

13779

No. _____

Supreme Court of Illinois

Phillips

vs.

^K
Renwick

71641  7

United States of America
State of Illinois Kane County }
City of Elgin } &

Hear before the
Honorable Charles H. Morgan Judge
of the Court of Common Pleas of the City of
Elgin in the County of Kane and State of
Illinois, and presiding Judge of the said
Court at a term of said Court begun and
held at the Court Room in Elgin in said
City on the 8th day of March in the year
of Our Lord one thousand Eight hundred
and fifty eight -

Present The Honorable Charles H. Morgan Judge
George E. Corwin Sheriff
E. S. Jolly City Attorney for the City of Elgin -

Attest

R. W. Padelford
Clerk

Be it remembered that whereas heretofore
to wit on the 26th day of February AD 1858,
a precept and Declaration were filed in
the Office of the Clerk of said Court of Common
Pleas of the City of Elgin which said Precept
was in the words and figures following to
wit:

State of Illinois }
County of Kane }
City of Elgin }

March Term AD 1858
of the Court of Common
Pleas of the City of Elgin

Mary E Phillips
admx of Estate of
Palmer J Phillips dec.

vs
George W Kenwick

Assumpsit
Damages \$500.

The Clerk of the said
Court will please issue a summons in
a cause entitled as above directed to the
Sheriff of Kane County aforesaid returnable
at said Term of said Court and claiming
damages in the sum of \$500.

Elgin February
25, 1858

Yours H
John S. Wilcox
Plffs Atty

And which said Declaration was in
the words and figures following to wit:

State of Illinois }
County of Kane }
City of Elgin }

March Term AD 1858
Court of Common
Pleas of the City of Elgin

Mary E Phillips Administra-
trix of all and singular the goods

and Chattels rights and credits which were of Palmer J. Phillips deceased) at the time of his death who died intestate by John S. Wilcox her attorney Complainant of George W. Kenwick Defendant in this suit of a plea of trespass on the case upon promises. And that the said Defendant heretofore and in the life time of the said Palmer J. Phillips since then deceased - to wit on the Eighth day of April A.D. 1850. at Elgin aforesaid in said County of Kane by his due bill in writing then and there made and delivered to the said Palmer J. Phillips for value received acknowledged that there was then due from him ^{to} the said Palmer J. Phillips (by the name of P. J. Phillips) on settlement One hundred and eighty three $\frac{40}{100}$ dollars with interest. And also for that the said Defendant heretofore and in the life time of the said Palmer J. Phillips since then deceased - to wit on the Nineteenth day of December A.D. 1852. at Elgin in the said County of Kane by his certain other due bill in writing then and there made and delivered to the said Palmer J. Phillips for value received acknowledged that there

was ^{then} due and owing from him to said
Palmer J. Phillips (by the name of P. Phillips)
or his order One Hundred and sixty
three dollars. $\frac{1}{4}$, $\frac{89}{100}$ cents with interest.

And also for that the said defendant
heretofore and in the life time of the said
Palmer J. Phillips to wit on the 1st day
of January A.D. 1854, at Elgin aforesaid
in said County of Kane was justly
indebted to the said Palmer J. Phillips
in the sum of Five Hundred dollars
for money then lent by the said Palmer
Phillips to the said defendant at his
request and in the sum of Five hundred
dollars for money then had and received
by the said defendant for the use of the
said Palmer J. Phillips and in the sum
of Five hundred dollars for money
then paid by said Palmer J. Phillips
for the said defendant at his request

And in the sum of five hundred
dollars for work and labor then and
there done and performed by the said
Palmer J. Phillips for the said Defen-
dant at his request. And in
consideration thereof the said defendant
then and there promised the said
Palmer J. Phillips to pay him the several

monies aforesaid on demand -
Yet the said Defendant though often
requested has not paid said several
sums of money, or any part thereof
to the said Palmer J Phillips during
his life time or to the said Plaintiff
(to whom was granted after the death of
the said Palmer J Phillips who died
intestate by the County Court of said
Harris County in due form of law to-wit:
on the 4th day of January AD 1858,
Administration of all and singular
the goods and Chattels, rights and
credits which were of the said Palmer
J Phillips at the time of his death) since
the death of the said Palmer J Phillips
but so to do has wholly refused and
still does refuse. To the damage
of the said Plaintiff as Administrator
as aforesaid of Five Hundred dollars
and therefore she brings her suit of

And the said Plaintiff brings in to
Court here the letters of Administration
granted by the County Court of said Harris
County which gives sufficient evidence
to the Court here of the grant of Administration
to the said Plaintiff as aforesaid the date
whereof is the day and year aforesaid
John S. Wilcox, Atty.

Copy of due bills sued

"Elgin April 8th

due P Phillips on settlement one hundred and
Eighty three $\frac{40}{100}$ dollars value received with
use G W Renwick

Endorsed as follows "May 2, 1854 Received \$50.00"

Elgin Dec 19, 1852.

due P Phillips on order on settlement
one hundred and Sixty three dollars
& $\frac{89}{100}$ cents with use value received of him
G. W. Renwick

Copy of account sued

G. W. Renwick in account with Mary E Phillips
Administratrix of the Estate of Palmer J
Phillips dec^d. J.

Feb 20 " 1858 To Money lent	\$500.00
" " had received	500.00
" " paid	500.00
" " work & labor	500.00

And afterwards to wit on the 26th
day of February A.D. 1858, there was signed
a summons from said Clerk's Office under
the hand and the official seal of the Clerk
thereof which is in the words & figures following
to wit:

on the back of which summons is the following return "Served by Deft accepting service Feby 26. th 1858

G. E. Corwin Sheriff
By J. Kimball
Deft

fees - Service 50. 1m 5 Ret 10. 65

Filed March 6. 1858

R. W. Fudelford Clerk.

And afterwards to wit on the 19th day of March A. D. 1858, the same being one of the days of the said Court of Common Pleas of the City of Elgin at the March Term thereof the defendant by his Attorney filed his plea which is in the words and figures following to wit:

State of Illinois }
Kane County of } 3

The Court of Common Pleas of
the City of Elgin March
Term A. D. 1858.

George W. Rowick }
 ats }
Mary E. Phillips }
Administratrix of } 3

And the said defendant
by John S. Riddle his

attorney comes and defends the wrong
and injury when he and says that he
did not undertake or promise in manner

It form as the said plaintiff as aforesaid
has above thereof complained against him;
and of this he puts himself upon the Country
H

John S. Riddle

Atty, Atty

And for a further plea in this behalf the
said defendant by leave of the Court
here for this purpose first had and obtained
according to the form of the Statute in such
case made & provided says that the said
plaintiff ought not to have or maintain his
aforesaid action thereof against him because
he says that the said plaintiff as aforesaid
before and at the time of the commencement
of this suit To wit February 26th Feb^r
1858. at Elgin Howe County aforesaid was and
still is indebted to the said defendant in
a large sum of money to wit the sum of eight
hundred dollars for money by the said
defendant before that time lent and
advanced to, and paid laid out and
expended for the said Plaintiff as aforesaid
at her request, and for money by the said
Plaintiff as aforesaid before that time had
& received to & for the use of the said defendant
which said sum of money so due and
owing to the said defendant as aforesaid
exceeds the damages sustained by the
said plaintiff by reason of the non

The following among other proceedings
were then and there had and entered of
record to wit:

Mary E Phillips }
Administratrix }
vs } Assumpsit
George W Renwick }

This day comes the
defendant by his Attorney Riddle and
files his Affidavit and moves for
a continuance of this case -

The Court being fully advised
grants the motion -

And afterwards to wit: on the
17th day of June A.D. 1858. the same
being one of the days of the aforesaid
Court of Common Pleas of the City of
Elgin at the June Term thereof
The following among other proceedings
were then and there had and entered
of record to wit:

Mary E Phillips }
Administratrix }
vs } Assumpsit
George W Renwick }

This day come
the Plaintiff by J. S. Wilcox her Attorney

and the defendant by J. S. Riddle
his attorney and the defendant
files his Affidavit and moves for
a continuance for the term -

The Court being fully advised
overrules the motion, to which ruling
the defendant excepts

And afterwards to wit on the 18th
day of June AD 1856, the same
being one of the days of the aforesaid
Court of Common Pleas of the City of Elgin

The following among other proceedings
were then and there had and entered
of record to wit:

Mary E Phillips
Administratrix

vs

George W Penwick

Assumpsit

This day comes
the Plaintiff by John S. Wilcox his
attorney and the defendant by
J. S. Riddle his attorney and
on motion of the Plaintiff. It is
ordered that a Jury come
whereupon come a Jury of good
and lawful men to wit:

John Mann W^m Saunders George Dunlap
S. P. Saxton D. J. Gray J. Morgan
S. B. Lanchast John Hunter Philo Lylla
George Stringer Martin Coney D. Clark
being severally Elected tried and
sworn also come and after hearing
the evidence argument of counsel
and instructions of the Court, retire
under the charge of a sworn officer
of the Court to consider of their
verdict - Subsequently return
into Court and for a verdict
upon their oaths say that they
find the issues joined in favor of the
Plaintiff and assess the damages
at three hundred and eighty nine
dollars and sixty four cents -

It is therefore considered by the Court
that the Plaintiff have and recover from the
defendant the sum of three hundred and
Eighty nine dollars and sixty four cents and
her costs in this suit expended and have
execution therefor -

Whereupon the defendant moves for a
new trial - The Court being fully advised
overrules the motion - Thereupon the defendant
prays an appeal to the Supreme Court of the
State of Illinois - which is granted - Appeal

bond to be \$600. B. Burritt & George P. Harvey
offered as security. 30 days given to file Appeal
Bond & Bill of exceptions -

And afterwards to wit on the 8th day of
July A.D. 1858, an appeal bond was filed in
the Office of the Clerk of said Court of Common
Pleas of the City of Elgin which said Appeal
Bond was in the words & figures following to wit:

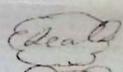
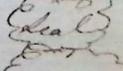
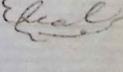
Know all men by these presents that we
George W. Renwick, George P. Harvey and Benjamin
Burritt of Kane County State of Illinois we
held and firmly bound unto Mary E. Phillips
Administratrix of the Estate of Palmer J.
Phillips deceased of the County of Kane and
State of Illinois in the sum of Six hundred
dollars to be paid unto the said Mary
E. Phillips administratrix as aforesaid
to the payment of which well and truly to
be made we bind ourselves our heirs
executors, administrators and assigns
jointly, severally & firmly, by these presents

Sealed with our seals and dated this
6th day of July A.D. 1858.

The Condition of the above
obligation is such that whereas the
said Mary E. Phillips as Administratrix
as aforesaid did on the 18th day of

June AD 1858, recover in the Court of Common
Pleas of the City of Elgin Kane County Illinois
a judgment against said George W. Ren-
wick for the sum of Three hundred &
Eighty nine dollars & Sixty four cents together
with her costs and charges from which
judgment the said George W. Renwick
immediately moved an appeal to the
Supreme Court which was allowed by
the Judge of said Court on condition the
said Renwick and said Harvey &
Burrill as his surety file their bond in
the penal sum within thirty days from
the last day of the term of said Court
Conditioned as the law directs -

Now therefore if the said George W.
Renwick shall pay the said Judgment
costs interest and damages in case
the said judgment shall be affirmed
and shall prosecute his said ~~suit~~
appeal with due diligence then this
obligation to be void. Otherwise to
remain in full force and virtue

G. W. Renwick 
B. Burrill 
Geo. J. Harvey 

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Mary Phillips
-51

Wm. Kewick
" " " " " "
" " " " " "

Mary Phillips adms

13779

Filed April 20, 1860
L. Keland
Clk.

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