

13892

No. \_\_\_\_\_

# Supreme Court of Illinois

Chicago, St. Paul & Fond  
Du Lac R. R. Co.

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vs.

Beardsley

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71641 7

Monday March 1. A.D. 1858  
United States of America  
State of Illinois of Pleas Before the Hon Theodore D.  
McHenry County } Murphy Judge of the County Court  
of the County of McHenry and State  
of Illinois began and held at Woodstock on Monday the first  
day of March A.D. 1858 and of the Independance of the  
United States the Eighty seconds  
John Eddy Sheriff Present the Hon Theodore D Murphy  
Attest W. H. Stewart Clerk Judge

And heretofore to wit. on the 15<sup>th</sup> day of  
February A.D. 1858 a summons was issued out of and  
under the seal of our said Court, which said summons  
was in the words and figures following, to wit:

State of Illinois } The People of the State of Illinois, to the  
McHenry County } Sheriff of said County Greeting:  
We command you that you summon  
Chicago St Paul & Fond du Lac Rail Road Company if they  
shall be found in your County personally to be and appear before  
the County Court of said County, on the first day of the next Term  
thereof, to be holden at the Court House, in Woodstock in said  
County, on the first Monday of March next to answer unto  
Najah Beardsley in a plea of Assumpsit to the damage  
of said Plaintiff, as he says in the sum of four hundred  
Dollars.

And have you then & there this writ with an  
Ordersment thereon as to the manner in which you  
execute the same.

Seal

Witness William H Stewart Clerk of our said Court  
and the seal thereof at Woodstock, in said  
County this 15. day of Feby<sup>ry</sup> 1858  
W. H. Stewart Clerk

(Enclosed) The President of the within named Defendant  
not found in my County. & is not a resident of my County  
Served by reading to & within hearing of Amasa Casp  
and of the acting conductors of the Defendants and also  
by delivering into his possession a copy of this writ  
for the use of the Company. Done this the 18<sup>th</sup> day of  
February A.D. 1858. John Eddy Sheriff,  
And filed March 2. 1858

M<sup>r</sup> Stewart clerk

And on said day, to wit on the 19 day of February 1858  
Church & Kerr filed in the office of said clerk a narration  
in the words and figures following to wit:

State of Illinois } The County Court of McHenry  
McHenry County } County March Term A.D. 1858

Najah Beardsley Plaintiff in this suit  
by Church & Kerr his attorney complains of  
Chicago St Paul and Fond Du Lac Rail  
Road Company, a corporation duly incorporated  
under and by virtue of the Laws of this State  
Defendants in this suit who are summoned &c  
of a plea of trespass on the case upon promises, for  
that whereas the said Defendants heretofore, to wit, on  
the first day of January in the year of our Lords  
One Thousand Eight Hundred and Fifty Eight at  
Woodstock to wit at the County of McHenry aforesaid  
was indebted to the said Plaintiff in the sum of four  
Hundred Dollars Lawful Money of the United States  
of America for divers goods wares and merchandise  
by the said Plaintiff before that time sold and delivered  
to the said Defendants and at the special instance  
and request of the said Defendants, and being so

indebted the said defendants in consideration thereof afterwards to wit on the same day and year last aforesaid at the place aforesaid undertook and then and there faithfully promised the said Plaintiff well truly to pay unto the said Plaintiff the said sum of four hundred dollars when they the said Defendants should be thereunto afterwards requested.

And whereas also afterwards to wit on the same day and year last aforesaid in consideration that the <sup>said</sup> Plaintiff at the like special instance and request of the said defendants had before that time sold and delivered to the said defendants divers other goods wares and merchandises of him the said Plaintiff, the said Defendants undertook and then and there faithfully promised the said Plaintiff to pay him so much money as the said last mentioned goods wares and merchandises at the time of the said sale and delivery thereof were reasonably worth when the said Defendants should be thereunto afterwards requested, and the said Plaintiff avers that the said last mentioned goods wares and merchandises at the time of the sale and delivery thereof were reasonably worth the further sum of four hundred dollars of like lawful money as aforesaid, to wit at the place aforesaid whereof the said defendants afterwards, to wit on the same day and year last aforesaid and at the place aforesaid had notice.

And whereas also the defendants afterwards, to wit on the same day and year last aforesaid and at the place aforesaid was indebted to the said Plaintiff in the further sum of four hundred

Dollars of like Lawful Money as aforesaid for  
for the work and labor care and diligence of the said  
Plaintiff by the said Plaintiff before that time done  
performed and bestowed in and about the business of the  
said defendants and for the said defendants and at  
their special instance and request and also for divers  
materials and other necessary things by the said  
Plaintiff before that time found and provided and  
used and applied in and about their work and  
labor for the said defendants and at their like  
special instance and request and being so indebted  
to the said Plaintiff, the said defendants in consideration  
thereof afterwards, to wit on the same day and year last  
aforesaid and at the place aforesaid undertook and  
then and there faithfully promised the said Plaintiff  
well and truly to pay unto the said Plaintiff the said  
sum of money last mentioned when the said defendants  
should be thereunto afterwards requested

And whereas also afterwards to wit  
on the same day and year last aforesaid and at  
the place aforesaid in consideration that the said  
Plaintiff had before that time at the like special  
instance and request of the said defendants  
done performed and bestowed divers other work and  
labor care and diligence in and about the business  
of the said defendants and for the said defendants  
and had before that time found provided used  
and applied divers other materials and other  
necessary things in and about their business the  
said defendants undertook and then and there faithfully  
promised the said Plaintiff that they the said defendants  
would well and truly pay to the said Plaintiff so much  
money as the said Plaintiff reasonably deserved to have

of the said Defendants for the same when they the said Defendants should be thereunto afterwards requested and the said Plaintiff avers that he reasonably deserves to have of the said Defendants for the same the further sum of four hundred dollars of like lawful money as aforesaid, to wit, at the place aforesaid whereof the said Defendants afterwards, to wit on the same day and year last aforesaid and at the place aforesaid had notice.

And whereas the said Defendants afterwards, to wit on the same day and year last aforesaid at the place aforesaid were indebted to the said Plaintiff in the sum of four hundred dollars lawful money of the United States of America for money before that time lent and advanced by the said Plaintiff to the said Defendants and at the special instance and request of the said Defendants, and for other money by the said Plaintiff before that time paid laid out and expended for the said Defendants and at the like request of the said Defendants, and for other money by the said Defendants before that time had and received to and for the use of the said Plaintiff and being so indebted the said Defendants in consideration thereof afterwards, to wit, on the same day and year last aforesaid and at the place aforesaid undertook and then and there faithfully promised the said Plaintiff well and truly to pay unto the said Plaintiff the said sum of money in this court mentioned when they the said Defendants should be thereunto afterwards requested

Nevertheless the said Defendants although often afterwards requested so to do have not as yet paid the said several sums of money above

mentioned or any or either of them, or any part thereof to the said Plaintiff but to pay the same or any part thereof to the said Plaintiff the said defendants have hitherto altogether refused and still do refuse, to the damage of the said Plaintiff of four hundred dollars and therefore the said Plaintiff brings suit &c.

Church & Kerr Attys for Plff

Chicago St Paul and  
Fond du Lac Rail Road Company

To Goods wares & Merchandise	\$ 400.00
" Labor and Services & Materials	400.00
" Money Lent and advanced	400.00
" Money Expended & paid out	400.00
" Money Received for use of	400.00

(Endorsed) Filed Feby 19 1858  
W. N. Stewart Clerk

And thereafter to wit on the 11 day of March, <sup>1858</sup> being one of the days of the march term of our said Court the following proceedings among others were had

Najah Beardslay }  
vs } Assumpsit  
Chicago St Paul and }  
Fond du Lac Rail Road } And now comes the plain-  
Company vs } tiff by Church and Kerr  
his attornis, and the  
Defendants being three times solemnly called comes not nor any one for them but fails and makes default herein which is ordered to be entered of record

and that a jury come to Enquire into and assess  
the <sup>said</sup> Plaintiffs damages

Whereupon came a jury of  
twelve good and lawful men David Williams  
P. Nashins, Robert Turner, John Ellison, Francis  
Hill, Daniel Dennison Charles Salisbury William  
C. Rider Henry Ginn Williams R. Willard Williams  
Walkup Samuel Griffing and James Duffield  
who being duly Empannelled and sworn and after  
hearing the evidence and argument of courses  
retire to consider upon their verdict.

And now again come the jury and for verdict  
say that the jury find and assess the Plaintiffs  
damages at One Hundred and Fifty three dollars  
and Seventy Cents.

It is therefore Ordered and considered that said  
Plaintiff have and recover against said Defendant  
his damages in the sum of One Hundred and  
Fifty three dollars and Seventy ~~three~~ cents which  
he has sustained as also his costs and charges  
therein expended and that he have execution therefor

And now come the defendants by Joslyn  
their attorney and prays an appeal which is  
granted on condition that they Enter into Bonds  
in the penal sum of Five Hundred dollars with  
Henry Smith as surety by the 19 instant

And thereafter to wit on the 17 of March A.D. 1838  
came the said Defendants and filed in the Office  
of the Clerk of said Court a Bond in the words  
and figures following to wit:

I know all men by these presents, That  
The Chicago St Paul & Fond du Lac Rail  
Road Company & Henry Smith of the County of  
McHenry in the State of Illinois, are held and  
firmly bound unto Kajah. Bearssly in the pen-  
sum of five hundred dollars lawful money of  
the United States, for the payment of which well  
and truly to be made, we bind ourselves our  
Heirs. Executors and administrators, jointly severally  
and jointly by these presents. Witness the hands  
of said Henry Smith and the Corporate Seal  
of said Company attested by J. B. Butterfield  
Assistant secretary, and seal this fifteenth day  
of March A.D. 1858.

The Condition of the above obligation is such  
That whereas the said Kajah. Bearssly did on the  
ninth day of March A.D. 1858 before the County  
Court for the said County of McHenry recover a  
judgment against the above bounden Rail Road  
Company for the sum of One Hundred and Fifty;  
~~two~~ <sup>and seventy cents</sup> dollars, from which judgment the said Rail  
Road Company has taken appeal to the Supreme  
Court and State of Illinois. Now if the said Rail  
Road Company shall prosecute this appeal with  
Effect, and shall pay whatever judgment may be  
rendered by the Court upon dismissal or trial  
of said appeal, then the above obligation to be  
void; otherwise to remain in full force and  
Effect

Henry Smith Seal  
Corporate Seal  
J. B. Butterfield Seal  
Attest  
Asst Secy

Approved me at my Office

This 17 day of April, 1858

W. Stewart Clerk

(Endorsed) Filed March 17, 1858

W. Stewart Clerk

State of Illinois  
McHenry County J. William H. Stewart Clerk of the County  
Court in and for the said County certify  
that the foregoing is a true copy of the records in the  
Case of Naji Beardly against Chicago St. Paul &  
Fond du Lac Rail Road Company as appears upon an  
examination of ~~the~~ <sup>said</sup> Records in & papers on file in my Office  
Witness William H. Stewart Clerk of the said  
Court and the seal thereof at Woodstock this 10  
day of April A.D. 1858

W. H. Stewart Clerk



<sup>366</sup>  
The Chicago, St. Paul &  
Northern Pacific R.R. Co

vs  
Najah Beardsley

Bill of Appl.

\$153.28

Filed May 19. 1858

L. Leland  
CLK

Proceeds

in  
Judt. \$ 153.20  
Dys \$ 7.68

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Beardsley