke, former Clerk	.65
To A. H. Bowman, present Clerk	5.85
To total -----	\$ 6.50

A voucher for \$199. should be made payable to Mr. J. M. McDaniel, attorney for Nancy Ann Herd. A voucher for \$38.15 (plaintiff's costs \$31.65, defendant's costs \$6.50) should be made