

13576

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

Supreme Court of Illinois

Cadwell

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vs.

Farrell

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STATE OF ILLINOIS,  
SUPREME COURT,  
Third Grand Division.

**No. 122**

*Cudwell*

*Farrall*

1862

13576

*W. H. H. H.*

Jameson & Morse, Printers, Chicago.

# SUPREME COURT OF ILLINOIS.

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## THIRD GRAND DIVISION.

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APRIL TERM, A. D. 1862.

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FREDERICK A. CADWELL, }  
                                  vs. }  
                                  JULIA FARRELL. }

*Points and Authorities for Plaintiff.*

### I.

Case and trespass cannot be joined in the same action.

*Gould's Pl.*, § 87 p. 214.

1 *Chit. Pl.*, p. 201.

1 *Saund. Pl. and Ev.*, p. 925.

*Hines v. Kinnison*, 8 *Blackf.*, p. 119.

### II.

The consequence of a misjoinder is that the declaration will be held bad in arrest of judgment or upon error.

*Gould's Pl.* § 97, p. 218.

1 *Chit. Pl.*, p. 205.

1 *Saund. Pl. and Ev.*, p. 924.

16 *Johns.*, p. 146.

5 *Gil.*, p. 78.

1 *Car. & Kir.*, p. 549.

### III.

The *name* given to the action in the *commencement* of the declaration is mere *surplusage*. The *substance* of the declaration controls the *form* of the action.

4 *Barb.*, 597.

5 *Mees. & W.*, 436.

### IV.

Trespass *alone* can be maintained when the ground of the action is an act of force, done *wilfully*.

3 *T. R.*, 648.

1 *Chit. Pl.*, 124, 5; 127, 8, 9.

1 *Saund. Pl. and Ev.*, 735.

3 " " 1083, 4, 5.

3 *Conn.*, 67.

3 *N. H.*, 465.

10 *Wend.*, 328.

2 *Greenl. Ev.*, § 226.

1 *Hilliard on Torts.*, § 21, *p.* 111.

1 *Rhode I.*, 474.

2 *Iredell, (law)* 206.

10 *Bing.*, 112.

7 *Blackf.*, 342.

6 *S. & R.*, 347.

8 *T. R.*, 188.

3 *East.*, 599.

### V.

Maliciously and wilfully are, in legal effect, synonymous terms.

5 *Whart. Rep.*, 427.

*Bonvier Law Dic.* same titles.

SANFORD B. PERRY,

Attorney for Plaintiff in Error.

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Fredrick A. Codrill

Julia Farrell

Pls. Parents & Authority

Filed At. 23. 1842

J. Seland

clerk

# SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION.

APRIL TERM, A. D. 1862.

FREDERICK A. CADWELL, APPELLANT, vs. JULIA FARRELL, APPELLEE.	}	Error to the Superior Court of Chicago.
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This is an action, entitled "of a plea of trespass on the case," wherein Julia Farrell is plaintiff, and Frederick A. Cadwell is defendant, commenced and tried in the Superior Court of Chicago. Plea, general issue.

Rec. p. 2 The first count of the plaintiff's declaration, alleges that the plaintiff, on the thirteenth day of July, A. D. 1860, at the request of the defendant, retained and employed the defendant as an oculist and physician, in and about the endeavoring to cure the plaintiff of a certain defect and imperfection, a white spot, which the plaintiff then had upon the corner of her left eye, for the sum of thirty dollars, which the plaintiff paid to the defendant, and which retainer and money the defendant then accepted.

3 The said <sup>count</sup> declaration avers that it thereby became the duty of the defendant, as such oculist and physician, to use due and proper care, skill and dilligence in and about the endeavoring to cure the plaintiff of said defect and imperfection upon her said eye; that the defendant, not regarding his said duty, but contriving and intending to injure the plaintiff, did not, nor would use due and proper care, skill and diligence, in and about the endeavoring to cure the plaintiff; but on the contrary, the defendant conducted himself in an ignorant, unskillful and negligent manner, in that behalf, in this; that he improperly cut and punctured the plaintiff's said eye, so that inflammation set in—and afterwards, the defendant administered to the plaintiff certain medicines, which greatly

*Does this case come within the rules governing  
reversals arising in cases at sea, venturing stage coaches  
driving of carriages, and railroad accidents, as cases of false  
imprisonment, deceitful warranty, malicious prosecution  
&c? See James & Chitty - 693-4.  
See the alleged malice relate to the petition as to the*

cutting tearing &c. P. Was the malice alleged refer  
to <sup>a</sup> wrongful intention to procure money - as to  
inflict injury and pain upon the defendant in  
error? Was the design in making the false, malici-  
ous & ~~and~~ deceitful representations to for the purpose  
of procuring the money, <sup>or</sup> to so inflict the pain  
& physical injury complained of? It was no doubt  
for the former purpose. But is it so alleged?

As plaintiff below retained the defendant to perform  
the act and it was with her consent, can it be trespass  
or does not the assent reduce it to case. although  
the act without the assent would have been  
trespass -

sickened and emaciated her, and reduced her bodily strength; and that afterwards, and about the same time, the defendant, neglecting his duty as such oculist and physician, did not visit and attend upon the plaintiff, but carelessly and improperly directed that the plaintiff should be brought and led to the defendant's office, whereby she was greatly exposed and took cold in her said eye; and that defendant afterwards neglected to attend upon the plaintiff and administer proper medicines to her.

By reason whereof, the said eye of the plaintiff became and was wholly lost to her, and the right eye of the plaintiff became very greatly inflamed and injured, and the use thereof lost for a great space of time; and the plaintiff has suffered great pain, &c.; was hindered from performing her business and labor, and was obliged to lay out and expend large sums of money for medical treatment and cure, &c.

The sixth count of the plaintiff's declaration alleges that on the 18th day of July, 1860, she had a spot in and upon the front part of her left eye, which nearly covered the pupil of the eye, and injured her personal appearance and beauty.

That the defendant, at that time, was carrying on the business and profession of an oculist and physician, and pretended to be greatly skilled in the treatment of the eye and its diseases.

That the defendant, on the day and year aforesaid, and at various other times about that time, fraudulently, deceitfully and maliciously represented and pretended to the plaintiff, that, by means of his skill and knowledge as an oculist, he could make her left eye look the same and as well as her right eye, which was then well and sound in all respects and natural in appearance.

That the defendant falsely, fraudulently and maliciously represented and pretended to the plaintiff, that in making her left eye look the same and as well as her right eye, there would be no danger of injuring or impairing the sight of her right eye.

That the defendant falsely, fraudulently and deceitfully pretended that he would not take out or destroy her left eye.

That the defendant falsely, fraudulently and maliciously pretended and represented that he could so do the same that plaintiff would be well from the effects thereof in the space of six or seven day's time.

That the defendant well knew that he could not make the plaintiff's left eye look the same and as well as her right eye; that he could not

undertake so to do without the danger of injuring and impairing her right eye; that he could not make her left eye look as well as her right eye, by removing the spot from her left eye; that the same would cause her to suffer for a long time with sickness and pain.

That the plaintiff, confiding and relying on the said representations and pretences of the defendant, and believing them to be true, and being deceived thereby, at the special instance and request of the defendant, retained and employed him to make her left eye look as well as her right eye, for the sum of thirty dollars, which she paid to defendant.

That the said defendant then and there falsely, maliciously and deceitfully represented and pretended that his aforesaid pretences and representations were true, and thereby procured the plaintiff to retain and employ him as aforesaid.

21 That in fact the defendant well knew that his said representations and pretences were false, fraudulent and deceitful, and were made to deceive, mislead and defraud; and did deceive and mislead the plaintiff, the defendant well knowing that he could not make the plaintiff's left eye look as well as her right eye.

But that the defendant, so well knowing as aforesaid, falsely and maliciously pretended to operate on the plaintiff's left eye, for the pretended purpose of causing her left eye to look as well as her right eye, and to remove the said spot from her left eye, and did cut and lacerate her left eye, by means of which cutting, lacerating and tearing of her left eye she has suffered great pain in her left eye, and languished in great pain and anguish for a long space of time, &c.

That afterwards, to wit, &c., in consequence of the said operation and cutting, lacerating and tearing of her left eye, the same became greatly inflamed, whereby she suffered great pain, and could not perform work and labor for a long time, &c.

22 That afterwards, to wit, &c., in consequence of the said cutting of her left eye, her right eye became greatly inflamed, whereby she has suffered great pain and languished in great pain for a long space of time &c.; and in consequence of said premises the plaintiff has been obliged to lay out and expend large sums of money for medical attendance, &c., bestowed in and about the cure of plaintiff from the effects of the said cutting, lacerating and puncturing aforesaid by the defendant, and in consequence of such deception.

ERRORS ASSIGNED.

1st. That there is, in the declaration in said cause, a misjoinder of counts and causes of action, because a part of the counts therein are in trespass, and allege a direct, wilful and malicious injury; and another part therein are in trespass on the case, for injuries resulting from negligence, carelessness, ignorance and want of due and proper care and skill.

2d. That there is, in the declaration, a misjoinder of counts and causes of action, because a part of the counts therein are in *trespass*, and another part therein are in *trespass on the case*.

3d. That the Court erred in overruling the appellant's motion in arrest of judgment.

4th. That the Court erred in ordering judgment to be entered on the verdict in said cause.

SANFORD B. PERRY,  
*Attorney for Appellant.*

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Cadwell v Farrell

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Abstract

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Filed Mch. 1. 1862  
L. Ireland  
Ck.

Frederick A. Cadwell, *Plf. in Error*

*v*

Julia Farrell, *Def. in Error.*

*Supreme Court of Illinois*  
~~CIRCUIT COURT OF COOK COUNTY.~~  
*Third Grand Division*

I do hereby enter myself security for costs in this cause, and acknowledge myself bound to pay or cause to be paid, all costs which may accrue in this action, either to the opposite party or to any of the officers of this Court, in pursuance of the laws of this State.

Dated this *Fifth* day }  
of *February* A. D. 18*62* }

*Samuel A. Deissell*

No 122

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Frederick A. Cadwell

vs.

Julia Farrell

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**BOND FOR COSTS.**

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Filed this 1<sup>st</sup> day of March  
A.D. 1862.

L. Seland Clerk.

Sanford B. Perry  
Plf. atty

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Plas, before the Honorable, the Judges of the Superior Court of Chicago, within and for the County of Cook and State of Illinois, at a regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the 21<sup>st</sup> day of January in the year of our Lord One Thousand Eight Hundred and Sixty and of the Independence of the United States of America the Eighty

Present, The Honorable John M. Nelson Chief Justice of the Superior Court of Chicago.

David H. Higgins }  
Grant Goddick } Judges.

Charles H. Kappan Prosecuting Attorney.

Anthony B. King Sheriff of Cook County.

Attest, George G. Carter Clerk.

Be it remembered that heretofore, to wit: on the 21<sup>st</sup> day of December in the year of our Lord one thousand eight hundred and sixty there was filed in the office of the Clerk of the Superior Court of Chicago, a certain Declaration in the words & figures following to wit:

Superior Court of Chicago  
January Term A.D. 1861.

State of Illinois  
County of Cook

Julia Farrell by her  
v. Mott her Attorney, complainant of Frederick  
A. Farrell who was duly summoned to answer  
the said Plaintiff of a plea of trespass on the  
Case.

1. For that whereas heretofore and at the  
time of committing of the grievances hereafter  
mentioned by the defendant, to wit, on the thirteenth  
day of July in the year of our Lord eighteen  
hundred and sixty, at Chicago, to wit, at the  
County of Cook, State aforesaid, the  
plaintiff at the request of the defendant  
had retained and employed the defendant as  
an oculist and physician in and about the  
endeavouring to cure her the plaintiff of a  
certain imperfection and defect in and upon  
the left eye of the said plaintiff, that is to say  
a white spot in and upon the corner of the left  
eye of the said plaintiff, under which the said  
plaintiff was then and there laboring for the  
sum of thirty dollars then to be paid by the  
said plaintiff to the said defendant in that  
behalf, and the said defendant then and there  
accepted the said sum and for and to the said  
employment as said oculist and physician.

2  
And it then there was the duty of the said  
Defendant as such oculist and physician  
to use due and proper skill, care and diligence  
in and about the endeavoring to cure the said  
Plaintiff of the said imperfection and defect  
in and about the said Plaintiff was labor-  
ing as aforesaid, yet the said Defendant  
not regarding his said duty, but contriving  
and intending to injure the said Plaintiff,  
did not nor would use due and proper  
care skill and diligence in and about  
the endeavoring to cure the said Plaintiff  
of the said imperfection and defect, but on  
the contrary thereof the said Defendant, then  
and there conducted himself in an ignorant,  
unskillful and negligent manner in that  
behalf, in this to wit: that he improperly  
cut & punctured the said Plaintiff's said  
left eye, so that inflammation set in.

Afterwards, to wit: on or about the seven-  
teenth day of August eighteen hundred and  
sixty, the said Defendant administered to the  
said Plaintiff certain medicines which greatly  
sickened and emaciated the said Plaintiff  
and reduced her bodily strength, and after-  
wards about the same time at the County  
aforesaid, the said Defendant neglecting his  
duty as such oculist and physician did  
not visit and attend upon the said Plaintiff  
but carelessly and improperly directed that

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said plaintiff should be brought and led to his office in the City of Chicago whereby she was greatly exposed and took cold in her said eye, and afterwards neglected to attend upon the said plaintiff and administered proper medicines to her, by reason whereof the said plaintiff's said left eye became and was wholly lost to her, and the right eye of the said plaintiff became very greatly inflamed and injured and the use thereof lost to the said plaintiff for a great space of time to wit from the 28<sup>th</sup> day of July A.D. 1860. to the present time, and the said plaintiff has suffered great pain of body and mind and was hindered and prevented from performing her lawful business and labor, and was also forced and obliged to lay out and expend and did necessarily lay out and expend divers large sums of money for medical treatment and care in the whole amounting to a large sum of money to wit the sum of One thousand Dollars, and hath been and is by means of the premises otherwise greatly injured and damaged to wit at the County of Cook aforesaid.

2. And for that whereas and at the time of the committing of the grievance by the defendant to wit on the thirteenth day of July 1860. to wit at Chicago. Cook County, State of Illinois. the Plaintiff at the request of the

Defendant had retained and employed  
the plaintiff as an oculist in and about  
the treatment of her left eye for the cure thereof  
of and from a blemish or spot in and  
upon the said left eye of the said plaintiff  
and which greatly impaired the personal appear-  
ance & beauty of the said plaintiff and impaired  
the sight of the said left eye of said plaintiff  
for and in consideration of the sum of thirty  
dollars then to be paid by the said plaintiff to the  
said defendant before the said treatment should  
be undertaken, and the said plaintiff then and  
there paid and the said defendant accepted  
the said sum of thirty dollars as a fee and  
consideration for his services as such oculist  
to be performed as aforesaid, and accepted  
the said employment as such oculist, & it  
then and there was the duty of the said defend-  
ant as such oculist to use due and proper skill  
care and diligence in and about the endeavoring  
to cure the said plaintiff's said left eye, and  
in and about his treatment of the said plaintiff  
in that behalf, but the said defendant not  
regarding his said duty, but contriving and  
intending to injure said plaintiff, did not  
nor would use due and proper care skill and  
diligence in and about the treatment of said  
plaintiff in that behalf and in and about the  
cure of the blemish & spot upon the said  
plaintiff's said left eye, but on the contrary

Whereof, the said defendant then and there con-  
ducted himself in an ignorant, unskillful  
and negligent manner in that behalf within  
to wit: that he improperly cut & punctured the  
said plaintiff's said left eye, and afterwards  
to wit, about the time aforesaid and for a  
long time after the said cutting and punc-  
turing of the said plaintiff he neglected to  
administer proper and timely remedies to pre-  
vent the inflammation which supervened upon  
said cutting and puncturing from affecting  
and injuring the right eye of the said plaintiff,  
and afterwards to wit, about the seventeenth  
day of August A.D. 1860. the said defendant  
neglected to remove the said left eye of the  
said plaintiff and afterwards to wit, about  
the same day the said defendant caused  
the said plaintiff to be led out into the open  
air, when she was in weak and feeble health  
& when she took cold in her eyes, and  
afterwards, to wit, about the last day of August  
A.D. 1860. the said defendant introduced into  
the right eye of the said plaintiff some de-  
structive and inflammatory drops or drugs by  
means whereof the said plaintiff's said left  
eye became and was wholly lost to her, and  
her right eye became greatly injured, and  
the use thereof lost to the said plaintiff  
from thence hitherto and the said plaintiff has  
suffered great pain of body and mind and was

3  
Sundered and prevented from performing his  
lawful business and labor. and was also forced  
and obliged to lay out and expend and did  
necessarily lay out and expend divers large  
sums of money to wit: the sum of One thousand  
dollars. and hath been and is by means of the  
premises otherwise greatly injured to wit at  
the County of Cook aforesaid.

3  
And for that whereas also afterwards  
to wit: at the County of Cook and at the time  
of the committing of the grievances by  
the defendant, to wit on the thirtieth day  
of July 1860 at Chicago to wit, at the County  
of Cook state aforesaid the plaintiff at  
the request of the defendant had retained  
and employed the defendant as an oculist  
and physician to attend to her as such occu-  
list & physician in and about the end earer  
to make the left eye of the said Plaintiff  
which then and there had on the same a white  
spot or defect which greatly impaired the  
looks and personal appearance of the said  
plaintiff and to make the said left eye of  
the said plaintiff look as well as the right  
eye of the said plaintiff, which said right  
eye of said plaintiff was then well and  
perfect in all respects for the sum and fee  
of thirty dollars then to be paid by the said  
plaintiff to the said defendant in that behalf.

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and the said defendant then and there accepted  
the said sum and fee, and the said employ-  
ment as such oculist & physician, and it then  
and there was the duty of the said defendant  
as such oculist and physician to use due  
and proper skill, care and diligence, in and  
about the endeavoring to make the said  
left eye look as well as the said right eye  
of the said plaintiff. Yet the said defendant  
not regarding his said duty, but contriving  
and intending to injure the said plaintiff  
did not use due skill, care and  
diligence in and about the endeavoring to  
make the said left eye of the said plaintiff  
look as well as the right eye of the said  
plaintiff, but on the contrary thereof the  
said defendant then and there conducted  
himself in an ignorant, unskillful and  
negligent manner in that behalf, in this  
manner: that he improperly cut and punctured  
the said left eye of the said plaintiff so that the  
same became inflamed, and afterwards on  
or about the seventeenth day of August A.D. 1860.  
the said defendant administered to the said  
plaintiff certain medicines which greatly re-  
duced and emaciated the said plaintiff and  
reduced his bodily strength and afterwards to wit  
at the same time the said defendant neglecting  
his duty as such oculist & physician did not  
visit and attend upon the said plaintiff but

Carelessly and improperly directed that said plaintiff should be brought to his office in the City of Chicago where she was greatly exposed and took cold in the said left eye and also in the said right eye and afterwards neglected to attend upon and administer proper remedies to the said plaintiff.

By reason whereof the said plaintiff's said left eye became and was wholly lost and her right eye became and was greatly inflamed and injured and the use thereof lost to the said plaintiff, for a great space of time, to wit, from the twenty eighth day of July A.D. 1860. to the present time, and the said plaintiff has suffered great pain of body and mind and was hindered and prevented from pursuing her lawful business and labor and was also forced and obliged to lay out and expend and did necessarily lay out and expend divers large sums of money for medical treatment and care, in the whole amounting to a large sum of money, to wit, the sum of one thousand dollars. and hath been and is by means of the premises otherwise greatly injured and damaged, to wit, at the County of Cook aforesaid.

4 And for that whereas afterwards to wit, on the thirtieth day of July A.D. 1860. to wit, at Cook County aforesaid, the said plaintiff had a whitish spot on the fore part of

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corner of the left eye, of the said plaintiff  
and which said spot greatly <sup>injured</sup> ~~impaired~~ the personal  
appearance and beauty of the said plaintiff  
and afterwards, to wit: on the day and year last  
aforesaid the said defendant was exercising  
and carrying on the business of oculist and  
physician, and pretending to be greatly skilled  
in the treatment of the eye and its diseases and  
falsely, fraudulently and deceitfully represented  
and pretended to said plaintiff, that he could  
perform an operation on the said left eye of  
the said plaintiff that would make the same  
look as well as the right eye of the said  
plaintiff, which said right eye was at that  
time well, sound and perfect in every respect,  
and also falsely and deceitfully represented  
and pretended to the said plaintiff that  
said operation would be no more than the  
cutting of a small piece from the finger of  
the said plaintiff, and also falsely, fraudulently,  
maliciously and deceitfully represented  
to the said plaintiff, that the said plaintiff  
could resume her work in six or seven days  
after the said operation should be performed.  
And also fraudulently, falsely and deceitfully  
represented and pretended that said operation  
would not injure or impair the sight of  
the right eye of the said plaintiff, the said  
defendant well knowing that the said  
spot was a cicatrix formed by the healing

of the said eye part or corner of the said left eye of the said plaintiff from the effects of a certain ulcer which the said plaintiff had long before that time had upon the same. And that the said defendant could not so operate upon the said left eye of the said plaintiff as to make it look as well as the right eye of the said plaintiff and that he could not perform such operation without preventing the said plaintiff from resuming his work for a longer time than six or seven days after the same was performed, and well knowing that the same would injure and impair the sight of the plaintiff right eye. And the said defendant then & there falsely & deceitfully pretended & represented to said plaintiff, that the said false, fraudulent & deceitful representation of the said defendant was true, thereupon to wit, on the day and year last aforesaid, to wit, at the County of Cook the said plaintiff confiding in the said false representations and pretences of the said defendant, and the said plaintiff not knowing that the same were false, at the special instance and request of the said defendant retained and employed the said defendant to perform such operation on the said left eye of the said plaintiff to remove the said spot or blemish thereon for a certain sum of money, to wit, the sum of thirty dollars then and there paid by the

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Said plaintiff to the said defendant. whereas in fact the said defendant well knew that the said representations and pretences by him made aforesaid were false, fraudulent and deceitful and that the said spot or blemish on the fore part of the said plaintiff's said left eye could not be so removed, that if, the said left eye of the said plaintiff should look as well as the right eye of the said plaintiff, but the said defendant so well knowing as aforesaid, to wit, on the day and year aforesaid falsely and maliciously pretended to operate on the said left eye of the said plaintiff by means of which operation, cutting, lacerating, and puncturing of the said left eye of the said plaintiff, the said plaintiff has suffered great pain in his said left eye and languished in great pain and anguish for a long space of time to wit, from the performing of such operation, to the beginning of this suit, and until the present time, and afterwards in consequence of the said operation on the said left eye of the said plaintiff the cutting and lacerating the same, the said left eye of the said plaintiff became greatly inflamed by means of which said inflammation, in the said left eye of the said plaintiff the said plaintiff suffers great pain and could not perform work or labor for a long space of time to wit, from the day

and year aforesaid to the present time.  
And afterwards, to wit, in the County aforesaid  
on the day and year aforesaid in further  
consequence of the said operation, cutting  
lacerating and puncturing of the said  
left eye done and performed by the said  
defendant in and upon the said left eye  
of the said Pff, the right eye of the said  
plaintiff became greatly inflamed, by  
means of which said inflammation the said  
plaintiff has suffered great pain, and the  
use of the said right eye of the said plaintiff  
has ever since been and now is wholly lost  
to the said plaintiff. And the said plaintiff  
further saith that the said defendant by  
means of the premises, to wit at the County of  
Cook aforesaid, to wit on the 28<sup>th</sup> day of July  
A.D. 1860. as aforesaid, falsely and fraudulently  
deceived the said plaintiff in the premises, by  
means of which said several the said plaintiff  
not only suffered great pain of body and  
mind and was hindered and prevented from  
performing his lawful affairs and business  
by him during that time to be performed and  
transacted, but was also forced and obliged to  
lay out and spend and necessarily did lay out and  
spend divers large sums of money, amounting  
in the whole to a large sum of money to wit \$1000  
dollars for medical treatment, and hath been and is by  
means of the premises otherwise greatly injured and

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J. Damified, to wit: at the County of Cook aforesaid.  
And for that whereas afterwards, to wit: on the  
thirteenth day of July A.D. 1860. to wit: at Cook County  
aforesaid the said plaintiff had a spot  
or blemish on the fore part of her left eye and  
afterwards to wit on the day and year aforesaid  
in the County aforesaid, he the said  
defendant, was carrying on the business of  
Oculist or physician, and pretended to be  
greatly skilled in the treatment of the eye  
and its diseases and falsely and deceitfully  
represented and pretended to the said plaintiff that  
he could remove the said spot from the left  
eye of the said plaintiff in such a manner  
that if, the said left eye, should look in  
all respects as well as the right eye of the  
said plaintiff which said right eye was at  
that time sound, well and perfect in all respects  
to wit on the day and year aforesaid by cutting  
away said spot from the fore part of the left eye  
of the said plaintiff and also falsely and ma-  
liciously represented to the said plaintiff  
that if the said plaintiff would suffer no more  
from the said cutting away of the said spot  
from the said fore part of the plaintiff left eye  
than she would to have a small piece cut from  
the finger of the said plaintiff, and also that  
the said plaintiff would not be kept from work  
or labor more than six or seven days by or in  
consequence of the removal of the said spot

from the left eye of the said plaintiff.  
And also he the said defendant falsely and  
maliciously represented and pretended to  
the said plaintiff that there was no danger  
that the said cutting of the said left eye as  
aforesaid would injure or in any way impair  
the sight of the right eye of the said plaintiff.  
He the said defendant well knowing that it  
was impossible to remove the said spot by  
cutting away a part of the fore part of the  
left eye <sup>from the said left eye of the said plaintiff</sup> of the said plaintiff, so that if the  
said left eye should look as well as the right  
eye of the said plaintiff, and that it was  
impossible to so remove the said spot as  
aforesaid so that the said plaintiff would  
suffer no more than the said plaintiff  
would from the removal of a small piece  
from the finger of the said plaintiff. And  
also that it was impossible to so remove said  
spot from the fore part of the said left eye  
of the said plaintiff by cutting a piece off  
from the same, so that the said plaintiff  
would not be kept from his work for more  
than six or seven days, and also that there  
was great danger of the said cutting away  
of the said spot from the said left eye of  
the said plaintiff so affecting the said right  
eye of the said plaintiff so as to injure and  
impair the sight of the said right eye.  
Whereupon the said plaintiff confiding and

relying on & believing the said representations and  
 assurances of the said defendant, to wit, on the  
 day and year aforesaid at the County aforesaid.  
 At the special instance and request of the  
 said defendant retained and employed the  
 said defendant to remove the said spot from  
 the fore part of the left eye of the said plaintiff  
 for a certain sum of money to wit, thirty dollars.  
 To be paid to said defendant before his said  
 operation should be performed, and the said  
 defendant by then and there false, fraudulent  
 & deceitful representations and pretending  
 to the said plaintiff, that the said false  
 fraudulent and deceitful representations of  
 the said defendant were true deceived the plaintiff  
 & procured the said plaintiff to employ him  
 the said defendant in and about the removal  
 of the said spot from the fore part of the left  
 eye of the said plaintiff as aforesaid. And  
 the said plaintiff afterwards to wit, on the day  
 and year aforesaid, to wit, at the County aforesaid  
 paid the said defendant said sum of  
 money, to wit, the sum of thirty dollars, whereas  
 in fact the said defendant well knew that  
 the said representations by him made were false,  
 fraudulent and deceitful, and that the said  
 spot on the fore part of the said left eye of  
 the said plaintiff, could not be so removed  
 so that the said left eye of the said plaintiff should  
 look as well as the right eye of the said

plaintiff. And also that it was impossible  
so to remove the said spot on the said left  
eye of the said plaintiff without greatly  
endangering the sight of the right eye of  
the said plaintiff, but the said defendant  
as well knowing as aforesaid, to wit at the  
County aforesaid, to wit on the day and year  
aforesaid falsely and maliciously pretended  
to remove the said spot from the left eye of  
the said plaintiff by cutting away a part  
of the said left eye of the said Pff. by means  
of which cutting away of said part of said  
left eye of the said plaintiff, said plaintiff  
has suffered great pain in his said left eye and  
languished in great pain and anguish for a long  
space of time, to wit: from the time of the said  
cutting as aforesaid until the bringing of this suit  
and until the present time. And afterwards,  
to wit on the day and year aforesaid, at the  
County aforesaid in consequence of the cutting of  
said left eye of the said plaintiff, the said left  
eye of the said plaintiff became greatly inflamed  
by means of which said inflammation in the said  
left eye, the said plaintiff has suffered great  
pain, and been prevented from performing any  
work or labor for a long space of time, to wit.  
from the time of such cutting of the said eye to the  
present time. And afterwards, to wit, in the County  
aforesaid on the day and year aforesaid in con-  
sequence of the said cutting of the said left

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eye of the said <sup>18</sup> plaintiff by the said defendant.  
the right eye of the said plaintiff has become  
greatly inflamed, by means of which said  
inflammation the said plaintiff has suffered  
great pain and the use of the said right  
eye of the said plaintiff has ever since been  
And now is wholly lost to the said plaintiff.

6.

And for that whereas afterwards to wit  
on the eighteenth day of July A.D. eighteen  
hundred and sixty five on the day and  
year aforesaid, the said plaintiff had a  
spot in and upon the front part of his left  
eye, which said spot nearly covered the  
pupil of the said plaintiff's said left eye  
and which injured the personal appearance  
and beauty of the said plaintiff, and  
the said defendant was at that time carry-  
ing on the business and profession of an  
Oculist and physician, and pretended to  
be greatly skilled in the treatment of the  
eye and its diseases, and the said defend-  
ant to wit. on the day and year aforesaid  
and at various other times about that time  
in the County aforesaid, fraudulently, deceit-  
fully and maliciously represented and pre-  
tended to the said plaintiff that by means  
of his skill and knowledge as an oculist  
he could make the said left eye of the  
said plaintiff look the same & as well as his  
right eye which said right eye then was

in all respects perfect, well and sound, and  
 natural in its appearance, and was falsely,  
 fraudulently & maliciously represented and pre-  
 tended to the said plaintiff that in the making  
 of the said left eye look the same and as well  
 as the said right eye of the said plaintiff this  
 would be no danger of injuring or impairing the  
 sight of the right eye of the said plaintiff, And  
 also falsely, fraudulently and deceitfully pre-  
 tended that he would not take out or destroy  
 the left eye of the said plaintiff, And also  
 falsely, fraudulently and maliciously pre-  
 tended and represented that he could make  
 the same, that the said plaintiff would be  
 well from the effects thereof in the space  
 of six or seven day time, the said defendant  
 well knowing that he could not make the  
 said left eye look the same and as well  
 as the said right eye of the said plaintiff,  
 And well knowing that he could not make  
 take so to do without the danger of injuring  
 and impairing the said right eye of the  
 said plaintiff, and well knowing that he  
 could not make the same look as well  
 as the said right eye of the said plaintiff  
 by removing the said spot from the said  
 left eye of the said plaintiff, and well  
 knowing that the same would cause the said  
 plaintiff to suffer for a long time with sick-  
 ness and pain. Mercurius took on the day

and year last aforesaid, to wit, at the County aforesaid, the said plaintiff confiding and relying on the said representations and pretences of the said defendant, and believing them to be true and being deceived thereby, at the special instance and request of the said defendant retained and employed the said defendant ~~to~~ make the said left eye of said plaintiff to look as well as the right eye of the said plaintiff, for a certain sum of money to wit: the sum of thirty dollars then and there to be paid. And the said defendant then and there falsely, maliciously and deceitfully representing and pretending that the aforesaid pretences and representations of the said defendant were true, procured the said plaintiff to employ and retain him the said defendant to make the said left eye of said defendant look as well as the said plaintiff's said right eye then there looked.

And the said plaintiff afterwards, to wit, at the County aforesaid on the day and year last aforesaid paid the said defendant the said sum of money, to wit the said sum of thirty dollars, whereas in fact the said defendant well knew that the said representations and pretences by him made as aforesaid were false, fraudulent and deceitful, and were made to deceive, mislead and defraud and did deceive & mislead the said plaintiff, and well knowing that he could not make the said

left eye look as well as the right eye of the said Plaintiff, but the said defendant so well knowing as aforesaid falsely and maliciously pretended to operate on said left eye of the said Plaintiff to wit, on the day and year aforesaid, to wit in the County aforesaid for the pretended purpose of causing said left eye to look as well as the right eye of the said Plaintiff, and to remove the said spot from the said left eye of the said Plaintiff, and did cut and lacerate the said left eye of the said Plaintiff by means of which cutting, lacerating and tearing of the said left eye of the said Plaintiff, the said Plaintiff has suffered great pain in his said left eye, and languished in great pain and anguish for a long space of time to wit, from the time of the performing of said operation to the time of bringing of this suit, and until the present time, And afterwards to wit, at the County aforesaid on the day and year aforesaid in consequence of the said operation and cutting lacerating and tearing of the said left eye of the said Plaintiff the said left eye became greatly inflamed by reason of which said inflammation in the said left eye of the said Plaintiff, the said Plaintiff suffered great pain and could not perform work or labor for a long space of time to wit, from the time of such operation to the bringing

of this suit, and until the present time, and after-  
wards to wit: on the day and year aforesaid, to wit:  
at the County aforesaid in fact in consequence  
of the said cutting of the said left eye of the  
said defendant Plaintiff, the right eye of the  
said plaintiff became greatly inflamed, by  
means of which said inflammation of the said  
right eye of the said plaintiff the said plaintiff  
has suffered great pain and languished  
in great pain for a long space of time to wit: from  
the day and year aforesaid until now. And in  
consequence of the said premises the said Plaintiff  
has been obliged to lay out and expend divers  
large sums of money and did lay out and  
expend large sums of money to wit: One  
thousand dollars for medical attendance  
and skill necessarily bestowed in  
and about the cure of the said plaintiff from  
the effects of the said cutting, lacerating & struc-  
turing aforesaid by the said defendant as  
aforesaid & in consequence of such deception &  
other great damage & injury to wit: on the day  
and year aforesaid, to wit, at the County of  
Cook aforesaid.

Wherefore the said Plaintiff hath  
sustained damage in the sum of Twenty thousand  
dollars & therefore she brings her suit &c.

Kurd & Moss  
Plffs Attys

7  
And thereupon, to wit: on the 21<sup>st</sup> Day of  
December aforesaid, there issued out of  
and under the seal of said Court, the Peoples  
writ of Summons, which said writ, with the  
Sheriff return thereon out subscribed, is in the  
words figures following: to wit:

State of Illinois,  
County of Cook &

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

We Command you that you summon Frederick  
A. Cadwell if he shall be found in your  
County, personally to be and appear before the Superior  
Court of Chicago, of said Cook County, on the first  
day of the next term thereof, to be holden at the  
Court house in Chicago, in said Cook County,  
on the first Monday of January next to ans-  
wer unto Julia Farrell in a plea of trespass  
on the case, to the damage of the said Plaintiff  
as is said, in the sum of Twenty Thousand Dollars.

And have you there this writ, with an  
endorsement thereon, in what manner you shall  
have executed the same.

Witness Walter Kimball, Clerk  
of our said Court, and the seal  
thereof, at Chicago aforesaid  
this 21<sup>st</sup> day of December

Seal

Dec. 1860

<sup>24</sup>  
Walter Kimball Clerk.

Served by reading to the within named defendant  
that the 22<sup>d</sup> day of December 1860  
A. C. Keeney Sheriff  
by W. T. Gray Deputy

And afterwards to wit: on the 3<sup>d</sup> day  
of January in the year of our Lord One  
thousand eight hundred and sixty one,  
the said defendant by his attorneys filed  
in the office of the Clerk of said Court his  
certain plea in the words and figures follow-  
ing. To wit:

Superior Court of Chicago  
State of Illinois }  
Cook County of } Jan'y 7. A.D. 1861.  
Frederick A. Farrell  
att.  
Julia Farrell

And the said defendant, by  
Perry & Driscoll his attorney, comes and  
denies the wrong and injury, when &c. and  
says that he is not guilty of the said supposed  
grievances above laid to his charge, or any  
or either of them, or any part thereof, in  
manner and form as the said plaintiff  
hath above thereof complained against  
him.

And of this he the said defendant  
puts himself upon the Country &c.

Perry & Driscoll  
Defts Attys.

And afterwards, to wit; on the 9<sup>th</sup> day of  
the month & year last aforesaid, the said  
plaintiff by her attorney filed in the office  
of the Clerk of said Court, her certain replica-  
tion in the words figures following, to wit:

Superior Court of Chicago  
January Term A.D. 1861.

Julia Farrell

<sup>or</sup>  
Frederick A. Caswell

State of Illinois  
County of Cook

And the said Plaintiff  
as to the plea of the said defendant by him  
above pleaded and whereof he hath put  
himself upon the Country, doth the like.

Heard & Mott

Plaintiff Attorney.

And afterwards, to wit: on the 10<sup>th</sup> day of  
October in the year aforesaid, said day being  
one of the days of the October term of said Court  
the following among other proceedings were  
had and entered of Record in said Court, to wit:

Julius Farrell

<sup>vs</sup> Frederick A. Farrell  
Deceased in Case

This cause being this day  
called for trial comes the said Plaintiff by  
Heard and Mott his attorney, and the said  
defendant by Perry & Driscoll his attorneys  
comes, and it is ordered that a jury come to try  
the issues joined on plea of said defendant.  
Whereupon comes the jury of good and lawful men  
to wit: David Hitchcock, J. D. Carpenter, A. H.

J. Morton, L. Burley, Jacob Miller, H<sup>o</sup> Valtner  
 Ho<sup>o</sup> Corbin, John Holy, George Lawson, D. Sinclair  
 D. Bloom who being duly elected, tried and sworn  
 to try the issues joined as aforesaid, after hearing  
 part of testimony, and the hour of adjournment  
 having arrived, it is ordered upon agreement  
 of the parties that the jury separate and meet  
 the Court to-morrow morning.

And afterwards to wit: on the 11<sup>th</sup> day of the  
 month of Sep<sup>r</sup> last aforesaid, said day being one  
 of the days of the October Term of said Court.  
 The following among other proceedings were  
 had and entered of Record in said Court to wit:

Julia Farrell

<sup>vs</sup> Frederick A. Farrell *Supra* on case

This day again comes the  
 said Plaintiff by her attorney H<sup>o</sup> Mott and  
 the said Defendant by Perry & Percoll his attorneys  
 also comes and the jury empanelled herein on  
 yesterday for the trial of this cause also comes.  
 and after hearing further part of the testimony, and  
 the hour of adjournment having again arrived  
 it is ordered upon agreement of the parties that when  
 the jury separate they shall meet the Court to-

morning on coming in and opening thereof

And afterwards to wit: on the 12<sup>th</sup> day of the month of September aforesaid, said day being one of the days of the October Term of said Court the following among other proceedings were had and entered of Record in said Court, to wit:

Julia Farrell

Treasurer in case

Frederick A. Caswell

And now again comes the said Plaintiff by her & Mott her attorneys & the said defendant by Perry & Driscoll her attorney also comes and the jury hereof empannelled herein for the trial of said cause, and as on yesterday also comes, and after hearing further part of the testimony, and the hour of adjournment having arrived, it is ordered upon agreement of the parties that the jury separate & meet the Court again on coming in and opening thereof on Monday morning next.

And afterwards to wit, on the 14<sup>th</sup> day of the month and year aforesaid, said day being one of the days of the October Term of said Court the following among other proceedings were had and entered of record in said Court, to wit:

John Farrell

<sup>vs</sup> *Supra* on Case  
Frederick A. Farrell

This day again comes the said plaintiff by King & Webb his attorneys, and the said Defendant by Perry & Driscoll his attorneys also comes, and the jury empanelled herein for the trial of said Case as on Saturday last also comes, and after hearing further part of the testimony, and the hour of adjournment having arrived, it is moved upon agreement of the parties that the jury separate and meet the Court tomorrow morning.

And afterwards, to wit, on the 15<sup>th</sup> day of the month & year aforesaid, said day being one of the days of the October Term of said Court the following among other proceedings were had and entered of record in said Court, to wit:

30  
Julia Farrell

vs  
Frederick A. Caldwell  
Trespas on case

This day again comes the said Plaintiff by Reed & Mott her attorney, and the said Defendant by Perry & Driscoll his attorney also comes. And the jury empannelled herein for the trial of this cause, and as on yesterday also come, and after hearing further testimony, and the hour of adjournment having arrived it is ordered upon agreement of the parties that the jury separate and meet the Court tomorrow morning.

And afterwards, to wit, on the 16<sup>th</sup> day of the month & year aforesaid, said day being one of the days of the October Term of said Court the following among other proceedings were had & entered of Record in said Court to wit:

Julia Farrell

vs  
Frederick A. Caldwell  
Trespas on case

This day again comes the said Plaintiff by Reed & Mott her attorney & the said Defendant by Perry & Driscoll his attorney also comes. And the jury empannelled herein for

The trial of <sup>said</sup> Cause, and as on yesterday also  
 come, and after hearing all the testimony, argu-  
 ments of Counsel and instructions of the Court  
 the Cause is submitted and the jury retire to  
 consider of their verdict, and the term of ad-  
 journment having arrived, it is ordered upon  
 agreement of the parties, that when the jury  
 shall have agreed upon a verdict, they shall  
 reduce the same to writing sign & seal the  
 same, and afterwards separate and meet the  
 Court on coming in and opening thereof tomorrow  
 morning.

And afterwards to wit on the 17<sup>th</sup> day of the  
 month & year aforesaid, said day being one  
 of the Days of the October Term of said Court  
 the following among other proceedings were  
 had and entered of Record in said Court, to wit:

Julia Farrell

vs  
 Frederick A. Cadwell Treason Case

This day again comes the  
 said Plaintiff by Hunt & Mott her attorneys  
 and the said Defendant by Perry & Driscoll  
 his Attorneys also comes, and the jury heretofore  
 impanelled herein for the trial of said Cause

And as on yesterday also come and submit  
their verdict say, that the jury find the said  
defendant guilty and we assess plaintiffs  
damages against him herein to the sum of  
ten thousand dollars.

And thereupon the said defendant submits  
his motion herein for a new trial in said case  
and in arrest of judgment on said verdict.

And afterwards, to wit: on the 6<sup>th</sup> day of  
January in the year of our Lord one thousand  
eight hundred and sixty one, said day being  
one of the days of the January term of said  
Court the following among other proceedings  
were had and entered of record in said Court  
to wit:

Julia Farrell

vs  
Frederick A. Catwell

Respondeo in case

This day again comes  
said plaintiff by King & West her attorney  
and the said defendant by Perry & Davis with his  
attorney also comes. And the cause coming on  
now to be heard upon the motion of the said  
defendant heretofore submitted herein at the  
October term of this Court. Last past for a

new trial in said cause, and also in arrest  
of judgment on the verdict of the jury rendered  
therein as aforesaid and Counsel being heard  
on said motion and the Court being fully ad-  
vised in the premises overrules the motion of said  
defendant for a new trial in said cause, and  
also said motion in arrest of judgment.

Wherefore the said plaintiff ought now to have  
judgment entered upon the verdict of the jury ren-  
dered therein as aforesaid and for her damages  
assessed thereon.

Wherefore it is considered that the said  
plaintiff do have and recover of and from the  
said defendant her damages of Six thousand  
dollars in form aforesaid by the jury here found  
and assessed together with her costs and  
charges about her suit in this behalf expended  
and have execution therefor.

And afterwards to wit, on the 7<sup>th</sup> day of the month  
of year last aforesaid, said day, being one of the  
days of the January Term of said Court, the follow-  
ing among other proceedings were had and entered  
of Record in said Court. To wit:

Julia Farrell

vs  
Frederick A. Charnick

Deceases on Case

This day again comes  
said plaintiff by Howard Esq. North her attorney  
and the said defendant by Perry Esq. Driscoll  
his attorney also comes and thereupon the  
said defendant by his said attorney accepts  
to the ruling of the Court in overruling his mo-  
tion for a new trial in said cause and in  
allowing judgment to be entered on the ver-  
dict of the jury heretofore rendered herein  
as aforesaid.

And afterwards, to wit, on the day and  
year last aforesaid, the said defendant by  
his attorney, filed in the office of the Clerk  
of said Court, his certain Bill of Exceptions  
in the words & figures following, to wit:



And as on yesterday also come and submit  
their verdict say, That the jury find the said  
defendant guilty and he assess plaintiffs  
damages against him herein to the sum of  
two thousand dollars.

And thereupon the said defendant submits  
his motion herein for a new trial in said cause  
and in arrest of judgment on said verdict.

And afterwards, to wit: on the 6<sup>th</sup> day of  
January in the year of our Lord one thousand  
eight hundred and sixty one, said day being  
one of the days of the January term of said  
Court the following among other proceedings  
were had and entered of record in said Court  
to wit:

Julia Farrell

Trespass on case

vs  
Frederick A. Carroll

This day again comes  
said plaintiff by Hunt & West her attorney  
and the said defendant by Perry & Driscoll his  
attorney also comes. and the cause coming on  
now to be heard upon the motion of the said  
defendant heretofore submitted herein at the  
October term of this Court. last past for a

new trial in said cause, and also in arrest  
of judgment on the verdict of the jury rendered  
therein as aforesaid and Counsel being heard  
on said motion and the Court being fully ad-  
vised in the premises overrules the motion of said  
defendant for a new trial in said cause, and  
also said motion in arrest of judgment.

Wherefore the said plaintiff ought now to have  
judgment entered upon the verdict of the jury ren-  
dered therein as aforesaid and for her damages  
assessed thereon.

Wherefore it is considered that the said  
plaintiff do have and recover of and from the  
said defendant her damages of Ten thousand  
dollars in form aforesaid by the jury here found  
and assessed together with her costs and  
charges about her suit in this behalf expended  
and have execution therefor.

And afterwards, to wit: on the 7<sup>th</sup> day of the month  
of June last aforesaid, said day, being one of the  
Days of the January Term of said Court, the follow-  
ing among other proceedings were had and entered  
of Record in said Court. To wit:

Julia Farrell

vs  
Frederick S. Chadwick

Deapas on Case

This day again comes  
said plaintiff by Howard Esq. Mott her attorney  
and the said defendant by Perry Esq. Driscoll  
his attorney also comes and thereupon the  
said defendant by his said attorney excepts  
to the ruling of the Court in overruling his mo-  
tion for a new trial in said case and in  
allowing judgment to be entered on the ver-  
dict of the jury heretofore rendered herein  
as aforesaid.

And afterwards, to wit, on the day and  
year last aforesaid, the said defendant by  
his attorney, filed in the office of the Clerk  
of said Court, his certain Bill of Exceptions  
in the words & figures following, to wit:

State of Illinois }  
Cook County } Superior Court of Chicago

Julia Farrell

vs  
Frederick S. Caswell

Be it remembered that at the October term of said Court A.D. 1861. the above cause came on for trial before the Court and a jury, and a verdict therein was rendered for the plaintiff and against the defendant for the sum of ten thousand dollars: thereupon the defendant filed his motion therein for a new trial and also in arrest of judgment, which motion was in the words and figures following, that is to say -

Julia Farrell

vs  
Frederick S. Caswell

Superior Court of Chicago  
Oct. 5. 1861

The defendant moves the Court for a new trial in said case and assigns the following reasons therefor.

- (1) The verdict is against law.
- (2) The verdict is against evidence.
- (3) The damages were excessive.
- (4) The instructions given for the plaintiff were erroneous.
- (5) The Court refused to give proper instructions asked by the Defendant.

(6)

The Court erred in overruling objections raised by the defendant to certain evidence, and in receiving improper evidence in the suit.

(7)

Upon the grounds newly discovered evidence.

The defendant also moves in arrest of Judgment

Serry & Oriscoll  
Repts Atty  
O. Van Buren  
of Counsel"

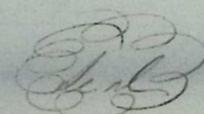
Afterwards to wit at the January Term of said Court, the said motion for a new trial and in arrest of judgment came on for hearing before the said Court, the judges then sitting in Banc, and the Court overruled the motion for a new trial, and ordered judgment on the verdict, to which ruling and decision of said Court, the said defendant, by his counsel then and there excepted.

The Counsel for the defendant, before judgment, then and there assigned as reasons for the motion in arrest of said judgment, that there is in the declaration in said cause a misjoinder of Counts and Causes of action, because a part of the Counts therein are in trespass and allege a direct, wilful and malicious injury, and another part therein are in trespass on the case for injuries re-

lacking from negligence, carelessness, ignorance  
and want of due and proper care and skill.

But the said Court then and there  
overruled the said motion in arrest of judg-  
ment, to which ruling and decision of said  
Court, the said defendant by his Counsel  
then and there excepted.

And in as much as the said pro-  
ceedings do not appear of record in said  
Cause, the said defendant prays leave to  
embody and state them in this his bill of  
exceptions, and prays the Court to allow, sign  
and seal the same, which is hereby done.

Wm H. Higgins   
Judge.

State of Illinois  
Cook County J. Thomas J. Carter  
Clerk of the Superior Court of Chicago within  
& for the County of Cook & State of Illinois,  
do hereby certify the foregoing to be a full,  
true & complete transcript of all the plead-  
ings on file in my office, & proceedings  
of Court entered of record, together with  
the Bill of Exceptions in a certain cause  
wherein Julia Farrell was plaintiff &  
Frederick M. Maxwell defendant.

In testimony whereof I  
hereunto set my hand & affix  
the seal of said Court at  
the City of Chicago in said  
County & State this 10<sup>th</sup>  
day of January A.D. 1862.  
Thomas J. Carter Clerk



## Errors Assigned.

And now comes the Appellant, by Perry & Driscoll, his attorneys, and says that in the record and proceedings aforesaid, there is manifest error in this, to wit,

(1)

That there is, in the declaration in said cause, a misjoinder of Counts and Causes of action, because a part of the Counts therein are in trespass, and allege a direct, willful and malicious injury, and another part therein are in trespass on the case for injuries resulting from negligence, carelessness, ignorance and want of due and proper care and skill.

(2)

That there is, in said declaration a misjoinder of Counts and Causes of action, because a part of the Counts therein are in trespass, and another part therein are in trespass on the case.

(3)

That the Court Erred in overruling the Appellants Motion in arrest of judgment.

(4)

That the Court Erred in ordering judgment to be entered on the verdict in said cause - Sanford B. Perry & Driscoll, Attys for Appellant

Supreme Court of Illinois  
Third Grand Division, April Term AD 1862

And hereupon, afterwards, to wit,  
on sc. the said Julia Farrell, by H. B. Hunt,  
her Attorney, duly comes here into court  
and says that there is no error, either in the  
record and proceedings aforesaid, or in giving  
the judgment aforesaid. And she prays the  
said Supreme Court, before the aforesaid  
justices thereof, now here, may proceed to  
examine as well the record and proceedings  
aforesaid, as the matter aforesaid above assigned  
for error. And that the judgment aforesaid,  
in form aforesaid given, may be in all  
things affirmed &c.

H. B. Hunt  
Att. for Appellee

122 400

Lodwell vs Farrell

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Record

Filed clerk. 1. 1862  
L. Seland  
clerk.

Fees \$8.00

Sub. dup