

No. 12217

# Supreme Court of Illinois

McMasters, et al

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vs.

Spencer

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71641 7

State of Illinois  
Fourteenth Judicial Circuit  
Stephenson County

Pleas before the Hon<sup>d</sup> Benjamin  
R. Sheldon presiding Judge of the fourteenth Judicial  
Circuit of said State at a term of the Circuit Court  
begun and held at the Court house in Freeport in said  
Judicial Circuit and in the County and State aforesaid  
on the 13<sup>th</sup> day of November A.D. 1854.

Present the Hon<sup>d</sup> Benjamin R. Sheldon  
Judge

George Reitzell Sheriff  
Attest. Joseph B. Smith, Clerk

William F. McMasters v  
Martha McMasters

William F. Spencer

Be it remembered that heretofore  
to wit: On the 12<sup>th</sup> day of January A.D. 1854 of the  
April Term A.D. 1854 of said Circuit Court, William  
F. McMasters and Martha McMasters his wife the  
plaintiffs in this suit by Bright & Smith their attorneys  
appeared and filed in the said Court their praecipe in the  
said Suit of William F. McMasters and Martha McMasters  
his wife against William F. Spencer in the words and  
figures following to wit:

"State of Illinois } In the Circuit Court of Stephenson  
Stephenson County } County of the April Term A.D. 1854

William F. McMasters v  
Martha McMasters his wife

William F. Spencer

Case

Damages \$5000.

"The Clerk of the Court will please issue a summons in  
 "the above entitled cause returnable according to Law  
 To J. B. Smith Clerk  
 "Jan. 12<sup>th</sup> 1854

Bright & Smith  
 Atty for Plffs.

Endorse as follows viz: -  
 "Wm F. McMaster & Martha his wife

William F. Spencer

Filed Jan 12<sup>th</sup> 1854 - Joseph B. Smith Clerk

"Bright & Smith Plff Atty.

And on the next succeeding day to wit: On the 13<sup>th</sup> day  
 of January A.D. 1854 then issued out of said Court a summons  
 directed to the Sheriff of Stephenson County to Execute,  
 in the words and figures following to wit:

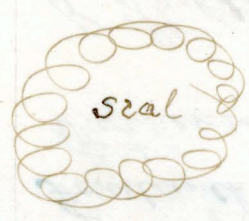
State of Illinois

Stephenson County, <sup>3</sup> 3<sup>rd</sup> Let The People of the State of Illinois  
 To the Sheriff of said County, Greeting:

We command you that you summon William F.  
 Spencer if he be found in your County, personally to be and  
 appear before the Circuit Court of said County, on the first  
 day of the next Term thereof, to be holden at the Court house  
 in the town of Freeport, in the said County, on the first  
 Monday in the month of April next to answer unto  
 William F. McMaster and Martha McMaster his wife  
 in a plea of lease, to the damage of the said plaintiffs  
 as they say in the sum of Five thousand Dollars, and  
 have you then and there this writ, with an endorsement  
 thereon in what manner you shall have executed the same

Witness Joseph B. Smith, Clerk of our said  
 Circuit Court, and the seal of said Court at his  
 Office, in said County, this 13<sup>th</sup> day of  
 January A.D. 1854

Joseph B. Smith Clerk



said summons has the following endorsement to wit:  
"W. F. McMaster et ux vs Wm. J. Spencer - Sums.  
Executed the within by reading the within to the within  
named William J. Spencer Jan'y 25. 1854.

Geo. Reitzel Shff -      Serving      50  
   Miles      20  
   Return      10      80.

And afterwards to wit: on the 23<sup>d</sup> day of March A.D. 1854 the said plaintiffs by their attorneys filed in said Circuit Court their Declaration in the said cause, which Declaration is in the words and figures following to wit:

In the Circuit Court of sa<sup>d</sup> Stephenson County  
of April Term A.D. 1854 No

State of Illinois }  
Stephenson County } ss.

William J. Spencer defendant was summoned to answer William F. McMaster, and Martha McMaster his wife plaintiffs of a plea of Trespass on the Case, And thereupon the said William F. McMaster and Martha his wife by Bright and Smith, their attorneys, Complain. For that whereas the said Martha now is, a good, true, honest, <sup>just</sup> and faithful citizen of the State of Illinois, and as such has always behaved and conducted herself, and until the committing of the several grievances by the said William J. Spencer, as hereinafter mentioned, was always reputed, esteemed, and accepted, by and amongst all her neighbors and other good and worthy citizens of said State to whom she was in anywise known, to be a person of good name, fame and credit, to wit: at Stephenson County and State aforesaid - And whereas, also the said Martha hath not ever been guilty, or until the time of the speaking and publishing of the several false, scandalous, malicious and defamatory words, by the said William J. Spencer, as hereinafter mentioned, been suspected to have been guilty of adultery or of any other crime as hereafter stated to have been charged upon and imputed to her

to her by the said William T Spencer, by means whereof the said Martha, before the committing of the said several grievances, by the said William T Spencer, as hereinafter mentioned, had deservedly obtained the good opinion and credit of all her neighbors and divers other good and worthy citizens of said State, to whom she was in anywise known to wit. at Stephenson County aforesaid. Yet the said William T Spencer well knowing the premises, but greatly envying the happy state and condition of the said Martha, and contriving and wickedly and maliciously intending to injure the said Martha in her said good name, fame and credit, and to bring her into public scandal, infamy and disgrace with and amongst all her neighbors and divers other good and worthy citizens of said State, and to cause it to be suspected and believed by those neighbors and citizens that she the said Martha had been and was guilty of adultery — as hereafter hereinafter states to have been charged upon and imputed to her by the said William T Spencer, and to subject her to the pains and penalties by the laws of this State made and provided against and inflicted upon persons guilty thereof, and to vex, harass, oppress, impoverish, and wholly ruin her. the said Martha, hereinafter to wit. on the twenty second day of November, in the year of our Lord One thousand eight hundred and fifty three, at Stephenson County, aforesaid, in a certain discourse, which the said William T Spencer then and there had with the said Martha, of and concerning the said Martha in the presence and hearing of a certain Anna Copper and of divers good and worthy citizens of said State then and there in the presence and hearing of the said last mentioned citizens, falsely and maliciously spoke and published of and concerning the said Martha, the false, and scandalous, malicious and defamatory words following, that is to say —

"You (the said Martha meaning) are a damned whore" (thereby meaning that the said Martha had committed adultery, and that her children were bastards.) "You (the said Martha again meaning) are a damned bitch" thereby meaning that the said Martha was guilty of adulterous practices —

hereafter

*(Marginal notes in cursive script):*  
 have nothing but bastards (thereby meaning that the said Martha had committed adultery)  
 you (the said Martha again meaning)

And afterwards to wit, on the Twenty-fifth day of November, in the year of our aforesaid, at Stephenson County aforesaid, in a certain other discourse or conversation which the said William T Spencer then and there had with a certain Robert Mc Masters in the presence and hearing of the said Robert Mc Masters and of divers other good and worthy citizens of the State aforesaid, the said William T Spencer, further contriving and intending as aforesaid, then and there in the presence and hearing of the said last mentioned citizens, falsely and maliciously spoke and published of and concerning the said Martha the false, scandalous malicious and defamatory words following, that is to say, "She (the said Martha meaning), is a worn out whooring bitch" - (thereby meaning that the said Martha was guilty of adultery) "She (the said Martha again meaning), has shaken her shirt tail at every man in Stephenson County" (thereby meaning that the said Martha was guilty of adulterous practices) "She (the said Martha again meaning) is a God damned worn out whore" - (meaning that the said Martha was guilty of adultery).

And afterwards, to wit: on the day and year last aforesaid, at Stephenson County aforesaid, in a certain other discourse which the said William T Spencer then and there had with one Robert Mc Masters in the presence and hearing of the said Robert Mc Masters, and of divers other good and worthy citizens of the State aforesaid, the said William T Spencer, further contriving and intending as aforesaid, then and there in the presence and hearing of the said last mentioned citizens, falsely and maliciously spoke and published of and concerning the said Martha and of concerning one Anna Coppers, the false, scandalous, malicious and defamatory words following, that is to say "You (the said Robert Mc Masters meaning), come here to defend them two (the said Martha and Anna Coppers meaning) old worn out whooring bitches, who have shaken their shirt tails at every man in Stephenson County and I can prove it" - (thereby meaning that the said Martha was guilty of adultery and of adulterous practices) "They (the said Martha and Anna meaning) are two old worn out whores" - (thereby meaning that the said

Martha was guilty of adultery, and I can prove it."

By means of the committing of which said several grievances by the said William T Spencer as aforesaid, the said Martha has been and is greatly injured in her good name, fame and credit, and brought into public scandal, infamy and disgrace, with and amongst all her neighbors, and other good and worthy citizens of the state aforesaid insomuch that divers of those neighbors and citizens, to whom the innocence and integrity of the said Martha in the premises were unknown, have on account of the committing of the said grievances by the said William T Spencer, as aforesaid, from thence hitherto suspected and believed, and still do suspect and believe, the said Martha to have been, and to be a person guilty of adultery and other crimes so as aforesaid, charged upon and imputed to her by the said William T Spencer, and have by reason of the committing of the said grievances by the said William T Spencer, as aforesaid, from hence hitherto wholly refused, and still do refuse to have any transaction, acquaintance, or discourse with the said Martha as they were before used and accustomed to have, and otherwise would have had; and also by means of the premises, the said Martha, hath been and is otherwise greatly injured and damnified, to wit at Stephenson County aforesaid - To the damage of the said plaintiffs of Five thousand dollars, And therefore they bring suit &c.

By Bright & Smith

Attys. p. q.

Enclosed, "63. April Term A.D. 1854 - McMaster vs Spencer  
Narrative" - Filed March 23<sup>d</sup> 1854.

Joseph B Smith Clerk

Bright & Smith - attys p. q.

And afterwards to wit: On the 4<sup>th</sup> day of April A.D. 1854  
the Defendant in said suit by his attorney appeared and  
filed in said court a Demurrer to said plaintiffs declaration,  
The said demurrer is in the words and figures following  
to wit:

"In Circuit Court of the Term of April 1854

William T Spencer

vs

William F McMasters

• Martha McMasters

State of Illinois  
Stephenson County }  
P

And the said William T Spencer  
by Charles Petts his attorney comes and defends the  
wrong and injury when he and says that the said declara-  
-ation and the matters therein contained in manner  
and form as the same are above stated and set forth, are  
not sufficient in the law for the said William F McM-  
-asters and Martha McMasters to have or maintain their  
aforesaid action thereof against him the said William  
T Spencer, and that he the said William T Spencer is  
not <sup>bound</sup> by the law of the land to answer the same or any  
part thereof, and this he is ready to verify, wherefore  
for want of a sufficient declaration in this behalf the  
said William T Spencer prays judgment, and that the  
said William F McMasters and Martha McMasters,  
may be barred from having or maintaining their aforesaid  
action thereof against him &c.

Chas. Petts

Defts atty.

And the said William T Spencer according to the form of  
the Statute in such case made and provided states and shows  
to the Court here the following causes of Demurrer to their  
said said first, second, and third counts of their said declaration  
that is to say, that said declaration purports to be the basis  
of an action of slander brought by William F McMasters  
and Martha McMasters against William T Spencer



for charging said Martha McMasters with crime of adultery, and does not in either the first, second, or third count of said declaration or any part thereof. Charge that said Martha was at the time when &c. the wife of the said William F McMasters and also that said first, second, and third counts & said declaration is in other respects uncertain, informal and insufficient &c.

Chas. Betts

Defts atty.

Which said demurver has the following endorsements to wit:

"In Circuit Court

Wm F Spencer ads Wm F McMasters & Martha McMasters  
Demurver —

Filed Apr. 14th 1854

J. P. Smith Clerk

"Betts Defts, atty

And afterwards to wit: on the 7th day of April A.D. 1854 upon the records of said Court for said Term is the following entry to wit:

63

William F McMasters et al

William F Spencer

} Case

And now at this day came on to be heard the demurver of the defendant to the plaintiffs declaration - and the Court after hearing the arguments of counsel and being fully advised upon the demurver order that said demurver be sustained - and thereupon on motion of the plaintiff leave is given them by the Court to amend their said declaration - It is further ordered by the Court that this cause be continued to the next Term of this Court at the cost of the plaintiffs, It is therefor considered and adjudged by the Court that the defendant. have and recover of the plaintiff

his costs by him about his suit at the present term of this court in that behalf expended and that Execution issue therefor —

And afterwards to wit: On the first day of August A.D. 1854 — of the September Term A.D. 1854 of said Circuit Court the plaintiffs in said suit by their attorneys filed in said Court their amended Declaration — in the words and figures following to wit:

"In the Circuit Court of Stephenson County  
of September Term A.D. 1854

State of Illinois  
Stephenson County

William T Spencer, defendant, was summoned to answer William F McMasters and Martha McMasters his wife plaintiffs, of a plea of Trespass on the case, And thereupon the said William F McMasters and Martha his wife, by Bright & Smith their attorneys, complain. For that whereas the said Martha now is, and at the time of the speaking and publishing of the several false, scandalous, malicious and defamatory words, by the said William T Spencer, as hereinafter mentioned, was the true, honest and faithful wife of the said William F McMasters, and as such has always behaved and conducted herself, and until the committing of the several grievances by the said William T Spencer, as hereinafter mentioned, was always esteemed, reputed and accepted by and amongst all her neighbors and other good and worthy citizens of the State of Illinois, to whom she was in any wise known, to be a person of good name, fame and credit, to wit: at Stephenson County and State aforesaid. And whereas, also the said Martha wife of the said William F McMasters, as aforesaid, hath not ever been guilty, or, until the time of the speaking and publishing of the several false, scandalous, malicious and defamatory words, by the said William T Spencer, as hereinafter mentioned, been suspected to have been guilty of adultery or of any other crime as hereafter stated to have been charged upon and imputed to her by the said

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William J Spencer, By means whereof the said Martha, the wife of the said William F McMaster, as aforesaid, before the committing of the said several grievances, by the said William J Spencer, as hereinafter mentioned, had deservedly obtained the good opinion and credit of all her neighbors and divers other good and worthy citizens of said State, to whom she was in anywise known, to wit: at Stephenson County aforesaid, Yet the said William J Spencer, well knowing the premises, but greatly envying the happy state and condition of the said Martha, wife of the said William F McMaster as aforesaid, and contriving and wickedly and maliciously intending to injure the said Martha, wife of the said William F McMaster as aforesaid in her said good name, fame and credit, and to bring her into public scandal, infamy and disgrace, with and amongst all her neighbors, and divers other good and worthy citizens of said State, and to cause it to be suspected and believed by those neighbors and citizens that she, the said Martha wife of the said William F McMaster as aforesaid, had been and was guilty of the crime of adultery, as hereafter stated to have been charged upon and imputed to her by the said William J Spencer, and to subject her to the pains and penalties by the laws of this State made and provided against and inflicted upon persons guilty thereof, and to vex, harass, oppress, impoverish and wholly ruin her, the said Martha, wife of the said William F McMaster as aforesaid, heretofore to wit: on the Twenty second day of November, in the year of our Lord one thousand eight hundred and Fifty three, at Stephenson County aforesaid, in a certain discourse, which the said William J Spencer, then and there had with the said Martha McMaster wife of the said William F McMaster as aforesaid, of and concerning the said Martha, wife of the said William F McMaster as aforesaid, of and concerning in the presence and hearing of a certain Anna Lepper and of divers other good and worthy citizens of said State, then and there in the presence and hearing of the said last mentioned citizens, falsely and

maliciously spoke and published of and concerning the said Martha McMasters wife of the said William F McMasters as <sup>aforsaid</sup> follows, the false, feigned, scandalous, malicious and defamatory words following, that is to say - "You (the said Martha, wife of the said William F McMasters meaning) are a damned whore". "You (the said Martha, the wife of said William F McMasters, again meaning) have nothing but Bastards". "You (the said Martha, wife of the said William F McMasters, again meaning) are a damned bitch -"

And afterwards, to wit: on the Twenty fifth day of November, in the year aforesaid, at Stephenson County aforesaid, in a certain other discourse or conversation which the said William T Spencer, then and there had with a certain Robert McMasters, in the presence and hearing of the said Robert McMasters, and of divers other good and worthy citizens of the state aforesaid, the said William T Spencer further contriving and intending as aforesaid, then and there in the presence and hearing of the said last mentioned citizens, falsely, and maliciously spoke and published of and concerning the said Martha, the wife of the said William F McMasters as aforesaid, the false, scandalous, malicious, and defamatory words following, that is to say - "She (the said Martha, wife of the said William F McMasters, as aforesaid, meaning) is a God damned worn out whore". "She (the said Martha, wife of the said William F McMasters, as aforesaid, again meaning) is a worn out whooring bitch". "She (the said Martha, wife of the said William F McMasters, as aforesaid, again meaning) has shaken her shirt tail at every man in Stephenson County".

And afterwards, to wit: On the day and year last aforesaid, at the County of Stephenson aforesaid, in a certain other discourse which the said William T Spencer then and there had with one Robert McMasters, in the presence and hearing of the said Robert McMasters, and of divers other good and worthy citizens of the state aforesaid, the said William T Spencer, further contriving and intending as aforesaid, then and there in the presence and hearing of the said last mentioned citizens falsely and

maliciously spoke and published of and concerning the said Martha McMasters, the wife of the said William F. McMasters as aforesaid, and of and concerning one certain Anna Copper, the false, scandalous, malicious and defamatory words, following, that is to say - "You (the said Robert McMasters meaning) come here to defend them two (the said Martha, wife of the said William F. McMasters, as aforesaid and said Anna Copper meaning) old worn out whooring bitches, who have shaken their shirt tails at every man in Stephenson County, and I. (the said William I. Spencer himself meaning) can prove it". "They (the said Martha wife of the said William F. McMasters, as aforesaid and said Anna Copper meaning) are two old worn out whores, and I (himself, the said William I. Spencer meaning), can prove it".

By means of the committing of which said several grievances by the said William I. Spencer as aforesaid, the said Martha McMasters, wife of the said William F. McMasters as aforesaid, is greatly injured in her good name, fame and credit, and brought into public scandal infamy and disgrace with and amongst all her neighbors and other good and worthy citizens of the State aforesaid insomuch that divers of those neighbors and citizens to whom the innocense and integrity of the said Martha McMasters wife of the said William F. McMasters, as aforesaid, in the premises were unknown, have on account of the committing of the said grievances by the said William I. Spencer as aforesaid, from thence hitherto suspected and believed, and still do suspect and believe the said Martha wife of the said William F. McMasters as aforesaid, to have been, and to be a person guilty of adultery and other crimes so as aforesaid charged upon and imputed to her, by the said William I. Spencer, and have by reason of the committing of said grievances by the said William I. Spencer, as aforesaid, from hence hitherto wholly refused, and still do refuse to have any transaction, acquaintance or discourse with the said Martha, wife of the said William F. McMasters as aforesaid, as they were before used and accustomed to have,

and otherwise would have had; And also by means of the premises the said Martha, wife of the said William F. Masters as aforesaid, hath been and is otherwise greatly injured and damnified, to wit: at Stephenson County aforesaid - For the Damage of the said plaintiffs of Five Thousand Dollars, and therefore they bring suit &c.

By Bright & Smith.

Atty's p. q<sup>m</sup>

Which said amended Declaration has the following endorsement to wit:

Wm F. Masters & Martha his wife

vs

Wm F. Spencer

Amended Narr.

Filed Aug 1<sup>st</sup> 1854

Joseph B. Smith Clerk

Bright & Smith Plff Atty.

And afterwards to wit: on the 12<sup>th</sup> day of September A.D. 1854 - the defendant in said suit by his attorney, appeared and filed in said Court a demurrer to said plaintiffs <sup>amended</sup> Declaration - the said demurrer is in the words and figures following to wit:

In Circuit Court of the Term of Sept 1854

William F. Spencer

vs

William F. Masters &

Martha Masters his wife

State of Illinois

Stephenson County

And the said William F. Spencer by Turner and Meacham, and Betts his attorney, comes and defends the wrong and injury when &c, and says that the said, declaration and the matters therein contained in manner and form as the same are above stated and set forth are not sufficient in the law for the said William F. Masters and Martha Masters to have or maintain their aforesaid action thereof against him the said William F. Masters F. Spencer and that he the said William F.

Spencer is not bound by the law to answer the same or any part thereof and this he is ready to verify. Wherefore for want of a sufficient declaration in this behalf, the said William F Spencer prays judgment, and that the said William F. McMasters and Martha McMasters may be barred from having or maintaining their aforesaid action thereof against him &c.

Turner, Meacham & Petts for Deft  
And the said William F Spencer according to the form of the Statute in such case made and provided states and shows to the Court here the following causes of Demurver to the said first second and third counts of the said declaration and to the entire declaration - that is to say, that said declaration purports to be the basis of an action of slander brought into this Court by William F McMasters and Martha McMasters against William F Spencer and claims damages in favor of only one of said plaintiffs - (to wit Martha McMasters) and also that said first second and third counts and said entire declaration is in other respects uncertain informal and insufficient, &c.

Turner & Meacham & Petts  
for Deft

which said demurver is endorsed as follows to wit:  
"Circuit Court - William F Spencer ads -  
William F McMasters & Martha McMasters - Demurver  
to amended Narr"

Filed Sept 12th 1854

J. P. Smith Clerk

and upon the records of said Circuit Court for the Term of September A.D. 1854 - there appears the following entry to wit:

William F. McMaster et al }  
 " }  
 William F. Spencer } Case

And now at this day came on to be heard the Demurrer of the defendant to the plaintiffs declaration, and after arguments of counsel the Court overrules the said demurrer, whereupon the defendant asks leave, and leave is given him by the Court, to withdraw his said demurrer, and plead to plaintiffs declaration

And on the same day to wit: on the 12th day of September 1854 - the said defendant by his attorney appeared and filed in said Court his plea - which said plea is in the words and figures following to wit:

In the Circuit Court of Stephenson County of the September Term 1854 -

William F. Spencer

vs

William F. McMaster & another

} Slander

And the said William F. Spencer by Turner & Meacham and Betts his attys, comes and defends the wrong and injury when &c. and says that they are not guilty of the premises above laid to their charge or any or either of them or any part thereof in manner & form as the said Plaintiffs have complained against him & of this he puts himself upon the Country &c.

And the said Plaintiff doth the like

Bright & Smith Plffs. atty.

And for a further plea in this behalf as to the speaking and publishing of the said several words concerning the said Martha McMaster as in the said declaration set forth, the said defendant, by leave of the Court have for this purpose first had and obtained according to the form of the Statute in such case made and provided, saith that the said



plaintiffs ought not to have or maintain their aforesaid  
 action thereof against the said defendant - because  
 he says that the said Plaintiff - Martha McMaster, before  
 the speaking & publishing of the said several words of  
 and concerning the said Martha as in the said declaration  
 mentioned to wit: on &c, at the said County of Stephenson  
 was a damned whore, had bastards and was a damned  
 bitch, was a God damned worn-out whore, was a  
 worn-out whooring bitch and has shaken her shirt tail,  
 at every man in Stephenson County, and is a God damned  
 old worn-out whore - Wherefore he the said defendants  
 afterwards to wit: at the said several times mentioned  
 and set forth in said Declaration at said County of  
 Stephenson - did speak and publish - the said words of  
 and concerning the said Martha, as in the said Decla-  
 ration mentioned as he lawfully might for cause  
 aforesaid, and this the said Defendant is ready to  
 verify whereof he prays judgment if the said plain-  
 tiffs ought to have or maintain their aforesaid  
 action against him &c.

Turner & Meacham &  
 Betts attys for Deft

Which said plea has the following endorsements to wit:  
 Cir. Court Step. County

Wm J. Spencer  
 ats  
 Wm McMaster et al

Plea  
 Filed Sept 12th 1854  
 J. P. Smith Clerk

And afterwards to wit: on the 13th day of September  
A.D. 1854 - upon the records of said Court for said Term appears  
the following Entry to wit:

22

William F. McMaster et ux

William F. Spencer } lease

"And now come the plaintiffs by  
Bright & Smith their attorneys and file their Replication  
to defendants pleas-

Which said pleas are in the words and figures following to wit:

State of Illinois }  
Stephenson County } ss.

In the Circuit Court of Stephenson County  
September Term A.D. 1854

Wm. McMaster &

Martha McMaster his wife

Wm. F. Spencer

N. 22

And the said Plaintiff as to the Plea of  
the said Defendant by him first above pleaded and whereof  
he puts himself upon the Country, doth the like

Bright & Smith

Plffs Atty

And as to the said second plea of the said defendant by  
him secondly above pleaded, The said Plaintiff saith,  
that by reason of anything by the said defendant in the  
pleas above alledged ought not to be barred from craving  
or maintaining the aforesaid action against the said defen-  
dant in respect of the grievances in the introductory part  
of that plea mentioned, because they say that the said def-  
endant at the said time when he in the said declaration  
mentioned, of his own wrong and without the cause by  
the said defendant, in his said second plea mentioned did  
commit the said grievances in the introductory part of  
that plea mentioned in manner and form as the said  
plaintiffs hath above thereof complained against the

said defendant, to wit: at Stephenson County Illinois,  
And this the said plaintiffs prays may be inquired of  
by the County &c  
Bought & Smith  
Plffs. Atty.

Which said Replication has the following endorsements  
to wit:  
Wm. McMastus & Martha McMastus

Wm. J. Spencer

Replication — No 22-

Filed Sept 13th 1854

Joseph B Smith, Clerk

And on the same day to wit: on the 13th day of September  
A.D. 1854 the defendant appears and filed in said Court his  
affidavit, in the words and figures following to wit:  
In the Cir Court, Stephenson County

Wm. J. Spencer

ats  
Wm. J. McMastus



State of Illinois  
Stephenson County

Wm. J. Spencer, duly sworn upon his  
oath says that the defendants in this cause have no  
natural means and are entirely unable to pay the  
costs in this cause in case the same shall be deter-  
mined against them & asks that security for costs  
be filed

Subscribed & sworn this 13th  
day of Sept AD 1854  
Joseph B Smith, Clerk

William J. Spencer

Endorsed "W. J. McMastus et ux vs W. J. Spencer Aff."  
Filed Sept 13th 1854

Joseph B Smith, Clerk

And on the same day to wit: On the 13<sup>th</sup> day of September A.D. 1854 the said Defendant also filed in said Court his affidavit for a continuance of said Cause - which affidavit is in the words and figures following to wit:

In Circuit Court of Stephenson Co. Ills of the Term of Sept. A.D. 1854.

State of Illinois  
Stephenson County } William T Spencer personally  
appeared before me the undersigned Clerk of the Circuit Court of said County of Stephenson Illinois and being first duly sworn says that he is defendant in above entitled Cause and cannot safely proceed to the trial of said Cause at this term without the evidence of Allen Spencer, who resides in Bad Axe County Wisconsin and Zachariah D Marks who resides as this deponent believes at or near Elk Horn Grove Carroll County Illinois & who are material witnesses in said Cause on the part the defence. That this deponent expects to prove by said witnesses that the words used on the occasion referred to in the declaration (if any were uttered as alleged) were justifiable and true, that this deponent has a good defence on the merits of said Cause which he expects to prove by said witnesses and cannot safely proceed to the trial of said Cause without their evidence, that he expects to have said witnesses at the next term of this Court and that he has used the diligence required by the law to produce said witnesses at this term, and in fact has not had time to procure the attendance of said Court by securing subpoenas for said witnesses returnable at this term which Subps. are returned not found in this County - and further saith not.

Subscribed & Sworn before me

this day of Sept 1854

Joseph B Smith Clerk

William T Spencer

Endorsed "Circuit Court Wm. T. Spencer vs Wm. F. <sup>20</sup>  
McMasters & Martha McMasters. aff for continuance"  
Filed Sept. 13th 1854 — Joseph B. Smith, Clerk

And on the same day to wit. on the 13th day of  
September A. D. 1854 upon the records of the proceedings  
of said Court for said term is the following entry to wit:

22

William F. McMasters et ux }  
vs } Case  
William T. Spencer }

And now come the defendant by  
his attorney and moves the Court by affidavit for a  
continuance of this cause — and thereupon it is ordered  
by the Court that this cause be continued to the next  
term of this Court at the cost of the defendant — It is  
therefore considered and adjudged by the Court that the  
plaintiffs have and recover of the defendant their costs  
by them about their suit at the present term of this Court  
expended and that execution issue therefor —

And on the same day to wit. on the 13th day of September

And afterwards to wit: On the 13th day of November A. D.  
1854 at the November Term of the said Circuit Court. there  
appears upon the record of said Court for said Term the following  
entry to wit:

144

William F. McMasters & Martha McMasters }  
vs } Case  
William T. Spencer }

and now at this day comes the  
plaintiffs by their attorneys and file security for costs herein —  
Thereupon came the defendant by Turner his attorney — and  
moves the Court for leave, and leave is given him to withdraw  
his plea of justification filed herein

And now at this day comes the parties and their

attornies, and upon issue joined thereupon came a jury of twelve good and lawful men to wit: Benjamin Epley, Alexander McCully, G J Harris, Benjamin Rubendall, Ralph Sabin, P L Wright, Abel Smith, Rufus Ordway, Samuel Barber, Adam Heiser, George W Hodgson and Solomon Fisher who were severally duly elected tried and sworn -

The hour of adjournment having arrived, the jurors being charged by the Court retire -

The Bond given by the plaintiffs for costs in this cause is in the words and figures following to wit:

William F McMaster x

Martha McMaster

vs

William F Spencer

In the Civ. Court of Stephenson  
County of September Term A.D. 1854  
No 22

I do hereby enter myself security for costs in this cause, and acknowledge myself bound to pay or cause to be paid, all costs which may accrue and have accrued in this action, either to the opposite party or to any of the officers of this Court, in pursuance of the laws of this State -

Dated this 13th day of September A.D. 1854 -

Heiram Bright

Which said bond has the following endorsements to wit:  
22- September 7, 1854

McMasters vs Spencer - Bond for Costs.

Filed Nov. 13th 1854 - J. B. Smith Clerk

And on the next succeeding day to wit. On the 14th day of November A.D. 1854 at the November Term of said Court in the records thereof appears the following entry to wit:

14 William F McMaster x

Martha McMaster

vs

William F Spencer

Case

And now at this day came again the said

parties and their attorneys, and the said plaintiffs by  
 Loops their attorney moves the Court now here, to rescind  
 the order entered yesterday, allowing the defendant to  
 withdraw his plea of justification herein, and after hearing  
 the arguments of Counsel, and the examination of authorities -  
 and being fully advised in the premises - It is ordered by  
 the Court that said order be rescinded and annulled, and  
 the motion to withdraw said plea of justification be denied  
 unless the defendant would file affidavit of its fatuity -  
 which the defendant refusing to do, It is ordered by the  
 Court that said motion be overruled - to which ruling  
 of the Court the defendant by his counsel excepts - and there-  
 upon the trial of this cause is resumed, and after hearing  
 the evidence and arguments of Counsel the jury retire  
 to consider of their Verdict - and afterwards return into  
 Court with the following Verdict to wit: "We the jury find  
 the defendant guilty and assess the plaintiffs damages  
 at Four Hundred Dollars" - thereupon the defendant  
 by his attorney moves the Court for a new trial of this  
 Cause and also in arrest of judgment -

And afterwards to wit, on the 16th day of November A.D.  
 1854 the said defendant, by his attorney filed in said Court  
 his motion and reasons for a new trial and in arrest  
 of Judgment, in the words and figures following to wit:

"In the Stephenson County Circuit Court Nov. Term  
 A.D. 1854

William F. McMaster & Martha McMaster,

vs  
 William F. Spencer

} Case for Slander

The Defendant moves the Court in  
 arrest of judgment for the following reasons -

- 1<sup>st</sup> The words charged in the declaration are not actionable.
- 2<sup>d</sup> The words charged to have been spoken were addressed to and spoken of Anna Lopez and Martha Mc Masters.
- 3<sup>d</sup> The Declaration does not alledge that Martha Mc Masters was the wife of Wm F Mc Masters at the time of the speaking of the slanderous words.
- 4<sup>th</sup> The Declaration does not charge that Martha Mc Masters was the wife of Wm F Mc Masters at the time of the commencement of this suit.
- 5<sup>th</sup> The words charged in the declaration to have been spoken do not in their common acceptation amount to a charge of adultery -
- 6<sup>th</sup> The declaration is otherwise defective and insufficient.
- 7<sup>th</sup> The Court Erred in refusing to give the 6<sup>th</sup> instruction asked by Deft.

Turner & Meacham for Deft

And the defendant moves the Court for a new trial of this cause for the following reasons -

- 1<sup>st</sup> The verdict is against the law and testimony.
- 2<sup>nd</sup> It was not proved that Martha Mc Masters was the wife of Wm F Mc Masters at the time of the speaking of the words charged in the declaration.
- 3<sup>d</sup> The words were not proved as laid in the declaration.
- 4<sup>th</sup> The damages are excessive.
- 5<sup>th</sup> The verdict is not responsive to the issues.
- 6<sup>th</sup> The Court Erred in refusing to give the 6<sup>th</sup> instruction asked by the deft.

Turner & Meacham, Atty for Deft

Which said motion & reasons are endorsed as follows to wit:  
Spencer

ats

Mc Masters et al — Motion

Filed Nov. 16<sup>th</sup> 1854

J. P. Smith, Clerk

And afterwards to wit: on the 17<sup>th</sup> day of November A.D. 1854 Yet of the November Term of said Circuit Court



in the record of the proceedings thereof is the following entry to wit:

124

William F. McMasters & Martha McMasters,

William F. Spencer

} Case

And now on this day came on to be heard the motion of the defendant for a new trial of this cause, and also in arrest of judgment - and the Court after hearing the arguments of counsel, and being fully advised in the premises overruled the said several motions - to which ruling of the Court the defendant by his Counsel excepts - and prays that this his exception be allowed and made part of the record herein which is done. Thereupon it is considered and adjudged by the Court that the plaintiffs, have and recover of and from the defendant the sum of Four hundred Dollars as ascertained by the jury, together with their costs by them about their suit in this behalf expended, and that they have execution for the same; and thereupon the defendant prays an appeal to the Supreme Court; which appeal is allowed by the Court, upon condition that the said defendant, file an appeal bond within twenty days from this day, conditioned according to law, in the sum of Six hundred Dollars, with Frederick Baker as security in said bond,

The Bill of Exceptions filed in said Circuit Court, on the 18th day of November A.D. 1854 - being on the last day of the said November Term A.D. 1854 is in the words and figures following to wit:

In the Circuit Court of Stephenson County  
William F. McMaster and  
Martha McMaster, his wife  
vs  
William F. Spencer

of November Term 1854

State of Illinois  
Stephenson County

It is remembered that on this the 14th day of November yet of the November Term of said Court, this cause coming on to be heard, the defendant, after the jury were empannelled & sworn, moved the Court for leave to withdraw his plea of justification filed in said cause, which said motion was overruled by the Court unless the said defendant would file his affidavit, in said cause, that the facts alledged in said plea of justification were false; which defendant refused to do, to which ruling of said Court the defendant excepted. A jury having been empannelled to try the issue, the plaintiffs, to sustain the issue on their part, read in evidence the deposition of Anna Copper, as follows to wit:

First, interrogatory. What is your name and age, and where do you reside?

"My name is Anna Copper - I am forty nine years of age. I reside in Crawford County State of Wisconsin"

2<sup>d</sup>. Do you know the parties, plaintiffs and defendant, in the title to these interrogatories named, or either; and which of them; and how long have you known them respectively?

"I know both parties, - I have been acquainted with William F. McMaster about four years, and with Martha McMaster about twenty four years, and William F. Spencer defendant about ten years."

4<sup>th</sup>. "Did you hear the said defendant, William F. Spencer, say any thing to the said Martha McMaster, on or about the 22<sup>nd</sup> day of November A.D. 1853? If yea - state what the said defendant then said."

Answer - "On or about the 23<sup>d</sup> day of November A.D. 1853. I heard the defendant say to Martha Mc Masters, you have nothing over there but bastards or ever had;"

Q<sup>th</sup> - Did you hear the defendant, William T Spencer, say any thing on any other occasion about the said Martha?

If yea - State when and what it was.

Answer - "I have not."

Cross -

First Interrogatory - Let the witness state whether Anna Cospen is the Mother of Martha Mc Masters one of the plaintiffs in the suit in the title to the plaintiffs interrogatories mentioned? -

Answer, "Anna Cospen is the mother of the said Martha Mc Masters."

Second Interrogatory - Let the witness say whether the witness Anna Cospen is and has been on friendly terms with the defendant above named for the last two or three years, if they have not been on friendly terms; let her state how long they have not been on friendly terms <sup>when it arose</sup>?

Answer. "I have not been on friendly terms with the defendant for two or three years."

Third Interrogatory. - If the witness has heard William T Spencer say any thing of and concerning Martha Mc Masters, one of the plaintiffs in the above suit. let her state when particularly where and before whom it was said, let her give the names of the persons before whom it was said if any & where they now live. Let her state whether she and the said William T Spencer were near together at the time she heard the conversation if any & let her state & answer how far apart they were, a rod a part or more & how far apart they were?

Answer "About the 22<sup>d</sup> day of November A.D. 1853. the said William T Spencer said in my hearing to Martha Mc Masters, Go into the house you damned bitch, you

have nothing over there (meaning the house of the said Martha) but what you have stolen, and more than that nothing over there (meaning said house) but bastards or ever had. John Chapin was present at these remarks - Defdt. was at this time about 5 rods from Deponent, The said Chapin resides in Crawford County Wisconsin."

Fourth Interrogatory. - If the witness has heard defendant William F. Spencer say anything of and concerning the said Martha M<sup>rs</sup> Masters, let her state fully what it was that gave rise to the said conversation. Let her state whether it was said coolly & deliberately or in the heat of passion, or how it was said. Let the witness state what she and the defendant were talking about when it was said; Let the witness state whether what was said if any thing was said of & concerning the said Martha M<sup>rs</sup> Masters, or some one else. Let her answer fully and particularly?

Answer. "The conversation arose from some remarks made about the hogs of the Defendant destroying the grain of the said William F. M<sup>rs</sup> Masters - The conversation commenced coolly and ended in passion - We were talking about his (the defendant's) hogs. She spoke at the same time of Martha M<sup>rs</sup> Masters. the same I have deposed to in my answer to the fourth interrogatory of the plaintiffs, and in my answer to the third interrogatory on the part of defendant."

The said plaintiffs, further to prove the issue on their part produced Robert M<sup>rs</sup> Masters, a witness, who being sworn, testified as follows, to wit: I know the parties in this suit on the 23<sup>d</sup> day of November A. D. 1853. I heard the defendant say that he had said nothing of Martha M<sup>rs</sup> Masters and Anna Cooper except what he could prove. He said that he had told Martha M<sup>rs</sup> Masters and Anna Cooper they were two God damned worn out whores and that they had

spoken Shaken their shirt tails at every man in Stephenson County, and that he could prove it, and then said they are two God damned worn out whores & have shaken their shirt tails to every man in Stephenson County and I can prove it, we had some further conversation and the defendant was very angry at me for coming there about the women - Hee said 'you God damned grey headed son of a bitch, come here to defend <sup>them</sup> two old worn out whooring bitches who have shaken their shirt tails at every man in Stephenson County and I can prove it. Anna Cooper is the wife of Abel Cooper, and Martha Mc Masters is the wife of William F. Mc Masters and my daughter in law.

On cross examination said witness testified as follows to wit: This conversation took place at the defendants house - the defendant was in his yard, and I stood in the lane adjoining the yard. Defendants boy was present when the conversation was had, when I first commenced talking to the defendant, I told him that Mrs. Mc Masters and Mrs Cooper had sent me to him to ask why he permitted his boy to abuse them. The defendant answered that the boy would not abuse any person if they left him alone and that what the boy had said of the women was true and that he could prove it. Hee then repeated the words that I have testified to before. The defendant got very angry. I was as angry as any man under the circumstances would get. we both used hard words. Dont know who used the hardest words - I am no judge of that.

On resumed examination by plaintiff said witness testified as follows to wit: When I first went to see Mr. Spencer I was perfectly cool - after he made use of the words and abused me I became excited.

This being all the testimony offered in the case,

The plaintiff asked the following instructions from the court, which were given as follows, to wit:

1<sup>st</sup> If you believe from the evidence that the words charged  
2 Green. Ev. 398 in the declaration were spoken by the defendant, and  
4 Scam. p. 33. that the words are false - then the law presumes that  
they were spoken maliciously.

2<sup>nd</sup> If you believe from the evidence, the defendant to be  
3 Scam. 373. guilty, you may then give damages, not only to  
2 Gill. 432. compensate the plaintiffs, but also for the double purpose  
5 Watts. 376. of setting an example and to punish the defendant.

3  
8. Wend. 573. A plea in slander that the charge contained in  
the declaration is true, if unsupported by evidence, is  
proper to be considered in aggravation of damages.

13 Wend. 9 The plaintiffs are not bound to prove all the words  
5 Cov. 513. laid in the declaration. if they prove any words which  
8 J. R. 74. are laid, and are actionable it is sufficient  
2 Gill. 720.

Endorsed "Filed Nov. 14. 1854. J. B. Smith clerk".

So, which the defendant excepted.

The defendant asked the following instructions, which were given by the court to the jury, with the exception of the sixth, which was refused.

"The Defendant asks the court to charge the jury,

1<sup>st</sup> The plaintiffs must prove the slanderous words as  
laid in the Declaration, and if the plaintiffs have  
failed to prove the slanderous words as laid in the  
declaration, they must find for the defendant.

2<sup>nd</sup> The Plaintiffs must prove by testimony that  
Martha McMaster is the wife of William F. Mc-  
Master, and if the plaintiffs has failed to prove  
that Martha McMaster is the wife of said Wm F.

McMasters. the jury must find for the defendant,

3<sup>d</sup> The words "You have nothing over there, meaning said house but bastards or ever had" are not slanderous.

4<sup>th</sup> The words "You are a damned bitch" are not slanderous

5<sup>th</sup> The words "She has shaken her shirt tail at every man in Stephenson County" are not slanderous.

6<sup>th</sup> The words "You came here to defend them two old worn out whooring bitches who have shaken their shirt tails at every man in Stephenson County and I can prove it" are not slanderous -

The defendant asks the court to charge the jury that the pleas filed herein are not evidence before the jury of the facts stated in the de Declaration -

To the refusal of the court in giving the said sixth instruction the defendant excepted.

And afterwards, to wit: on the said 14<sup>th</sup> day of November A.D. 1854. the jury return the following verdict, to wit: "We the jury find the defendant guilty and assess the plaintiffs damages at Four Hundred Dollars," whereupon the defendant entered his motion for a new trial and in arrest of judgment and filed the following reasons to wit:

"In the Stephenson County Circuit Court Nov. Term A.D. 1854

William H. McMasters &  
Martha McMasters

William J. Spencer

} Law. for Slander

The Defendant moves the Court in

in arrest of Judgment for the following reasons.

1<sup>st</sup>. The words charged in the declaration are not actionable.

2<sup>nd</sup>. The words charged to have been <sup>were adapted to and spoken</sup> spoken of Anna Cooper and Martha McMasters.

3<sup>d</sup>. The Declaration does not alledge that Martha McMasters was the wife of William F McMasters, at the time of the speaking of the slanderous words.

4<sup>th</sup>. The Declaration does not charge that Martha McMasters was the wife of Wm. F. McMasters at the time of the commencement of this suit.

5<sup>th</sup>. The words charged in the declaration to have been spoken do not in their common acceptation amount to a charge of adultery.

6<sup>th</sup>. The Declaration is otherwise defective and insufficient.

7<sup>th</sup>. The Court Erred in refusing to give the 6<sup>th</sup> instruction asked by Deft.

Turner & Meacham, for Deft

And the Defendant moves the Court for a new trial of this cause for the following reasons.

1<sup>st</sup>. The verdict is against the law and testimony.

2<sup>nd</sup>. It was not proved that Martha McMasters was the wife of Wm. F. McMasters at the time of the speaking of the words charged in the declaration.

3<sup>d</sup>. The words were not proved as laid in the declaration.

4<sup>th</sup>. The Damages are excessive.

5<sup>th</sup>. The Verdict is not responsive to the issues.

6<sup>th</sup>. The Court Erred in refusing to give the 6<sup>th</sup> instruction asked by Deft.

Turner & Meacham  
Atty's for Deft.



And afterwards to wit: On the 17th day of November A.D. 1854. the motion for a new trial and in arrest of judgment coming on to be heard, the Court overruled the same, and gave judgment on the verdict, to which ruling of the Court in overruling the motion for a new trial and in arrest of judgment and rendering judgment on said verdict the defendant excepts and prays that then his exceptions may be signed and sealed by the Court <sup>and it</sup> is done.

Benj R Sheldon *(Seal)*

Chas. Betts for Deft.

Which Bill of Exception is endorsed as follows viz.

"William F McMasters & Martha his wife

William J Spencer — Bill of Exceptions

Filed Nov. 18. 1854 - J. B. Smith Clerk


And afterwards to wit: On the 27th day of November A.D. 1854 the Defendant files in the office of the Clerk of said Circuit Court an Appeal Bond in the words and figures following to wit.

"Know all men by these presents that we William J Spencer and Frederick Baker of the County of Stephenson and State of Illinois are held and firmly bound unto William F McMasters and Martha McMasters his wife in the penal sum of Six hundred dollars current money of the United States for the payment of which well and truly to be made, we bind our selves, our heirs executors and Administrators jointly, severally and firmly by these presents - Witness our hands and seals this 27th day of November A.D. 1854 -

The Condition of the above obligation is such that whereas the said William F McMasters and Martha McMasters his wife did on the 17th day of November A.D. 1854 in the Circuit Court in and for the County and State

afforeaid recover a judgment against the above bounden  
" William F Spencer for the sum of four hundred dollars  
" damages and Thirty <sup>39</sup> /100 dollars Costs from which said  
" judgment of the said Circuit Court, the said William F  
" Spencer has prayed for and obtained an Appeal to the  
" Supreme Court of said ~~said~~ State. Now of the said  
" William F Spencer shall duly prosecute his said Appeal  
" with effect and shall moreover pay the amount of the  
" judgment costs and interest, and damages rendered  
" and to be rendered against him in case the said  
" judgment shall be affirmed in the said Supreme Court  
" then the above obligation to be void otherwise to remain  
" in full force and virtue.

Taken and entered into  
before me at my office this  
27th day of November A.D. 1854  
Joseph B Smith, Clerk

William F Spencer   
H. Baker 

Endorsed "Filed Nov. 27th 1854

Joseph B Smith, Clerk"

State of Illinois  
Stephenson County

I, Joseph B Smith Clerk of the  
Circuit Court in and for said County do hereby Certify that the  
foregoing is a true, full, and complete record of & in the cause  
of William F McMaster and Martha McMaster his wife aga-  
-inst William F Spencer as the same appears upon the  
Books and files in my office

In witness whereof I have hereunto set  
my hand and affixed the seal of said  
Court at Freeport this 30th day of  
January A.D. 1855.

Joseph B Smith, Clerk

Wm. F. McMaster et ux

Wm. T. Spencer } Case  
                              } Piffs Costs

Dock. out 10<sup>00</sup> Insur sums, 35<sup>00</sup> app + atty 15<sup>00</sup> Conty Secty for costs 20<sup>00</sup> . 80

Insur. Com: 50<sup>00</sup> Subp. 35<sup>00</sup> 3 writ. aff. 30<sup>00</sup> Fidy. 11/10/55<sup>00</sup> Callg. & Insur July 15<sup>00</sup> 1. 85

Insur. 3 writ. 15<sup>00</sup> recog & enty Verdict 10<sup>00</sup> Conty mo. to rescind order atty. Deft to witho place<sup>00</sup> . 45

Conty. order rescind of do 20<sup>00</sup> Conty Judgt 25<sup>00</sup> Sat. 15<sup>00</sup> order for ex 20<sup>00</sup> 80

Ex July 15<sup>00</sup> Dock ex 10<sup>00</sup> Conty Shffs retm 10<sup>00</sup> Makg & enty Rule Costs 30<sup>00</sup> 95

\$ 4.85

Shff. Geo. Rutzgele Exg & retg sums . 80

" " " " on Subpa. 1. 50

" " " " Summoning Jury . 80

\$ 2.80

County Jury fee 3. 00

" Docket fee 1. 25

\$ 4.25

Witness - Joseph Scott on Day . 50

William Welch 2 " 1. 00

W. H. Kollenbeck 1 " . 50

\$ 2.00

J. H. Fonda Com: Takg Depositions \$ 4.98

\$ 18.88

Wm. F. McMartin et ux

Wm. F. Spencer } Leave  
                              } Defts Costs

Enty. appor atty 15 <sup>00</sup>	Enty. mo. for leave to with <sup>d</sup> plea 20 <sup>00</sup>	leave to with <sup>d</sup> plea 20 <sup>00</sup>	55
Ordn. overruly, mo. to with <sup>d</sup> plea. 20 <sup>00</sup>	July 4 Subps \$1.40	July 8 paper 40 <sup>00</sup>	\$2.00
Enty. mo. for new trial 20 <sup>00</sup>	Ordn. overruly do 20 <sup>00</sup>	Enty. Excep <sup>t</sup> ions 20 <sup>00</sup>	.60
Enty. prayn for appeal 20 <sup>00</sup>	Ordn. granty. do 20 <sup>00</sup>	Take Appeal Bond 50 <sup>00</sup>	.90
Makey x Enty Bill Costs 30 <sup>00</sup>	Copy do 20 <sup>00</sup>		.50
			<u>\$4.55</u>

Shff Geo. Reetzels	Exg x retz 4 Subps	\$6.95
		<u>\$11.50</u>

Making Complete Record for Supreme Court	\$9.63
Certificate and Seal	.35
<u>\$9.98</u>	

State of Illinois  
Stephenson County

I Joseph B Smith Clerk of the Circuit Court in and for said County do hereby certify that the foregoing is a true copy from my Fee-Book of the Costs and charges taxed against the plaintiffs in the above entitled cause, and also of the costs and charges taxed against the defendant in the above entitled cause, as the same appears of Record in my office.

In witness whereof I have hereunto set my hand and affixed the seal of said Court at Freeport this 30th day of January A.D. 1855.

Joseph B Smith, Clerk

63

William F. McMaster &  
Martha McMaster his wife

ats.

William F. Spence

Recor

855

Filed June 7. 1855  
L. Ireland Clk.

12217  
Costs taxed

Supreme Court of the State of  
Illinois Of the June Term 1855  
William J. Spencer appellant

<sup>vs</sup>  
William A. M. Masters & ux appellee } Appeal from  
Stephenson

And the said  
William J. Spencer appellant by Tho<sup>s</sup> J. Turner  
his attorney comes and assigns the  
following causes of error

First The Court erred in refusing to allow the  
defendant below to withdraw his plea of  
Justification

Second The Court erred in refusing to give the  
Sixth instruction asked by the defendant  
below

Third The court erred in giving the third instruction  
asked by the plaintiff below which is in the  
following words "A plea in slander that  
the charge contained in the declaration is  
true, if unsupported by evidence, is proper  
to be considered in aggravation of damages!"

Fourth The court erred in giving the first, second  
and fourth instructions asked by the  
plaintiffs below

Fifth The court erred in ~~refusing~~ <sup>overruling</sup> the  
motion of the defendant below in arrest of Judgment

Sixth The court erred in overruling the motion  
of the defendant below, for a new trial

Sevenths The Court erred in rendering judgement  
against the defendant below

Thos J Turner

Atty for Appellant

And now comes the appellee of Blelock  
his atty & says that in the record and  
proceeding aforesaid there is no error  
& they pray that said Court be affirmed

B. Blelock

Atty for appellee

63

William Spencer

for  
Mr. J. C. Patterson

Assignment of Errors

Filed June 26. 1855  
R. Ireland  
Clerk.

12217

63

10-11015