

8496

No. _____

Supreme Court of Illinois

Webb, Admr.

vs.

Ohio & Mississippi R.R.Co.

71641  7

Wbb - Adm^t of
 Wbb - P^tff in ev^{er}
 vs

Ot M. Railway -
 left in ev^{er}

Ev^{er} to M^{er}ion,

Dismissed by Agreement
 at cost of P^tff in ev^{er},

Cost bill on Page 15 of
 Subrok ^{R²} B¹¹

Nothing said here

8496

1
State of Illinois ss Pleas and Proceedings had
Marion County ss in the Circuit Court in and for
the County of Marion and State
of Illinois in a cause heretofore
pending in said Court wherein
James E Webb Administrator of all
& singular the goods & chattels, rights
& credits which were of William
W Webb deceased was Plaintiff
and the Ohio and Mississippi Rail
Way Company Defendant

Be it Remembered that on the 7th day of Septem-
ber AD 1864 the above named Plaintiff filed
in the office of the Clerk of said Circuit Court his
precept for summons against said Defendant which
is in words and figures following To wit

State of Illinois ss Of the March Term AD 1865
Marion County ss Marion Circuit Court

James E Webb Administrator of all & singular
the goods & chattels rights & credits which were of
William W Webb deceased

vs

The Ohio and Mississippi Rail Way Company

Be a plea of trespass on the case Damages \$5000

Clerk will please issue summons as above

2 returnable to the Sheriff of Marion County to execute
B. J. Nagay
Plays atty"

Whereupon summons issued in words and figures
following To wit

"State of Illinois The People of the State of Illinois,
Marion County ss To the Sheriff of said County
Greeting;

We Command you to summon the Ohio and
Mississippi Rail Way Company if to be found
in your County, to appear before the Circuit
Court of Marion County, on the first day of the next
Term thereof to be holden at the Court House
in Salem on the third Monday in the
Month of March next to answer, James
E. Webb Administrator of all and singular
the goods & chattels rights & credits which
were of William Webb deceased in a plea
of Trespass on the Case to his damages \$5000
as he says. And hereof make due return
to our said Court as the Law directs

Witness Jacob O. Chance Clerk of our said
Court and the seal thereof at Salem this
7th day of September AD 1864
J. O. Chance Clerk
Stamp 5000

Which summons was endorsed by the Sheriff as follows To wit
I have served the within summons on James Wait agent of Ohio & Mississippi
Rail way Company by delivering a copy Presidnt not found September 1864
S. R. Tammam Sheriff

3

And afterwards March 10th 1865

Defendants filed their Declaration which is in words and figures following to wit,

State of Illinois

Marion County

Of the March term of the Marion Circuit Court A.D. 1865

James E. Webb Administrator of all and singular the goods and Chattels and Credits of William H. Webb deceased the plaintiff in this suit by D. D. Kagay his Attorney complains of the Ohio & Mississippi Rail Way Company Defendant in this suit who has been summoned to answer the said Plaintiff in an action of Trespass on the Case

For that whereas on the first day of October A.D. 1862 at the County of Marion and State of Illinois the Defendant was and still is a Railroad Corporation owning and possessed of and having the Control of a certain Railroad and also of a certain Locomotive Engine drawing a train of Cars thereto attached, upon said Railroad once had certain Servants of said Defendants in its employment which said Servants had the care and management of the said Locomotive Engine, and train of Cars thereto attached and the plaintiff avers that said Railroad a portion of which is located in the Counties

of Marion, Clay, Richland, Lawrence in the
 State of Illinois And upon which Railroad
 the said Defendant through its agents and
 servants did operate use & run upon the
 tracks of said Defendant Railroad train of
 Railroad Cars for the Carriage & Conveyance
 of passengers through the State of Illinois for
 hire & reward to the said Defendant in that
 behalf to wit: at the County of Marion and
 through the Counties of Marion Clay Richland
 Lawrence in the State of Illinois And the
 said Defendant being such owner & proprietor
 of the said Railroad Cars as aforesaid thereupon
 heretofore to wit: at the County of Marion in
 the State of Illinois on the first day of October
 AD 1862. the said William H Webb in his life
 time at the special instance & request of the
 said defendant through its agents & servants
 became and was a passenger on said Defendant
 said Car to be safely & securely carried & conveyed
 thereby on a certain journey to wit: from
 Marion County & State of Illinois through the
 Counties of Clay Richland & Lawrence in said
 State for a certain fare & reward to the said
 Defendant then and there paid and the said
 Defendant then & there through its agents and
 servants received the said William H Webb in
 his life time as such passenger as aforesaid

5
Thereupon it became & was the duty of the
said Defendant through its agents & servants
to use due & proper care that the said William
H Webb in his life time should be safely & securely
carried and conveyed by and in the said Defen-
dant said Car on the said journey from
Marion County And State of Illinois through
The Counties of Clay Richland & Lawrence
aforesaid. Yet the said Defendant not regarding
its duty in that behalf did not use due
and proper care that the said William H Webb
in his life time should be safely & securely
carried & conveyed by & in the said Car of the
said Defendant aforesaid on the said journey
from & c aforesaid to & c aforesaid but wholly
neglected so to do & suffered & permitted the said
Car in which the said William H Webb in his
life time was being carried and conveyed to
be so weather beaten rotten & insufficient
that the same then & there at the County of
Lawrence aforesaid to wit. at the County of
Marion in the State of Illinois aforesaid
broke crushed & fell to pieces that by reason
whereof and while the said Car was proceeding
with the said William H. Webb in his life time
thereon along & upon said Railroad on the said
journey from & c aforesaid to & before the said
Car had conveyed the said William H Webb

6 in his life time Through the County of Lawrence
as aforesaid to wit: at the County of Marion And
State of Illinois the said Car then & there became
was overturned broke & fell to pieces and by
means whereof the said William H Webb was
then and there killed to wit at the Town of
Bridgeport in the County of Lawrence And
State of Illinois to wit at the County of Marion
And State of Illinois And the Plaintiff avers
that at the time when said William H Webb
was killed as aforesaid at & he the said
William H Webb was using all due & ordinary
care & prudence & while so in the exercise of such
such care & prudence he the said William H
Webb was killed, as aforesaid and the Plain-
tiff avers that said Railroad of said Defendant
so causing the death of said William H Webb
as aforesaid was used in the County And
State in which this action is brought And
Plaintiff further avers that the said William
H Webb at the time of his death as aforesaid
left a Mother Brothers & Sisters to whom the
damages recovered can be distributed and
that afterwards the said Plaintiff was duly
appointed by the County Court of Effingham
County And State of Illinois the Adminis-
trator of all and singular the goods and
chattels rights and Credits which were of

The said William H. Webb, deceased at the
 time of his death and Plaintiff brings here-
 into Court the letters of Administration as
 aforesaid which give sufficient evidence
 to the Court here of the grant of Adminis-
 tration to the Plaintiff aforesaid. And
 Whereas also the said Defendant before and
 at the time of committing the grievances here-
 inafter mentioned were owner and Proprietors
 of certain Railroad known and called the Ohio
 and Mississippi Railway for the Carriage and
 Conveyance of Passengers and upon which Road
 the said Defendant did operate use and
 run upon the said track of said Road a
 certain Locomotive Engine drawing a train
 of Cars thereto attached, for the Carriage and
 Conveyance of passengers from Marion Co-
 unty and State of Illinois through the Counties
 of Clay Richland and Lawrence in the State
 of Illinois for hire and reward to the said
 Defendant in that behalf paid to wit
 at the County of Marion and State of
 Illinois and the said Defendant being
 such owner and proprietor of the said
 Rail Road Locomotive Engine and Train
 of Cars as aforesaid thereupon heretofore Court
 on the first day of October AD 1862 at
 the County of Marion and State of

Illinois The said William H Webb in his life
 time at the special instance and request
 of the said Defendant became and was a
 passenger in one of said Cars to be safely
 and securely carried and conveyed thereby
 on a certain journey to wit, from the
 County of Marion and State of Illinois
 through the Counties of Clay Richland Law-
 rence in the said State of Illinois aforesaid
 for a certain fare & reward to the said
 Defendant in that behalf, and the said
 Defendant then and there and there receive
 the said William H Webb in his life time
 as such passenger as aforesaid and there-
 upon it then and there became and was
 the duty of said Defendant to use due and
 proper care that the said William H Webb
 in his life time should be safely and
 securely carried and conveyed by and upon
 the said Railroad and Train of Cars on
 the said journey as aforesaid from & to
 &c aforesaid, Yet the said Defendant not
 regarding its duty in that behalf did not use
 due and proper care that the said
 William H Webb in his life time should be
 safely and securely carried and conveyed
 by and in the said Car on the said Rail-
 Road from &c aforesaid to &c aforesaid but

Wholly neglected so to do and thereupon it was
 the duty of said Defendant to keep the said
 Railroad track and the switches connected
 therewith in good repair and keep the switches
 thereof attached securely locked and fastened
 so that no accident or injury might accrue
 to the said William H. Webb, in his life time
 as aforesaid, by reason of neglect on the
 part of said Defendant to keep said Railroad
 switches aforesaid securely locked and fastened
 on the ferry aforesaid. Yet the said Defen-
 dant not regarding its duty in this behalf
 did not use due and proper care in
 locking and securely fastening the said switches
 aforesaid that the said William H. Webb, in his
 life time should be safely and securely carried
 and conveyed by the said last mentioned
 car on the said ferry from &c aforesaid
 to &c aforesaid upon said Railroad but wholly
 neglected so to do and said Defendant carelessly
 left the switch apart of said Railroad at the
 said town of Bridgeport in the County of
 Lawrence & State of Illinois loose & unlocked
 and untended by any person and not
 regarding its duty in this behalf did not
 use due and proper care that the said
 William H. Webb, in his life time should be
 safely and securely carried and conveyed

16 by the said last mentioned Car on the Railroad
aforesaid on the journey aforesaid from D C
aforesaid to E aforesaid but wholly neglected
so to do and by reason thereof afterwards and
whilst the said last mentioned Car was
proceeding with the said William H Webb
in his life time as a passenger thereon in
and along said Railroad track of the said
Defendant on the journey from D aforesaid
to E aforesaid and before said journey had
been completed through the County of Law-
rence aforesaid to wit on the day and
year aforesaid at the Town of Midway
in the County of Lawrence aforesaid to wit at
the County of Marion aforesaid, the said last
mentioned Car was overturned and broken
and by means whereof the said William H
Webb was then and there killed. And the
Plaintiff avers that at the time when said William
H Webb was killed as aforesaid at E as aforesaid
he the said William H Webb was using all due
and ordinary care & prudence & while so in the
exercise of such care & prudence he the said
William H Webb was killed as aforesaid. And
Plaintiff avers that said Railroad of said
Defendant so causing the death of said William
H Webb as aforesaid was used in the County
and State in which this action is brought

11 And Plaintiff further avers that the said William H Webb, at the time of his death as aforesaid he left surviving him a Mother, Brothers and Sisters to whom, The Damages recovered can be distributed and that afterward the said Plaintiff was duly appointed by the County Court of Effingham County & State of Illinois the Administrator of all and singular the goods and Chattels, rights and Credits which were of the said William H Webb, deceased at the time of his death. And the Plaintiff brings here into the Court the letters of Administration as aforesaid which give sufficient evidence to the Court hereof of the grant of Administration to the Plaintiff aforesaid. And whereas also the said Defendant before the committing of the grievances hereinafter mentioned to wit, on the first day of October A.D. 1862 to wit, at the County of Marion in the State of Illinois was the owner and proprietor of a certain other Railroad known and called the Ohio and Mississippi Railway leading through the Counties of Marion Clay Richland & Lawrence in the State of Illinois with Trains of Cars running thereon and by them the said Defendant used and employed for the Carriage and Conveyance of passengers at and for a certain hire and reward to the said

12 Defendant in that behalf paid Court at the County of Marion And State of Illinois And the Said Defendant being said owner and Proprietor of the Said last mentioned Railroad Car as aforesaid the Said William H Webb in his life time at the County and State aforesaid at the Special instance and request of the Said Defendant became and was a passenger on the Said last mentioned Car used upon Said last mentioned Railroad of the said Defendant to be safely and securely carried and conveyed thereby on a certain journey to wit from Marion County aforesaid through the said Counties of Clay, Richland and Lawrence aforesaid for a certain hire and reward to the Said Defendant in that behalf paid, and although the said William H Webb, in his life time was then and there received by said Defendant as such Passenger on the Said last mentioned Car as aforesaid, yet the said Defendant not regarding its duty in that behalf so carefully, negligently and wilfully and improperly loaded down managed and conducted said last mentioned Car that afterward and while the said last mentioned Car was proceeding with said William H Webb in his life time as such

Passenger as aforesaid on the said journey from
 said Marion County aforesaid through said
 Clay Richland & Lawrence Counties as aforesaid
 on the day and year aforesaid to wit at the
 Town of Bridgeport in said County of Lawrence
 the said last mentioned Car was by and
 through the carelessness and improper
 conduct of the said Defendant therein as
 aforesaid thrown off the Rail Road track of
 the said Defendant as aforesaid and
 broken by means whereof the said William
 H Webb was then and there killed to wit
 at the Town of Bridgeport in the County
 of Lawrence and State of Illinois to wit
 at the County of Marion and State of
 Illinois and the Plaintiff avers that at
 the time when said William H Webb
 was killed as aforesaid at & aforesaid he
 the said William H Webb was using all due
 & ordinary care and prudence & while so
 in the exercise of such care & prudence
 he the said William H Webb was so killed
 as aforesaid and the Plaintiff avers that
 said Railroad of said Defendant so causing
 the death of said William H Webb as
 aforesaid was used in the said County and
 State in which this action is brought
 and the Plaintiff further avers that the

14 Said William H Webb, at the time of his death as aforesaid, left a Mother Brothers and Sisters to whom the damages recovered can be distributed And that afterwards the said Plaintiff was duly appointed by the County Court of Effingham County State of Illinois the Administrator of all and singular the goods and Chattels rights and Credits which were of the said William H Webb deceased at the time of his death And Plaintiff brings her into Court the letters of Administration as aforesaid which give sufficient evidence to the Court here of the granting of Administration to the said Plaintiff aforesaid To the Damage of the said Plaintiff Five Thousand Dollars \$5000.00 And therefore he sues B J. Kagay Plffs Atty

And the said Plaintiff on the date last aforesaid To wit March 10th 1865 filed in said Court a certified Copy of Letters of Administration in word and figures following to wit,

Letters of Administration
State of Illinois }
Effingham County } Sct
The People of the State of

Illinois to all to whom these presents shall come greeting Know ye that whereas William H Webb of the County of Effingham ^{and State of} Illinois died intestate as it is said on or about the Eight day of September AD 1862 having at the time of his decease personal property in this State which may be lost destroyed or diminished in value if speedy care be not taken of the same.

To the End
Therefore that said property may be collected and preserved for those who shall appear to have a legal right or interest therein we do hereby appoint James E Webb of the County of Effingham and State of Illinois Administrator of all and singular the goods and Chattels, rights and Credits which were of the said William H Webb at the time of his decease with full power and Authority to Secure ^{and} Collect said property and debts wherever the same may be found in this State ^{and} in general to do and perform all other acts which now are or hereafter may be required of him by Law. Witness H Pinchark Clerk of County Court in ^{and} for the said County of Effingham at his Office in Effingham this 19th day of March AD 1863 ^{and}

Probate Seal of said Court hereunto affixed H Pinchark
Clerk of the County Court

State of Illinois ss

Effingham County } I, D. Reinhart Clerk of the County
Court within and for the County
and State aforesaid do hereby Certify That the
within is a true Copy of the letters of Admin-
istration granted by order of the Court to
James C Webb on the Estate of William H
Webb deceased as appears of Record in my
Said Office

In Witness Whereof I have hereunto
set my hand and affixed the
Seal of our Said Court at Effingham
this 7th day of March 1865
D. Reinhart Clk

And afterwards at the March term of Said
Court 1865 to wit on the 22^d day of March the
Defendant filed his Plea herein in words
and figures following to wit:

State of Illinois }
Marion County } Marion Circuit Court
March term 1865

The Ohio and Mississippi
Railway Company

vs } Trespass on the Case
James C Webb Admr of
Est of Nathan H Webb Decd } And the said Defen-
dant Comes and Says

17 That this Court ought not to have or take further
Cognizance of the action aforesaid, because it
says that the said supposed causes of action
and each and every of them (if any such
have accrued to the said Plaintiff) accrued
to the said Plaintiff out of the jurisdiction
of this Court, that is to say at and in the
County of Lawrence in the State of Illinois, and
not at or in the County of Marion aforesaid
or elsewhere within the jurisdiction of this
Court, and I do say that there is a circuit
Court regularly kept held in and for said
County of Lawrence which has complete
Cognizance of the action aforesaid and that
Defendant has agents in said County of
Lawrence on whom service can be had
and this the said Defendant is ready to
verify, therefore the said Defendant prays
judgment whether this Court can or will
take further Cognizance of the action aforesaid.

The Ohio and Mississippi
Rail Way Company

by H P Burton its atty in fact

State of Illinois
Marion County of



Harvey P Burton

Attorney for above named

Defendant being duly sworn deposes
and says that the above Plea and the

18 facts therein stated all true in substance ^{And fact}
Harvey P. Buxton

Subscribed ^{And sworn to}
before me this 22^d day
of March 1865

W. C. Moore clerk
By J. O. Chance Dept.



Whereupon Plaintiff
on the 31st day of March 1865 filed a Demurrer
to Defendants Plea in words and figures
following To wit:

James E. Webb Administrator of the
vs

Ohio & Mississippi Railway Co. Deft
And the said Plaintiff comes and says that
the said Defendants Plea and the matters ^{and}
things therein contained are insufficient
in Law, and this he is ready to verify where-
fore he prays that the Court will take
Cognizance of the action aforesaid ^{and} that
the said Defendant may answer over &c
Cooper & Hy

Whereupon the following order is entered of
Record in said Court To wit:

James E. Webb Administrator of all
and singular the goods ^{and} chattels rights ^{and}
credits which were of William Webb deceased vs Trespass
on the Case
The Ohio ^{and} Mississippi
Railway Company

19

And now at this day to wit Friday March 31st
1865 this Cause is called, came the Parties by their
attornies And the Plaintiff by his attorney having
demurred to the Defendants Plea in abatement
the Court hears Argument on Said Demurrer ^{and}
being fully advised doth overule same. Whereupon
the Plaintiff by his attorney excepts the ruling of the
Court And Stand by his Demurrer the Court
enters Judgment and ordered and adjudge
that the writ be quashed and that this Cause
abate &c

State of Illinois
Marion County } ss J. H. Moore

Clerk of the Circuit Court in and
for the County and State aforesaid
do hereby certify the foregoing to be a
true and correct copy of the pleas
and proceedings had in the above
entitled cause as appears of Record
in my Office.

Witness My Hand and the
Seal of said Court this 24th
day of September A.D. 1866

J. H. Moore
Clerk

33

Jas C. Webb & Son -
 Pres.
 O & M R.R. Co

Dec 6 1877

Filed Oct. 18. 1866.
Proclamation City
 Paid by Cooper \$5.00

State of Ill.
 1st. { Supreme Court }
 2nd. { Second Session }
 3rd. { Third Session }
 4th. { Fourth Session }
 5th. { Fifth Session }
 6th. { Sixth Session }
 7th. { Seventh Session }
 8th. { Eighth Session }
 9th. { Ninth Session }
 10th. { Tenth Session }
 11th. { Eleventh Session }
 12th. { Twelfth Session }
 13th. { Thirteenth Session }
 14th. { Fourteenth Session }
 15th. { Fifteenth Session }
 16th. { Sixteenth Session }
 17th. { Seventeenth Session }
 18th. { Eighteenth Session }
 19th. { Nineteenth Session }
 20th. { Twentieth Session }
 21st. { Twenty-first Session }
 22nd. { Twenty-second Session }
 23rd. { Twenty-third Session }
 24th. { Twenty-fourth Session }
 25th. { Twenty-fifth Session }
 26th. { Twenty-sixth Session }
 27th. { Twenty-seventh Session }
 28th. { Twenty-eighth Session }
 29th. { Twenty-ninth Session }
 30th. { Thirtieth Session }
 31st. { Thirty-first Session }
 32nd. { Thirty-second Session }
 33rd. { Thirty-third Session }
 34th. { Thirty-fourth Session }
 35th. { Thirty-fifth Session }
 36th. { Thirty-sixth Session }
 37th. { Thirty-seventh Session }
 38th. { Thirty-eighth Session }
 39th. { Thirty-ninth Session }
 40th. { Fortieth Session }
 41st. { Forty-first Session }
 42nd. { Forty-second Session }
 43rd. { Forty-third Session }
 44th. { Forty-fourth Session }
 45th. { Forty-fifth Session }
 46th. { Forty-sixth Session }
 47th. { Forty-seventh Session }
 48th. { Forty-eighth Session }
 49th. { Forty-ninth Session }
 50th. { Fiftieth Session }
 51st. { Fifty-first Session }
 52nd. { Fifty-second Session }
 53rd. { Fifty-third Session }
 54th. { Fifty-fourth Session }
 55th. { Fifty-fifth Session }
 56th. { Fifty-sixth Session }
 57th. { Fifty-seventh Session }
 58th. { Fifty-eighth Session }
 59th. { Fifty-ninth Session }
 60th. { Sixtieth Session }
 61st. { Sixty-first Session }
 62nd. { Sixty-second Session }
 63rd. { Sixty-third Session }
 64th. { Sixty-fourth Session }
 65th. { Sixty-fifth Session }
 66th. { Sixty-sixth Session }
 67th. { Sixty-seventh Session }
 68th. { Sixty-eighth Session }
 69th. { Sixty-ninth Session }
 70th. { Seventieth Session }
 71st. { Seventy-first Session }
 72nd. { Seventy-second Session }
 73rd. { Seventy-third Session }
 74th. { Seventy-fourth Session }
 75th. { Seventy-fifth Session }
 76th. { Seventy-sixth Session }
 77th. { Seventy-seventh Session }
 78th. { Seventy-eighth Session }
 79th. { Seventy-ninth Session }
 80th. { Eightieth Session }
 81st. { Eighty-first Session }
 82nd. { Eighty-second Session }
 83rd. { Eighty-third Session }
 84th. { Eighty-fourth Session }
 85th. { Eighty-fifth Session }
 86th. { Eighty-sixth Session }
 87th. { Eighty-seventh Session }
 88th. { Eighty-eighth Session }
 89th. { Eighty-ninth Session }
 90th. { Ninetieth Session }
 91st. { Ninety-first Session }
 92nd. { Ninety-second Session }
 93rd. { Ninety-third Session }
 94th. { Ninety-fourth Session }
 95th. { Ninety-fifth Session }
 96th. { Ninety-sixth Session }
 97th. { Ninety-seventh Session }
 98th. { Ninety-eighth Session }
 99th. { Ninety-ninth Session }
 100th. { One hundredth Session }

State of Illinois,
SUPREME COURT,
First Grand Division.

} SS

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Marion Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Marion county, before the Judge thereof between

James E Webb Administrator of William
W Webb deceased

plaintiff and

The Ohio & Mississippi Railway Company

defendant & it is said manifest error hath intervened to the injury of the aforesaid Plaintiff

as we are informed by his complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay send to our Justices of our Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at **Mount Vernon**, in the County of Jefferson, on the First Tuesday in November next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. J. H. Walker Chief

Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this Eighth day of October in the year of our Lord one thousand eight hundred and Sixty Six

A. Johnston

Clerk of the Supreme Court.

33

SUPREME COURT.
First Grand Division.

James E. Webb Adams

Plaintiff in Error,

VS.

The C. & M. Railway Co.

Defendant in Error.

WRIT OF ERROR.

Served & FILED.

Dec 11, 1866

Wm. G. Brewster, Clerk

ABSTRACT.

JAMES E. WEBB, Adm'r of
WILLIAM W. WEBB, dec'd.,
vs.
THE OHIO & MISSISSIPPI
RAIL WAY COMPANY.

PLAINTIFF IN ERROR.
Error to Marion.
DEFENDANT IN ERROR

Placita & Precipe,
Summons directed to Sheriff of Marion County, returnable to
March Term, A. D. 1865, Marion Circuit court.
Return of Sheriff of Marion County served on Agent of
said Company,

Page 1

" 2

2

DECLARATION that Deft. was Corporation owning and running Railroad
trains through Marion and Lawrence Counties; that deceased at Marion Coun-
ty became a passenger, and at Lawrence County was killed by negligence of
Defendants, etc.

Page.

3,4,5, 6, 7, 8, 9,10,

11, 12, 13, & 14,

COPY of Letters of Administration

14, & 15

PLEA In Abatement by Defts. that the supposed causes of action, and
each and every one of them (if any such have accrued to said Plaintiff) accrued
to said Plaintiff within the jurisdiction of this Court; that there was a Circuit
Court in Lawrence County having cognizance of said causes of action, and that
Defendant had agent in Lawrence County, on whom service could be had.
Filed March 22, 1865.

16 & 17

Plaintiff's demurrer to Defendant's plea and joinder. Filed March 30, '65.
Order of Court, March Term, 1865. Demurrer overruled and Exception by
Plaintiff. Judgment for Deft. on Demurrer and Plff. standing by demurrer.
Ordered that writ be quashed and suit abate.

18

19

Assignment of Errors.

That Court erred in overruling demurrer to plea in abatement; in quash-
the writ and abating the suit.

20

BRIEF.

Session Laws 1853. Page 65.

Illinois Central Rail-Road Company vs. Swearingen, 33d Ill. Page 289.

W. B. COOPER.

Attorney for Plff. in Error.

Edingham Gazette Print.

No 33

James E Webb & Co
Ex Mo Railway Co

Abstract & Brief

Filed Oct 1st 86 C
St. Johnston Mo

STATE OF ILLINOIS, }
SUPREME COURT, } ss.
First Grand Division. }

The People of the State of Illinois,
To the Sheriff of Marion County.

BECAUSE, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Marion county, before the Judge thereof between James E. Webb Administrator of William E. Webb deceased

plaintiff and
The Ohio & Mississippi Railway Company

defendant it is said that manifest error hath intervened to the injury of said Plaintiff

as we are informed by his complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at MOUNT VERNON, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Ohio & Mississippi Railway Company

that they be and appear before the Justices of our said Supreme Court; at the next term of said Court, to be holden at MOUNT VERNON, in said State, on the first Tuesday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said O & M Railway Company notice together with this writ.

WITNESS, the Hon. J. H. Wallcut Chief

Justice of the Supreme Court and the seal thereof, at
MOUNT VERNON, this Eighteenth day of

October in the year of our
Lord one thousand eight hundred and Sixty

Sir. N. Johnston
Clerk of the Supreme Court.

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SUPREME COURT.

FIRST GRAND DIVISION.

James E. Webb Adams & Co

PLAINTIFF IN ERROR.

vs.

The O. & N. Railway Co

DEFENDANT IN ERROR.

Seire Facias.

Ret'd FILED Nov 6-

1866-

A. Johnston cly

I have duly attended the within writ by reading the same & James R. Webb Adams & Co. of the within named Ohio & Northern Railway Company at Adams Station County and by leaving with the said James R. Webb Adams & Co. a true copy of this writ as required by said the President of said Ohio & Northern Railway Company not having found in Adams Station County Ohio that the said James R. Webb Adams & Co. are the owners of the said writ. Dated 24th Nov 1866. J. H. Smith

ABSTRACT.

JAMES E. WEBB, Adm'r of
WILLIAM W. WEBB, dec'd.,
vs.
THE OHIO & MISSISSIPPI
RAIL WAY COMPANY.

PLAINTIFF IN ERROR.

Error to Marion.

DEFENDANT IN ERROR

Placita & Precipe,
Summons directed to Sheriff of Marion County, returnable to
March Term, A. D. 1865, Marion Circuit court.
Return of Sheriff of Marion County served on Agent of
said Company,

Page 1

2

2

DECLARATION that Deft. was Corporation owning and running Railroad trains through Marion and Lawrence Counties; that deceased at Marion County became a passenger, and at Lawrence County was killed by negligence of Defendants, etc.

Page.

3,4,5, 6, 7, 8, 9,10,
11, 12, 13, & 14,

COPY of Letters of Administration

14, & 15

PLEA In Abatement by Defts. that the supposed causes of action, and each and every one of them (if any such have accrued to said Plaintiff) accrued to said Plaintiff within the jurisdiction of this Court; that there was a Circuit Court in Lawrence County having cognizance of said causes of action, and that Defendant had agent in Lawrence County, on whom service could be had. Filed March 22, 1865.

16 & 17

Plaintiff's demurrer to Defendant's plea and joinder. Filed March 30, '65. Order of Court, March Term, 1865. Demurrer overruled and Exception by Plaintiff. Judgment for Deft. on Demurrer and Plff. standing by demurrer. Ordered that writ be quashed and suit abate.

18

19

Assignment of Errors.

That Court erred in overruling demurrer to plea in abatement; in quash-
the writ and abating the suit.

20

BRIEF.

Session Laws 1853. Page 65.

Illinois Central Rail-Road Company vs. Swearingen, 33d Ill. Page 289.

W. B. COOPER.

Attorney for Plff. in Error.

Edgingham Gazette Print.

W. B. Webb
James E. Webb Adams
Q & M Rail Way Co

Abstract

Brief

Filed Oct 16, 1866

Mr. Johnston Clk

ABSTRACT