

No. 12839

Supreme Court of Illinois

Pearson.

vs.

Chapman.

71641  7

~~125~~ 82. 2.

George T. Pearson
vs

Emily Chapman

82

12839

138

1859

Georg I Pearson

Emily Chapman

Supreme Court
And now comes the
defendant and says that
there is no man in the
land and proceeding
and prays that such
judgment may be affirmed
with costs

Don & Finkes

vs J. W. W. W.

for defendant in
error

Georg Pearson

Emily Chapman

Davidson in view

Edw. H. Wells

14 7 cents

Sept 25

Supreme Court of the
State of Illinois -

Of the April Term 1858.

Appeal from Circuit Court
of the County of Cook.

George T. Pearson
Appellant.

^{vs}
Emily Chapman
Appellee

And now comes the said appel-
lant by Hopkins & Guthrie his Attorneys
and says that there is error in this case
and in the record of the proceedings
thereof. and for error therein assigns the
following causes to wit.

II st That the Court erred in refusing to
instruct the jury as requested by the
defendant below viz -

1st That the plaintiff is not
entitled to recover in this suit, for
the board, nursing, care, attention,
fuel, use of apartment &c because
it is admitted by the pleadings in

the cause that the same were to be furnished by the plaintiff as a gratuity to the defendant.

2nd That the plaintiff is not entitled to recover in this suit for the board, nursing, care, attention, fuel use of apartment &c because it is admitted by the pleadings in the cause that the same were to be furnished, and were furnished by the plaintiff to the defendant, without any charge in that behalf

3rd That the testimony of Harry Winders must be disregarded.

4th The plaintiff cannot recover for the value of the board as there is no proof of value beyond the testimony of Winders.

5th The plaintiff not proving the value of the board is not entitled to recover therefor.

II II That the Court erred in permitting the plaintiff below to offer any evidence

the cause that the same were to be furnished by the plaintiff as a gratuity to the defendant.

2nd That the plaintiff is not entitled to recover in this suit for the board, nursing, care, attention, fuel use of apartment &c because it is admitted by the pleadings in the cause that the same were to be furnished, and were furnished by the plaintiff to the defendant, without any charge in that behalf

3rd That the testimony of Harry Winders must be disregarded.

4th The plaintiff cannot recover for the value of the board as there is no proof of value beyond the testimony of Winders.

5th The plaintiff not proving the value of the board is not entitled to recover therefor.

II II That the Court erred in permitting the plaintiff below to offer any evidence

as to board, nursing, care, attention
fuel and use of apartments & because
it is admitted by the pleadings in the
cause that the same were furnished
by the plaintiff below as a gratuity
to the defendant below.

III That the Court erred in permitting
the plaintiff below to offer any evidence
as to board nursing, care attention, fuel
use of apartments & because it is ad-
mitted by the pleadings in the cause that
the same were to be furnished by the
plaintiff below to the defendant below
without any charge in that behalf.

IV That the testimony of Harry Minders
as to admissions made by the defend-
ant below was improperly admitted-
because it appeared from his testimony
that such admissions were made upon
an interview had for the purpose of set-
tlement of the matters in difference
between the plaintiff and defendant
below.

V That the verdict is contrary to
the evidence and excessive-

as to board, nursing, care, attention
fuel and use of apartments & because
it is admitted by the pleadings in the
cause that the same were furnished
by the plaintiff below as a gratuity
to the defendant below.

III That the Court erred in permitting
the plaintiff below to offer any evidence
as to board nursing, care attention, fuel
use of apartments & because it is ad-
mitted by the pleadings in the cause that
the same were to be furnished by the
plaintiff below to the defendant below
without any charge in that behalf.

IV That the testimony of Harry Minders
as to admissions made by the defend-
ant below was improperly admitted-
because it appeared from his testimony
that such admissions were made upon
an interview had for the purpose of set-
tlement of the matters in difference
between the plaintiff and defendant
below.

V That the verdict is contrary to
the evidence and excessive-

VII. That the verdict is contrary to Law

VIII That the Court erred in refusing the motion for a new trial.

VIII That the Court erred in overruling the Motion of the defendant below for judgment on the special pleas notwithstanding the verdict -

IX That the Court erred in entering judgment for the plaintiff below.

And this the said Appellant is ready to verify.

Hopkins & Guthrie
Attys for Applt.

Supreme Court of the State of Illinois
Of the Spring Term, A.D., 1858

Emily Chapman }
ad Appellee }
George I. Pearce }
Appellant }

Appeal from Circuit
Court of York County

And now comes the said Emily Chapman, Appellee in the above written cause, by Bow & Fuller, her attorneys, and says that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid; and therefore she prays that the said judgment may be affirmed, and that her costs may be adjudged to her in

Don & Helen

Atty. Gen. Appel

United States of America

STATE OF ILLINOIS, COUNTY OF COOK, S. S. }

Pleas, before the Honorable George W. Mason

Judge of the Seventh Judicial Circuit of the State of Illinois, and Sole Presiding
Judge of the Circuit Court of Cook County, in the State aforesaid, and at a term thereof
begun and held at the Court House in the City of Chicago, in said County, on the

Tuesday Monday, (being the Eleventh day) of

January in the year of our Lord one thousand eight hundred and

Eighty and of the Independence of the said United States the

Eighth day of January 1880 hereby make due return of

Present, Honorable George W. Mason Judge of the 7th Judicial
Circuit of the State of Illinois. }

Charles Mason States Attorney.

John L. Wilson Sheriff of Cook County.

Attest: Wm. Church Clerk.

Supreme Court,

Geo. T. Pearson

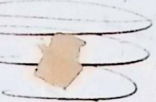
Appet.

or

Emily Chapman
Applee.

Assignment and
Jorder in Error.

Be it Remembered to wit, That
2 heretofore to wit on the 5th day
of March A.D. 1857 there was
filed in the Office of the Clerk of
the Circuit Court of Cook County
in the State aforesaid a certain
process which is in the words
and figures following to wit:

Emily Chapman  Cook County
vs Circuit Court
Guz. J. Pearson - April Term
1857

Place upon Summons directed to
Sheriff of Cook County against
the defendant in the above
entitled Case in a plea of
Trespas in the Case on premises
damages \$2000

G. D. Hayes
Atty for Plf

And Afterwards to wit on the
5th day of March A.D. 1857
there issued out of the office
of the Clerk of the Circuit
Court aforesaid a certain
Process with command, called
Summons which is in the

3. State of Illinois }
County of Cook }^{ss}

The People of the
State of Illinois, to the
Sheriff of said County
Greeting;

We Command you that
you summon George H. Parsons
if he shall be found in
your County personally to be
and and appear before
the Circuit Court of Cook
County on the first day of
the next term thereof to be
holden at the Court House
in Chicago in said County
on the Second Monday of April
next to answer unto Emily
Chapman in a plea of
Docket in the Case on
premises to the Claim of
the said Plaintiff as is
said in the Sum of Two
Hundred Dollars

And have you then seen
then this writ with an
Execution thereon in
what manner you shall
have executed the same

4 The Hon. William L. Church
Clerk of our said Court and
the Seal thereof at Chicago
Deposited this Fifth day of
March A.D. 1857

Wm L Church
Entered Clerk

Secretary reading to the within
named George S. Pearson the
10th day of March. 1857

Two 1 Service 50

2 Mills 10

2 Returns 10

John L. Wilson 2⁰

Sherriff

By George C. Anderson

Deputy

And Capt. wards to wit
On the 14th day of March
A.D. 1857 there was filed
in the Office of the Clerk of
the Circuit Court aforesaid a
Certain Declaration which
is in the words and figures
following to wit:

Emil Chapman } Clerk Court, Grand

in } Court April

George S. Pearson } Term 1857

1 5 Emily Chapman of Chicago in the
Ono's Affidavit by George
D. Hayes her attorney complains
of George D. Pearson of the same
place of a plea of trespass
6 on the case on promises for
that whereas the said
Defendant heretofore to wit
on the first day of December
one thousand Eight
hundred and fifty six at
Chicago Affidavit was
indicted by the Plaintiff
for the use of and
Occupation of certain rooms
apartments and premises of
the said Plaintiff before
that time used and enjoyed
by the said Defendant and
his Special instance and
request and by the permission
of the said Plaintiff and
for such other part of the
Plaintiff before that time
used and provided for the
said Defendant at his late
Special instance and request
in consideration whereof the
said Defendant then and

7

6.

then understood and promised
the said Plaintiff to pay
her so much money as
she reasonably believed to
be due of the said Defendant
when he the said Defendant
should be thereunto.

Afterwards requested
and the said Plaintiff
avows that she therefore
reasonably believed to be due
of the said Defendant the
sum of Five Hundred and
forty Dollars of which the
Defendant had notice
nevertheless the said Defendant
not regarding his said promise
has not paid the said sum
of money. Although ~~the~~
requested so to do, but
wholly neglect and refuse
to pay the same so the
damage of the said Plaintiff
the sum of Two Thousand
Dollars & therefore she
brings ^{her} suit.
And that whereas
also the said Defendant
at various times to wit

7. Between the first day of
December 1853 and the
first day of December 1856
was indebted to the said
Plaintiff for washing
and mending, mowing, and
attendance, clearing, &c. &c.
1 for Goods and merchandise
According to the bill of
particulars. Sums annexed
provided by the said Plaintiff
at the instance and
request of the said Defendant
in Consideration whereof the
said Defendant understood
and promised to pay the
said Plaintiff so much
money as she thereupon
reasonably asserted to have
of the said Defendant.
And the said Plaintiff
avows that she thereupon
reasonably asserted to have
of the said Defendant
the sum of Two hundred
and Sixty Two Dollars
and thirty five Cents
whereof the said Defendant
had no true knowledge the

8 Said Defendant not repaying
his promises has not paid
the said sum of money
and wholly neglects and
refuses to pay the same
to the advantage of the said
Plaintiff. The sum of two
thousand dollars and
therefore she brings her
suit

10
For that whereas also
the said Plaintiff
heretofore to wit at divers
times between the first day
of July 1883 and the first day
of December 1885 at Chicago
appeared at the Special
instance and request of
the said Defendant ^{and} the
said Defendant and the
said Defendant then and
then promised of the said
Plaintiff large sums of
money to wit the sum of
one hundred and fifty six
dollars of lawful money
to be paid by the said
Defendant to the said
Plaintiff when he should

9

Defendant should be
thereafter. Defendant
requested her to let the
said Defendant not
regarding his promises
Defendant has not paid
the said sum of money
lent and earned as before
but wholly neglects and
refuses to pay the same
to the charge of the said
Plaintiff. The sum of two
thousand dollars and
therefore she brings her bill
for that whereas also
the Plaintiff heretofore to
wit at various times
between the first day of May
1853 and the first day of
December 1856 employed the
said Defendant as her
agent to collect certain
rents belonging to said
Plaintiff and to attend
to the transacting of various
other matters of business
for a reward to said
Defendant paid to the
said Defendant and charged

10. and promised to render to
the said plaintiff a
just and reasonable
account of the sums
collected by him and of
all other matters of
business entrusted to him
as agent. Upon said account
to pay over all sums of
money coming into his
hands as said agent
when he the said Defendant
should be thereunto required
and the said Defendant
as agent Upon said
account large sums of
money to wit the several
sums of money specified
in the bill of particulars
hereto annexed which
the said Defendant had
regarding his said mentioned
promise and undertaking
but conspiring and intending
to injure said Plaintiff the
said Plaintiff in this
respect has not received a
just and reasonable
account of nor has the

11- Said Defendant agreed as
aforesaid paid over the
said receipt although
requested so to do to the
charge of the plaintiff
the sum of two thousand
dollars and therefore she
brings her suit.

14 It being the said
Defendant heretofore to
said on the first day
of December, Eighteen
hundred and fifty six
was indebted to the
plaintiff in the sum
of nine hundred and
fifty dollars for board
and lodging furnished
by the plaintiff to the
said Defendant at his
special instance and
request and in the sum
of two hundred and three
dollars and fifty cents
for washing and ironing
attendance in sickness,
and for Groceries and Charities
in the behalf provided
and furnished by the plaintiff.

to the said Defendant and
12. his Special instance and
request and in the sum of
One hundred and fifty six
Dollars for money loaned
to the plaintiff by the
Defendant at his
Special instance and
request and in a large sum
of money to said the sum
of one thousand Dollars
for money found to be due
from the said Defendant
as Agent of the plaintiff
to the said plaintiff
and in consideration
thereof then and there
promised the plaintiff to
pay her the several sums
of money aforesaid upon
demand But the said
Defendant has never paid
any of said money and
refuses to do
to the damage of the
said plaintiff the sum
of two thousand dollars
wherefore she brings
he said Geo D Hayes
Att'y

Chicago Dec 1st 1855

George J. Benson

J. Emily Chapman

108 Mts board and lodging to the

Sept 13 Mts. Alameda @ 2.00

50.00

Washing & mending to 108 Mts ~~100.00~~

100 Mts

20.00

Two bed Comforters

5.00

Three Sheet & Pillow cases

4.00

Three Lin. Towels

1.50

One Matras

5.00

Piano stool

5.00 20.50

17

Nursing and attendance to 6000

203.00

Cash paid

Aug 15th 1853 250.Jan 3rd 1856 100.

150.00

Balance due on acct is paid

Errand Charge of Personal

Objection to Free

10.00

Adversing money to loan

3.00

To board and lodging

50.50

Nursing & attendance

& goods Chatter to

203.50

Cash paid

150.00

18

Charge to the mother of Free

100.00

Adversing money to loan

3.00

9.00

14. And afterwards to wit on the 3^d
day of March, A.D. 1857 there
was filed in the office of
the Clerk of the Circuit Court
(aforesaid) a certain "Affidavit
of merits" which is in the words
and figures following to wit:

Circuit Court Civil Term

George S. Parsons

vs

Emory Chapman

County of Cook

City of Chicago

George S. Parsons

19 The above named Defendant
being sworn says that he
has fully and fairly stated
the case in this petition to
A. Garrison Esq of the said
City his Counsel therein and
that he has a good and
satisfactory conscience upon
the merits in said petition
as he is advised by his
said Counsel after such

15 The same made as
aforesaid and only
believe Geo. J. Pearson

Signed before me
this thirtieth day of
March 1855,
Dea Edward
Notary Public
for the City of Chicago, Ill

21 And afterwards to wit on the 30th day
of March A.D. 1855 there was
filed in the office of the Clerk
of the Circuit Court aforesaid
a certain plea which is in the
words and figures following to wit:

Clerk. County Circuit Court
George J. Pearson
vs
Emily Chapman

And the said
defendant George J. Pearson
defendant in this cause by W
Pearson his attorney comes
and defends the wrong and injury
wherein he says that he did not

15 The same made as
aforesaid and only
believe Geo. J. Pearson

Signed before me
this thirtieth day of
March 1855,
Edward L. Edwards
Notary Public
for the City of Chicago, Ill.

21 And afterwards to wit on the 30th day
of March A.D. 1855 there was
filed in the office of the Clerk
of the Circuit Court aforesaid
a certain plea which is in the
words and figures following to wit:

Clerk. County Circuit Court
George J. Pearson
vs
Emily Chapman

And the said
defendant George J. Pearson
defendant in this cause by W
Pearson his attorney comes
and defends the wrong and injury
wherein he says that he did not

undertakes to promise in manner
and form as the said
plaintiff hath above shewing
Complained Against him and if
this he puts himself upon the jury
to

And for a further plea
in this behalf the Defendant
says that now known he
says that the said Emily
Chapman Plaintiff before
and at the time of the
Commencement of this suit
to wit at Chicago in the
County of Cook. Illinois
was & still is indebted to
him the said Defendant
in a large sum of money
to wit the sum of Two
Thousand dollars of lawful
money of the United States
of America for the
professional services of the
said Defendant as
Attorney and Counsel
at Law & Solicitor & Counsel
in Chancery done and
performed by said Defendant
before that ^{time} in and about

The Plaintiff

17 The Suits, Expenses and Expenses
of said Plaintiff and
upon her Retainer and
at her Special Instance
and Request I also for
money to the amount of
Two Thousand Dollars before
that time had advanced
to and paid said suit
and Expended to and
for the use of said Plaintiff
in and about her business
suits and property and at
her Special Instance I Request
and also was indebted to the
said Plaintiff to a large
amount to wit to the
amount of Two Thousand
Dollars for money before
that time had and

23
received by the said
Plaintiff to and for the
use of the said Defendant
for interest upon and for
the performance of claims.
Large sums of money due
flowing from the said
Plaintiff to the said
Defendant and by the said

18. Defendant for some to the
said Plaintiff for claim-
ing shares of time before
then elapsed and for other
money due and owing from
the said Plaintiff to the
said Defendant upon
an account stated
between them which
said sums of money
to the said owing from
the said Plaintiff to the
said Defendant as
24. expressed exceed the
damages sustained by the
Plaintiff by reason of
the non performance of
the said several matters
promises and undertakings
in the said Declaration
mentioned and out of
which said sums of
money or due and owing
from the said Plaintiff
to the said Defendant
the said Defendant
is ready and willing
and thereby offers to
set off said claim to the

19 said Plaintiff the full
Amount of the said
damages according to
the form of the Statute
in such Case made and
provided and that he
the said Defendant is
ready to verify whereupon
he prays Judgment if
the said Plaintiff ought
further to have or
maintain her aforesaid
action thereof against him
&c

And for a further
plea in this behalf the
said Defendant says
that the said Plaintiff
ought not to have and
maintain her aforesaid
action thereof against
him because he says that
he said Defendant on
or about the first day
of March one thousand
Eight hundred and fifty four
and prior to the Commencement
of this suit paid to the
said Plaintiff the sum

Wm. Thompson

Several sums of money in
 the said declaration
 mentioned came all
 out of the said Thomas &
 not at the City of Chicago
 in the County of Cook.
 Aforesaid came that he
 is ready to verify whenever
 he brings judgment if
 the said Plaintiff ought
 further to have or maintain
 her aforesaid action
 thereof against him—
 And for a further plea
 in this behalf the said
 Defendant says that
 the said Plaintiff ought
 not to have or maintain
 her aforesaid action
 against him because he
 says that he said
 Defendant before the
 commencement of this
 suit to wit on the first
 day of March one thousand
 eight hundred and fifty
 seven at the City of Chicago
 in the County of Cook
 Aforesaid paid to the said

21 Plaintiff the sum of Two
Thousand Dollars in full
satisfaction and discharge
of the said several sums
in the said declaration
mentioned and of all the
damages by the said
Plaintiff sustained by
reason of the non payment
thereof which said sum
of Two Thousand Dollars the
Plaintiff then and there
accepted and received from
the said Defendant in
full satisfaction and
discharge of the said
several sums in the said
declaration mentioned and
of the damages of the said
Plaintiff by her sustained
by reason of the non payment
thereof and thus the said
Defendant is ready to satisfy
wherefore he prays judgment
if the said Plaintiff ought
further to have or maintain
her aforesaid action against
him

And for a further

22

Dea. in this behalf as to
 said first Count of
 said declaration 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 and
 provided The said Defendant
 says that said Plaintiff
 ought not to have and
 maintain her aforesaid
 action thereof against

29

him because he says that
 prior to and at the time
 when he first commenced
 to use and occupy the
 premises furnished he and
 to eat the meats and drink
 the drinks & to sit by the
 fire made from by & out
 of the fuel furnished by the
 Plaintiff and during the
 whole period of his continuing
 to use and occupy the premises
 furnished &c of the said
 Plaintiff could to eat the
 meats and drink the drinks

23. and wit by the fire made by
from and out of the
aforesaid fuel furnished
by the Plaintiff he did
be at the Especial instance
and request of the said
Plaintiff and for her
accommodation edification
entertainment and comfort
and that said Defendant
during the whole of said
period that he used and
occupied the premises and
furniture of the said
Plaintiff and ate the
meat and drank the drink
or eat by the fire made
from the fuel furnished
and provided by the
Plaintiff and occupied etc
drink & eat by said fire
as a gratuity from the said
Plaintiff to the said
Defendant and that the
said Plaintiff as a
gratuity from her to said
Defendant suffered permitted
and requested the said
Defendant to use and

Occasionally said promises
24. furnished so and as a
gratuity furnished and
provided the said
Dependant with meat
drinks and fuel which
the Dependant etc drank
sally the fire made
from said fuel at
the request of the said
Dependant and for her
support and school and
at the great loss of time
hazard and detriment of
the health of the said
Dependant and this the
said Dependant is ready
to verify whereupon he
prays judgment of the said
plaintiff right further to
have or maintain her
aforesaid action thereof
against him

32 And for as further
plea in this behalf as to
the said second count of
said Declaration this
Dependant by leave of the
Court here for this purpose

25. first had & obtained according
to the form of the Statute
in such case made and
provided says that said
plaintiff ought not to
have or maintain her
aforesaid action thereof
against him because
he says that said
nursing of and attendance
upon the said Defendant
while he was sick as
aforesaid was done and
performed by the said
plaintiff at her own
especial instance and
request and for her
especial gratification
pleasure and benefit and
as a gratuity from her
to said Defendant and
not at the instance or
request or for the gratification
pleasure or benefit of the
Defendant And that
said Defendant suffered
and permitted the said
plaintiff to nurse him
and attend upon him

inasmuch as such

26. Missing and returned
afforded her gratification
and was pleasing to her
and of great benefit
to her and also inasmuch
as the same was a
gratuity to be done
and performed by her
without any charge to the
dependent and not for any
benefit gratification or
pleasure which might
possibly be claimed by the
dependent therefrom and
thus the dependent is ready
to verify wherefore he
prays judgment if the
said Plaintiff not further
to leave or maintain her
Unlawful Action there
against him

J. Garrison

Deft Att.

27. Bill of Particulars of
Defendants Claims
Professional Services as
attys &c during the year
1852. \$100.00

Professional Services as
attys &c during the
year 1853. \$100.00

Professional Services as
attys &c during the year 1854. \$100.00

Money paid said attys &c \$100.00

" had &c to use of dep't &c \$100.00

" due & owing for what &c \$100.00

" collected \$100.00

And afterwards to wit on the
2nd day of June A.D. 1854
then was filed in the
Office of the Clerk of the
Circuit Court aforesaid a
certain "Replication" which
is in the words and figures
following to wit:

Emily Chapman } Circuit Court
vs }
George J. Pearson } Clerk

And the said Plaintiffs

28. as to the said plea of
the said Defendant and
which the said Defendant
had prayed may be signed
of by the Country and the
like

And as to the said plea
of the said Defendant
Secondly by him pleaded the
said Plaintiff says that she
by reason of anything by
the said Defendants in
that plea above alleged
ought not to have been
having and maintaining her
said action thereof against
him & because she says that
she was not, nor is
inculcated to the said
Defendant in manner
and form as the said
Defendant had in his said
plea above alleged. And
that the said Plaintiff
also prays may be signed
of by the Country.

And as to the plea
of the said Defendant by
him above pleaded as to the

Said sums of money in Plaintiff's declaration mentioned the said Plaintiff says that she by reason of anything by the said Defendant in that plea above alleged ought not to be barred from having or maintaining her aforesaid action thereof against him because she says that the said Defendant did not pay the said to the said Plaintiff the said several sums of money in arrears and from as the said Defendant states in his above plea alleged in that behalf and that the said Plaintiff brings money to England of the County and the said Plaintiff as to the said fourth plea of the said Defendant by him above pleaded says that the said Plaintiff by reason of anything by the said Defendant in that plea alleged ought not to be

39.

Carried from Pleading, and

30.

maintaining the aforesaid
action Sheriff against
the said Defendant because
he says that the said
Defendant did not pay
to the said Plaintiff
the sum of two thousand
dollars or any other sum
whatever in full

Satisfaction and discharge
of the said several sums
in the said Declaration
mentioned and the said
Plaintiff has not accepted
said sum or any sum
whatever in Satisfaction
and discharge of the said
~~Declaration~~ several sums
in the said Declaration
mentioned and of the said
several promises and
undertakings in manner
and form as the said
Defendant hath done
in his said plea in that
he hath alleged and that
the said Plaintiff says
may be inferred of by the

40

Country

And the said plaintiff
as to the said first plea
of the said Defendant
by him above pleaded says
that she ought not to be
prevented from having & maintaining
her aforesaid action

Against him by reason
of any thing contained in
the said plea because
he says that the land
and lodging &c in the
said declaration mentioned
were not furnished at the
Special instance and
request of the said plaintiff
but as in said declaration
averred and that the said
plaintiff prays may be
enquired of by the Country

And as to the said
first plea of the said
Defendant the said plaintiff
says that she ought not
to be prevented from having
& maintaining her aforesaid
action Against him
by reason of anything

32. Contained in the said plea
because the said nursing
was done at the special
instance and request of
the said defendant and
not of the said plaintiff
and thus the said plaintiff
prays may be Enjoined of
the County

George D. Hayes
St. Louis, Mo.

42

And Afterwards to wit on the
28th day of December A.D. 1857
there was filed in the office
of the Clerk of the Circuit Court
aforesaid a certain Due Bill
and Account which are in the
words and figures following to wit:

Due Mrs. Chapman for money
lent me hundred dollars to
be returned in thirty days
Geo J Pearson
Apr 3/56
30 days

Chicago Dec 1, 1857
 Judge S. Mansum
 To Emily Chapman

43

108 Weeks board & clothing	\$40.00
Exp. 13 weeks absence @ 2.50	32.50
	<u>72.50</u>
Washing & mending & such	10.00
Cash for Hoffman	20.00
Iron Bed (conspicuous)	5.00
Three Sheets & Pillow Cases	4.00
Three Linen Towels	1.50
One Hatbox	5.00
Prize Book	5.00
Nursing & attendance &c	60.00

44

Cash paid Aug 18, 1853, &c	
Nov 3 1856 <u>per</u>	156.00
Erroneous charge of	
personal property	
Obligation to Mrs	100.00

Advertising money to Jan 94.00
20.00

In board & clothing	29.50
Nursing & attendance & goods & chattels	203.50
Cash paid	156.00

Jury of good and lawful men
 to sit at I Loringham
 C. O'Brien Benj. Chase
 M. Barnes H. Munton
 J. A. Gaud W. B. Cough
 J. H. Stubb J. Kelly
 L. Gerber J. Linnell
 G. C. Cook

The being duly elected
 tried and sworn well and
 truly to try the issue joined
 aforesaid. After hearing the
 Evidence adduced Arguments
 of Counsel and instructions
 of the Court retired to
 consider of their verdict
 and afterwards came into
 Court and say We the
 Jury find for the plaintiff
 and assess her damages
 herein to the sum of Nine
 Hundred and forty Seven
 Dollars

Whereupon the said
 Defendant moves the Court
 for a new Trial of the Cause
 and withdraw his Verdict
 third and fourth Special
 Pleas and gives notice that

Charge in the matter of *Shaw* 10.00
 34. Advertising "Money to Loan" 3.00
 P. G. F. 10.00

Charge of Services
 J. H. Winder 150.00
 1120.00

And, Afterward, it is said in
 the 25th day of December
 1857, it being one of the
 days of the Windsor Term
 of said Court for said
 year and this Court
 having been regularly.

Continued thereto by agreement
 the following coming
 other proceedings, was read
 and entered of Record in
 said Court to wit:

Ernie Chapman
 534 George S. Pearson
 J. H. Winder

This day came the
 said parties by their attorneys
 and upon being joined herein
 it is ordered that a Jury come
 whereupon came the names of a

he will offer in Evidence
of payment or set off

And afterwards to sit on the
3rd day of December A.D. 1857
there was filed in the
Office of the Clerk of the
Circuit Court of the District of
Columbia a
Certain "Motion for a new
trial" which is in the words
and figures following to wit:

Circuit Court
Emily Chapman } Motion
vs } for a
George J. Pearson } New Trial

1st The Court recd in referring
to instruct the Jury as requested
by the Defendant

1st viz. That the plaintiff
is not entitled to recover
in this suit for the board
nursing, care, attention
fuel and of apartments &c
because it is admitted by
the pleadings in the cause

37

That the same were furnished
by the plaintiff as a gratuity
to the Defendant

49

And that the plaintiff
is not entitled to recover
in this suit for the board
serving Case attention fuel
use of apartments, &c. because
it is admitted by the
pleadings in the cause
that the same were to
be furnished and were
furnished by the plaintiff
to the Defendant without
any charge in that behalf

Q^d The testimony of many
Witnesses must be disregarded

4th The plaintiff cannot
recover for the value of the
board as there is no proof
of value beyond the testimony
of witnesses

5th The Defendant not proving
the value of the board is
not entitled therefore

6th That the Jury should disregard Winkler's testimony except in so far as it shows a direct admission of a distinct fact.

7th That the Court erred in admitting the Plaintiff to offer any evidence as to board nursing. Care attention paid, use of Apartments &c because it is admitted by the pleadings in the Cause that the same were furnished by the Plaintiff as a gratuity to the Defendant.

8th That the Court erred in admitting the Plaintiff to offer any evidence as to board nursing. Care attention paid use of Apartments &c because it is admitted by the pleadings in the Cause that the same were to be furnished by the Plaintiff.

1st The Defendant mentions
any Charge in That behalf

4th That the Testimony
of Mary Stenders as to
admission made by
Defendants was improperly
admitted because
Appellant from his
Testimony that such
admissions were made
upon an interview had
for the purpose of settlement
of the matters in difference
between Plaintiff and
Defendant.

5th That the verdict is
Contrary to the Evidence
and is also Excessive

6th That the verdict is
Contrary to Law

7th On the Grounds of
Newly Discovered Evidence
Appellant is entitled
of this point will be filed
A. Garrison

Deft City

And afterwards to wit
 On the 5th day of
 January A.D. 1858 there
 was filed in the office
 of the Clerk of the Circuit
 Court aforesaid a certain
 Affidavit in support of
 Motion for new Trial" which
 is in the words & figures
 following to wit:

Circuit Court
 Emily Chapman
 vs
 George J. Parsons.

State of Illinois
 County of Cook

George J. Parsons
 of said County Defendant
 in this action, being sworn
 says that it was understood
 and agreed by and between
 the Plaintiff and Defendant
 at an interview held
 between them on or about
 the 2nd day of December
 that the matters in dispute

46. Between Plaintiff and
Defendant in this suit
and in the suit of
William Orr & Pearson
vs Emily Chapman should
be settled in the interest
of Defendant from Indiana
when he was about to
depart to spend Christmas
and that should said
cause or either of them
be reached during his
absence in Indiana the
same should be continued
or dismissed at the option
of the Plaintiff herein
that the Defendant would
have been ready to try
this cause when reached
had he not fully believed
said Plaintiff would keep
her part of the agreement
aforesaid that Defendant
verily believes he has a good
defense to this action upon
the merits that Defendant
did not return to this
city till the night of the
28th and 29th of January

42. Defendant said that
Geo. J. Pearson

Sworn before me
the 5th day of
January A.D. 1858
P. M. Byrne

Clerk Peers Court
City of Chicago

And afterwards I said on
the 7th day of January
A.D. 1858 There was also
filed in the Office of the
Clerk. Defendant a certain
Other Affidavit which is in
the words and figures
following to wit:

Circuit Court
Emory Chapman
vs
George J. Pearson

State of Illinois
County of Cook

George J. Pearson The
Defendant in the above
Entitled Cause being duly

43. From both Depos. and say
that in or about the 21st day
of December last at an
56 interview between the
Plaintiff and Henry Winder
acting in her behalf of the
one part and Dependent a
Computation of the matters
in difference between the
Plaintiff and Dependent
was respectively made by
Dependent and also by
Henry Winder acting for the
Plaintiff. The Plaintiff then
and then being present and
that by the Computation
made by Dependent it
appeared after Dependent had
deducted from his claim
for the purpose of a
Settlement the sum of two
hundred and fifty dollars
that the Plaintiff herein was
still indebted to the
Dependent in the sum of
- fifty dollars or thereabouts
57 and that by the Computation
made by said Winder
Dependent was claimed to

44. be indebted to Plaintiff
to the best of Defendant
recollection in a sum less
than One hundred dollars
And further Defendant
swears and

Sworn before me — Geo. J. Pearson
this 7th day of
January 1858,
Wm. Church
Clerk

And Defendants to said in
the 28th day of January
A.D. 1858 there was filed
in the Office of the Clerk
of the Circuit Court of said
a certain Other Affidavit
which is in the words and
figures following to said:

58

Circuit Court
Emory Chapman
vs
George J. Pearson

State of Illinois
Circuit Court

George J. Ransom. Being
 sworn says he has read the
 Affidavit of Gustavus A.
 Ransom on file in this Court
 and that the matters therein
 stated appeared true and
 true were within the
 knowledge of said Gustavus
 A. Ransom till after the
 trial of this case and
 that defendant knows of no
 other means by which he
 can prove the same

And further the
 defendant said and
 sworn before Geo. J. Ransom
 on the 5th day
 of January 1858

Wm. Wayne

As Specious Court
 City of Chicago

And afterwards to wit on the
 28th day of January A.D. 1858
 there was filed in the office
 of the Clerk of the Circuit
 Court a certain
 Affidavit which is in the words

46 And figures following to wit:-

Circuit Court
Emily Chapman }
vs
George S. Pearson }

State of Illinois
County of Cook f:-
Justus C. Pearson
of the City of Chicago in said
County being duly sworn does
depose and say that he is
and has been for several
years past well acquainted
with the Plaintiff in this
action and is a brother
of the Defendant that in or
about the month of June
1856 while Defendant was
residing at her home she
the Plaintiff stated to
Defendant that the reason
she had the Defendant in
her house was that she had
confidence in him having
known him some time and
wanted him there as a
protector though it would

117
61
had look well nor be well for her
to keep her alone without
having some one there as a
protector. Did not consider
him a wander and would
not take any one to board
and that dependent to his
best recollection never
communicated the same to
dependent till after the
execution of the verdict.

And further dependent
says and

From before me
This 5th day of
January 1858. G. B. Pearson
J. H. Church

Clerk

And afterwards on the 28th
day of January A.D. 1858 there
was filed in the office of the
Clerk of the Circuit Court

Affirmed a certain other
Affidavit which is in the words

62
And figures following to wit:

In A. C. of Cook Co

Emily Chapman

vs

George J. Pearson

48. State of Illinois

Paul C. May Jr

Personally Comes Henry
Winder & being duly sworn
in oath declares and says
That the Statements of the
Defendant in this Cause
in an Affidavit filed in this
Cause on the 1st of January
AD 1888 in an interview there-
Alleged to have taken place
between this Defendant acting
in behalf of the Plaintiff
in this Cause and the
Defendant said Pearson
are false & untrue & that
at no interview had between
this Defendant was there
any such conversation as is
mentioned in said Affidavit
That on the contrary this
Defendant did have an
interview on behalf of said
Plaintiff with said Pearson
on or about the time mentioned
in said Affidavit and
that this Defendant then
Charged & said Pearson
Admitted that in this Cause he

60.

12807-23

said Pearson was indebted to
 the said Emily Chapman
 in the sum of between nine
 hundred and one thousand
 dollars and said Pearson
 admitted that the items
 mentioned in the list of
 particulars filed in this
 Cause were true and just and
 the amount thereof due
 from said Pearson to
 said Emily Chapman

And this Defendant
 further says that as to
 the matters in difference
 between said Pearson &
 said Emily Chapman
 in the suit of Wilkison
 Orr & Pearson against
 Emily Chapman there was
 never any computation at
 all between said Pearson
 & said Emily Chapman or
 between this Defendant acting
 in behalf of said Emily
 Chapman & said Pearson
 And this Defendant
 further says that this
 Defendant acting in behalf

50

Said Emily Chapman never
admitted that there was
any dollars due to said
Pearson from said Emily

65

Chapman in the suit
of Wilkinson Orr and
Pearson against her. The
said Emily Chapman
and never been or heard
that said Pearson had
deducted the sum of two
hundred and fifty dollars
from any sum claimed to
be due to said Pearson
and further that said
Emily Chapman never
agreed that there was any
such sum of fifty dollars
due to said Pearson by said
Emily Chapman in his said
suit of Wilkinson Orr and
Pearson against her. The said
Emily Chapman is in any
other way or manner.

And this Dependent.

further says that as he
has been informed & believes
that there was never any
understanding or agreement

66.

56 Between said Emily Chapman &
said Pearson that the above
suit should be continued or
dismissed if reached in
the absence of the said
Pearson. But on the contrary
that said Pearson were
from the case would be tried
when it was reached for trial.
This defendant further says
that as he believes, said
Pearson was in this city
at the time said suit
was tried and might have
been present therefore had he
here so chosen

67

Henry Wheeler
State of Illinois }
County Clerk }

Subscribed and sworn to
before me this 28 January 1858
William J. Wallis J. C.
And afterwards to wit on the 28th
day of January A.D. 1858 there
was filed in the Office of the
Clerk of the Circuit Court
aforesaid a certain other
affidavit which is in the
words and figures following

52 to said

In (in) Ch. of Prob. Court
Emily Chapman
as
George W. Pearson
State of Illinois
Circuit Court of

Emily Chapman
Plaintiff in The Above said
Being duly sworn says, That
the statements in the said,

Dependants Affidavit relating
to a Continuance ^{or} Dismissal
of said suit in case of the absence
from the Ct. of said

Dependants when said suit
should be called for
trial are false and untrue
That whereas said Dependants
has proposed to settle said
suit and the suit of
Wilkinson Orr and Pearson
vs Emily Chapman said
Emily Chapman Dependant
herein has refused said
Pearson to her, said Emily
Chapman's attorney for
settlements! That Dependant is
informed and believes that

53. neither said Pearson nor
 his attorney has been able
 to adjust the matter in
 dispute between them.
 And has been advised that
 the only way of settling
 the dispute was by a jury
 that thereupon defendant
 has advised & insisted
 that he said said against
 said Pearson should be tried
 at the present term all of
 which said Pearson well
 knows; that said Pearson
 left this City a short time
 before said said was
 called in trial well
 knowing that a trial
 would be insisted upon
 by defendant at the present
 term of Court and said
 defendant might well
 have been present
 at said trial. Had he
 been so disposed and
 if there were any expense
 on the merits; that
 said defendant and Pearson
 was as defendant believed

This City when said said was
 tried having returned from
 his alleged visit to Indiana
 if indeed said alleged
 visit was ever made that
 said Clement never did
 consent nor intend to
 consent with the said
 Pearson his Agents, Clerks
 or Attorneys that said said
 should be settled except
 on the terms proposed by her
 Attorney and never did
 consent that said said of
 Emily Chapman or
 George J. Pearson should
 be dismissed or settled as
 alleged in said Pearson
 Affidavit and has always
 insisted that said said
 should be tried at the present
 Term of Court as soon
 as it should be reached.

~~Deposition~~ ^{Deposition} and further
 says that at no interview
 or alleged in said
 Pearson Affidavit was
 any such computation made
 as alleged therein and if

any such Computation has
 at any time been made by
 and between said Pearson
 & said Winder. Dependent has
 no knowledge thereof and
 denies that she ever assented
 to any Settlement whatever
~~proposed~~ proposed by the said Pearson
 or to the proposition made
 by said Winder as
 alleged in said Pearsons
 Affidavit if any such
 proposition was made. Which
 this Dependent utterly denies.
 Dependent further says that
 she never did accept and
 never intended to accept
 any Settlement except as above
 set forth and has always
 refused to accept a receipt
 from said Pearson or to
 settle said debt as alleged in
 said Pearsons Affidavit.
 Dependent further says that
 at the interview in which
 any Computation may have
 been made they were not
 satisfactory to both parties
 and said parties have not

72

56 made and are not likely
to make any fair or
Satisfactory compromise
of the above mentioned sub-
ject of the matters referred
by the Jury in the above
Entitled Cause of Emily
Chapman vs George S.
Parson and said Parson
has not denied that the items
mentioned in the bill of
Particulars are in error
and improperly charged and
has admitted that the
same are correct and
reasonable

Emily Chapman
State of Illinois
County of Cook

Subscribed & sworn to
before me this 28th day
of January 1858

William J. Mullis C. J.
And afterwards to wit on the
29th day of January A.D. 1858
There was filed in the office
of the Clerk of the Circuit
Court, a certain a certain
affidavit which is in the words

59 and signs following to wit

Emily Chapman

vs } Dr in Ct
George J. Pearson } of Cook Co

State of Illinois
County of Cook

Emily Chapman the
plaintiff herein being duly
sworn says that so far as
the statements of George J.
Pearson contained in an
affidavit filed in the
above entitled cause
intends to signify that
the bond of said Defendant
was ever considered as a
gratuity to the said Defendant
the same is incorrect and
untrue that Defendant
never offered to make said
bond a gratuity but has
always insisted that said
Defendant should pay a
reasonable sum in
consideration thereof as
well as on account of

all other Extra Expense and
 trouble incurred in behalf of
 said Defendant and said
 Defendants expressly agreed
 with said Plaintiff the
 Defendant herein to pay
 such reasonable sum in
 account of said board and
 has always charged himself
 with such sum and
 has never pretended to
 said Plaintiff or to any
 one else that he was not
 a boarder with said

76 Plaintiff or that he was
 boarded gratuitously by
 said Plaintiff till said
 suit was brought and
 Defendant never represented
 to said Gustavus C. Pearson
 nor to any one else anything
 touching the matters involved
 in the above entitled suit.
 Contrary to what is herein
 stated Defendant further
 says to said Gustavus C. Pearson
~~in 1851~~ ^{in 1851} ~~and to any one else~~ anything
 touching that she Defendant

would not take any one
else to board and
Clement did in fact
have one or two other
boarders during a portion
of the time. Said Defendant
boarded with said Plaintiff
Emily Chapman

77
Subscribed & sworn to
before me this 29th &
day of January
1858

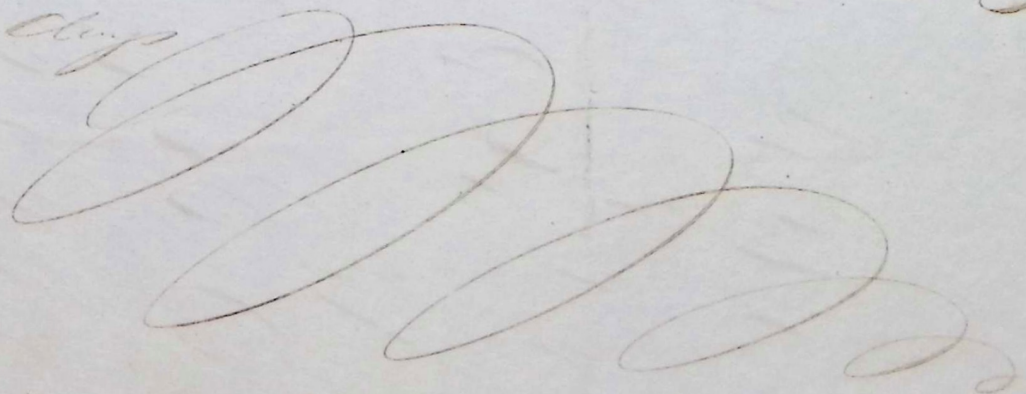
William Wallis
J. P.

And afterwards to wit on
the 29th day of January A.D.
1858 it being one of the
days of the January Special
Term of said Court for said
year and the cause having been
regularly continued thereto
The following among other
proceeding was had and
entered of record in said Court
to wit to

Emily Chapman
J. P.
George. S. Parsons

60. This day came again the said
parties by their attys and
the Court having heard
Counsel on said Defendants
motion for a new trial
of this cause and being
fully advised thereon
overrules the said motion

Whereupon said Defendant
brings an Appeal to the
Supreme Court of the
State of Illinois which
is granted on condition
that said Defendant and
Execute & file his bond
herein in the special sum
of Two Thousand Dollars
with good and sufficient
Security to be approved by
the Court and that he have
leave to file his Bill of
Exceptions herein in many
days



61. And afterwards to wit on the
29 30th day of January A.D.
1858 Then was filed in
the Office of the Clerk of
the Circuit Court aforesaid
a certain Bond which
is in the words and
Figures following to wit:

Know all men by These Presents
That we George S. Pearson
George W. Torrey John B. Miles
and John S. Little Executors
to Pearson and Coleman O'Williams
all of Chicago are held
and firmly bound unto
Emily Chapman in the
penal sum of Ten Thousand
Dollars lawful money of
the United States for the
payment of which well
and truly to be made we
bind ourselves our heirs
and administrators jointly
severally and jointly by
these presents

80
Witness Our Hands
and Seals this Thirtieth
day of January A.D. 1858

62. Thousand eight hundred and
Fifty Eight

The Condition of the
above obligation is such
that whereas the said
Emily Chapman died
On the Twenty Eighth day
of December 1855,
in the Circuit Court of Cook
County, Illinois a judgment
against the above named
George C. Pearson for the
sum of Nine Hundred
and forty Seven dollars
damages besides costs
from which judgment
the said George C. Pearson
has prayed an appeal
to the Supreme Court
of the State of Illinois

Now if the said
George C. Pearson shall
pay the said judgment
interests costs and damages
in case the same shall be
affirmed. And shall also
duly prosecute his said
appeal. Then the above
obligation to be void otherwise

63. to remain in full force
and Effect

Jm Little *Dead*
J B Miles *Dead*
Geo. J Pearson *Dead*
G M Torrey *Dead*
G B Pearson
Coleman J Williams *Dead*

And Afterwards to wit

On the 22nd day of
February A.D. 1858, there was

filed in the Office of the
Clerk of the Circuit Court
aforesaid a certain Bill
of Exceptions which is in
the words and figures
following to wit:

State of Illinois *3*
County of Cook *3*

Page 1

Emily Chapman *3*
vs *3*
Serge. J Pearson *3*

In the Circuit Court of Cook County
at the November Term A.D. 1857

64- Be it Remembered that on the Trial
 of this Cause and before the
 Examination of any ^{of the} witnesses and
 before the offering of any
 Evidence by the plaintiff the
 Defendant by leave of the
 Court took down the second
 third and fourth Special
 Pleas of said the said
 Defendant and the
 plaintiff to prove the facts
 on her part called the
 following witnesses who
 were severally sworn and
 testified as follows
 Ben Winters

Said a daughter of
 the plaintiff & now the
 Defendant Mother said
 nurse in town during the
 year 1854, 1855 & 1856

Question Did the Defendant
 travel at your mother's?

44 If you state all you
 know on the subject

The Defendant objected to
 the question and also

objected to the Plaintiff
 offering any proof as to
 the boarding and nursing
 of the Defendant. Care
 attention given and use
 of apartments on the
 ground that it was
 admitted by the Plaintiff
 that the same were
 furnished to the Defendant
 by the Plaintiff as a
 gratuity to the Defendant
 and were to be without
 charge to him the
 Defendant which objection
 the Court overruled and
 permitted the witness to
 answer and further ruled
 that all the evidence

which might be offered
 by the Plaintiff as to such
 boarding and nursing
 Care attention given
 and use of apartments
 should be taken subject to
 the said ~~same~~ objections of
 the Defendant without the
 same being again
 repeated to which decision

66. admitting such testimony
the defendant then and
there duly excepted
Counsel

The defendant was
at mother's Commission
in the Summer of 1854
I went away to School
in 1st September 1854 he
was at mother's then
and had been there some
weeks I think I
returned home on the
thundering day following
and remained at home
after that he was there
at my house and
remained there till
Summer 1856. He had
a room and his sewing
cabinet &c. &c. &c. &c.
had his washing and
mending done there. He
had two bed Comforters of
mother's. He sent for them
one night. After he left
I don't know their value
I don't know of his leaving
clothes and other cases

67. ⁸⁷ Time of his leaving, a meeting
and since that time he was
not while there for
three times and once about
two or three weeks and
another time about a
week was visited by my
mother

On being Corp Examined
testified Defendant went
to Mother's house in 1854
before Jace and Hild
all Jace of 1856 I was
married April 1856

He left in the fall
following about Brown
when he came exactly I
was only at school about
two months thinks the
Defendant left about
November 1856

88. Mrs. Beckford testified
Brown left was at
Plautiffs house on 5th
of November three years
ago I remained there
about eighteen months
the left was away two
or three months came

68. When after he came back
from New York

I don't know what
the value of board is
He had a room was
sick twice at one time
about two or three weeks
at another about a week
was confined to his bed
and nursed by Mrs Chapman
I went to her house several
times after I left Dan
left there Can't tell how
long he remained after
I left He was well
taken care of washing
and spreading clean there
except for about two or
three weeks in 1856

On being Corp. Examined
testified I very seldom
went into his room being
told that Mrs Chapman
took food and tea to him
He was also about the house
took care of him

On being re Examined &
testified I did not go into his

some while he was sick to
attend upon him and
never heard him request
the Plaintiff to take care
of him

Mary Winters testified
I knew the Parties to
the suit. The witness on
being shown the bill said
I presented this bill to the
Defendant
Chicago Dec 1st 1851

Geo J Pearson

To Emily Chapman
108 Mrs. Leonard & Lodging @ \$5 00
Lp 13 weeks at home @ \$2.50 32.50

50.00

Working mending & 108 weeks	100.00
Cash to Wm Smith	20.00
Proc Bail Comptrolrs	5.00
Three Sheet & Pillow Case	4.00
Three Linen Servants	1.50
One Matras	5.00
Piano Stool	8.00
Messing Attendance &c	6.00

Cash Received Aug 18. 1853 \$56.⁰⁰

Nov 3 1856 140.⁰⁰ 1 \$56.⁰⁰

Examine Charge of Personal Property obligation to him 100.00

The board & lodging for 100.00

Missing & attendance 203.50

Cash Received 156.00

Charge in the matter of him 100.00

Advertising money to him 300
976.00

Re

The plaintiff then proposed to prove admissions of the deft to which deft objected and heff used the testimony till he had further examined the witness. The witness then said I married the daughter of the deft. I have been in Chicago two years past August commenced visiting the heffs house in November 1855. The defendant was then ^{there} and saw him then came to Milwaukee 1856. I heard him acknowledge having 500 dollars borrowed of her by him at Niagara Falls.

The witness being shown a note in the words and figures following:

"Dear Mrs Chapman
for money borrowed One
Hundred Dollars to be
returned in thirty days
Nov 3/56 Gen. J Pearson
30 days"

I said the signature to this is in the handwriting of the Defendant I have seen him write and know his handwriting The note was then read in evidence

The Plaintiff then proposed to prove admissions made by the Defendant to witness to which the Dep^t objected on the ground that if any such were made they were made pending negotiations for a settlement

Whereupon the Court ordered the Defendant to examine the witness as to the time place and circumstances of the alleged

admissions and the return
 72. Therefore testified the
 Plaintiff could see
 and see at the time
 occupied rooms at the
 General House kept came
 there and spoke of settling
 a demand of his against
 Mrs Chapman. I told him
 I have nothing to do with
 it he must go to Mrs
 Chapman's lawyer. But
 he would talk. He sat
 down at the table we did
 not have any negotiation
 for a settlement. She did
 not leave Mrs Chapman's
 life. He said that was
 all right that he wanted
 to talk about his own life
 against Mrs Chapman.
 He proposed a desire to
 have all their matters
 settled.

Rept Therefore
 objected to any evidence being
 offered as to said alleged
 admissions. He came the same
 if made were made.

p3. pending a negotiation for
a settlement which
objection she could then
and then was asked to
which decision she
defendant did then
and there except

The witness
then testified that the
defendant at such
interview admitted the
board washing and
mending as charged
in the bill also admitted
having the bed clothing
pillow cases - sheets -
mattress - pillow shod
mending & attendance and
the money named \$100
\$12 dollars in November
1855

96. Also admitted had
been paid one hundred
dollars for her and
afterwards had obtained
one hundred dollars and
of plaintiff's money in
his hands

One King Corp

74. Examined This Conversation
was in our rooms At the
Private House Dept said
would like to settle if he
could said so when he
first came in

97 He looked at
the Plaintiffs Account He
had no papers and
see his bill I showed him
his bill (the bill in proof)
we talked over it and said
it was right said he had
a bill I spoke to him
about it. expressed his
recollection said he
recalled receiving it He
said he could not dispute
Plaintiffs bill for nursing
whatever charges he made
he would agree to He
admitted the bond at five
dollars per week

He then proposed that
we should examine his bill
and agree upon it that
said I would have nothing
to do with it because it
was in Court and that I

not authorized to settle his
Claim Against Mrs
Chapman This was after
he had looked over the
bill of Mrs Chapman
He then presented his bill

for services and I told
him Mrs Chapman would
have nothing to do with
it and would leave that
matter to the Court, that
she had trouble enough
with him in trying to
arrange their matters
that she would let the
Court settle it for them
The Defendant moved to
strike out the Evidence of
Witness on the ground that
it was not proof of an
independent fact but such
admissions of a general
Character which a
person would make who
was honestly trying to keep
in a settling condition and was
made with a view and
Expectation that his own
Counter Claim would be

76. allowed the Court overruled the
motion and the
Dependant then said
There Excepted

The witness
being then shown a
paper by the Dependant
in the words and figures
following

"I have this day
Examined the acct of
George Pearson as agent &
Attorney in fact of O. P.
Hastings My Mother and
myself as appears by said
Pearson Books and find
them including this date
Correct and Satisfactory

Chicago December 29 1853

Emily Chapman

Said Signature I think was
in the hand writing of the
Plaintiff And the same was
thereupon put in Evidence
for the Plaintiff. Some four or five
years ago Mr Pearson applied
to me in behalf of Mrs Chapman
and desired me to qualify as
Guardian and take Charge of

77. her Estate I declined at first
but finally I told her that
I would accept of it. She
gave me her note for one
hundred dollars not to be
paid if property sold
and I got my legal
fee. She gave me the
note and I qualified
and acted as Guardian
the property was sold
and I got my fee
from Mr. Chapman out of
the proceeds of the sale
afterwards I gave her
note to him he paid
me nothing in case of it

On being Cross Examined
testified she note was
given on her part for the
plaintiff as an act of
friendship I thought
think this was in fall
of 1852 The end of this
note was charged by debt
to the fee in his life
with her

This was all the

78. Evidence given on Either Side

The Defendant then ~~and~~
requested the Court to instruct
the Jury

102
1st. That the Plaintiff is
not entitled to recover in
this suit for the board
nursing Case Attention
fuel use of apartments
&c because it is admitted
by the pleadings in the Cause
that the same were
furnished by the Plaintiff
as a gratuity to the
Defendant

And That the Plaintiff is
not entitled to recover in
this suit for the board
nursing Case Attention fuel
use of apartments &c because
it is admitted by the
pleadings in the Cause that
the same were to be furnished
and were furnished by the
Plaintiff to the Defendant
without any charge in
that behalf

79 3^d The Testimony of many
Winders must be disregarded

4th The Plaintiff Cannot
Recover for the value of the
board as there is no
proof of value beyond the
testimony of Winders

5th The Plaintiff not
proving the value of the
board is not Entitled
to recover Therefore:

But the Court refused to
instruct the Jury as so
requested to which the
Appellants Counsel Object
Then and Then Except

The Cause was Then
Submitted to the Jury who
found a verdict for the
Plaintiff and assessed
the Damages at Nine
Hundred and Forty Seven
Dollars

The Appellants
Counsel then moved for a
new trial upon the

90 following Grounds

II The Court erred in refusing to instruct the jury as requested by the Defendant viz:

1st That the Plaintiff is not Entitled to recover in this Suit for the board missing Case, Attention paid use of apartments so because it is admitted by the pleadings in the Cause that the same were furnished by the Plaintiff as a gratuity to the Defendant

And That the Plaintiff is not Entitled to recover in this Suit for the board missing Case, Attention paid use of apartments because it is admitted by the pleadings in the Cause that the same were to be furnished and were furnished by the Plaintiff to the Defendant without any

81. Charge in that behalf

3^d That Testimony of
Many Witnesses must be
disregarded

4th The Plaintiff cannot
recover the value of the
land as there is no proof
of value beyond the testimony
of witnesses

5th The Plaintiff not
proving the value
of the land is not
entitled to recover therefore

6th That the Jury should
disregard witnesses testimony
except when is shown
a direct admission of
a distinct fact

1061 11th That the Court erred in
admitting the Plaintiff
to offer any evidence as to
land passing over
attention just use of
Appointments &c

82 Because it is admitted by
the pleadings in the Cause
that the same were
furnished by the Plaintiff
as a gratuity to the
Defendant

107
III That the Court Erred in
admitting the Plaintiff
to offer any evidence as to
said missing Can
Attention Due me of
Hartman & Co because it is
admitted by the pleadings
in the Cause that the same
were to be furnished by the
Plaintiff to the Defendant
without any charge in that
behalf

IV That the Testimony of Harry
Hinders as to admissions
made by Defendant was
improperly admitted because
it appeared from his testimony
that such admissions were
made upon an interview
had for the purpose of
settling up of the matters

83. in Difference between Plaintiff
and Defendant

IV That the verdict is Contrary
to the Evidence and is also
Excessive

V That the verdict is Contrary
to Law

VI On the Grounds of new discovered
Evidence

Which motion the Court
overruled and thereupon the
Defendants Counsel Excepted

108 The Defts Counsel Then
moved for Counsel for
Judgment on the Special
pleas notwithstanding the
verdict on the Ground
That the matters averred
therein were admitted by
the replication And the
Deft therefore not entitled
to recover for the Land
Missing full use of
Apartment &c. And
That the Counsel thereof

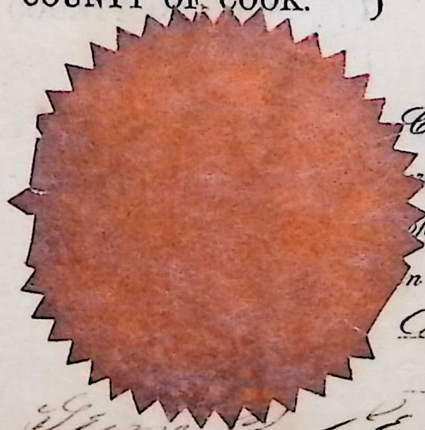
84. Should be deducted from the
undist.

Which within the Court
decided whereupon the Clerk
remained excepted.

And because the said
Exceptions do not appear upon
the record the Defendant prayed
the Court to sign and seal this
Bill of Exceptions which is done
in open Court

George Mancini, Seal
Judge of the Judicial
Circuit, Ill.

State of Illinois, }
COUNTY OF COOK. } S. S.



I, WILLIAM L. CHURCH, Clerk of the Circuit
Court of Cook County, in the State aforesaid, do hereby
certify the above and foregoing, to be a true, perfect and complete
copy of the file as well as the orders had and
entered of record in said Court
in a certain cause pending in said Court on the
Common Law side thereof, wherein Emily
Chapman was Plaintiff and
George E. Pearson was Defendant

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the seal of our
said Court at Chicago, this 20th day of April A. D. 1888

Wm L Church
Clerk.

Good. (copy to Court)
Bundy (copy to Court)
750
82

Wm. H. Brown

Wm. H. Brown

Wm. H. Brown

Wm. H. Brown

Wm. H. Brown

Wm. H. Brown

Filed May 20, 1858

Libelous
OK

State of Illinois, }
Third Division } SS.
COUNTY OF COOK.

Supreme Court, April Term, A. D. 1858.

Geo. T. Pearson
Plff in Error

VS.

Emily Chapman
Def't in Error.

In

We enter ourselves security for costs in this cause, and promise to pay all costs which may accrue to the opposite party in this action, or to any of the officers of this court; and in default of payment by the plaintiff of any costs ordered or adjudged to be paid by him, we hereby agree and stipulate that execution may issue against our property for any costs taxed against him.

Dated this Nineteenth day of May A. D. 1858.

Geo. T. Pearson
James M. Foster

12839-48

an appeal, which was granted.

The following are the errors relied upon by the appellant:

1st, That the Court erred in refusing to instruct the jury, as requested by the defendant below, viz:—

1st, That the plaintiff is not entitled to recover in this suit for the board, nursing, care, attention, fuel, use of apartments, &c., because it is admitted by the pleadings in the cause, that the same were furnished by the plaintiff as a gratuity to the defendant.

2d, That the plaintiff is not entitled to recover in this suit for the board, nursing, care, attention, fuel, use of apartments, &c., because it is admitted in the pleadings in the cause that the same were to be furnished and were furnished by the plaintiff to the defendant without any charge in that behalf.

3d, That the testimony of Harry Winders must be disregarded.

4th, The plaintiff cannot recover the value of the board, as there is no proof of value beyond the testimony of Winders.

5th, The plaintiff, not proving the value of the board, is not entitled to recover therefor.

2d, The Court erred in permitting the plaintiff below to offer any evidence as to board, nursing, care, attention, fuel and use of apartments, &c., because it is admitted by the pleadings in the cause, that the same were furnished by the plaintiff below as a gratuity to the defendant below.

3d, That the Court erred in permitting the plaintiff below to offer any evidence as to board, nursing, care, attention, fuel, use of apartments, &c., because it is admitted by the pleadings in the cause that the same were to be furnished by the plaintiff below to the defendant below without any charge in that behalf.

4th, That the testimony of Harry Winders, as to admissions made by the defendant below, was improperly admitted, because it appeared from his testimony that such admissions were made upon an interview had for the purpose of settlement of the matters in difference between them, the plaintiff and defendant below.

That the verdict is contrary to evidence and excessive.

That the verdict is contrary to law.

That the Court erred in refusing the motion for a new trial.

That the Court erred in overruling the motion of the defendant below for judgment on the special pleas, notwithstanding the verdict.

That the Court erred in entering judgment for the plaintiff below.

G. D. No. 368

Superior Court,
April Term, A. D. 1858.

Geo Pearson
Plff in Error

VS.

Emily Chapman
Def in Error

BOND FOR COSTS.

Filed A. D.
185 .

Clerk.

Filed May 20, 1858
L. LeMay
Clerk.

Plaintiffs Attorney

S U P R E M E C O U R T .

GEORGE T. PEARSON

Appellant,

vs.

EMILY CHAPMAN

Appellee.

} Appeal from Cook Co. Circuit Court.

P O I N T S & c . F O R A P P E L L A N T .

I .

The plaintiff not denying the allegation in defendant's pleas that the board, lodging and nursing was given and received as a *gratuity*, admitted that the same was so given and received.

What is not denied is confessed.

1 Gil, 104, *Dana vs. Bryant*.

1 Chitty's Pl. 623, 11th Am. Ed.

1 Greenleaf's Ev. Section 27.

Stephen's Pl. 219, 220.

Gould Pl. 46, 343.

I I .

The Court should not have allowed the admission made to witness Winders to be given to the jury, and should have given defendant's instruction No. 3 to the jury.

It was said to the witness, "with a view to an amicable settlement of the differences between the parties."

See Record, 72, 73, 74, 75.

1 Greenleaf's Ev. Sec. 192 and note.

I I I .

The verdict was not warranted by the evidence.

The admission to Winders alone proves the amount of bill and verdict.

The admission in substance is—"she has a bill of those articles against me which I will not dispute. I have a bill against her for services"—and presents his bill at the same time.

The whole of an admission must be taken together.

1 Greenleaf's Ev. 201.

~~5 Sand. 245.~~ 5 Tannt 245

It was not an admission so much was due.

A. GARRISON, *Attorney.*

82-23.

Supreme Court

George T Pearson

vs

Emily H Chapman

Parents re

Filed May 17, 1859.
Island
Ct.

A. Garrison & ~~W. H. Wood~~
of counsel

In Supreme Court

Pearson

Chapman

Argument for Appellee

On the admissibility of Winder's testimony to establish Pearson's admission of the correctness of Mrs. Chapman's bill -

3 Phil. on Ev. (1 Conner & Hill's notes)
Page 218. Note 196 & Cases
cited -

4 Conn. R. 142

2 Pick. R. 285, 290

4 ~~Pick~~ Pickering 374, 377

4 N. H. 501, 508

13 R. & M. 443

33 Maine 542

(Cole v Cole)

3 Denio 58 - also § 15

1 Meigs 199 - 4 How. Miss. 90

The only case to the contrary is 8 Cow. 301
overruled in 3 Denio 58

The cases establish that proposals made
while a compromise is on the carpet do not
bind but conversations in which a fact is
disclosed may be admitted to prove it.

2. As to the point as to the replication

The ruling of the Court in ~~admitting~~ ^{admitting} the evidence in the trial, under the replications to 5th & 6th Pleas was correct

Because if the allegation of the plea that the board ~~is~~ was furnished at the "special instance and request of the Plaintiff" and the other allegations that "the said Plaintiff, as a gratuity from her W^{id}ed defendant, "suffered & permitted" &c be not substantially the same, the plea is double. The Plaintiff has a right to follow the declaration rather than to demur to the plea, provided the replication traverse the material allegations of the plea. If the replications be insufficient, the defendant should have demurred to it. He has not a right to assume, after verdict, that his own plea is double. It does not follow that because the allegation that the board was a gratuity is not traversed, the fact of its being a gratuity is admitted by the replication; because on the

traverse of the allegation that it was
furnished at ^{the} special instance and
request of the Plaintiff, the law implies
a promise on the part of the Defendant
to pay. In fact, if it be not too plain
for argument, the verdict of the jury conclusively
shows that the allegation of a gratuity was
mere surplusage. For if the jury had
found the issue of the request to have
been made by the Plaintiff, of what
consequence would it be that the board
was also a gratuity? The Defendant's
case is just as strong without the
other allegation as with it; because
there being no express contract, the
law where the request is by the Plff.
implies a gratuity from the Plaintiff
to the Defendant, and not a promise
on the part of the Defendant to pay a
quantum meruit. By parity of
reasoning, where the verdict shows that
the board &c was furnished at the request
of the Defendant, the implied promise to
pay and which the jury have found, is
inconsistent with the idea of a gratuity.
The Defn. might have rebutted the
implied promise to pay, by evidence tending
to show the real character of the transaction;

which would have been equivalent to the proof of a gratuity - What is immaterial to the Defendant in case the verdict had been in his favor, is equally immaterial in any other point of view - If the allegation had been material & had been traversed, the replication would have been double, and a Defendant cannot consistently with the rules and principles of pleading, force his opponent to make a ~~double~~ replication by feigning a double plea - Such a practice would tend to obscure rather than to define issues - The Court therefore will treat the pleas as containing but a single allegation, and therefore hold the admission of the evidence by the Court below to be correct - For if, as the record shows, there is no evidence adduced by the Defendant tending to rebut the implied promise to pay arising from the proof that the board he was furnished at the special instance & request of the Defendant, and which the Defendant would have adduced, if he had any, it would have been equally impossible for him to have furnished evidence of

the gratuity. Taking issue then on
the instance and request includes
& comprehends the issue of a gratuity.
In other words the issue presented
by a denial of the special instance
and request of the Plaintiff includes
all that would have been presented
as an issue, had the allegation
of a gratuity been also denied.
Hence the ^{allegation} is not a
distinct & independent fact on
which a defence could be based
in case the other allegation had
been found against him. The
verdict therefore must stand as
no injustice can by any possibility
be done to the Defendant.

M. W. Fuller
For Appellee

Index. Vol
82-23

Remson

4

Chapman

Argument for

Appelles

Filed April 22 1855
Leland
Black

Mr. Fuller

for Appelles

Preface

Supreme Court

George J Pearson }
vs Appellants } Appeal from Court Co
Emily H Chapman }
Appellee }
11

The Appellant in this case may Reg. but
in fact but two points for new trial
The first arises upon the pleadings
& the defence therein stated

Appellant contends - that Piffs replication
to Appellants 4th & 5th pleas (being substantially alike)
admits that so much of plaintiffs demand
or bill as charged for board & lodging & nursing
was given and received as a gratuity

The judgment was for \$947 included
in which was this bill for boarding & nursing
amounting to the sum of \$710 of the amount
recovered

The judgment therefore if the if the
replication admits the same was a
gratuity was for that amount & much
and defendant should have a new trial

He contends that after any thing is given
as a gratuity as between the parties that
the receipt cannot be made liable
therefor -

The Appellant & Defendant by his plea
says "that he boarded with plaintiff at her
instance and request" "as a gratuity from
the said plaintiff to the said Defendant"
And that the plaintiff as a gratuity from her to
the said Defendant suffered permitted & requested

Defendant to use eat "re" and as a
gratuity furnished the food "re" for
Defendant

See Abstract page 1

Plff simply took issue upon the
allegation that the board & lodging was
furnished at her instance & request
— she does not deny the fact that
the board & lodging was given and
received as a gratuity—

Appellant pleads confessed the having
the articles charged that is the Boarding
& lodging— but avoid the charge of
Solicitations by showing that the same
was ^{given &} received as a gratuity

~~1 Chitty Pleading, 622. 623 11th Ed~~

~~1 Greenleaf Evidence Sec 27.~~

It is a general rule that a party
confesses all the traversable allegations on
the other side, which he does not controvert

1 Gilb 104. Dana vs Bryant.

1 Greenleaf Ev Sec 27.

1 Chitty pt 623— 11th Ed—

Stephens P217. 220

This question was fully and fairly
raised in the Court below— in time

See objection to the proof of these demands
Abstract 2 page Record page 64, 65 & 66
and further the defendant moved
for judgment upon his pleas

Non obstante verdicts

Also the Court refused to give the instructions
on the part of Def Record 78 & 79. Abstract 4.

The Issue that was made by the replication was the simple proposition, Whether he boarded with plaintiff as a gratuity at her request or at his request - We think it quite immaterial whether ~~she~~ if any thing is given as a gratuity whether it is asked for as favor or granted without the asking or voluntarily offered so long as it is so received & so given

Even the Beggar incurs no liability for his dinner if by begging he gets it

The next Point arrives upon the admission and effect of the testimony of the Witness Harry Winder - If the Court will have the kindness to read the testimony of said Witness & the objections made in regard thereto & also the evidence adduced upon this Cross examination - (and the whole of the same is in the bill of exceptions) they will see that clearly the Court erred in admitting the testimony to go to the jury. The objection was then made & there insisted upon, was what was said by Defendant was with a view of a settlement between him & Mrs Chapman - that he was honestly trying to treat for a settlement - and were made with the expectation that his own demand would be allowed & that they were so made & so conceded that by so yielding he could ^{get} an adjustment & settlement of his own Bill for services

Pearson went to the Rooms of plaintiff his Son in Law met him in the reception room - Pearson stated when he first came in, that

he came for the purpose of making a settlement
would like to settle if they could

What defendant did say was certainly
with a view of a compromise between the
parties this admission under such cir-
cumstances should be protected - & not made
use of to his injury

See 1st Article of W Section 193

& cases therein cited

I know of no case that under all of the circumstances
that could work harder than in this case
the Defendant had been the Lawyer and
Confidential adviser of the Plaintiff. Some
service thus could not be proved. Plaintiff also
knew the time & trouble expended - they had
lived under the same roof & in the same
family for over two years - And although
Peff was not permitted to make a settlement
yet when he came - he done all he could
do and certainly gave the Witness to under-
stand that what he said was for a
settlement - he was not told not to proceed
or given to understand that no settlement could
be effected - And defendant we think
fairly attached to his communication the
condition that the same was to a privileged one
and that no advantage was to taken because
of his discomposure

Witness said defendant had his bill
with him - that he looked over first
Peff's bill - said in substance that it was all
right - then asked witness to look over his
bill "and agree upon that" then for the
first time - Witness told him he would
have nothing to do with it & that he was not

4. More clothes put after one side of a matter
I was cooled over with a proper all the more
to settle them that person ^{small step} ~~and~~ declare he
had no authority to go any farther ^{as testimony} such thing

authorised to settle his claim against Mrs Chapman" — now it is perfectly obvious that Pearson made these admissions with a view that his own bill at least would be looked over & that when he was talking to binding he supposed he had power to settle the matter of difference between them — and that all the matters of difference would be made known — ~~and that~~ and if one part was settled the other side would be — — If these admissions are to be received as evidence then the rule of protection to this class of communication will become a sword rather than a shield &

This was the proof and only proof of the
Amount of the Incubated egg -

11/14/72 Deft's Admission to Winclos in substance was — "She has a bill of 11th articles against me which I will not dispute — I will allow what ever she charges — I have a bill against her for services rendered during this time for which she owes me — &c &c & present bill —

The whole of an admission must be taken together -

1 Stanley & Le 201 notes

5 Janut 245

It certainly was no Admission that
Deft owed plaintiff the sum of £47 -
And without this admission is received
in evidence there is no evidence to support this
Judgment for over one half the amount

A Garrison
of Counsel

82. = 23
Supreme Court
George S. Pearson
vs
Emily Chapman

Agreement

Filed May 16. 1889
L. Leland
Clerk

A. Garrison
for Pearson