

No. 13116

# Supreme Court of Illinois

Sawyer

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vs.

Stampoffoki

STATE OF ILLINOIS,  
SUPREME COURT,  
Third Grand Division.

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No. 58.

1880

*Sanger*  
*vs*

*Stampffer*



1  
Supreme Court — State of Illinois.

Alonzo J. Sawyer  
Plaintiff in Error  
vs.

Bernard A. Stampoffski  
Defendant in Error

From the Cook  
County Court of  
Common Pleas.

appeal of  
errors &  
writs

1. The action was assumpsit on a promissory note —

First plea — General issue —

Second plea — sets up the following facts as a defense, (of which a brief statement is as follows), to wit: —

On the 8<sup>th</sup> day of Nov. 1856 Paul Cornell, G. W. Davenport, & Robert C. Mose were seized in fee of certain premises, and being desirous of selling the same they appointed the said Defendant in Error their agent to make sale of the same limiting the price thereof to the sum of \$45,000. That on said day said Def<sup>t</sup>. in Error, as the agent as aforesaid, proposed to sell the said premises to the said Plaintiff in Error for \$48,000., and in order to induce the said Plaintiff in Error to accept said



proposition and purchase said premises from said owners, at said time of making said proposition, falsely and fraudulently and with the design of cheating and defrauding the said plaintiff in error represented to said plaintiff in error that the said premises were then under lease and were renting for an annual rental of \$3500. - whereas in truth the annual rent of said premises was only \$3210. - and said Dept. in error well knowing his representations were false at the time he made them.

That the said plaintiff in error relying upon the truth of the said representations, there and then agreed to purchase said premises of said owners for the said sum of \$48000.

That the said owners thereupon in pursuance of said agreement by deed of <sup>said</sup> that date conveyed the said premises to said plaintiff in error. That the consideration mentioned in said deed of conveyance was \$48000. - three thousand dollars of which said expressed consideration said plaintiff in error at the instance of said grantors promised to pay to the said Dept. in error, - which said promise was then and there evidenced



by the note sued on: That said sum of \$3000. was a portion of the Commissions allowed by said owners to said Deft. in error as their Agent for his services in the premises: which said Commissions formed the sole consideration for said note. And the said plaintiff in error avers that the said Defendant in error well knew that his representations were false at the time he made them, as aforesaid. And by reason of the premises aforesaid the said consideration of said note has wholly failed sec. and prays judgment re -

2<sup>nd</sup> plea set out at pages 7, 8, 9 & 10 of record

In this plea there was a general demurrer, and demurrer was sustained.

We assign the decision of the Court in sustaining said demurrer as error. It should have been overruled. It set up a substantial defense to the note, - <sup>and it is not even</sup> ~~although it may be~~ formally defective.

If the facts set up in said plea are true the note was obtained by fraud



and the plaintiff below ought not to have recovered upon it.

2. The court erred in refusing to set aside the judgment in the case.

The petition sets out facts sufficient to constitute a default -  
- see page 17 -

See affidavit of G. W. Cummings on page 19 -

showing there was no laches on the part of plaintiff in error or his counsel; - and the court erred in refusing to set aside the default.

For this error we pray the court to reverse the judgment.

Arnold, Lay & Gregory  
Attorneys for Plff. in Error



State of Illinois

Supreme Court.

~~276~~ 5-8

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Alonzo J. Sawyer

Plff. in error

vs.

Bernard A. Stampffekis

Def. in error.

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Arguments of  
Hac V. Arnold

---

Filed May 19, 1859

L. Leland

clerk



Stamhoffski  
att.  
Lawyer }

On this application for a Repealed deed,  
it is difficult to remark that the  
plaintiff in error was defrauded by means  
of the false representations of the defendant  
in error who was a land broker, that  
the note sued upon is based upon his  
own commission in making the sale,  
that he (and not the principals) ~~is~~  
is the person who must be held responsible  
for the fraud. So much for the merits.

On the remaining question delinquency  
of an extraordinary character was  
used by the Lawyers Counsel, and  
the only ~~the~~ proper manner to designate  
the indecent haste of the defendant  
in error, the Court below, &c is <sup>to</sup> call  
it "sharp practice", an expression which  
that Court has used on several occasions.  
When once is the case, that Court deals  
in no liberal indulgences to uphold a  
judgment, but holds the ~~for~~ guilty parties  
to the letter of their bond.

R. H. Maxwell Jr.



375 5-8

Answer

17 3

Stamp office

Argument of  
W. B. Blackwell

Filed May 19. 1859  
L. Leland  
Clerk



State of Illinois  
Cook County . . . ss.

Pleas before the Honorable John M. Wilson  
sole Judge of the Cook County Court of Common  
Pleas within and for the County of Cook and  
State aforesaid at a special Term of said Cook  
County Court of Common Pleas began and held  
at the Court house in the City of Chicago on  
the first Tuesday being the fourth day of  
January in the year of our Lord one thousand  
Eight hundred and fifty nine, due notice of  
the time and place of the holding said Special  
Term of Court having been printed and  
published in the "Daily Democrat" the Corporation  
Newspaper of the City of Chicago, said notice  
having been printed & published twenty days  
previous to the holding of said Special Term  
of Court, in accordance with the Statute in such  
Case made and provided and in pursuance  
of an Order made by the Judge of said Court  
on the . . . day of December A. D.  
Eighteen hundred and fifty eight.

Present

John M. Wilson . . . . . Judge

Carlos Haven . . . . . Prosecuting Attorney

Attest  
Walter Kimball, Clerk

John Gray . . . . . Sheriff



Be it remembered that heretofore to wit on the fourteenth day of August A. D. Eighteen hundred and fifty eight there was filed in the Office of the Clerk of said Cook County Court of Common Pleas, a Precept for Summons against Alonzo S. Sawyer and at the suit of one Bernard A. Stampffski, which said Precept with the Summons there and thereupon issued, and the Sheriff's return thereon endorsed is in the words and figures following, to wit.

Illinois } Cook County Court of Common  
Cook County } Pleas. Sept Term 1858.

Bernard A. Stampffski  
 (vs) Alonzo S. Sawyer ... } Appraisit  
 Damages \$5000.

The Clerk will please issue a Summons in the above named cause to the September Term of the Court,

Me. Thomas Blackburn  
 for Plff.



And also thereafter to wit on the said fourteenth day of August in the year last aforesaid the said Plaintiff by his said Attorneys filed in the office of the Clerk of said Court his Declaration in said cause; which said Declaration is in the words and figures following, to wit

"State of Illinois, Cook County Court of  
Cook County .. In Common Pleas. Of the  
September Term A. D. 1858.

Beruard. A. Stampoffski Plaintiff in this suit  
by McComas & Blackburn his Attorneys complain of  
Alouzo, J. Sawyer defendant who was summoned &c.  
in a Plea of Trespass on the case on promises. For  
that whereas the said defendant heretofore to wit on the  
8<sup>th</sup> day of November in the year of our Lord one thousand  
Eight hundred and 56 at Chicago, to wit, at said  
County of Cook, made his certain Promissory Note and  
then and there delivered the same to said Plaintiff  
in and by which said Note said Defendant by the  
name style and description of A. J. Sawyer promised  
to pay to the said Plaintiff (18) Eighteen Months after  
date (to wit after the date aforesaid) at the residence  
of said Defendant the sum of (\$3000) Three thousand  
dollars with six per Cent per annum thereon, for value  
received. By means whereof, and by force of the Statute  
in such case made and provided, the said Defendant



became liable to pay said Plaintiff said sum of money  
mentioned in said Note, and being so liable in  
consideration thereof, then and there undertook and  
promised to pay the same to the said Plaintiff according  
to the tenor and effect, true intent and meaning of said  
Note to wit, at the place aforesaid.

And whereas also the said Defendant afterward to  
wit on the 8<sup>th</sup> day of November in the year of our Lord  
one thousand eight hundred and 56, to wit, at Chicago  
in said County, became and was indebted unto the Plaintiff  
in a large sum of money, to wit, Three thousand dollars  
for money before that time lent and advanced to and paid  
said out and expended for said Defendant by said  
Plaintiff at said Defendant request, and for money before  
that time had and received by said Defendant to and  
for the use of said Plaintiff; and also in like sum for  
goods, wares and merchandize before that time sold and  
delivered by said Plaintiff to said Defendant at like  
special instance and request; and also in like sum for  
the labor, care and diligence of said Plaintiff before that  
time done and performed by said Plaintiff, for said  
Defendant, and at the like instance and request of said  
Defendant, and being so indebted the said Defendant, in  
consideration thereof, then and there undertook & promised  
to pay said Plaintiff, said last mentioned sum of money  
when thereunto afterwards requested.

Yet the said Defendant not regarding his said promise  
and undertakings, but continuing so, although after



requested to do, hath not paid said Plaintiff either of  
said sums of money, or any part thereof, but doth do  
hath hitherto, wholly neglected and refused, and still  
doth neglect and refuse to the damage of said Plaintiff  
of Five thousand dollars and therefore he bring this  
suit, &c.

McCormac & Blackburn  
for Plff.

Copy of instrument and account paid upon.  
\$3000- Chicago. November 8<sup>th</sup> 18

Eighteen months after date I promise to pay  
to the Order of Bernard A. Stampoffski at my residence  
when due, Three thousand dollars, value received,  
with six per cent per annum.

(Signed) A. J. Sawyer.

Alouzo A. Sawyer

To Bernard A. Stampoffski	Dr.
To money lent and advanced . . . . .	\$ 3000
To money expended and paid out for . . . . .	3000
To money received for use of . . . . .	3000
To Goods wares and Merchandize . . . . .	3000
To labor and services . . . . .	3000
To balance on account stated . . . . .	3000



And thereafter to wit on the Eighteenth day of  
September A. D. Eighteen hundred and fifty eight  
the said Defendant by his Attorney filed in the office  
of the Clerk of said Court his Pleas to said Declaration  
which said Pleas are in the words and figures following  
that is to say.

"Monzo. V. Sawyer } In the Cook County Court of  
                                } Common Pleas, Illinois. Of the  
Bernard K. Stampf's term of September A. D. 1858

1. And now comes the said Defendant by R. S. Blackwell  
his Attorney and defends the wrong & injury whereof  
and says that he did not undertake and promise to  
pay to the said Plaintiff the said sum of money in  
the said Declaration mentioned, or any part thereof in  
manner and form as the said Plaintiff hath alleged in  
said Declaration alleged, And this he prays may be  
enquired of by the Country &c

R. S. Blackwell

and the Plaintiff doth the like.

Me Comes &c

2. And for further Plea in this behalf by leave of  
the Court here first obtained, the said Defendant says  
plaintiff actio non, &c, because he says that heretofore  
to wit on the Eighth day of November 1856 Paul  
Cornell, Gordon W. Davenport and Robert E. Mays of the



County aforesaid were and pretended to be seized in their own demerit as of fee in and to the following parcels of land, situate in the City of Chicago in the County aforesaid, that is to say lots numbered nine (9) ten (10) and eleven (11) in Block numbered twenty three (23) in Wolcotts Addition to the said City, and desirous of bargaining, selling and conveying the same, that afterwards to wit, on the day and year aforesaid, they the said Cornell, Davenport and Moss nominated constituted and appointed the said Plaintiff their true and lawful Attorney for them and in their respective names to bargain and sell the said several parcels of land to any one who desired to purchase the same and the said Defendant avers that the price at which the said Cornell, Davenport & Moss limited the Sale of the said parcels of land, was the sum of Forty five thousand (\$45,000) dollars; and the Defendant further avers that the said Plaintiff afterwards, to wit, on the day and year aforesaid, at the County aforesaid, proposed in his capacity as Agent as aforesaid, to bargain and sell the said several parcels of land to the Defendant at the price of Forty eight thousand (\$48,000) dollars and the said Defendant further avers that the said Plaintiff with a view to induce the said defendant to accept the said proposition and purchase said several parcels of land from the said Cornell, Davenport and Moss, afterwards to wit, on the day and year



aforsaid at the County aforsaid falsely and fraudulently  
and with the design of cheating and defrauding the said  
Defendant in the premises represented to the said defendant  
that the said property was then under lease and yielding  
and paying to the said Cornell, Davenport and Moss  
an Annual rent of Three thousand Five hundred  
(\$3500) dollars, whereas in truth and in fact the annual  
rents of said premises then and there amounted to only  
Three thousand two hundred and Ten (\$3210) dollars.

And the said defendant further avers that relying  
upon the truth of the said representations, then and there  
agreed to purchase said premises of and from the said  
Cornell, Davenport & Moss for the said sum of Forty  
eight thousand (\$48,000) dollars. And the said  
defendant further avers that afterwards, to wit, on the day  
and year aforsaid, at the County aforsaid, the said Cornell,  
Davenport & Moss in pursuance of the said agreement  
by Deed of that date in conjunction with the wife of the  
said Cornell, granted, bargained, sold, remised, released,  
conveyed, aliened and confirmed unto the said defendant  
his heirs and assigns forever, the premises aforsaid;  
Which said Deed was duly acknowledged, signed & sealed  
by the said Grantors, and delivered by them to the  
said Defendant, afterwards to wit on the day and year  
aforsaid, And the said Defendant further avers that  
the Consideration mentioned in said Deed of Conveyance was  
Forty eight thousand (\$48,000) three hundred thousand  
dollars of which said Express Consideration, said



Defendant at the instance of the said grantors promised  
and agreed to pay to the said Plaintiff, and which said  
promise was afterwards to wit, on the day and year aforesaid;  
said; at the County aforesaid evidenced by the Note in  
the said Declaration mentioned. And the said  
Defendant further avers that the said Three thousand  
dollars (\$3000.) was a portion of the Commissions <sup>or</sup>  
allowed by the said Cornell, Danenport & Moss to the  
said Plaintiff as their Agent for his services in  
negotiating and Consummating the Sale and Conveyance  
of the premises aforesaid by the said Plaintiff to the  
said Defendant, And the said Defendant further  
avers that the said Commissions constituted the sole and  
only Consideration for the Note in the said Declaration  
mentioned; and the said Defendant further avers that  
the said Plaintiff well knew that his representations  
aforesaid were false at the time he made them to the  
said Defendant as aforesaid.

And so the said Defendant says that by  
reason of the premises aforesaid the said Consideration  
of the said Promissory Note in the said Declaration  
mentioned, hath wholly failed, and this the said defendant  
is ready to verify &c

Wherefore he prays judgment &c  
R. S. Blackwell.



And thereafter to wit on the twenty second day of  
September A. D. eighteen hundred and fifty eight the  
said Plaintiff filed in the office of the Clerk of said Court  
his Demurrer to said Defendants Pleas; Which said  
Demurrer is in the words and figures following,  
to wit.

B. A. Stampoffkin }  
vs }  
Alonzo. L. Sawyer } Sept: Term A. D. 1858.  
Common Pleas.

And the said Plaintiff as to the said Plea  
of the said Defendant by him secondly above pleaded  
saith, that the same and the matters therein contained  
in manner and form as the same are above pleaded  
and set forth are not sufficient in law to bar or preclude  
him the said Plaintiff from having or maintaining his  
aforesaid action thereof against the said Defendant, and  
that the said Plaintiff is not bound by law to answer  
the same, and this the said Plaintiff is ready to verify  
Therefore by reason of the insufficiency of the said Plea  
in his behalf the said Plaintiff prays judgment & the  
damages by reason of the not performing of the said  
several promises & undertakings in the said Declaration  
mentioned to be adjudged to him &c

McComas & Blackburn  
for Plaintiff



And thereafter to wit on the twelfth day of  
January A. D. Eighteen hundred and fifty nine  
the said Defendant filed in the Office of the Clerk of  
said Court his Consider in the Demurrer last aforesaid  
Which said Consider in Demurrer is in the words and  
figures following, to wit.

"Cook County Court  
of Common Pleas . . .

Bernard A. Stampoffski } Of the September Term  
vs. } A. D. 1858.

Alouzo J. Sawyer . . .

And the said Defendant  
saith that his said Plea by him secondly above pleaded  
and the matters therein contained in manner and form  
as the same are above pleaded and set forth are  
sufficient in law, to bar and preclude the said Plaintiff  
from having or maintaining his aforesaid action thereof  
against him the said Defendant; and the said Defendant  
is ready to verify and prove the same, when, where  
and in such manner as the said Court here shall  
direct and award; Wherefore inasmuch as the said  
Plaintiff hath not answered the said Plea, nor hitherto  
in any manner denied the same, the said Defendant  
prays judgment, and that the said Plaintiff may be  
barred from having or maintaining his aforesaid action  
thereof against him the said Defendant &c.

R. S. Blackwell, } per S. M. Cunningham  
Deft's Atty.



And afterwards to wit on the twelfth day of January  
(being one of the days of the January Special Term of  
said Court) A. D. Eighteen hundred and fifty nine  
the following proceedings were had in said cause and  
entered of record in said Court, to wit.

'Bernard A. Stampoffski

vs  
Alonzo. J. Sawyer . . .

This day comes the said Plaintiff  
by Me Thomas V Blackburn his Attorneys and the said  
Defendant by R. S. Blackwell his Attorney also comes  
and counsel being heard, upon the Demurrer of the said  
Plaintiff to the second Plea of the said Defendant to  
the Declaration of the said Plaintiff in this cause and  
mature deliberation being thereupon had and the premises  
fully understood it appears to the Court that the said Plea  
of the said Defendant by him in bar to the said Declaration  
of the said Plaintiff herein specially pleaded is not sufficient  
in law to bar the said Plaintiff from having & maintaining  
his said action against the said Defendant, the Demurrer  
is therefore sustained with leave to the Defendant to  
Plead over. And the said defendant electing to stand  
by his said second Plea and issue being joined on the  
remaining Plea, it is ordered that a Jury come,  
Whereupon comes the Jury of good and lawful men,  
wit; Stephen Gray, W. P. White, J. Baldwin R. S. Chapman  
A. Otto, James Chapman, W. H. Kemp, Wm. F. Snow, John  
Brooks, E. Lane, B. Johnson, John Germain



Who being duly Elected tried and sworn to try the issues  
joined aforesaid after hearing part of the Evidence  
adduced, the hour of adjournment having arrived, by  
agreement of the parties, it is Ordered that the Jury  
separate and meet the Court on opening and coming  
in of Court tomorrow morning.

And afterwards to wit on the thirteenth day of  
January (being another of the days of the said January  
Special term of said Court) A. D. Eighteen hundred and  
fifty nine, the following further proceedings were had  
in said cause, and entered of record in said Court  
to wit:

"Bernard A. Stampoffski

(vs)

Alouzo, J. Sawyer . . .

And now on this day again  
comes the parties to this cause by their Attorneys, aforesaid,  
and the Jury empanelled on yesterday for the  
trial of this cause also comes and after hearing  
remainder of the Evidence, arguments of Counsel and  
instructions of the Court retire to consider of their  
Verdict, and afterwards come into Court and pay up  
the Jury find issues for said Plaintiff and assess his  
damages to the sum of Three thousand two hundred  
seven dollars and fifty cents.



Therefore it is considered that said Plaintiff do have  
and recover of the said Defendant his damages of Three  
\$3207.50 thousand, two hundred and seven dollars and fifty Cents  
by the Jury aforesaid, and also his Costs and Charges  
in this behalf Expended and have Execution therefor.

And afterwards to wit on the twenty fifth day of  
January (being yet another of the days of the said  
January Special Term of said Court in the year last  
aforesaid, the following other proceedings were had in said  
cause and entered of record in said Court, to wit.

"Bernard M. Stampffokin  
(vs)  
Alonzo C. Sawyer . . .

And now on this day  
comes again the said Defendant by his Attorney aforesaid  
and submits his Motion on Affidavit to set aside the  
Judgment heretofore taken and entered of record herein  
against him and for leave to file Notice under Plea  
of general issue And the Court being fully advised  
overrules said Motion,

Whereupon said Defendant by his Counsel  
enters his Exceptions to the decision of the Court in  
overruling said Motions.



And thereafter to wit on the twenty fifth day of January A. D. Eighteen hundred and fifty nine the said Defendant accordingly filed in the office of the Clerk of said Court, his Bill of Exceptions; Which said Bill of Exceptions are in the words and figures following, to wit,

"Cook County Court of  
Common Pleas . . . . ."

Alonzo A. Sawyer

vs

Bernard A. Stampoffsky

Be it remembered that on this 21<sup>st</sup> day of January A. D. 1859 came the defendant and filed his Motion to set aside the judgment in this case and for leave to file Notice under General issue, and filed Notice of said Motion served on Plaintiff's Attorney in the words.

"Cook County Court of  
Common Pleas . . . . ."

"Alonzo A. Sawyer

vs

"Bernard A. Stampoffsky

And now comes the said Defendant by Isaac N. Arnold his Attorney and moves the Court to set aside the judgment in the above cause entered.

"Chicago,  
January 21<sup>st</sup> 1859"

"Isaac N. Arnold"  
for the Deft.



(17)  
and also the Affidavit and Petition of the said defendant  
and also the Affidavit by Mr. Cummins and the  
Notice that was proposed to be filed in substance

"Alouzo, J. Sawyer }  
                  ato                                 } Cook County Court of  
Bernard, A. Stausprofski } Common Pleas.

State of Illinois }  
Cook County, . . } ss. The Petition of Alouzo, J. Sawyer  
Defendant respectfully sheweth that he has as he is  
advised by his Counsel and verily believes a good and  
meritorious defence to the action in this case.

That he verily believes the following to be a true  
statement of the facts in regard to said case. The  
note on which suit is brought was given by this defendant  
to the Plaintiff, as part of the consideration of the purchase  
by the Defendant of lots nine (9) ten (10) and eleven  
(11) in Block Number Twenty three (23) in Wolcotts  
Addition to Chicago, said sale was made by the Plaintiff  
as the Agent of Paul Cornell, Gideon W. Danforth &  
Robert E. Moss, the owners of said property. That they  
authorized said Plaintiff to sell said property for the  
sum of Forty five thousand dollars (\$45,000) and were  
to pay Plaintiff his Commission for such sale. That on  
or about 8<sup>th</sup> day of November 1856 said Plaintiff  
negotiated said sale with this Defendant fraudulently  
raising the price from \$45,000, to \$48,000, intending to  
defraud both this defendant and said owners of said



sum of Three thousand dollars, the difference between the price at which he was instructed to sell and the price asked. That said Plaintiff was informed by the owners of the Condition of said Property and the rents thereof, and with a view of inducing this Defendant to purchase said property, he fraudulently and knowingly represented said property to be renting for the sum of Three thousand five hundred dollars (\$3500) per annum, when in fact said Property was rented at the sum of only Three thousand two hundred and two dollars per annum which said Plaintiff well knew, that said Plaintiff fraudulently concealed from this Defendant the fact that he was authorized to sell said property for \$48,000. That by such false and fraudulent statement of the amount of said rental, the said Defendant was induced to buy said property at the sum of Forty Eight thousand dollars. That said Note was given to said Plaintiff for said difference between said sums of \$48,000 & 118,000 and was fraudulently concealed from the said Plaintiff's principals, till the verbal bargain was concluded & the papers partially drawn, they paying him his commission for said Sale, and he obtaining the Note for said sum so fraudulently obtained, That this Defendant communicated the above facts to his counsel to prepare Pleas, but by accident the first Pleas filed, omitted some portion of the facts, that he is informed and believes that said Pleas were amended and prepared to be filed as early as conveniently could be and were brought into Court



(19)  
so amended just a few minutes after judgment was  
entered. This Depoent believes said amended plea is  
true in substance and hereby prays that the judgment  
may be set aside & said plea filed; or that he may  
have permission to file the Notice herewith presented  
And further saith not."

"State of Illinois  
County of Cook ss."

"Monzo S. Sawyer."

Subscribed & sworn to before  
me at my office in the City of  
Chicago this 21<sup>st</sup> day of January  
A. D. 1859. Witness my hand  
and official seal."

"Chas. A. Gregory  
Notary Public"

"Cook County Com: Pleas.

B. A. Stampffski

vs

Cook County ss

A. J. Sawyer

G. W. Cumming being duly sworn  
says he is one of the firm of Blackwell and Cumming  
that R. S. Blackwell one of said firm is the attorney for  
the debt in this cause - that this depoent argued the  
Demurrer in this cause for said Blackwell in his  
absence, that said argument was concluded last  
evening after dark - that the debt had leave to amend  
the plea in this cause. that this Depoent drew said



amendments to said plea this morning with all possible  
speed - Sent for said Blackwell to consult with him  
in reference to filing the same, which said Blackwell  
requested to be done - That this defendant immediately  
came into court and learned that said cause was  
called in its regular <sup>order</sup> in court, and that judgment  
had been obtained in said cause before Ebenezer  
A. M. this day - That while drawing said amended  
plea defendant sent one of his clerks into court to  
ascertain when this cause would be called & received  
no information in reference thereto until informed of  
said judgment upon coming into court this forenoon  
That Defendant now offers to file said amended plea  
and prays that such judgment & default be opened  
and defendant permitted to file said amended plea  
and upon so doing offers to proceed to trial without  
Subscribed and sworn before  
me this 13 January 1859 . . . of "G. W. Cunningham"  
"W. Kimball clk"

Cook Co. Court of Common Pleas

Alouzo A. Sawyer

vs.

Bernard A. Stampoffski

Bernard A. Stampoffski, the above named  
Plaintiff - vs.

You will please take notice that under  
the plea of the general issue by me above pleaded



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I shall give in evidence and insist that the Note in  
which said suit was brought was given by the  
said Defendant to the Plaintiff as part of the  
consideration of the purchase by said Defendant of  
lots nine, ten and eleven in Block Twenty three in  
Wolcotts Addition to Chicago - That said Sale was  
made by the Plaintiff as the Agent of Paul Corbett  
and on W. Doucett & Robert E. Moss the owners of  
said property. That they authorized said Plaintiff to  
sell said property for the sum of Forty five thousand  
dollars and were to pay Plaintiff his commissions for  
such Sale. That on or about the 8<sup>th</sup> day of November  
1856 said Plaintiff negotiated said Sale with this defendant  
& fraudulently raised the price from \$45,000 to 48,000  
intending to defraud both the said defendant & said  
owners, of said sum of Three thousand dollars, the  
difference between the price at which he was instructed  
to sell & the price asked. That said Plaintiff was informed  
by the owners of the Condition of said Property & the  
rents thereof, & that with a view of inducing this defendant  
to purchase said property he fraudulently represented said  
property to be renting for the sum of Three thousand  
five hundred dollars (\$3500) per annum. That in  
fact said property was rented at the sum of only  
\$3210. per annum which said Plaintiff well knew.  
That said Plaintiff concealed from this Defendant the  
fact that he was authorized to sell said property for  
\$45,000, That by said representations said defendant



was ordered to buy said property at the sum of \$118000. That said Note was given to said Plaintiff for said difference between said sum of \$118000 and \$115000, and was concealed fraudulently from said Plaintiff's principals. That they paid him said Plaintiff his Commission for said Sale, and that he obtained said Note for said Excess so fraudulently obtained.

"Chicago

Jan: 21/59 "

"A. N. Arnold

Atty for Deft."

And now on this 25<sup>th</sup> day of January the same cause on to be heard and the Court overruled the same.

To which decision of the Court in overruling said Motion and refusing to set aside said judgment and not permitting the Defendant to file said Notice the Defendant did then and there except at the time and pray the Court to sign and seal this Bill of Exceptions which is done this 25<sup>th</sup> January A. D. 1859.

John M. Nelson

(Seal)



State of Illinois }  
County of Cook } p.

I Walter Kimball Clerk of the Cook  
County Court of Common Pleas within and for the  
County and State aforesaid Do hereby certify that the  
foregoing is a true and correct Transcript of the  
Pleas, Declaration, Pleas, Demurrers, Consider in Demurrers  
and Bill of Exceptions, now on file in my office and of  
all orders entered of Record in said Court in a certain  
suit wherein Bernard, A. Stampoffski is Plaintiff and  
Alonzo J. Sawyer defendant,



In testimony whereof I the said  
Walter Kimball have hereunto set  
my hand and affixed the seal of  
said Court at Chicago in said  
County this Eighteenth day of February  
in the year of our Lord one thousand  
Eight hundred and fifty nine.

Walter Kimball Clerk



Alonzo J Sawyer

vs.

Bernard A Staupfosske

In the Supreme Court  
of Illinois, Third  
Grand Division  
April Term 1859.

And now comes the said  
Alonzo J Sawyer by Isaac  
Ansel & Robert S Blackwell  
his attorneys, and says that  
in the record of the proceedings  
aforesaid and in the rendition  
of the judgment aforesaid manifest  
error hath intervened & his prejudice  
in this to wit,

1. It appears by the record aforesaid  
that the said Cook County Court of Common  
Pleas erred in sustaining the demurrer  
of the said defendant in error  
to the plea of the said plaintiff  
in error by him secondly above  
pleaded.

2. It appears from the record  
aforesaid that the said Cook  
County Court of Common Pleas



erred in overruling the motion  
of the said plaintiff in error  
to set aside the judgment <sup>afforded</sup>  
and permit the amendment of the  
pleadings aforesaid.

3. It appears by the record aforesaid  
that the said Cook County Court  
erred in rendering <sup>the</sup> judgment  
aforesaid against the said  
plaintiff in error when by  
the laws of the land said  
judgment should have  
been for the said plaintiff  
in error.

Wherefore &c.

Amold Blackwell *per*

State of Illinois }  
Supreme Court } April term 1860  
and now comes

B A Hempflater }  
vs }  
George J. Sawyer }  
}

and now comes the  
(the) defendant in error by



McCormac & McKelvey his attorney  
and says that in the record  
and proceedings confessed error  
in reaching the judgment of  
guilt. There is no  
error seen. It is the  
judgment that may be in  
all things affirmed.

McCormac & McKelvey  
Counsel for the Defendant



376 58  
State of Illinois  
Cook County  
Court of Common Pleas.

Bernard, A. Stampoffski

(vs)

Alonzo. S. Sawyer.

Record.

Filed May 19. 1859

L. Leland  
Clerk.

Trans \$ 6.00  
Costs \$ 50 \$ 6.50