

No. 13260

Supreme Court of Illinois

Crooker

vs.

Dodge

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 18187.

Craker
vs
Dodge

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[U N I T]

State of Illinois }
 La Salle County } ss Pleas before the Honorable
 Madison E. Hollister the
 Judge of the ninth Judicial District of the State
 of Illinois and the presiding Judge of the La Salle
 County Circuit Court in said State, at a term
 of said Court commenced and held at the Court
 house in Ottawa in said County and State
 on the Second Monday in the month of June the
 same being the Eleventh day of June in the year
 of Our Lord one thousand eight hundred and Sixty,
 and of the Independence of the United States
 of America the Eighty fourth

Present

The Honorable Madison E. Hollister

Presiding Judge

John F. Nash Clerk

Washington Bushnell State Attorney

Francis Warner Sheriff

It is remembered that there was filed with the
 Clerk of said Circuit Court, on the 31st day of May
 1860 a process in the words and figures following
 to wit;

State of Illinois } Circuit Court thereof
 La Salle County } To June Term AD 1860

Joby C. Crocker }
 vs } assumpsit

Delos A. Dodge & }
 Charles Wilber partners under the firm name & style of D. A.

Dodge & Co. damages \$500.

John F. Nash Esq Clerk of the Circuit Court
Please issue as above for office
J. C. Crooker Attorney

On the day last aforesaid there was also filed
a declaration in the above entitled suit, ^{and} a declara-
tion being in the words and figures following to wit;

State of Illinois } Circuit Court thereof
La Salle County } To June Term A.D. 1860
Jabez C. Crooker
Plaintiff in this suit ^{attorney} for se complains of De los
A. Dodge & Charles Wilber partners doing
business under the firm name & style of D. A.
Dodge & Co, defendants who are summoned etc
in a plea of trespass on the case on promises
for that whereas one Bailey, Woodward & Co
hereof to wit on the twelfth day of April
A.D. 1857. at Wheeling Va. to wit at Wheeling
in said County of La Salle made their certain
bill of exchange of that date directed to the
said defendants, by their firm name aforesaid
to wit D. A. Dodge & Co, and thereby requested the
said De los A. Dodge & Charles Wilber as
aforesaid six months after the date thereof
to pay to the order of themselves, to wit, the order
of Bailey, Woodward & Co, Three hundred twenty
Seven & ⁷⁵/₁₀₀ Dollars value received and charge

the same to account of Bailey, Woodward & Co. and
then and there delivered the said bill to the said
Bailey, Woodward & Co, which said bill the said
defendants thereafter viz; on the same day
in sight thereof accepted the same by signing
their said firm name of D. A. Dodge & Co, ac-
cording to the usage of Merchants; and the
said Bailey Woodward & Co, thereafter on
the same day at Wheeling Virginia to at ^{Phillips} ~~at~~
in said County of La Salle indorsed said bill
then and still unpaid and then and there deliv-
ered the same unto one, B. W. Phillips & Co,
or order, and the said B. W. Phillips & Co,
thereafter, viz, On the same day indorsed
the said bill, then and still unpaid and delivered
the same to the plaintiff; by means whereof the
said Deos A. Dodge & Charles Wilber Defts
became liable, and in consideration thereof then
and there promised the plaintiff to pay him
the sum of money specified in said bill accord-
ing to the tenor and effect of the said bill and
of the said defendants acceptance thereof and of
the said indorsements thereon; yet though said
six months have long since elapsed and though
often requested the said defts have not paid the
same or any part thereof but refuse so to do
to the damage of plaintiff as he says in the
sum of five hundred dollars & therefore he

Brings Suit &c.

J. C. Crooker Atty per se
Copy of instrument sued on,

* La Belle Nail Works
\$327.75. Wheeling Va April 12th 1859.

Six months after date Pay to the order of ourselves
Three hundred twenty Seven & $\frac{75}{100}$ dollars Value
received and charge the same to account of

To Mess D. A. Dodge & Co.

Montana Illinois

Bailey Woodward & Co. #

On the back thereof is Indorsed viz;

Pay B. W. Phillips & Co or order

Bailey Woodward & Co

Also pay J. C. Crooker or order

without recourse, B. W. Phillips & Co. "

Now follows a copy of the Note among the files
in said cause with the endorsements thereon.
to wit:

\$327.75¹³⁷⁴ La Belle Nail Works No. 221

Wheeling, Va. April 12th 1859

885-5
Six months after date Pay to the order of our-
selves Three hundred & Twenty Seven & $\frac{75}{100}$ Dol-
lars, Value received and charge the same to ac-
count of

To Mess D. A. Dodge & Co

Montana, Ills

Bailey Woodward & Co.

#1950

D. A. Dodge & Co

#327.75

Oct 12/15/59.

Pay B. W. Phillips & Co or order

Barley Woodward & Co

Pay J. C. Crooker or order without recourse
B. W. Phillips & Co "

It is remembered that on the 31st day of May
A. D. 1860 a writ of summons issued out of and
under the Seal of said Court, in the words and
figures following, to wit;

State of Illinois }
La Salle County } The People of the State
of Illinois. To the Sheriff
of said County, Greeting;

We command you that you summon
Delos A. Dodge and Charles Wilber if they
shall 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 Ottawa, in
said County on the second Monday in the month
of June next, to answer unto Jabez C. Crooker
in a plea of Trespass on the case upon promises
to the damage of said Plaintiff as he says

in the sum of Five Hundred dollars.

And have you then and there this writ with an endorsement thereon in what manner you execute the same.



Witness, John F. Nash, clerk of our
Said Court, and the Seal thereof at
Ottawa, this 31st day of May A.D. 1860.

J. F. Nash clerk.

Be it further remembered that on the 11th day
of June A.D. 1860, the same being one of the
days of the June Term of said Circuit Court
for the year 1860, an order was entered of
records in said Cause in the words and figures
following, to wit;

Jabez C. Crookes
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Delas A. Dodge +
Charles Wilber

} Assumpsit

On motion of
Plaintiff it is ordered
that this cause be continued

and that alias summons issue."

On the 30th day of July 1860, an alias sum-
mons issued out of and under the Seal of said
Court, in the words and figures following to
wit;

State of Illinois } The People of the State
La Salle County ss. of Illinois, To the Sheriff
of said County, Greeting:

We command you as we have before commanded
that you summon Delos A. Dodge and
Charles Wilber if they shall be found in your
County, personally to be and appear before the
Circuit Court of said La Salle County on the first
day of the next term thereof, to be holden at the
Court house in Ottawa, in said County, on the
first Monday in the Month of November next,
to answer unto Jabez C. Crooker in a plea
of Trespass on the Case upon promises to
the damage of said Plaintiff as he says in
the sum of Five Hundred dollars. And
have you then and there this writ, with an
endorsement thereon in what manner you ex-
ecute the same.

 Witness John F. Nash, Clerk of Court
Said Court, and the Seal thereof at
Ottawa, this 30th day of July A. D. 1860
J. F. Nash Clerk,

on the back of said alias summons is the
following Endorsement, to wit:

"Executed this writ by reading the same to the within
named Delos A. Dodge, & Charles Wilber Sept 8 1860

Sheriff 1.10 60 miles 300 = \$4.10

J. Warner Shff. P. L. Porter Deputy

On Friday the 9th day of November 1860, the same being one of the days of the November Term of said Court for the year 1860. an order was entered of record in said cause in the words and figures following to wit;

Jabez C. Crooker }
vs } Assumpsit
Delos A. Dodge and }
Charles Wilber partners under the firm name & style of D. A. Dodge & Co.

On motion of the plaintiff by himself in person the defendants are ruled to plead herein on or before the coming in of the Court tomorrow morning,

On Saturday November 10th the same being one of the days of the November Term for the year 1860, an order was entered of record in said Cause in the words and figures following to wit;

Jabez C. Crooker }
vs } Assumpsit
Delos A. Dodge & }
Charles Wilber partners under the firm, name & style of D. A. Dodge & Co.

This day the plaintiff again comes in person and the defendant being

three times solemnly called in open Court come not but make default. And it appearing to the Court, that the defendants have been duly served with process more than ten days before the first day of the present term of this Court and that they are still in default of a plea, on motion of plaintiff it is ordered by the Court that judgment be entered herein against the defendants by default for want of a plea.

And it further appearing to the Court that this suit is founded on an instrument in writing for the payment of money only the clerk is directed to assess the damages and report the same to this Court which is done and found to be the sum of Three Hundred and forty eight dollars and Seventy two Cents which is reported to and accepted by the Court.

It is therefore considered by the Court that the plaintiff have and recover of the defendants the said sum of Three hundred and forty eight dollars and Seventy two cents for his damages, Also his costs and Charges by him herein expended and that he have execution therefor.

On Tuesday November 27th 1860 the same being one of the days of the November Term of said Court for the year 1860, an order was entered of record in said cause in the words and figures following, to wit;

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Jabez C. Crooker }
vs } Assumpsit
Delos A. Dodge and }

Charles Wilber partners under the firm name
of D. A. Dodge & Co.

This day the defendants
Came by J. B. Rice their attorney who prays
an appeal herein to the Supreme Court of
this State, which prayer is granted
by the Court upon condition that the de-
fendants within twenty days from this date
file an appeal bond payable to the plain-
tiff in the penal sum of five hundred
dollars with John Hoffman as their security.

On the 7th day of December 1860, an
appeal bond was filed with the clerk
of said Court in the words and figures
following, to wit;

"I know all men by
these presents, That I Delos A. Dodge as
principal & John Hoffman & C. B. Rushmore
as security are held and firmly bound unto
Jabez C. Crooker, in the penal sum of Five
hundred Dollars good and lawful money
of the United States, for the payment of
which, well and truly to be made, the said

Delos A. Dodge and John Hoffman & B. Rushmore, bind themselves their heirs, executors and administrators jointly, severally and firmly by these presents.

Witness Our Hands and Seals this this day of November A. D. 1860.

The Condition of the above obligation is such, That whereas the above named Jabez C. Crooker did, at the November Term of the Circuit Court held in and for the County of La Salle in the State of Illinois A. D. 1860, recover a judgment against the above bounden Delos A. Dodge, together with One Charles Wilbur for the sum of Three hundred and forty Eight dollars and Seventy two cents to reverse which said judgment the said Delos A. Dodge has taken an appeal from said judgment to the Supreme Court, within and for the Thirds Grand Division of Saide State. Now if the Saide Delos A. Dodge shall duly prosecute said appeal and pay, or cause to be paid, the amount of said judgment, and all judgments, costs, interest and damages which the said Supreme Court shall adjudge against him in case said judgment shall be affirmed and abide the Order and judgment of said Supreme Court in this behalf, then this obligation

is to be void, otherwise to remain in full force
and effect.

D. W. Dodge (Seal)
John Hoffman (Seal)
C. B. Rushmore (Seal)
(Seal)

State of Illinois }
County of La Salle } ss. I, Absalom B. Moore
Clerk of the Circuit Court
in and for said County and State, do hereby
Certify the above and foregoing to be a true
full and complete record of the proceedings
and files, had in the above entitled Suit, as
appears from the files and records of my
Office.

Witness Absalom B. Moore Clerk
of the said Court and the Seal thereof
at Ottawa this 3^d day of April
A.D. 1861.

A. B. Moore Clerk.
C. B. Brook Deputy.



State of Illinois
Supreme Court within
& for the Third Grand Division of said State

Now

comes the said Deles & Dodge the said
plaintiff in error by O. R. Powers his
attorney & says that there is manifest
error in the record & proceedings aforesaid
in this to wit:

- 1st The Circuit Court erred in overruling
the motion of the defendant below ~~for a~~
~~reversal~~ to set aside default.
- 2 The Court erred in rendering judgment
against the said defendant (below plaintiff here)
- 3 The Court erred in rendering judgment in
favor of the said plaintiff below (defendant
here) and for other errors. Wherefore the
said plaintiff in error prays that the said
judgment may be reversed.

O. R. Powers

Att'y for Plaintiff in error

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Jabez C. Crooker
vs

Delos A. Dodge
et al &c.

Record for
Supreme Court.

Filed April 15th 1881
L. Leland
Clerk

Thursday

\$2.50. Paid