

Jefferson County
Case Files - Civil
September 1872

Circuit Court

Box

30 Folder 12

Boly, Michael

vs

Sale, Anton

Appeal

Defendant appealed from JP
Robert M. Hunt on \$60
account for digging well; bill
of exceptions; Supreme Court

Article of a agreement made on 1 entered into between
Michael Boly and contractor Saken I Michael Boly do bind my
self to get water for fifty Dollars in dirt and if
I have to blast two Dollars Extra a foot and if I
get no water no pay the well is to be free. I do
diameter and if I can't go below the ground he
contractor Saken can draw water or three feet below
the diameter of the well 1871

Anton. Cohen

Michael Boly



Filed September 28th
1871 R A Hunt Justic

Filed Jan 18 1872
W S Boyce
Clerk

Michael Roly Plaintiff ~ Before Robert W. Hunt
Against ~ a Justice of the Peace
Anton Lake Defendant ~ In Little Rock Township
For Jefferson County Mo.

Plaintiff States that on April 25th 1871, the Defendant Executed, under his hand, as did also the plaintiff, an agreement of that date. (Here with Filed) that Plaintiff was to Get Water in the dirt For \$50.00, and if plaintiff had to Blast in the Rock he the plaintiff was to have \$2.00 per foot & try. Plaintiff States that he dug said Well 5 feet in the dirt, and Five Feet in the Rock at \$2.00 per foot making ten Dollars, and plaintiff States that he did dig and Get Water according to Contract. And asks judgement For Fifty Dollars for digging in the dirt, and ten Dollars Blasting and digging in the Rock, according to the agreement, and plaintiff asks judgement for \$60.00.

Michael Roly

Michael Polp

=VS=

Anton Sake

Filed September 28th 1871
R N Hunt Justice

SUMMONS.

THE STATE OF MISSOURI,

JEFFERSON COUNTY.

To the Constable of *Little Rock* Township,

in the County of *Jefferson* *GREENE*,
We Command you to Summon *Antone Saller*

to appear before the undersigned, one of the Justices of the Peace of *Little Rock*
Township, in *Jefferson* County, on the *fourteenth* (14) day of
October, 1871, at 10 o'clock in the forenoon, at his office, in the said
Township, to answer the complaint of *Michael Woly on*

Contract

Given under my hand, this *28th* day of *September*, A. D. 1871
Robert V. Hunt

Justice of the Peace.

executed this writ by reading the
same to Antone Sake on the 29 day
of September 1871 Martin Swaney
Constable

Summons
Michael Wolf
vs
Antone Sake
Justice fee \$-35
Constable fee 85

I served the within summons in
Little Rock Township Jefferson County
Missouri on Antone Sake on the 29th day
of September 1871 by reading the same
to him in his presence and hearing
Martin Swaney
Constable

1871
Antone Sake
To
Michael Boly Dr

To Labor performed by
Plaintiff for Defendant
under a contract in
writing between Plaintiff
& Defendant that is
to pay for digging a
well for Defendant
Antone Sake as
follows viz for
digging such well
in dirt

50.00

To Sinking the same 5 feet
in Rock & blasting
@ \$2.00 per foot

10.00

Total due = \$60.00
Said Contract being dated
April 25th 1871 & filed with
Plaintiff's original statement
in this cause,

Dillon & Williams
for Michael Boly

Michael Boly

^{vs}

Anton Lake

amended statement
filed by Secrecy,
of Court

Filed October 14 1874

R. N. Hunt Justice

Michael Roly

= vs =

Antone Sake

Suit Before
Robert N Hunt Justice of the peace

Antone Sake, Being sworn upon his oath,
Says, that his application for an Appeal is not
made for retation or delay, but Because he
Belives the appeallant to be injured by the
Judgement of the Justice.

Sworn to and Subscribed } Anton Sake
Before me this 9 day of }
October 1871 }

Robert N Hunt Justice
of the peace

We, the undersigned Anton Sake and Henry
Lieght Acknowledge ourselves indebted to
Michael Roly in the sum of One Hundred & forty Dollars, to
be void upon this Condition: Whereas Anton Sake
has appealed from the judgement of Robert N Hunt a
Justice of the peace, in an action Between Michael Roly
Plaintiff and Anton Sake Defendant. Now, if
on such appeal, the judgement of the Justice be affirmed,
or if on trial anew in the Circuit Court, judgement be given
against said appellant, and he shall satisfy such judgm-
ent of the Justice, together with costs of appeal, then this Recogniz-
ance shall be void.

Attest Robert N Hunt
Justice of the peace

Anton Sake
Henry Lieght

Michael Bohy,

=US=

Antone Lake
Affidavit and Appeal
Bond

Filed and Approved this
19 day of October 1871
Robert W. Hunt Justice

Filed July 1878
W. S. Boyce Esq
By Chas. Marine Depy
"

Michael V. Boty

= 232

Antone Vake

Judgment \$60.00

Justice fees

Constable " 5.80

Jury fees paid by plaintiff 3.00

Witness fees 2.00

October 14th 1871

Plaintiff Filed September 28th 1871
For writ. Complaint For services

Rendered, as Complaint filed there
For \$60.00. dated April 25th 1871

and directed a summons to issue,

which was done on the 28th day of Septe-
mber 1871. and delivered to Martin

Shursey Constable of Little Rock town

Ship made Returnell on the 14th day of October 1871, at 100 cts.
o'clk A.M.

Robert A. Hunt Justice

Constable Returnell the Summons duly served by Reading.

Now on this 14th day of October 1871. the Cause coming
on to be heard and the parties present with their
Counsels and Ready for trial. and a jury being demanded
and Summoned by the Constable, the Constable Returned the
Following Named jurors. To wit. Israel Mureal F.M.
Wilcox. J.W. Graham. John Winum, E.R. Stewart, and
C. J. Cannon. Six good Lawful jurors. Whom were duly
Sworn. to try the cause Between the parties. and after
hearing the Evidence and arguments. Retired and on
their Retirement. agreed and Returned the Following
Verdict. To wit. We the jury find for the Plaintiff
the Sum of Sixty Dollars. F.M. Wilcox. Foreman.
and there upon it is adjudged by the Justice that the
Plaintiff Recover and have judgment against Antone
Vake for Sixty Dollars so found by the Jury. for his debt.
And also for Sixteen Dollars and Twenty five cents fore

His Costes of Suit, and plaintiff have Execution there
For. Now on this 14th day of October 1871. Defendant
Demanded an appeal to the Circuit Court of Jefferson County
and Now on this 19th day of October 1871, Comes the
Defendant and Files his affidavit and Bond of him
Self and Henry Light and prays an appeal to the
Jefferson County Circuit Court, Which were granted by
the Justice and the Bond approved, this 19th day of
October 1871.

Robert N Hunt
Justice of the peace

State of Missouri
County of Jefferson^{25th}

I Robert N Hunt, a Justice of the
peace within and for Jefferson County, do Certify the
Foregoing to be a full true, and complete transcript
of the Entries and proceeding in the Case of Michael
Bohys vs Anton Lake, as the same are of Record
on my docket, and that the papers thereto attached
are all the original papers on file in my Office.

Witness my hand this 25th day of March A D
1871

Robert N Hunt
Justice of the peace

Free Bill

Michael Boly } action Before Robert N
vs } Hunt justice of the peace
Antoine Sake }

the sum going is a true and
Correct free Bill of fees do to Each person as here
Described To wit:

1 Robert N Hunt justice fees 1 Summon	35
" " " 1 Jury " 35-5 Suppedonas 175	2.10
" " " Swearing jury	25
" " " 8 Oathes	40
" " " Judgment	50
" " " Docket Entry 10. Indet 10	20
" " " Bond & affidavits for appeal	1.00
" " " Transcripts	1.00

Martian Swamy Constable fees & ~~Summons~~ \$6.80

" " " 1 Summons & Misdage	80
" " " 8 Suppedonas & "	4.00
" " " 1 Jury Summons	1.00

\$5.80

Jury fees paid By Plaintiff - - - 3 00

Witness fees to John Boly 50

" " " Daniel Swamy 50

" " " Joseph Spruck 50

" " " Wineral Kottet 50

\$2.00

\$16.60

Given under my hand this 25th day of October 1871

Robert N Hunt
justice of the peace

Transcript
Michael Polyz,
=NS=

Antone Lake

Filed January 18, 1872,
W. S. Poyce cler.
By C. H. Grinn Sept.

The State of Missouri,

COUNTY OF JEFFERSON.

Do

John Dohy vs Daniel Sweeney

You are Herely Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 14th day of May 1872,

at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein

Michael Dohy is

Plaintiff, and

Anten Sakey is

Defendant, on the part of

Plaintiff

; and herein you are in no wise to fail.

W. S. Boyce

Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof

hereto affixed, at office, this 6th day of

May

A. D. 1872

By Ordo Home Dep. W. S. Boyce Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

May Term, 1872

Doby

vs

SaKey

Plff.

John Doby,
Daniel Sweeney

Sheriff fee \$1.00

Michael Boly, Plaintiff

3
Anton Lake, Defendant

For Cause said Defendant
and moves the Court to set aside the
judgment of the Court dismissing
Defendant's appeal and to reinstate
the Case on the docket for the following
Reasons.

1. Because he did not know when
this Court was to commence.
2. Because he employed H. F. Ahlberg
~~was~~ an attorney at law to defend this
Cause for him and who agreed to
notify Defendant of the time his
Case was set for trial but the said
Ahlberg has gone to Europe and
has left all his business including
this Case in charge of J. J. Williams
an attorney of this Court who had
been employed by Plaintiff and hence
he was left without any attorney to
represent him without any fault
of his and hence he did not know
when his Case was set for trial till after
the appeal had been dismissed.

John B. Howard
attys for Defendant.

Michael Boly

27

Anton Lake

Notion to remission

Core on the docket

Filed May 20 1872

W. S. Dorcey Clerk

STATE OF MISSOURI,

COUNTY OF JEFFERSON.

To

John Dohy & Daniel Doreeney,

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *11th day* of *September* 1872, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein

Michael Dohy is
Plaintiff, and

Anton Sabey is
Defendant, on the part of the Plaintiff; and herein you are in no wise to fail.

Witness, W. S. BOYCE, Clerk of our said Court, with the seal thereof
hereto affixed, at office, this *2nd* day of
September A. D., 1872.

Clerk.

W. S. Boyce
W. S. Boyce

Bohy not found in this
county. Sweeney served
this the 9th day of Sept
1872

Bohy

Sakey

Pliff

John Bohy,
Daniel Sweeney

Sheriff Fee 100

State of Missouri
County of Jefferson

I certify I served the within
by Reading the same to & answer
of money on the day of Sept
1872 and do for Bohy the same
day
J. B. M. Sheriff

STATE OF MISSOURI,
COUNTY OF JEFFERSON.

To

Samuel G. Galt

Joseph Spruck, Anton Spruck

vs. Galt & Galt

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *10th day* of *September 1872*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein *Michael Galt* is Plaintiff, and *Anton Spruck* is

Defendant, on the part of *etc Defendant*, and herein you are in no wise to fail.

Witness, W. S. BOYCE, Clerk of our said Court, with the seal thereof
hereto affixed, at office, this *2nd* day of *September* A. D., 1872.

W. S. Boyce Clerk.
W. S. Boyce

Served this the 9th day
of September 1872

P. Dohy
vs
Sakey

17	60
6	85
1	00
4	85
2	7.36
3	7.16

Defendant

Wenzel Kality
Joseph Spruck
Anton Spruck
Fritz Hoff

Sheriff Fee 2.00

State of Wisconsin
County of Jefferson

The constable of Madison served
the within subpoena by reading
the same on Nathan Mamel Mamel
on the 9. day of Sept 1872

D. B. Mamel
J. F. Mamel
constables

STATE OF MISSOURI,

COUNTY OF JEFFERSON

To *John P. P. P.*

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the _____

Fourth

, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein *Michael P. P.* is

Plaintiff, and *Anton S. S.*

Defendant, on the part of *Plaintiff*; and herein you are in no wise to fail.

Witness, W. S. BOYCE, Clerk of our said Court, with the seal thereof

hereunto affixed, at office, this *Fourth* day of

Sept A. D. 1872.

W. S. Boyce Clerk.

State of Missouri
County of Jefferson

I served the within subpoena on John Bole
by reaching the same to him on the 10 day
of Sept 1872

A. D. Mose Sheriff

Boli
no
taken

John Boli

Served. 10 Sept

Sheriff Fee 50

Michael Boly, Plaintiff } In the Circuit
vs } Court of Jefferson
Anton Lake, Defendant } Co. Mo.
Sept Term 1872.

Now at this day comes the said Defendant and moves the Court to set aside the verdict rendered herein and the judgment of this Court thereon and grant him a new trial for the following reasons,

1st Because the Court erred in permitting the Plaintiff to read in evidence to the jury the Contract signed by Plaintiff and Defendant against the objections of Defendant. 2nd The Court admitted other illegal and incompetent evidence on the part of the Plaintiff to the injury of the Defendant.

3. The verdict of the jury was evidently rendered under a mistake of the facts and the law.

4. The verdict of the jury was against the law as laid down by the Court.

5. The verdict of the jury was against the evidence and the weight of evidence.

6. The verdict is plainly and popobly
against the right party and in favor
of the wrong party.

John F. Howard Bro
Atty for Defendant.

Michael Boly

vs

Antone Lake

Motion for New Trial

Filed Sept 12 1882

W. J. Boyce Clerk

Michael Boly Plaintiff } In the Circuit
or } Court of Jefferson
Anton Lake, Defendant } Co. Mo.
Sept Term 1872.

This affiant, the above named Defendant, makes oath and says that he does not take an appeal in the above entitled Cause for vexation or delay but because he feels aggrieved by the judgment of the Circuit Court.

Sworn to & subscribed } Anton Lake
before me Sept 18th 1872 }
H. P. Boyce Clerk
J. B. The Hon. Judge

The Anton Lake as principal and Henry Light as surety have undertaken indebted to Michael Boly the plaintiff in the above entitled Cause in the sum of two hundred dollars to be void upon this condition. That whereas the said Lake has taken an appeal in this Cause to the Supreme Court. Now if the said Anton Lake shall prosecute his appeal with effect and without delay and shall abide the judgment which the Supreme

Court may give or may order the
Circuit Court herein and shall
pay all cost which have accrued
or may accrue in this cause
and shall pay the judgment of
the Circuit Court if the same
should be affirmed by the Supreme
Court then this bond shall be void
~~or~~ otherwise it shall remain in
full force and effect.

Witness our hand and seal
this 18th day of September 1872.

Anton Lange
Henry Light

Michael Bohy

vs

Anton Lake

Q

Affidavit and
Bond for Appeal

Filed Sept 15 1872

W. Boone Case

The Court wishes the jury
that if they from the evidence
find the plaintiff entitled to recover
~~they will~~ under the contract
read in evidence they will
find a verdict for him for
Fifty Dollars on account of
the digging in dirt & in addition
thereof for two Dollars per
foot for each foot sunk by
him in said well in rock

The Court instructs the jury that - if the plaintiff and defendant ~~after~~ entered into the contract read in evidence and if the plaintiff in pursuance of such contract dug the well in question and if he found ^{a vein of} water by such digging and if the well was sunk partly in rock and partly in dirt and if a sufficient amount of water ^{of some use or value to drift} was procured to be drawn by a bucket from said well and if said well was sunk by plaintiff three feet below the vein of water & if the well was five feet in diameter then the plaintiff is entitled to recover in this action -

The Court instructs the jury that even if they find from the evidence that the well in question was not five feet in diameter at all points yet if the defendant consented ~~that~~ to & did waive that objection to it then the fact that at some points said well may not be five feet in diameter is no defence to this action

Proly
4
Sake }

The Court instructs the Jury that the true intent and meaning of the Contract recd in evidence by the Plaintiff is that Plaintiff was to dig a well for Defendant and procure for ~~water in~~ him water sufficient to be of use for household purposes and until he did so was entitled to no pay and under the Jury find from the evidence that he complied with his contract and procured water in said well sufficient for use for household purposes he is not entitled to recover and the verdict should be for the Defendant

7

2. That under the Contract made in ~~contract~~ evidence in this Cause it is not sufficient for Plaintiff to show to ~~prove~~ him to recover ~~that~~ that there was water in the well he dug for Defendant but he must also ~~show~~ satisfy the Jury from evidence that the water was in sufficient quantity to be of some use and value to Defendant and unless the Jury so find the Verdict ~~shall~~ would be for Defendant.

All the Jury find for the Plaintiff in the sum of Sixty Dollars

E. Maness
foreman

Michael Boly Plaintiff } In The Circuit
against } Court of Jefferson
Antone Saxe Defendant } County Missouri
September Term 1872

Be it remembered that on the trial of the above entitled cause the Plaintiff to sustain the issue on his part introduced the following testimony -

First a written agreement dated April 25th 1872 signed by Anton Saxe & Michael Boly, (here copy same) to the ~~introduce~~ reading of which in evidence the Defendant at the time objected for the following reasons to wit: Because the same ~~was not~~ stamped according to the laws of the ~~Re. United~~ States, whereupon the Plaintiff ^{by attorney} offered to stamp

stating to the court that it was proper for the court to allow him to do so unless the stamp ^{had been omitted with the design to defraud the Government} which the Defendant objected, but the court overruled Defendants objections and permitted the Plaintiff to place a five cent revenue stamp upon said agreement, and to cancel the same by

~~The Defendant being present in court with his attorneys did not state or make
objection to the stamping of said contract that the stamping of it had been omitted
with a design to defraud the Government of the revenue thereon and he
objected to the sufficiency of the cancellation of the stamp after it was
affixed or to the fact of its being cancelled by
crossing~~

offered and said to which action
of the court, ⁱⁿ permitting the
Plaintiff to stamp the same
The defendant at the time
excepted. The Plaintiff
then again offered to read
the same in evidence, ^{after it was stamped} and
The Defendant again objected
because the same was
not stamped in accordance
with the laws of the United
States, which objection the
court ^{to which action of the court} overruled and the
The Defendant at the time
excepted - And the Plaintiff
read said agreement in
evidence, -

Second Daniel Swaney sworn says I
know the Parties to this case, I
know of Michael Boly digging
a well for Antone Lake. In
the fall of 1871, Boly dug
down to the rock and got me
to blast in the rock, it was
about the 1st of September 1871
when I went to work, The well

was close to Sakey's house. Sakey was living there when we was digging the well. he was there all the time we was at work. I worked about fifteen days. I blasted about five feet 8 or ten inches in the rock, ~~was five feet in the lowest part in the rock~~, we struck water. Don't recollect how deep the well was when we struck water. I think it was one foot & a half or two feet in the rock, before we find water. we went three feet four inches below where we struck ^{the water came in through the rock} water. Plaintiff told me to mark the place where I struck the water, for ~~the~~ had to go three feet below the vein. I stoped work & was away two or three days & when I come back we had to take out ~~three~~ or four tubs of water. The tub was a salt Bbl, sawed into, it was a ~~very~~ weak vein, it was a ^{very} dry thing, it was a ~~very~~ weak vein - Sakey objected to the well said there was not enough water in it. I have dug a good many

and it is my opinion from the amount of water struck in this well
& the dryness of the weather at the time that it would afford sufficient water
in ordinary times wells. (Crops examined -)

Boly was not there when I struck the water & when he came I told him I had struck water, and he told me to mark the place where the water come in, we had to bail the water out every morning, some - times we had to take out a tub full and sometimes less, ^{more} I made a contract with Boly to get two dollars per day or take the risk with him just as I pleased, I have never told him which I would do, I have not been paid for my work, there was always water enough to drill with, when a blast did not go off I would sometimes get water out of the Cistern to drill it out, ~~before we struck water~~

Question: how far was the cistern from the well you were digging
Answer about Twenty five yards
Re Examined

Ques: how was the ground as regards being where the well & cistern were

Ans: it was about Level that is they were about on a Level -

Question what is your opinion as to whether or not the water in the well came from the cistern
Ans. it could not have come from the cistern, it did not come from towards the cistern,

and besides it was too far from it & came in
through a crevice in the rock & as we went down continued to
come in at the bottom as we will always do when you blast
in a rock. blasting crevice the rock & you go away so
deep below the vein but the water will continue to come in at the bottom
The water will continue to come in at the bottom
John Wiley & Son, New York

The well I helped my son
(The Plaintiff) dig the well it was
at Sakey's place, my son made
the contract with Sakey to dig
a well my son selected the
place & Sakey agreed to it
we went twenty nine feet, we
struck rock at twenty four
feet, when we got to the rock
my son got Daul, Swamy to help
us, we struck water about eight
inches below ^{again} the rock, The water come
in through a seam or crevice in
the rock. Cant tell how much water
was there was, we had to draw out
water every morning, some times we
would draw out a tub full some-
times less, The tub was a salt bbl,
sawed into, I was not down in the
well at all, I saw them draw water
out of the well the day my son
& Sakey tried to settle
~~crop~~ The cistern was
Twenty five or thirty yards from the
well we dug, ~~my opinion is that~~ the
water we struck was a vein, I have
had some experience in digging wells
it is my opinion considering the

dryness of the time when we dug the well in question & the amount of water afforded by the vein that it would afford sufficient water for family use in ordinary times.

Fourth Michael Boly I am Plaintiff in this suit, I helped dig the well, Sakey and I had a contract we both agreed to it and signed it we talked it over before the contract was signed, Sakey was to give me fifty dollars if I got water in the dirt and two dollars extra for each foot I had to go in the rock, we went twenty ~~four~~ ^{three} or twenty four feet in the dirt & five feet eight or ten inches in the rock, we struck water I was not there when they struck it & when I come back they told me they had struck water & I told them to mark the place, for my contract was to go three feet below the vein it was

& most of the wells in the neighborhood were dry
a dry time, every morning we would
have to take the water out, we
got done one evening & I went
next morning to settle with Sakey
Sakey sent off for witnesses to
see the work Sakey commenced
drawing the water out before
before the witnesses come and
passed this well & looked into it & there was water in it
I went & can't tell how much the bottom was covered
— four months ago I

Crops examined by Dr. Drft.
I don't know how much water
Sakey drew out, I showed
Sakey in the bottom of the well
where the water come in it was
about as big as a wheat straw
other places water was dripping, when
I went to settle myself, Menzel
Cottell and Antone Sakey went
down into the well, after they
came,

Defendant then introduced the following testimony First Menzel Botlett I am acquainted with both of the parties to this suit, I live in one hundred yards of Sakey - I was present when Boly come to settle with Sakey for the well, I went down into the well with them I dipped up one bucket full of mud & water that was all I could get I saw a little water come in, in the bottom of the well not bigger than a hair, I saw the well again about fourteen days or two weeks after words, It was perfectly dry I saw it yesterday it was dry (Crops examined by Plaintiff)

Sakey come after me & told me he wanted me to go over & I went then we went down into the well, Boly, Sakey, & myself I dipped up a bucket full of water & mud, it was very muddy the bucket would hold two gallons and a half the water come in so weak could not tell how it run

I saw it after I had dipped up the water, in the same place where the water stood I never saw that vein of water after that the well was as dry as a bone, the last time I was there, I saw fresh stone thrown out after Boly quit work, I am not related to Anton Sprock,

Second Anton Sprock, I know the parties to this suit I saw Boly digging the well, I was there the day Boly & ~~Sprock~~^{Sakey} tried to settle I was in the well, and there was no water in it, Boly was there at that time, I have seen the well since, I saw it last April, there was no water in it then (crop examined by Plaintiff) There was not water in the well it was dry, when you get twenty or twenty five feet in the ground

it is damp. cant tell whether there
was any water in the well before I went
there or not. They sent for me to come
& see the well & there was no water
in it. I am a brother in Law of
Antone Sake the Defendant

Third Joseph Sprock, I was at Antone
Sake's when Boly & Sakey was
trying to settle I went down into
the well there was about two spoonsfull
of water in it when I went down -
Sakey told me that he had hands
to dig the well deeper since Boly
quit - I am a brother in Law of
Antone Sake the Defendant

Fourth Phoff. I saw the well last spring there was no water in it I went down into the well yesterday morning there was a little water in it about one half gallon - (Crop examined by Phoff)

Sakey told me that he had the well sunk about six feet further than Boly sunk it. Sakey said the bottom was shelly and he could not blast it. When I was in it yesterday it was damp & the side sweating -

Fifth Antoine Sakey, I am the defendant in this suit. The well was dug about thirty five feet from the cistern, Boly told me that he could find water for me he claimed to be a water witch & he marked the place & told

me he could get water, When he got the well down he wanted me to settle with him & pay him for it & I asked him where was the water, & he said there it is but there was none there - This was next morning after he got done work, Mr Cottlett was there he went into the well with us There had been no water taken out of the well that morning before Boly & Cottlett come, Cottlett dipped up a bucket of muddy water that was all that was in the well, the cistern was full of water or nearly so when when Boly commenced to dig the well and about the time he quit the water nearly all run out of the cistern, There was no water in the well afterwards it was dry - we never could get any water out of the well for use. The well is of no use to me I will have to fill it up it is so close to my house After Boly quit and said he could not work any more in the well, I saw there was no

water in it, so some time afterwards I had it sunk about six feet deeper and did not find any water, there was no water running in through the sides, there is no water in the well now.

And this was all the evidence offered by either party,

The Plaintiff asked the court to give the following instructions (Here copy the instructions asked by Plaintiff) which the court gave

And the Defendant asked the following instruction (Here copy the instruction, asked by Def.) which the court gave,

The jury returned into court a verdict for Plaintiff on which a final judgment was rendered by the court.
The Defendant on the 12 day of Sept. 1872 filed

his motion for a new trial
(here copy same) which being
seen was by the court overruled
to which action of the court in
overruling said motion the
defendant at the time excepted
And by consent of Plaintiff the
court granted the defendant by
an entry of record thirty days
from the 19th day of September
1872 within which to file their
bill of exceptions & in pursuance
thereof the defendant here tenders
this ~~their~~^{his} bill of exceptions and
prays that the same may be signed
sealed and made a part of the record
in this cause which is accordingly
done this day of October A.D. 1872
J. H. Vail Judge Seal
26th Circuit

3492

Michael V. Boly
vs
Anton Saker

Feb. 17. 1872
 W. J. Boyce ex
 R. C. The Marine Depn
 Correct!
 Williams
 for Sept.

In the Supreme Court, held at St. Louis, of the State of Missouri,

October Term, 1873
Monday November 24 1873

Michael Boly
Respondent
v.
Anton Lake appellant
Appeal from
Jefferson Circuit Court

Now again come the parties aforesaid, by their respective attorneys, and the Court being now sufficiently advised of and concerning the premises, doth consider and adjudge that the judgment rendered herein by the said Jefferson Circuit Court be in all things affirmed and stand in full force and effect, and that the said Respondent recover of the said Appellant his costs and charges herein expended, and have execution therefor. Opinion filed.

STATE OF MISSOURI—ss.

I, JOSIAH THORNBURGH, Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify that the above and foregoing is a full, true and complete copy of the judgment rendered in the above entitled cause, as fully as the same remains of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at office in the City of St. Louis, this 22nd day of December A. D. eighteen hundred and seventy three.

J. Thornburgh Clerk.
Per Jas. H. Davis Clk

88 3492

SUPREME COURT OF MISSOURI.

Michael Boly
Pl.
vs.

Anton Lake
Def.

MANDATE.

JUDGMENT OF

Jefferson Circuit Court

AFFIRMED.

Filed Dec 24 1883

W. L. Boyce C.

By O. H. & Horner Secy

436 441, 460, 461. 521, 528, 548, 568, 575

Bohy } Sept. 11 1872 6 -p 528
 Lake } Indgt. \$ 60.

Justice \$ 6.80
 Ironing 5.80 Recd pay Mr. Swaney
 Jury fee 3.00
 Witness 2.00 17.60

Boyceck

May 1872 app¹⁰ order dismis appeal³⁵ motion²⁹ 65
 rule²⁰ cont. ²⁵ 12/12 25 70

Sept 5 1872 Cont. ²⁵ / Jun³⁰ / Hero³⁵ / Indgt⁵⁰ 1.60
 motion²⁴ rule²⁰ / app²⁵ / Bond³⁰ 1.15
 Leave to file Bill Ex³⁵ / order for appeal³⁵ 70
 order for trans²⁰ (38 / as 45) 95
 21 B¹⁰ / making cash 60 6.35

Sept 5 1872 Juny

John Williams 2 5/1 as 1.00 1.00

TB map 78 / as \$ 3.50
 Juny ¹⁰⁰ / calls ³⁵ 4.35 4.85

Fred Pfaff	d m 2.40	4.20
H Kobitz	2.40	5.20
Paul Oraney	2.48	5.84
Joe Bohy	2.50 D.C.	6.50
Anton Sprock	d m 2.44	5.52
		<u>27.36</u>
		57.16

5.84 pd to mtr Bohy Jan 6 78/4
 6.50 pd to mtr Bohy Jan 6 78/4