

State of Illinois
Marion County

Pleas in the Circuit Court of the County
of Marion, begun & hold at Salem in
the County of Marion aforesaid, before the
Hon. Thomas C. Brown Judge of said Court,
on Monday the twenty fourth day of Septem-
ber Eighteen hundred and thirty two, ^{and}
of the Independence of the United States the
Fiftyth year. Rufus Becker Clerk

221-a
Marion County It is remembered that on the sixteenth day of January Eight-
een hundred and thirty two, Bird M. Simpson & Jesse M. Wade came
into the Clerks office of the Circuit Court in & for the County of Marion, and
prayed a summons against John M. Seagle - which said summons is in these
words. State of Illinois Marion County - The People of the State of Illinois
To the Sheriff of Marion County Greeting. We command you to summon
John M. Seagle a gent for John H. Gay, 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 said County, on the fourth Monday of the month
of March next, to answer Bird M. Simpson & Jesse M. Wade
of a plea of trespass on the case. To the damage of them the
said plaintiffs of One thousand Dollars as they say. And have you
them there this writ. Witness the Hon. Thomas C. Brown presiding
Judge of our said Court, this 16th day of January 1832.
Rufus Becker Clerk.

221-b
And now at this day to wit the twenty sixth day of March 1832 before
the Court aforesaid, come the said plaintiffs by their Attorneys, and the Sheriff
returns upon the summons aforesaid that he has duly served the same
upon the said Defendant - And hereupon this cause is continued to the
next term of this Court.

221-c
And be it further remembered that on the twelfth day of September in the
year aforesaid, the said plaintiffs by Cowing & Davis their Attorneys, filed in
the said Clerks office, the following declaration. State of Illinois, Marion
County to wit. In Marion Circuit Court, of the Sept. Term 1832.

221-d
Bird M. Simpson & Jesse M. Wade, trading under the firm & style of Simpson
and Wade, complain of John M. Seagle (a gent of John H. Gay) in custody
of a plea of trespass on the case &c. For that whereas the said plaintiffs
on the 16th day of January 1832, as well as for a long time before, were
merchants at the County aforesaid, residing & using & having commerce

with merchants and others in divers things and merchandize, amounting to great sums of money, to wit at the County aforesaid, and thereby made great gains and profits acquired, and were in good reputation and credit, with those with whom they had dealings and transactions as merchants: nevertheless the said Defendant not ignorant of the premises, but wickedly and maliciously intending and contriving the said plaintiffs under colour of law, unrightly and unjustly to use harassment and oppression, and the said plaintiffs without any reasonable cause to bring to discredit and ruin, and the said plaintiffs in transacting their lawful business and affairs to hinder, and in their credit and estate unjustly to lessen, diminish and destroy, the said Defendant (as agent of Gay aforesaid) on the day and year aforesaid at the County aforesaid, did complain maliciously and without any probable cause for so doing, before the Clerk of the Circuit Court of the County aforesaid, that the said plaintiffs were indebted to the said John H. Gay, in the sum of six hundred dollars, and that the plaintiffs were about to depart from the State aforesaid with the intention of having their effects and personal estate removed, without the limits of the State, so that the ordinary process on the law could not be served upon them; and by such false malicious and unjust complaint, did obtain a process from said Court bearing date the day & year aforesaid, in the County aforesaid to the Sheriff of said County directed, commanding him to attach the estate of the said plaintiffs, and the same in his hands to seque, or so to provide that the same might be liable to further proceedings thereupon, according to law, at a Court to be holden at Salem for the County aforesaid on the fourth Monday of March then after, and thereupon the said Sheriff on the day & year aforesaid at the County aforesaid, by virtue of the attachment aforesaid, did seize and take into custody and possession certain horses, oxen and a certain wagon of great value to wit of the value of One thousand dollars, the property of the said plaintiffs, and did hold them in his custody and possession until the same were released according to law, and the said Defendant still more to use & injure the said plaintiffs in this behalf, unjustly & maliciously caused & procured the said attachment to be prosecuted in the Court of the County aforesaid, when the said attachment afterwards to wit at the March term aforesaid, at a Court held for said County was quashed and dismissed, being found to be caused vexatious and sued without any colour of law to warrant the same, whereby the said plaintiffs were put to great trouble, and expended divers sums of money by reason of the unjust and malicious suing out of said attachment, and of the seizing and detaining of the goods and effects of the said plaintiffs.

In the
amended
declaration
these words
out

when in truth and in fact the said plaintiffs were not about to depart from the State aforesaid, with the intention of having their effects and personal estate removed from beyond the limits of the same, so that the ordinary process of law could not be served upon them. Whereby the said plaintiffs have been greatly injured, and damaged in their reputation and credit as merchants - by reason of all which premises the said plaintiffs say they are injured & have damage to the value of one thousand dollars - and therefore they sue &c.

And now at this day to wit the twenty fourth day of September in the year aforesaid, before the Circuit Court aforesaid, come as well the said plaintiffs by their attorneys as the said Defendant by his Attorney - And the said Defendant by W. H. Brown his Attorney comes and defends the wrong and injury whereto and says that the matters and things and averments in the said declaration contained are not sufficient in law for the said plaintiffs to have & maintain their aforesaid action thereof against him - Wherefore &c. - In which demurrer the said plaintiffs joined.

And upon argument being heard upon the said demurrer, and the Court being sufficiently advised overrules the same.

And hereupon the motion of the plaintiffs and by leave of the Court, amended their declaration, by striking out the words "agent of Ind. St. Gay" in the third line of said declaration, and the words "as agent of Gay aforesaid" in the twenty second line of said declaration aforesaid.

Whereupon the said Defendant filed the following plea. And the said Defendant comes and defends the wrong and injury whereto &c. and says that he is not guilty of the matters & things in said declaration mentioned and of this he puts himself upon the Country, and the said plaintiffs do the like.

Upon the issue aforesaid a jury came to wit, Henry Hart, Thomas Allman, James Petty, Thomas Richardson, Nathan Huff, David Lile, Thomas Hour, John Boncher, John M. Hill, David Mercer, Daniel Lovell and John Warren, who being elected tried and sworn well and truly to try the issue joined upon their oaths do say, We the jury find the Defendant guilty, and assess the sum of Fifty Dollars damages - Whereupon it is considered by the Court, that the said plaintiffs recover of the said Defendant the sum of Fifty Dollars damages, and their costs & charges about their suit in this behalf expended, and that they have execution therefor &c.

Whereupon the Defendant by his attorney filed the following exceptions to the opinion of the Court, which were allowed & signed by the Court.

Be it remembered that on the trial of this cause, upon the issue taken

upon the amended declaration. to prove the allegation in said declaration con-
tained, that "the Defendant, on the day & year aforesaid, at the County aforesaid,
did complain maliciously & without probable cause for so doing, before the Clerk
of the Circuit Court of the County aforesaid that the p[er]s were indebted to Jas. H.
Gay in the sum of six hundred dollars, and that the said plaintiffs were about
to depart from the State aforesaid, with the intention of having their effects
and personal estate removed without the limits of the State, so that the
ordinary process of law could not be served upon them: and by such false
malicious & unjust Complaint, did obtain a process from said Court, bearing
date the day & year aforesaid in the County aforesaid, to the Sheriff of said
County directed, commanding him to attach &c. that said plaintiffs intro-
duced as testimony the record of the issuing of and judgment upon an
attachment issued at the suit of John H. Gay, against said plaintiffs-
which was the only testimony to prove said allegation - and to the intro-
duction of which the said Defendant by his Counsel objected - which
objection was overruled by the Court, and said plaintiffs permitted to read
the record of the issuing of said attachment in favor of said John H. Gay
against said Simpson and Wase. to all of which said Defendant excepts
and prays the Court to sign & seal this bill of exceptions.

Jos. C. Browne *E. L.*

It is agreed by the Attorneys of the parties in this case, that the points raised
on demurrer, and the objections to the introduction of testimony on the trial,
shall be included in one record, and shall jointly be submitted to the
Supreme Court.

Cwing & Davis Attys for p[er]
W. H. Brown for deft.

I Rufus Ricker Clerk of the Circuit Court in & for the County of Marion
do hereby certify, that the above is a true record of the proceedings
in the case of Bird M. Simpson & Jase M. Wase against John
M. Feazel, as the same remains on file in my office.

In testimony whereof, I have signed my name and affixed
the Seal of said Court, at Salem this Eighth day of
November Eighteen hundred and twenty-two.

Rufus Ricker Clk

Fees 23 fdiv - 2.87½
Seal 50
3.37½

Supreme Court

John M. Feazle }

Simpsonth Wade }

We hereby agree to enter our appearance in this cause
and waive service of process. Nov 13. 1832

Ewing & Davis

Attys for def

Supreme Court
John M. Feazle
vs
Simpson & Wade
Record.

Filed 21 Nov 1832
James B. Duncan

no 45
221 A

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Supreme Court 1

John M. Bagley

^{vs}
Simpson & Wade

} And the said Defendant Plaintiff by his Attorney comes & says that in the record & proceedings aforesaid and also in the giving of judgment aforesaid, there is manifest error in this Court. That the Circuit Court gave judgment for the plaintiff below, when the same ought to have been given for the said Defendant. And that there is further error in this Court that the Court below suffered the plaintiff below to give in evidence the record of a judgment in the Court below in the case of John H. Gay against the said Defendant in error.

W. H. Brown for Plff in error

And the said Defts came & defend & say that in the record & proceedings aforesaid there is no error &c

Walter B. Leates for Defts in error

Fragle
vs
Vimpro & Wade
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Supreme Court

John M. Seagle

vs

Simpson & Wade

In Error

The Clerk of the Supreme Court will shake out
the bill of Costs & give an execution for the same against the Exors
& ants in Error. I have the same to me.

Feb. 18. 1833.

W. H. Brown atty for plff.