

Jefferson County Circuit Court

Case Files - Civil

May 1869, No. 3

Box

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Folder 101

O'Bannon, John B.

Mitchell, Willis

vs

Allen, Robert

Crawford, Samuel W.

Breach of Contract

Defendants failed to pay \$4,332 for
Railroad ties delivered to St. Louis &
Iron Mountain Railroad

John B. O'Bannon and
Willis Mitchell doing
business under the firm
name and style of
O'Bannon and Mitchell
Plaintiffs

In the Jefferson
Circuit
Court,
May Term, 1869.

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Robert Allen and Samuel
W. Crawford, doing business
under the firm name and
style of Allen and Crawford
Defendants.

Plaintiffs state that on the 20th day of
January 1869 the Defendants were partners
under the name and style of Allen &
Crawford, engaged in the business of delivering
cross ties on the extension of the St Louis
and Iron Mountain Rail Road, and
being such partners on the said 20th
day of January 1869 they entered into a
contract with Plaintiffs under the name
and style of "O'Bannon & Mitchell", to
pay the Plaintiffs "the sum of thirty cents
per tie for (15,000) Fifteen thousand
ties, to be delivered on the line of Iron Mt
Rail Road between stations 3900 and
4370 to be delivered by the first of May
1869," which contract was reduced to writing

and signed by Plaintiffs, and Defendants
and which is herewith filed and prayed
to be taken as a part of this petition.

Plaintiffs state that in pursuance of
~~said Contract they proceeded to and did~~
~~deliver to Defendants on the line of said~~
~~Rail Road between Stations 3900 and~~
~~#370~~ at the same time said Contract was en-
tered into it was further verbally agreed
between them that the ties for which thirty
cents a piece was to be paid were $2\frac{1}{4}$ inch
ties, that is to say ties which were $2\frac{1}{4}$ inches
thick and Defendants agreed with Plaintiffs
that a portion of said 13000 ties which
were to be delivered under said Contract
might be furnished in ties that were ten
inches thick.

Plaintiffs state that in pursuance of said
Contracts they proceeded to and did deliver
to Defendants on the line of said Rail Road
between Stations 3900 and 4370, 13988 ties
that were $2\frac{1}{4}$ inches thick and twelve hun-
dred and twelve ties which were ten inches
thick, which in the aggregate amounted
to the sum of Four thousand, seven hun-
dred and forty one $\frac{80}{100}$ dollars; that although
Defendants promised to pay for said ties
when delivered on said road, yet they have

not paid the said sum of four thousand seven, hundred and ~~not~~ ⁸⁰/₁₀₀ dollars, but have paid them only the sum of three thousand, six hundred and seventy nine ²⁸/₁₀₀ dollars and that the balance of one thousand ~~and~~ ⁶⁰/₁₀₀ three ⁰²/₁₀₀ dollars, and for which Plaintiffs ask judgment.

Plaintiffs further state that on or about the 25th day of March 1869, Plaintiffs and Dependents entered into another verbal agreement by which Plaintiffs were to deliver ~~enough~~ ^{as many} ties as were required by the St Louis and Iron Mountain Rail Road Company, between stations 3900 and 4370, the six inch ties to be paid for on delivery at the rate of thirty three Cents each and the ten inch ties to be paid for on delivery at forty nine and one half Cents each, all the ties to be delivered by 1st May 1869.

Plaintiffs state that under this contract they delivered to Dependents on the line of said road between said stations 6967 six inch ties and 439 ten inch ties which amount in the aggregate to the sum of two thousand five hundred and ~~eighty~~ ²²/₁₀₀ dollars, which Dependents failed and neglected and still fail and neglect to pay and for which Plaintiffs ask judgment.

Plaintiffs state that they delivered to Defendants between said stations on said road five hundred ties which were not of the proper thickness were rejected by the Rail Road Company, but were nevertheless taken up by Defendants and sold to said Company for one half price, to wit - 16½ cents each one half past that then existing for ties. Plaintiffs therefore say that Defendants are liable to them for fifteen cents each for said rejected ties which amounts to seventy five dollars and for which Plaintiffs ask judgment.

John A. Thomas.

Atty for Plaintiffs.

O'Bannon & Mitchell

vs

Allen & Cleaveland

Petition on con-
tract.

Filed Dec 10th 1869

Elias B. Konyak

and will have in
the said Plaintiff's debt judgment.

John B. O'Bannon, and Willis Mitchell, doing business under the name and style of O'Bannon and Mitchell, Plaintiffs	}	Civil action in attachment.
vs Samuel W. Crawford and Robert Allen, Defendants		In the Jefferson Circuit Court, May Term 1870

We O'Bannon and Mitchell as
principals and John M. Bailey &
C. G. Horne
as securities acknowledge ourselves
to be indebted to the Note of Missouri
in the sum of Seven thousand
four hundred dollars for the
payment of which we bind ourselves,
our heirs, executors and administrators
firmly by these presents.

The condition of this bond is such
that whereas the said O'Bannon
and Mitchell as Plaintiffs, are
about to commence a suit by at-
tachment against the above named
Defendants in the Jefferson Circuit
Court, returnable to the May Term
thereof for 1870 wherein the sum
sworn to is three thousand, six hundred

ded and fifty from $\frac{24}{100}$ dollars. Now
if the said Plaintiff shall prosecute
this action with effect and without
delay, ~~pay~~ refund all sums
of money which may be adjudged to
be refunded to the Dependents or
found to have been received by
the Plaintiff and not justly due to
them and pay all damages which may
accrue to the Dependents or any joint
share by reason of the attachment or any
process thereon or proceeding in the said
or by ~~reason~~ of any judgment or process
thereon then this bond to void otherwise to remain in force.

Witness our hands & seals this 10th
day of December 1869.

John B. O'Bannon

Willis, Mitchell

John M. Bailey

Chas. S. Warner

Seal
Seal
Seal
Seal

Approved Dec 10 1869

Elias P. Haney atty

By L. H. Alfred J. C.

Primer & Per
Allen H. Crawford

Northwestern Board,
Approved

Frederick D. Brown
Lewis D. Henry
et al

vs Joseph Plautt

John B. O'Bannon and
Willis Mitchell, ~~doing~~
business under the firm
name and style of
O'Bannon and Mitchell
Plaintiffs

vs
Robert Allen and Samuel
H. Crawford, Defendants,

This affiant states on oath that the
Plaintiffs in the above entitled Cause
has a just demand against the Defendants
now due and that the amount which
he believes Plaintiffs ought to recover
after allowing all just credits and
offsets is three thousand, six hundred
and fifty four $\frac{24}{100}$ dollars. And this
affiant further states that the above
named Plaintiffs entered into
a contract with Defendants in the
Spring of 1869 to deliver them on the
Lm. Rail Road, between Notions 3900
and 4370 about 23000 Cans to
be paid for on delivery, a portion
at 30 Cents each, and a portion at 33
Cents each and a portion at 45 Cents
each and still another portion at
47 Cents ^{each}, and that the above amount

is due Plaintiffs for this delivered to
said Defendants under said Contract
and which they were bound to pay
on delivery of the this but which they
failed and still fail to do. And
this affiant believes and has good belief
that Defendants are about fraudulently
to assign, transfer, convey and dispose
of their effects, property & moneys & as
to hinder and delay their Creditors.
Sworn to & subscribed
before me Dec. 9th 1869 }

Elias & Henry C. C. C. } John. R. O'Bannon
By L. H. Alford Deputy

Barina Whitelaw
27
Allen Street

Spokane

Black Deer 10/18/69
E. H. Quincy Oct

21

State of Missouri,

88.

County of *Jefferson*,

OFFICE OF CIRCUIT CLERK.

The State of Missouri,

To the Sheriff of *Jefferson*

County--GREETING :

We command you to attach

Robert Allen & Samuel W Crawford

by all and singular *Their* lands and tenements, goods, chattels, moneys, credits, evidences of debt and effects, or so much thereof as shall be sufficient to secure the sum of, *three thousand six hundred and fifty four* Dollars and *twenty four* Cents, with interest and costs of suit, in whose hands or possession soever the same may be found, and that you summon the said *Robert Allen and Samuel W Crawford*

that *they* be and appear at the next Term of the Circuit Court, before the Judge thereof, on the first day of said Term, to be holden at the *town* of *Hillsboro* and State of Missouri, within and for the County of *Jefferson* on the *16* day ~~Monday~~ of *May* 187*0* next, and then and there to answer the complaint of

John O Brammer & Willie Mitchell

as set forth in the annexed petition.

And also, that you summon all and every person in whose hand or possession soever any personal property, rights, goods, Chattels, moneys, credits, evidences of debt, or effects, may be found, or who may be named by the Plaintiff or

attorney, as Garnishees, and particularly

August Froeholdt

that *he* be and appear before the Judge of our said Court, on the first day of the Term aforesaid, then and there to answer unto what may be objected against them. And have you then and here this Writ.

Witness,

Clas Honey Clerk of our said Circuit Court, and the Seal thereof hereunto affixed, at office in *Hillsboro* this *11* day of *December*, in the year of our Lord, one thousand, eight hundred and *69*.

Clas Honey

Circuit Clerk.

By

L H Alford

Deputy.

SHERIFF'S RETURN.

Served the within Writ by delivering a copy of the Writ ~~and~~
~~return~~ to the within named ^{Special} Robert Allen ~~being~~ ~~it is~~

~~And~~ This 14th day of December 1869 at Jefferson County in
 Also served the same by delivering a copy of the Writ
 and ~~to~~ the within named Spauldard Samuel W Bradford

This 24 day of December 1869 at Jefferson County Mo
 Also served the same by ~~delivering~~ a copy of Warrant
 at the usual place of Abode of Gustave Drumhald
 with a white member of the Familie above the age
 of fifteen years This 14 day of December at Jefferson
 County Mo

Deco & 300

Frederick Lemayer

Sheriff of Jefferson County. Mo
 By Fred C. Collins Depy

3014
No. 3

ATTACHMENT WRIT.

Jefferson Circuit Court,

Returnable *May* Term, 18*79*.

J. Brannon &

Mitchell Plff.

vs.

Robert Allen

Samuel W. Crawford et al.

Original

O'Connor & Mitchell }
Allen Crawford }

Is the St Louis & Iron Mountain
Rail Road Company and to Gust.
Hornholdt, Garnishee in the above
Cause

First. At the time of the service of
the garnishment upon you did you
or either of you owe the Defendants
or either of them any thing or do
you owe them anything now and
if so how much and when does it
become due?

At the time of the service of the
garnishment upon you did you or
either of you have and you control
any property, money, evidence of debt
belonging to Defendant or either of
them or have you any now?

Wm. H. Mower,
Atty for Plaintiff.

O'Connor Mitchell

By
Allen Crawford

In witness whereof

Filed March 8, 1870

E. J. Kennedy

By L. H. Hays