

No. 13403

Supreme Court of Illinois

Loomis

vs.

Buckley

71641  7

United States of America
State of Illinois Lake County

Plays before the
Honorable George Manierre Judge of the
seventh judicial Circuit of the State of Illinois,
At a Circuit Court for the County of Lake,
in said Circuit began and held at Waukegan
in said County on the sixth day of February
in the year of Our Lord One Thousand eight
hundred and sixty and of the Independence
of the United States the Eighty fourth.
Present the Honorable George Manierre Judge
aforesaid and John J. Pagan Sheriff of Lake
County.

Attest, A. B. Cates Clerk.

Be it remembered that heretofore to wit: on the
thirtieth day of February A.D. 1860, said
day, being one of the days of the February
Term of said Court in and for the County
of Lake for the year last aforesaid, an
Appeal Bond was filed with the Office of
the Clerk of said Court which said bond
is in the words and figures following to wit:

" Know all men by these presents that we
" Amengs Loomis & Henry M. Wells are held
" and firmly bound unto R. Bulkley in the penal
" sum of One Hundred and seventy 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 firmly
by their presents. Witness our hands and seals this
second day of February 1860."

The consideration of the above obligation is
such that whereas the said R. Buckley did on
the 13th day of January 1860. before David Jewell
a Justice of the Peace for the County of Lake
recover a Judgment against the above bounden
Amengs Loomis for the sum of Eighty three
dollars & thirty cents debt & one dollar & thirty
eight cents costs, from which judgment the said
Amengs Loomis has taken an appeal to the
Circuit Court of of the County of Lake afore-
said and State of Illinois.

Now if the said Amengs Loomis shall prosecute
his appeal with effect and shall pay whatever
judgment may be rendered by the Court upon
dismissal or trial of said appeal then the
above obligation to be void otherwise to remain
in full force and effect."

"Amengs Loomis"
"Henry M. Wells"

Upon which said Bond are endorsed the words
and figures following to wit:

"Approved by me at my office
this second day of February 1860."

"David Jewell J.P."

have and recover of the said defendant the sum of
 Eighty three dollars and thirty ^{Cents} (\$83.30) for his
 demand against the said defendant and costs
 of suit herein taxed at one dollar and thirty eight
 cents \$1.38. Feb. 2nd 1860 the above named
 Costs of suit
 Summons — 18 3/4
 Const. Fees — 63
 Subpoena — 18 3/4
 Scketting — 12 1/2
 Judgment — 25
 1.38
 Filing bond 25
 Transcript 25
 defendant, with Henry M. Wells as
 his security filed his bond for an
 appeal to the Circuit Court which
 bond was approved and appeal
 granted.

State of Illinois }
 Lake County } " I, David Jewell a Justice of the
 Peace in and for said County
 do certify that the foregoing transcript is truly
 copied from the files and books of my office.
 In witness thereof I have hereunto set my hand
 this sixth day of Feb. 1860. "David Jewell J.P."

And afterwards to wit, on the Fifth day of
 April A.D. 1860, the same being a day
 in vacation after the February Term of
 the Circuit Court in and for the County
 of Lake aforesaid, for the year A.D.
 1860, a summons was issued out of the
 Office of the Clerk of said Court which
 is in the words and figures following
 to wit:

State of Illinois }
 Lake County } " "The People of the State
 of Illinois, To the Sheriff of said County, Greeting:
 Whereas in a certain cause lately pending

„ before David Jewell Esquire one of the Justices of
„ the peace, within and for said County, wherein Ralph
„ Bulkley was Plaintiff and Amengs Loomis
„ was defendant judgment was rendered by said
„ justice against the said Amengs Loomis for
„ the sum of Eighty three $30/100$ dollars & cost
„ from which judgment the said Amengs Loomis
„ has appealed to the Circuit Court of said County.
„ We therefore command you that you summon
„ the said Ralph Bulkley to be and appear
„ before said Circuit Court on the first day
„ of the next term thereof, to be held at the Court
„ House in Waukegan on the first Monday in
„ June next, at ten o'clock in the forenoon
„ and abide by and perform the judgment of
„ said court in the premises."

Seal of Court. "Witness Augustus B. Cates Clerk
"of said Court and the Seal thereof
"at Waukegan in said County this
"fifth day of April A.D. 1860."
"A. B. Cates Clerk"
"By A. L. Cates Deputy"

And afterwards to wit on the Sixth day of
April A.D. 1860 in the vacation aforesaid
of said Court. The said summons was returned
into the Office of the Clerk of said Court and
filed therein, on which said summons there
is an endorsement made by the Sheriff of
said County which is in the words and
figures following to wit:

" State of Illinois }
 " Lake County } "I have duly served this writ by
 " reading the same to Ralph Bulkley the within named
 " this 5th day of April A.D. 1860."
 " Fee, Service 50
 " " mileage 55
 " Return 10
 " \$1.15"

"John F. Ragan Sheriff"

And that afterwards to wit on the Twentieth
 day of April A.D. 1860, the same being a
 day in the vacation aforesaid of said Court
 a Note was filed in the Office of the Clerk
 of said Court which said note is in the words
 and figures following to wit:

"\$8300." "Libertyville June 27th 1859."
 "On or before the first day of January
 " next for value received I promise to pay Joseph
 " Wells or order Eighty three dollars with
 " interest at the rate of ten per cent after
 " due." "Amengs Loomis"

And on the back of said note is an endorsement
 which is in the words and figures following:

"Joseph Wells"
 "Judgment rendered on within note against
 " Amengs Loomis in favor of Ralph
 " Bulkley Jan 13th 1860 by me."
 "David Jewell J.P."

United States of America
State of Illinois, Lake County

Pleas before the Honorable
George Manierre Judge of the seventh Judicial
Circuit of the State of Illinois.

At a Circuit Court, for the County of Lake
in said Circuit, began and held at Waukegan
in said County on the fourth day of June in the
year of our Lord One Thousand Eight Hundred
and Sixty and of the Independence of the United
States the eighty fourth.

Present the Honorable George Manierre Judge
aforesaid, Carlos Haven State Attorney and
John G. Ragan Sheriff of Lake County.

Attest A. B. Bates Clerk.

And afterwards, to wit on the Seventh day of
June A.D. 1860 the same being one of
the days of the June Term of said Circuit
Court in and for the County of Lake
for the year last aforesaid, an Affidavit
was filed in the Office of the Clerk of said
Circuit Court which is in the words
and figures following, to wit:

"The Circuit Court for the County of Lake"
"Of the June Term A.D. 1860."

" Ralph Bulkeley

" as
" Amos Loomis
" Applicant

" State of Illinois

" Lake County" } Ameyo Laonis of said
 " County being duly sworn
 doth depose and say that he is the defendant
 in the above entitled cause, that he cannot
 safely proceed to a trial of said cause at the
 present term of Court for want of the testimony
 of one Lyman Fenner who is a material
 witness for this deponent upon the trial of
 said cause, that said witness is a resident
 of this County, that without the knowledge of
 deponent said Witness left his home in
 said County on a peddling tour at some
 point south of this County & as deponent
 believes out of this State; that said witness
 as deponent is informed, by those persons
 most likely to know, will return to his
 home in this County so that deponent can
 procure his personal attendance as a witness
 in this case at the next term of this Court or
 take his deposition in said cause to be used as
 evidence therein upon the trial of the same.
 That deponent expects to be able to prove
 by said witness and verily believes that he
 can prove by him upon such trial that
 the note upon which this suit is brought
 was given by the defendant to the payee for
 a horse & for no other or different thing.
 That at the time of the giving of the same said
 payee warranted said horse to defendant
 to be perfectly sound and free from vice.
 That said Horse as aforesaid & said warranty
 thereof formed the sole & only consideration

" of said note as aforesaid: that said Horse
" was not at that time sound & free from
" vice as warranted but on the Contrary
" thereof was greatly unsound & vicious &
" worthless and worth at least ninety (\$90)
" less than he would have been if as good as
" warranted by said payee, that defendant
" knows of no other witness by whom he
" can prove the same facts, that this appli-
" cation is made in good faith & that justice
" may be done, that as defendant is informed &
" believes the defendant well knew for what
" said note was given at the time that he purchased
" the same & that the consideration to & for said
" note was as stated above & that said horse
" was not sound as warranted &c."

" Subscribed & sworn to before
" me this 7th day of June A.D. } Amey Loomis"
" 1860. A. L. Cate, Deputy Clerk. }

And that afterwards, to wit on the twelfth
day of June A.D. 1860, the same being a
day of the June Term of said Court in
and for said County for the year aforesaid
proceedings were had in said Court
which are entered of Record in the words
and figures following to wit:

" Ralph Bulkeley }
" 62. vs } "Appeal"
" Amey Loomis }
" Appellant } Now come said parties

" the said plaintiff by Ferry his Attorney
" and the said defendant by Sealy his Attorney
" and thereupon the said defendant enters his
" motion founded upon affidavit filed
" for a continuance herein, and after arguments
" of counsel, the Court being fully advised
" in the premises it is ordered that said motion
" be denied, to which decision of the Court the
" said defendant excepts."

86.73 " And afterwards issue being joined
" herein this cause is submitted to the
" Court for trial without the intervention
" of a Jury, and the Court having heard the
" evidence and being fully advised in the premises
" finds the issue for the plaintiff and assesses
" his damages at the sum of Eighty six dollars and
" seventy ^{three} cents, whereupon it is ordered that
" the said plaintiff have and recover of the
" said defendant the said sum of Eighty six
" dollars and seventy three cents for his dam-
" ages as aforesaid assessed together with
" his costs and charges in this behalf expended
" and that he have Execution therefor."

" And that afterwards to wit on the
" Thirtieth day of June A.D. 1860.
" said day being one of the days of the
" June Term of said Court in and for
" said County for the year last
" aforesaid, proceedings were had
" in said Court which are entered of
" Record in the words and figures

following to wit:

" 62 Ralph Bulkley " vs " Appeal "
" Amengs Loomis " Appellant "

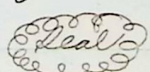
" Now come said parties
" the said plaintiff by Ferry his attorney and
" the said defendant by Sealy his attorney and
" thereupon the said defendant prays an
" appeal herein to the Supreme Court of
" this State which is granted on condition
" that the said defendant enter into Bond
" Executed according to law in the penal
" sum of Two Hundred and fifty Dollars
" with Joseph Wells surety and file the same
" with the Clerk of this Court within twenty days
" from this date."

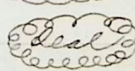
" And that afterwards to wit, on the thirtieth
" day of June A.D. 1860, the same being a
" day in vacation after the June Term of
" said Circuit Court in and for the County
" of Lake for the year last aforesaid an
" Appeal Bond was filed in the Office of
" the Clerk of said Court, which is in the
" words and figures following to wit:

" Know all men by these presents, that we Amengs
" Loomis & Joseph Wells of the County of Lake and
" State of Illinois are held and firmly bound
" unto Ralph Bulkley in the penal sum of Two

Hundred & fifty dollars lawful money for the
 payment of which well and truly to be made we
 jointly severally and firmly bind ourselves our
 heirs Executors & administrators by these presents.
 Witness our hands and seals this twentieth day
 of June A.D. 1860."

The Condition of the above obligation is such
 that whereas the above named Ralph Bultley
 did at the June Term of the Circuit Court in
 said Lake County recover a Judgment against
 the above bounded Amengs Loomis in a
 certain action of assumpsit pending
 in said Court wherein the said Bultley was
 plaintiff and the said Amengs Loomis
 defendant from which said judgment the
 said Loomis has taken an appeal to the
 Supreme Court of said State of Illinois
 Now if the said Amengs Loomis shall duly
 prosecute his said appeal and in case the
 Judgment of said Circuit Court shall be
 affirmed shall well and truly pay and satisfy
 said judgment together with the costs interest
 and damages then the above obligation shall
 be void otherwise to remain in full force"

"Amengs Loomis 

"Joseph Wells 

And that afterwards the said appellants
 costs were taxed to the amount of
 Five dollars and the said plaintiff
 Costs at two dollars and eighty three
 Cents. and which said costs have been paid
 by the said appellant.

\$ 5.00

\$ 2.83

State of Illinois
Lake County

I, J. W. Truesdell Clerk
of the Circuit Court in and for said
County in the state aforesaid do hereby
certify that the above & foregoing is a true copy
and Transcript from the Records of said Court
and of the Papers on file in the case of Ralph
Pulkley as Amengio Loomis Appellant now
in my office

In testimony whereof I have
hereunto set my hand & affixed
the Seal of said Court at
the City of Waukegan in said
County this twenty third
day of April A.D. 1861.
J. W. Truesdell
Clerk

Ameygo Loomis ³⁵¹ Appellant

vs

Rolph Buckley Applee

351

Judge below for Applee

Domage \$86,73

Apples cost 2,83

Appellants cost

below \$5-

Filed May 4. 1861

L. Leland

146 Clerk

33

73

106

179

179

33

179

179

867

Domage \$8-67

13402

10 per cent