

Jefferson County Circuit Court
Case Files Civil
January 1878

Box
37 Folders 66

England, B.F.

U.S.

Dumm, Carlos

Fink, J.C.

Debt, accounts

Various accounts for hauling sand,
groceries, lumber, work assigned by
J.E. Waggener, Theodore Ehrich,
Wallace Cheney, Thomas Shannon,
Klancy Dewitt, M.S. Baker, John
Siefert, John W. Martin, William
Bradfield, A. Chamberlain; depositions;
bill of exceptions

Wm C. Sumner and J. C. Smith
 J. C. Conant and
 on the with

1876			
Sept	30	28	Stacking 29,150 # Sand 440 # per day
Oct	31		29,600 # " 440 # " "
Nov	30		21,200 # " 440 # " "
			Paid Valentine for work
		\$160	40

2600
3190
40
6831
9210
16040

Oct	19	By Cash for 28000	
Nov	11	" " " "	
		" 1 Steel trap "	

Balance

2600
3190
40
6831
9210
16040

Dec 1 2 Balance and 28000
 Paid 27000

9210

100 100 100 100

Mrs C. Dumm and J. C. Finch
 J. C. Maggner, Rush Fork, Mo.

1876				Dr	
Aug	12	To	Paid Dumm's order L. Noe		
"	23		~~100~~ for boarding hand	5 00	
"	"	"	100 Flour ^{3 1/2} + Meal sack ⁴⁰	4 15	
"	24	"	Pd Freight on Powder	1 00	
"	"	"	10 Bacon 16 2/3	1 67	
"	"	"	Bucket ²⁰ Hb. ²⁰ + Dipper ¹⁰	3 50	
"	25	"	Sugar ⁵⁰ + 4 Br. Handles ⁵⁰	1 00	
"	28	"	Pd Lins Noe for boarding hand	5 00	
"	31	"	" Freight on 5 Bags Powder	2 50	
Sept	9	"	Boarder for hand	20	
"	11	"	2016 Feet Lumber @ 12¢ per head	38 30	
"	20	"	Freight ^{1 50} + Chgs on Powder ^{2 50}	1 70	
"	30	"	180 Feet Lumber @ 12¢	34 20	
Oct	30	"	Paid Dumm's order pr L. Noe	10 00	
Nov	8	"	" P. Henry & Tom Lynch	79 65	
1877	7	"	" H. Valentine	14 50	
Febr	"	"	" R. Meeks	6 75	
				<u>\$180 19</u>	\$180 19
1876				Cr	
Aug	29	By	sack Returned	40	
Oct	20	"	Cash pr C. Dumm	20 00	
Nov	8	"	Check to pay Henry & Lynch	80 00	
"	11	"	Cash pr C. Dumm	7 40	\$107 80
A Balance due J. C. M.					\$72 39

1

M^r C. Dumm and J. C. Church
The Church On the 10th

1876					
Aug	31	Dr Hauling	32100 [#] Sand 140 [¢] pr 3m		\$6 42
Sept	7	"	13800 [#] " " " "		275
Oct	31	"	256000 [#] " " " "		57 20
Nov	30	"	216000 [#] " " " "		43 20
"	"	"	Board Bill		27 00
					<u>130 57</u>

Sept	14	By Cash for C. Dumm			6 42
Oct	19	" " " " do			275
"	"	" " " " do			175
"	"	" " " " do			1000
Nov	11	" " " " do			29 60
		Balance			80 05
					<u>\$130 57</u>

Dec	1	To Balance D. Church			\$80 15
Mar		less Cash for C. Dumm			17 00
		Balance due J. Church			<u>\$63 05</u>

Miss C. Dumm and J. B. Pink
Dallas Cherry

1876				Dr	
Aug.	19	Do 19 Days Work	\$1.25	23 75	
"	8	Do 6 1/2 " do	\$1.25	8 13	
Oct	"	part for Cushing Load		21 55	
"	"	1/2 of 5 tons	"	62	
Nov.	13	Helping Cushing Load of sand		20 00	
"	30	9 1/2 Days Work	\$1.00	9 50	
				\$82.58	\$82.58
Sept	-	By Cash for C. Dumm		23 75	
Oct.	19	" " " "		6 00	
"	22	" " " "		5 00	
Nov.	11	" " " "		18 30	
"	"	" " " "		1 00	54 05
Bal due D. Cherry					\$28 50
Cash for Mr. Dec 16 1876					

R. H. B. 1876

*Wm. C. Sumner and W. C. Sumner
in the winter*

1876	31	To H. B. Sumner's hand	2125	575
May	31	"	2125	1590
Oct	31	"	2125	2956
Nov	31	"	2125	1687
				<u>\$6686</u>

1876	11	To Cash for W. C. Sumner	2000	3136
May	11	"	2000	5136
Oct	11	"	2000	7136
Nov	11	"	2000	9136
				<u>\$3136</u>

Wm. C. Sumner and W. C. Sumner

6
 P. J. England
 D. J. England

Mess C. Dumas and J. C. Pinck
 In Accordance
 Mrs Nancy Dewitt

For work by two sons

1876						
Aug	31	By Hauling 146700 th Sand	140 th per day	29 34		
"		8 Days Work	c 12 th per day	10 00		
Sept	30	Hauling 196000 th "	c 40 th per day	39 20		
Sept	30	" 1/2 days Work	c 12 th per day	7 18		
Oct	31	" Hauling 228000 th "	c 40 th per day	45 60		
Nov	30	" " 27000 th "	" " "	5 45		
				<u>\$136 72</u>		

1876						
Sept	14	By Cash for C. Dumas		39 34		
Oct	19	" " " do		25 50		
"	23	" " " do		5 00		
Nov	11	" " " do		29 57		
Balance				37 38		
				<u>\$136 72</u>		

Dec. 1 To Balance due Mrs Dewitt
 Rush Forr. Mo
 Assign the within Ac to P. J. England
 Nancy ^{her} Dewitt
 witness Jno M Rutledge ^{mark}

M. O. Dumas and J. C. Finch
 M. S. Baker Dr. H. Wirth

1876-				Dep		
Sept.	30	23 Days Work.		100	300	
Oct	31	" 12 3/4 "	do	"	1275	
Nov.	30	" 15 1/2 "	do	"	1550	
					\$31 25	
Oct.	20	By Cash pr C. Dumas				300
Nov.	11	" " " do				640
		Balance				21 85
						\$31 25
Dec	1	2 Bal due M. S. Baker		Dep		\$21 85

Wm C. Dummer and J. H. Linnick

Dr. H. W. Smith

John H. Martin

Dr

Sept.	30	To 11 Days Work at Sand	\$1.00	4.00
Oct	10	" 5 "	\$1.00	5.00
	21	" 10 1/4 "	\$1.00	10.25
Nov.	30	" 1 1/2 "	\$1.00	1.50
				<u>\$20.75</u>

Oct.	20	By Cash for Dummer	3.00
Nov.	11	" " " do	9.50
Balance			8.25
			<u>\$20.75</u>

Dr

Dec	1	To Bal due J. H. Martin	\$8.25
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Wp C. Dumm and J. C. Finch
 On Account
 Jesse Haggner Dp

Aug. 31	2	Hauling	128100	# Sand	40	pr	3m	2562
Sept. 30	"	"	227500	#	"	"	"	4550
Oct. 31	"	"	44000	#	"	"	"	880
								<u>\$7992</u>

Sept. 14		By Cash	for	C. Dumm				2562
Oct. 19	"	"	"	"	"	"	do	2700
Nov. 11	"	"	"	"	"	"	"	1850
Balance								880
								<u>\$7992</u>

1876.
 Dec 1 2 Bal. due J. Haggner Dp \$880



Aug.

Oct 11

Nov.

21

21

Q. 0

2 Hauling 46500 # Sand @ 40¢/yr Ton

" 9 P 57800[#] " 345 " "



930

1156

1160

~~8~~ 3246

Sept.

Nov.

14

By lease & C. D. Dummer

4 4 4 4 do.

930

~~5-2-2~~

108 65

174

1741

11/10/1876

Wm and J. C. Stark
 & Chamberlain
 Bristol

Aug.	31	2 2	Large Milk Cushing	and	\$1.50	\$2.50
Sept.	5	6	"	"	7.50	
"	30	2 3/4	"	"	2.75	
Nov.	30	3	"	"	3.00	
1876						
Sept.	12	By Cash for D. Stark			\$2.00	
Nov.	11	"			9.00	

Balance due at Chamberlain
 West St. Nov. 11. 1876

\$2.50	
7.50	
2.75	
3.00	
\$12.75	
\$2.00	
9.00	
\$12.45	
\$3.80	

Assign the within acct to
 within St. Margaret's
 St. Margaret's
 West

W. H. H. M.

B. F. England Plaintiff }
v }
Carlos Dumm and }
J. C. Faint Defendants }

In the Jefferson Circuit Court.
Jan Term 1878.

Plaintiff states that Defendants during the year 1876¹⁸⁷⁷ were partners in trade doing business with Louis and Jefferson County Missouri or vendors of said

Plaintiff further states that Defendants owe ^{him} the sum of ~~Ninety two~~ ^{fifty two} dollars, balance for ^{roughing} ~~said~~ ^{work} and delivered to for them in September, October and November 1876. ^{at their request} for work each paid, the particulars of all which will fully appear by reference to the bill of items showing the debits and credits herewith filed marked exhibit "A". He states that he demanded payment of said sum of Defendants on the 1st day of December 1876 but they refused and still fail and refuse ~~and~~ to pay the

same. Wherefore Plaintiff may
Judgment for Ninety two ⁰⁰ dollars
together with interest thereon
from December 1st 1876.

For further cause of action
Plaintiff states that in August
September October & November
1876 one J. E. Woffener sold
and delivered to defendants
girths, wares & merchandise and
hair cork for them ^{at their request} to the
amount of \$80.19 and that they
paid thereon the sum of \$107.80
leaving a balance due said
Woffener of \$72.39 which he
demanded of them on the 1st day
of December 1876 but which they
refused and still refuse to pay.
The items of said indebtedness with
the credits thereon will appear by
a bill of particulars herewith filed
marked Exhibit "B". Plaintiff
states that on or about the 1st day of
September 1877 the said Woffener
sold, transferred and assigned to
Plaintiff the account for said
against defendants & Plaintiff
~~Wherefore Plaintiff may just~~

now the legal
is holder owner thereof.

Wherefore Plaintiff pray judgment
for the sum of seventy two ⁹⁹ dollars
with interest thereon from December
1st 1876.

For further cause of action Plaintiff
states that Defendants owed
Theodor Ehrichs for ^{hauling} ~~hauled~~ sold
and delivered to them & bond paid
for them ^{at their request} in 1876 the sum of
\$30⁹⁷ on which they paid
said Ehrichs \$80,00 leaving
a balance of \$62,05 still due
the particulars of all which
with the credits thereon will
fully appear by a bill of partic-
ulars herewith filed and
marked & initialed "C". He
further states that said
Ehrichs demanded said balance
of Defendants on 1st day
of December 1876.

~~Wherefore Plaintiff pray
judgment for \$45 three & 00
cents with interest thereon
from December 1st 1876.~~

Plaintiff further states that
said Ehrichs ^{about Sept 1877} sold horse and
and delivered said account

to Plaintiff who is now the legal
holder and owner thereof.
Wherefore Plaintiff prays judg-
ment for \$45 three dollars
with interest thereon from
December 1st 1876.

For further cause of action
Plaintiff Notes that defendants
owed Dallas Agency for ~~services~~
~~days work~~ ~~their~~ ~~days~~ ~~work~~
work and labor performed for them
at their request ^{in 1876} a balance of twenty
Eight ⁵⁰/₁₀₀ dollars the particulars
of all which will fully appear by
reference to the bill of particulars
~~with the~~ of items with the credits
thereon herewith filed marked
Exhibit "D". Plaintiff states that
said Agency demanded said
defendants said balance
on the 1st day of December 1876
but they refused to pay it and
still refuse to do so. Plaintiff
states that about September 1877
said Agency sold household and
delivered said account to
Plaintiff who is the legal holder
and owner thereof.

Wherefore Plaintiff demands
Judgment for twenty five at 50
and in Court thereon from
December 1st 1876.

For further Cause of action Plaintiff
states that Defendants owed
Thomas Shannon \$45 ⁸⁶ dollars
for fifty three and one half days
work at \$1.25 ^{in 1876} per day, the parties
~~to the~~ particulars of all which
will fully appear by the bill of
items with the credits thereon
herewith filed and marked Exhibit
E. Plaintiff states that there
is a balance due for said
work of \$1.36. & that said
Shannon demanded the same
of Defendants on the first day
of December 1876 but they
refused and still refuse
to pay the same. Plaintiff
states that about Sept 1877
said Shannon sold house and
land and delivered to Plaintiff
said account & that he
is now the legal owner and
holder thereof.

Wherefore Plaintiff demands
Judgment for thirteen ³⁶ dol-

loss with interest thereon from
December 1st / 1876.

For further cause of action
Plaintiff states that defendant
owed Nancy Deuit \$36.72 for
work and labor performed for
them at their request in 1876
on which they paid her \$99.34
leaving a balance due her of
\$37.38 the particulars of all
which with the credits
thereon will fully appear by
reference to the bill of items
herewith filed marked Exhibit
A & that the defendant said
balance of defendant
on the 1st day of December / 1876
but they refused and still refused
to pay it. Plaintiff states
that about Sept 1877 said
Deuit sold her share and
delivered said account
to Plaintiff who is now the
legal holder and owner
thereof.

Wherefore Plaintiff prays
Judgment for Thirty Seven ³⁸
Dollars with interest thereon

from Dec. 1st 1876.

For further Cause of action Plaintiff states that Defendants owned Th. S. Baker \$1,25 for work and labor performed for them at their request in 1876 on which they paid him the sum of ~~\$1,70~~^{\$2.40} leaving a balance due him of \$21.85, the particulars of all which with the credits thereon will fully appear by reference to a bill of items herewith filed and marked exhibit 2. He states that on Dec 1 1876 the said Baker demanded said balance of Defendants which they refused & still refuse to pay.

Plaintiff states that about Sept 1877 the said Baker sold his interest and delivered said account to Plaintiff who is now the legal holder and owner thereof.

Wherefore Plaintiff prays judgment for Twenty one ²⁵ dollars with interest thereon from Dec 1st 1876.

For further Cause of action

Plaintiff states that defendants
owned John Siefert for work and
~~base~~ labor performed for them
at their request in 1876 the sum
of \$59.42 on which they paid
him \$42.99 leaving a balance
due him of \$16⁴³, the particu-
lars of all which with the
credits thereon will fully
appear by a bill of items here
with filed marked exhibit
"H". He states that said Siefert
accounted said balance
of defendants on Dec 1876
which they refused and still
refuse to pay.

He states further that about
Sept 1877 said Siefert sold
his share & delivered to
said account to Plaintiff
who is the legal holder & owner
thereof.

Wherefore he demands judg-
ment for fifteen⁴³ dollars &
interest thereon from Dec. 1
1876.

For further cause of action
Plaintiff states that defendants

owed John W. Martin a balance
of \$82⁹ for work and labor per-
formed for them at their request
in 1876 the particulars of
all which will fully appear
by a bill of items with the credits
thereon herewith for marked
Exhibit "A".

Plaintiff states that on Dec 1 1876
said Martin demanded
said balance of Defendants
which they refused and still
refuse to pay. He states that
about Sept 1877 the said Martin
sold his interest and delivered
to Plaintiff the said account
and that he is now the legal
owner & holder thereof.

Wherefore he demands payment
for \$82.50 with interest thereon
from Dec 1 1876.

For further cause of action
Plaintiff states that Defendant
owed Jesse W. Haffner a balance
of \$885 for work performed for
them at their request in 1876
the particulars of all which
with the credits thereon will
fully appear by a bill of items

herewith filed marked Exhibit
J. He states that said Jesse
demanded of defendants
said balance on Dec 1
1876 which they refused and
still refuse to pay.

Plaintiff states that about Sept
1877 said Jesse sold horse and
and delivered to Plaintiff said
account that he is now
the legal owner thereof
Wherefore Plaintiff demands
judgment for \$5.00 with cost
thereon from Dec 1 1876.

For further cause of action
Plaintiff states that defendants
owed Jim Bradford \$32.46 for
work & labor performed for them
at their request in 1876 on
which they paid him \$15.00
leaving a balance of \$17.46
still due him the particulars
of all which with the credits
thereon will fully appear by
a bill of items herewith filed
marked Exhibit L. He
states that said Bradford
demanded said balance

of \$74^{of defendants} on Dec 1/1876

Plaintiff states that about Sept 1877 the said Bradford sold horses and delivered said account to Plaintiff who is now the legal owner and holder thereof.

Wherefore he demands judgment for seventeen \$1 dollar with interest from Dec 1/1876.

For further cause of action Plaintiff states that defendants owed A. Chamberlain a balance of \$3.30 for work & labor performed for them at their request in 1876 the particulars of all which with the credits thereon will fully appear by a bill of items herewith filed marked Exhibit M. Plaintiff states that said Chamberlain demanded said balance of defendants on Dec 1/1876 which they refused and still refuse to pay. Plaintiff states that about Sept 1877 said Chamberlain sold horses and delivered said account to Plaintiff who is now the legal

owner and holder thereof.
Wherefore he demands judgment for \$30 and costs from Dec 1/1876.

John L. Howard & Bro
Atty for Plaintiff

D. F. England

3

Dunn & First

Action for
Apex

Filed Nov. 6th - 1877.

L. P. H. Norine

Clerk

" B. A. England - Plaintiff
Carlos Linnin^{vs} and J. C. Chick - Defendants }

In the Jefferson Circuit Court
Jany Term 1878

Plaintiff states that Defendants during the year 1876 were partners in trade doing business in St Louis and Jefferson County Missouri as vendors of sand. Plaintiff further states that defendants owe him the sum of ninety two ¹⁰/₁₀₀ dollars balance for sand sold and delivered to them in September, October and November 1876 & for cash paid at their request the particulars of all which will fully appear by reference to the bill of items showing the debits and credits herewith filed marked exhibit "A" - He states that he demanded payment of said sum of defendants on the 1st day of December 1876 but they refused and still refuse to pay the same wherefore Plaintiff prays judgment for ninety two ¹⁰/₁₀₀ dollars together with interest thereon from December 1st 1876 - For further cause of action Plaintiff states that in August September & October & November 1876 one J. C. Chaggers sold and delivered to Defendants goods wares merchandises and paid cash for them at their request to the amount of \$180.19

and that they paid thereon the sum of \$107.80 leaving a balance due said Huggener of \$72.39 which he demanded of them on the 1st day of December 1876 but which they refused and still refuse to pay - The items of said indebtedness with the credit thereon will appear by a bill of particulars herewith filed marked Exhibit 'B' - Plaintiff states that on or about the 1st day of September 1877 the said Huggener sold transferred and assigned to Plaintiff the account aforesaid against Defendants & Plaintiff is now the legal holder & owner thereof - Wherefore Plaintiff prays judgment for the sum of \$72³⁹ dollars with interest thereon from December 1st 1876.

For further cause of action Plaintiff states that Defendant owed Theodore Ehrick for sand sold and delivered to them & board paid for them at their request in 1876 the sum of \$130.57 on which they paid said Ehrick \$68.05 leaving a balance of \$63.05 still due the particulars of all which with the credits thereon will fully appear by a bill of particulars herewith filed and marked Exhibit 'C' - He further states that said Ehrick demanded said balance of Defendants on the 1st day of December 1876.

Plaintiff further states that said Choick about Sept 1877 sold transferred and delivered said account to Plaintiff who is now the legal holder and owner thereof - Wherefore Plaintiff prays judgment for sixty three dollars with interest with interest thereon from December 1st 1876.

For further cause of action - Plaintiff states that Defendant owed Dallas Cheney for work and labor performed for them at their request in 1876 a balance of twenty eight ^{two} dollars the particulars of all which will more fully appear by reference to the bill of particulars of items with their credits thereon herewith filed marked Exhibit A. Plaintiff states that said Cheney demanded of said Defendant said balance on the 1st day of December 1876 but they refused to pay it and still refuse to do so - Plaintiff states that about September 1877 said Cheney sold transferred and delivered said account to Plaintiff who is ~~now~~ the legal holder and owner thereof - Wherefore Plaintiff demands judgment for twenty eight ^{and} and interest from December 1st 1876 - For further cause of action Plaintiff states that Defendant owed Thomas Shannon sixty six ⁸⁶ dollars for fifty three and

and my half days work at \$1²⁰ per day in 1876
the particulars of all which will more fully
appear by bill of items with the credits thereon
~~marked~~ herewith filed marked Exhibit 'C'
Plaintiff states that there is a balance due for
said work of \$31.36 & that said Shannon de-
manded the same of Defendants on the 1st day
of December 1876 but they refused and still
refused to pay the same - Plaintiff states that
about September 1877 said Shannon sold
transferred and delivered to Plaintiff said
account & that he is now the legal owner
& holder thereof - Wherefore Plaintiff de-
mands judgment for thirty one ³⁶/₁₀₀ dollar
with interest thereon from December 1st 1876

For further cause of action Plaintiff states
that Defendants owed Nancy Sewick \$136.72
which they paid her \$99.34 leaving a bal-
ance due her of \$37.38 the particulars of
all which with the credits thereon will
fully appear by reference to the bill of items
herewith filed marked Exhibit 'D' & that
she demanded said balance of Defend-
ants on the 1st day of December 1876 but
they refused and still refuse to pay it
Plaintiff states that about Sept 1877
said Sewick sold transferred and delivered
said account to Plaintiff who is now the

2/n
legal holder and owner thereof - Wherefore
Plaintiff prays judgment for thirty seven
³⁰ dollars with interest thereon from Dec
1st 1876. For further cause of action Plain-
tiff states that Defendants owed M. S. Baker
\$31.25 for work and labor performed for them
at their request in 1876 on which they paid
him the sum of \$9.40 leaving a balance
due him of \$21.⁸⁵ the particulars of all
which with the credit thereon will fully
appear by reference to a bill of items here-
with filed marked Exhibit "G." He states
that on Dec 1st 1876 the said Baker demand-
ed said balance of Defendants which they
refused and still refuse to pay - Plaintiff
states that about Sept 1877 the said Baker
sold ~~was~~ transferred and delivered said ac-
count to Plaintiff who is now the legal
holder and owner thereof - Wherefore Plain-
tiff prays judgment for twenty one ⁸⁵ dol-
lars with interest thereon from Dec 1st 1876.
For further cause of action Plaintiff states
that Defendants owed John Siefert for work
and labor performed for them at their request
in 1876 the sum of \$59.42 on which they paid
him \$42.99 leaving a balance ~~due~~ ^{due} of
him of \$16.43 the particulars of all which

with the credits thereon will fully appear by a bill of items herewith filed marked Exhibit "C" - He states that said Siefert demanded said balance of Defendants on Dec 1st 1876 which they refused and still refuse to pay. He states further that about Sept 1877 said Siefert sold transferred & delivered said account to Plaintiff who is the legal holder & owner thereof - Wherefore he demands judgment for sixteen ⁽⁴³⁾ dollar interest thereon from Dec 1st 1876 -

For further cause of action Plaintiff states that Defendants owed John B. Martin a balance of \$8²⁵ for work and labor performed for them at their request in 1876 the particulars of all which will fully appear by a bill of items with the credits thereon herewith filed marked Exhibit "A" - Plaintiff states that on Dec 1st 1876 said Martin demanded said balance of Defendants which they refused and still refuse to pay.

He states that about Sept 1877 the said Martin sold transferred and delivered to Plaintiff said account and that he is now the legal owner holder thereof - Wherefore he demands judgment for \$8²⁵ with interest thereon from Dec 1st 1876. For further

causes of action Plaintiff states that Defendants owed Jesse Haggeneuer a balance of \$8⁸⁵ for work performed for them at their request in 1876 the particulars of all which with the credits thereon will fully appear by a bill of items herewith filed marked Exhibit "J" - He states that said Jesse demanded of Defendants said balance on Dec 1st 1876 which they refused and still refuse to pay - Plaintiff states that about Sept 1877 said Jesse sold transferred and delivered to Plaintiff said account & that he is now the legal owner and holder thereof - Wherefore Plaintiff demands judgment for \$8.⁸⁵ & interest thereon from Dec 1st 1876 - For further causes of action Plaintiff states that Defendants owed Wm Bradford \$32⁴⁶ for work & labor performed for them at their request in 1876 on which they paid him \$15.00 leaving a balance of \$17⁴⁶ still due him the particulars of all which with the credits thereon will fully appear by a bill of items herewith filed marked Exhibit "L" - He states that said ~~balance~~ Bradford demanded said balance of \$17⁴⁶ of Defendants on Dec 1st 1876 - Plaintiff states that about Sept 1877 the said Bradford sold transferred

delivered said account to Plaintiff who is now the legal owner & holder thereof - Wherefore he demands judgment for seventeen ⁴/₁₀ dollars with interest from Dec 1st 1876 - For further cause of action Plaintiff states that Defendant owed A. Chamberlain a balance of \$3³⁰ for work & labor performed for them at their request in 1876 the particulars of all which with the credits thereon will fully appear by a bill of items herewith filed marked Exhibit "A" - Plaintiff states that said Chamberlain demanded said balance of Defendants on Dec 1st 1876 which they refused and still refuse to pay - Plaintiff states that about Sept 1877 said Chamberlain sold transferred and delivered said account to Plaintiff who is now the legal owner and holder thereof - Wherefore he demands judgment for \$3³⁰ & interest from Dec 1st 1876.

John L. Thomas & Bro

Attys for Plaintiff

A true copy of the original petition.

Witness my hand and the seal of the circuit court of Jefferson County Mo. at office in Hillsboro. this 10th day of November 1877.

C. H. Hume

Clk Cir. Ct.

The State of Missouri, } ss.
COUNTY OF JEFFERSON.

The State of Missouri,

TO THE SHERIFF OF ^{the} COUNTY OF JEFFERSON---GREETING:

We command ^{you} that you summon Carlos Dumm

if he be found in your County, that he be and appear before the Honorable Judge of our Circuit Court, on the first day of the next term thereof, to be begun and held at the town of Hillsboro, within and for the County of Jefferson, on the Second Monday of January next, then and there to answer unto

J. F. England

upon his original petition, a copy whereof is hereunto annexed and accompanies this writ, and have you then and there this writ.

Witness, C. THO' HORINE, Clerk of our said Circuit Court, with the seal thereof hereunto affixed, at office in Hillsboro, this 10th day of November A. D., 1877.

C. Tho Horine, CLERK CIRCUIT COURT.

Represented the within writ - in Jefferson
County Mo. on the 10th day of November 1877
by delivering ~~to him a true copy of the within writ~~
~~and petition~~ a true copy of the within writ
and petition to the within named Carlos
Dunn & Fink not found in my
County

John Williams Sheriff
by J. L. Meann Deputy

4029
A^o 5

RETURNABLE
TO
JEFFERSON CIRCUIT COURT.

January TERM, 1878.

B. A. England
vs

Carlos Dunn
& J. C. Fink

Original

John Williams
Sheriff for

\$ 1.60

The State of Missouri, } ss.
COUNTY OF JEFFERSON.

The State of Missouri,

of the City of St. Louis
TO THE SHERIFF ~~OF COUNTY OF JEFFERSON~~ --- GREETING:

I command that you summon *J. L. Smith*

if he be found in your *City* ~~County~~, that he be and appear before the Honorable Judge of our Circuit Court, on the first day of the next term thereof, to be begun and held at the town of Hillsboro, within and for the County of Jefferson on the *second* Monday of *January* next, then and there to answer unto

R. F. England

upon *his* original petition, a copy whereof is hereunto annexed and accompanies this writ, and have you then and there this writ.

Witness, C. THO' HORINE, Clerk of our said Circuit Court, with the seal thereof hereunto affixed, at office in Hillsboro, this *10th* day of *November* A. D., 1877.

C. Tho' Horine, CLERK CIRCUIT COURT.

17

RETURNABLE
TO
JEFFERSON CIRCUIT COURT.

January TERM, 1878.

vs
J. A. England

et al
J. C. Smith

X-14/77

original

Keep these + accounts on; No account to
Benton Co.
\$11-00
J. C. Smith

the city of
Executed this writ in St. Louis on the 14th day of December
1877 by delivering a copy of the writ and petition as fur-
nished by the clerk to John C. Smith the defendant.

John C. Smith Sheriff City of St. Louis Mo.
By Jacob Heller
JCH

Just \$1.00
Paid by plff

State of Missouri }
Jefferson County } ss.

In the Jefferson Circuit Court
B F England, Plaintiff. } January Term 1878
vs }

Carlos Duran & J. L. Feinck } Separate Answer of Feinck.
Defendants }

Now comes the
said J. L. Feinck, defendant, and
for his separate answer, in this
cause, denies each and every of
the averments in plaintiff's
petition contained.

H. A. Hart

v. H. B. Wilson

Attys for said Defendant.

to

Jefferson Lincoln Kent

13 Fe England

no

Charles Sumner Etal

Separate answers
of J & Feinckl.

Filed June 12 1878.

Le Roi Maine

Clerk,

Adm & 100 73 Blaine
Att'y.

NOTICE TO TAKE DEPOSITIONS.

(Wagner's Statutes, page 523, Sec. 9; page 524, Secs. 10-13.)

B. F. England

AGAINST

Plaintiff,

John C. Finck et al

Defendant.

In the

Jefferson Circuit

Court of

County of

Jefferson

STATE OF MISSOURI.

TO THE ABOVE NAMED

Plaintiff John L. Thomas & Bros. Attorneys

YOU ARE HEREBY NOTIFIED, That depositions of witnesses to be read in evidence in the above entitled cause, on the part of the

Defendant Finck

will be taken at

the

Office of Henry N. Hart Atty at Law No 410 Market Street

in the

City

County of

St. Louis

and State of

Missouri

on the

14th

day of

*January*187*8*,

between the hours

of eight o'clock in the forenoon and six o'clock in the afternoon of that day; and that the taking of said depositions, if not completed on that day, will be continued from day to day, at the same place and between the same hours, until completed.

Service of the above notice is hereby acknowledged, and issue of dediums, and all exceptions as to time, waived.

187

Henry N. Hart
Atty for John C. Finck
Jan 6 P M

I herby set the Within estate in Jefferson
County Mo on the 27th Day of December 1877
on John L Thomas and Brother by Delivering
to them a true copy of this estate as furnished
to me

John Williams, Sheriff
Jefferson County Mo

John Williams
Sheriff fee 50

MONTHLY STATEMENT.

St. Louis, Sept. 28th 1876

M^r Carlos Dunn

J. C. FINCK, JR.

LIME, CEMENT, PLASTER, HAIR, &c., &c.

P. O. Box 2705.

N. W. COR. BARTON & KOSCIUSKO STREETS.

By 409.915 tons coal at 13 th			737 84
To 409.915 " " " 60 th	266	44	
" towing & shifting barge	105	00	
" unloading	40	00	
" hauling 409.915 tons at 35 th	143	47	
" moving on barge	36	25	
" caulking barge here	16	00	
" material for caulking	11	30	
" caulking at Rushmore	3	00	
" disc of \$737 ⁸⁴ / ₁₀₀ - 75 days at 10%	35	37	636 83
Cash Account			\$101 01
To cash for C. Dunn			300 00
" " " Wilson's ^{and others} for			37 00
			337 00
By amt as per contract	266	44	
" one half of \$101.01	50	51	316 95
Amount over paid			\$20 05
By tra system			

Exhibit A

B. F. England
Plaintiff
vs.
J. C. Finck et al
Defendants.

In the Jefferson Circuit
Court of County of
Jefferson.
State of Missouri
N^o

Depositions of Witnesses produced sworn
and Examined on the Fourth day of January in the
year of our Lord 1848. between the hours of 8 O'clock
in the forenoon and 6 O'clock in the afternoon of
that day. at the Office of Henry N. Hart Esquire at
N^o 410 Market Street in the City of St Louis and
State of Missouri before me James R. Cameron
a Notary Public, residing in the said City, in a certain
Cause now pending in the Jefferson Circuit Court —
of the County of Jefferson in the State of Missouri
between B. F. England — Plaintiff and J. C.
Finck et al — Defendants on the part of
the J. C. Finck — one of the Defendants.

Present. Thos. C. Fletcher Esq on behalf of Plaintiff &
Henry N. Hart Esq on behalf of Defendant.
John C. Finck.

Carlos Dummer of lawful age being produced
sworn and examined on the part of the Defendant Finck.
deposes and saith

Question. What is your age. and place of residence?

Answer. My residence is St Louis, my age 46.

Question. Are you one of the Defendants in this Suit

Answer I am -

Question Do you know the Plaintiff, England?

Answer I do.

Question Have you had any dealings with him in the sand line in 1846.

Ans Yes Sir. All the business I had with him was that he furnished me a team to haul my sand, and room on the bank of the River to store -

Quest Will you state whether you ever bought any sand from Mr England in 1846?

Ans No Sir, I did not -

Quest Do you know of Mr England having given you any Cash in 1846?

Answer One time he gave me \$20 or \$25 dollars I don't recollect which to pay off one of my hands who was going to leave

Quest On whose account was the transaction made with England which you have already stated about?

Ans On my personal account -

Quest Do you know John C Finch, and if so how long have you known him?

Ans I know him, and I have known him for a about a year and a half -

Quest What if any interest had Mr Finch in your obtaining sand up at Rush Tower; and touching the claim of Mr England that

you have already testified about?

ans.

All ~~that~~ the claim that Mr Finck had in the matter is this, that I told the Plaintiff that Mr Finck was to pay me \$80 a ton for the sand on the barge, ~~and that~~

ques.

Do you know J E Waggoner of Jefferson County?

Ans.

I do.

ques

What, if any, dealings did you have with him about the same time you had with England? please state it in full?

ans

He helped to furnish the team to haul sand to the river, and also I got some merchandise & materials for money. He also bought some of the time of some of the men who were working for me since I left there.

ques

On whose account were all those dealings had with Waggoner?

Ans.

On my personal account.

que

Do you know a person in Jefferson County named Theodore Ehrich?

Ans

I do -

que

Did you have any dealings or transactions with him in 1876 about the same time that you had with those other two parties?

ans

I did. - He furnished a team to haul, the same as the other two parties I spoke of. I also boarded with him but I paid that

Ques. On whose account was this dealing with Ehrick; had?

Ans. On my own personal account.

Ques. Do you know a man in Jefferson County named ed. Wallace, Cheney?

Ans. I do not know man of that name; but I do know a man named Dallas Cherry.

Ques. Did you have any dealings with a man in 1876 named Wallace Cheney?

Ans. No Sir -

Ques. Did you have any dealings in that year with a man named Dallas Cherry.

Ans. I did - He worked for me in pulverizing sand.

Ques. Who Employed ^{him} - and on whose account

Ans. I did, on my personal account.

Ques. Do you know a man named Thomas Shannon in Jefferson County?

Ans. I do -

Ques. What, if any, dealings had you with him in 1876?

Ans. He helped to quarry; or worked on the sand barge -

Ques. Who employed him, and on whose account?

Ans. - I employed him on my personal account.

Ques. Do you know a woman in Jefferson County named Nancy Dewit?

Ans. I do -

Ques. What, if any, dealings or transactions had you with her in 1846.

Ans. None, but her ^{two} boys were working for me hauling sand - and they left their Bill with her for collection -

Ques. On whose account and by whom were they employed?

Ans. They were employed by me on my personal account -

Ques. Do you know a Man in Jefferson County named ~~J. A. B.~~ M. S. Baker?

Ans. I do -

Ques. What, if any, dealings did you have with him in 1846?

Ans. He worked for me in crushing sand.

Ques. Who employed him, and on whose account?

Ans. I employed him, on my personal account;

Ques. Do you know a Man in Jefferson County named John Siefert?

Ans. I do - he hauled sand for me the same as the rest in 1846. -

Ques. By whom was he employed and on whose account?

Ans. He was employed by me on my personal account.

Ques. Do you know John W. Martin of Jefferson County?

Ans. I do. he helped to crush sand the

same as others for me - he was employed by me on my personal account. -

Ques. Do you know Jesse Draggener?

Ans. I do. He hauled sand the same as the others I have spoken of - and was employed by me on my personal account. -

Ques. Do you know a man named William Bradfield in Jefferson County?

Ans. I do. He hauled sand the same as the rest; and was employed by me on my personal account. -

Ques. Do you know a man named A. Chamberlin in Jefferson County?

Ans. I do, he helped to crush sand the same as the others I have testified about; and was employed by me on my personal account.

Ques. Do you know whether these persons, that you have testified about, are the same persons mentioned in the petition, with the exception of the two ^{sons} ~~sans~~ of Nancy Dewit?

Ans. Yes. they are the same persons -

Ques. In answer to a previous question with regard to this sand, you stated that you told Mr. England that Mr. Finch was to pay you 80¢ per ton on barge; now please, state whether he paid you that 80¢ p^r ton -

Ans. He paid me 80¢ p^r ton for all, excepting on the last barge. -

Ques.

State how about this last barge?

Ans.

I had the barge loaded in the fall of 1876 - and we could get no tow-boat to fetch it up the River to St. Louis, owing to ice being in the River - Mr Kiver threw over board part of that load, as he said, to save the Barge.

Ques.

Well, you got paid for all the sand you brought here on that barge?

Ans.

We paid Mr Kiver part for the loading of that barge, and paid ^{the plaintiff} me the remainder -

Ques.

What if any interest had Mr Fink in that 80¢ per ton for that sand?

Ans.

His interest was that it should not cost him more than 80¢ per ton -

Ques.

Who, if any one, were interested or concerned with you in that sand transaction until the same was put upon the Barges?

Ans.

No one but myself until I put it on the Barges.

Ques.

Then, if I understand you right, Mr Fink the Co-Defendant, contracted with you to load barges of sand, for which he agreed to pay you 80¢ per ton, for the sand delivered on the barges?

Ans.

Yes Sir -

Ques.

Whose barges were they that the sand was put on; and whose hands were on those barges?

Ans.

J C Fink's

Ques.

In that Contract you have spoken of

whose hands & barges were to be furnished to you for the purpose of bringing the sand up to St. Louis - is that so - if not - state how it was -

Ans J. C. Finck furnished the barge and the hands. ~~and charged the same to Expense Account.~~

Ques. At the time you were taking the sand out under the Contract with him, that you have spoken of, were you taking any sand out for any other party at the ^{same} time - ?

Ans Yes Sir -

Ques Will you be kind enough to state whether any of the parties named in the Plaintiff's petition were engaged by you, in furnishing sand for the other parties mentioned in the former question, at the same time you furnished the sand to Finck.?

Ans I can't remember the names of the parties engaged. but there was not any sand got out for other parties, while we ~~got~~ got out the last barge of sand -

Ques. I am asking you about all the ^{barges} loads that were ~~not~~ got out for Mr Finck - not the last one only?

Ans. That is a question which ~~you~~ I can only answer by saying; I got out two small shipments of sand for Conway

that fall - I cannot tell exactly what barge loads they were taken out of - some barge loads I got out for Conway, ~~the~~ for at the same time and some I did not -

Quest. I am asking you the names of the parties - if any of them are named in the petition, that helped you in the Contract for the Conway Sand.

Ans. Not all of them - some of them I remember, their names are. B F England the plaintiff, J. E. Waggoner, Theodore Ehrich, Thomas Shannon, Dallas Cherry, Jesse Waggoner John. Tipton & William Bradfield -

Ques. When did you get out the sand for Conway?

Ans. In the fall of 1876.

Ques. Anywhere about the same time you got out the sand for Mr Finch?

Ans. Yes Sir - about the same time
Crap Examined by Mr Fletcher.

To all the Testimony given in chief the Plaintiffs Counsel objects because the same is elicited by leading questions and because the same is incompetent irrelevant and does not tend to establish any issue in this cause -

To Mr Fletcher - When we first commenced to get out sand we had an agreement that

J. C. Finck should pay me 65¢ pr ton for the sand. this agreement was in writing. but I found that it could not be got out for that money, and J. C. Finck. agreed verbally, that he would pay me 80¢ pr ton - that was the agreement upon which we done our business. - I kept no separate account of the getting out of the Conway sand from that of Mr Finck. I had no capital when I made those contracts, to carry them out with - All the capital I had was the 80¢ paid by Mr Finck for the sand on the barge, and ^{my} share of the profits when the sand was sold after deducting the 80¢ pr ton & Expenses - The men were paid up for the sand that was gotten out for Conway, out of the Finck & Conway money, until Conway got all his sand. We had the misfortune in the fall of 1876. ~~to go~~ not to get our barge into the City of St Louis (that is Mr Finck's Barge) that is the reason, partly, that the hands named in the petition were not paid, as Mr Finck would not advance the 80¢ for the sand which was loaded on the barge that did not get up to St Louis - Mr Finck and I have never had a full settlement of our affairs.

By Mr Hart.

Do you know how you stand upon the final settlement with Mr Finck. are you in his debt or he in yours?

No sir - I do not know -

Subscribed and sworn to before me on the day
at the place & within the hours aforesaid.
James R. Cameron Notary Public
for the City of St. Louis Mo.
Comm. exp. Dec 28 Oct 81.

Carlos Dumm

I, James R. Cameron a Notary Public for and residing in, the City of St. Louis and State of Missouri duly Commissioned and qualified (whose Commission will expire on the 28th day of October A.D. 1881) do hereby Certify that in pursuance of the aforesaid notice, came before me Carlos Dumm — who was by me duly sworn to testify the whole truth of his knowledge touching the matters in controversy in the Cause aforesaid; that he was examined, and his Examination reduced to writing, by me, and subscribed by him in my presence on the fourth day of January A.D. 1878, between the hours of Eight O'clock in the forenoon and Six O'clock in the afternoon of that day at the place in that behalf first aforesaid, and his said Deposition is herewith now returned. And I hereby Certify that the said Carlos Dumm resides at the City of St. Louis in the State of Missouri.

In Testimony whereof I have hereto subscribed my name and affixed my notarial seal at the City of St. Louis this fourth day of January 1878.

James R. Cameron.
Notary Public
for the City of St. Louis Mo.



Not being able to complete the taking of the
Depositions, ~~owing to the unavailability of the~~ ^{with the consent of parties} I adjourn
the further taking of the same until tomorrow, then
to be continued at the same place and between the
same hours mentioned in the said notice.

James R. Cameron

Notary public

for the City of St. Louis Mo.
Comm. Expires Oct. 28th 1884

Pursuant to the adjournment as above stated on
the 3rd day of January A.D. 1878. between the
hours of 8 O'clock in the forenoon and 6 O'clock
in the afternoon I continued the taking of said depos-
itions as follows, viz:

John C. Finck - of lawful age being produced
sworn and examined on the part of Defendant Finck.
deposes and saith:

I am John C. Finck one of the Defendants
in this case - I reside in the City of St. Louis,
and I have resided there for fifteen years.
I know the Defendant Dumm since the
Spring of 1876. I had dealings with him
in the year 1876. I had a Contract
with him to deliver me sand on my
Barge, at Rush Lower, at 80¢ per ton - it
was a verbal Contract, and he Dumm
agreed to it. He furnished the sand on
the barge according to Contract and I
towed it to St. Louis at my own expense.
He was paid for all the barge loads of
sand that was delivered at St. Louis for
me, at the rate of 80¢ pr ton, according

to the Contract - There was a barge load of sand that did not come safely to St Louis, - that was the last load - The Barge was sunk by as follows - it was lying at Rush Lower, and ~~the~~ one of the Memphis Company Packet boats Collided with her and sunk her - on receiving that information here, I laid claim for the loss against the Memphis Packet Company. - that was settled by a compromise - The plaintiff in this case laid claim against the Memphis Packet Company for the value of the sand ~~accident~~ which was on the barge when sunk - He receipted to the Memphis Packet Co in full - the amount I do not recollect - but the receipt must be on file in the Office of the Company - the balance was paid over to me for the loss of my barge on the compromise - I know the plaintiff England - I met him in the year 1846 in the Company of Mr Dumm, my Co Defendant here in St Louis after the river had closed - we were talking generally about the condition of the barge, it was then in the ice and had not been sunk - That is about all the conversation I recollect we had at that time - except the plaintiff being here relative to the sunken barge, I do not remember

having any further Conversation with him -
I never had any dealings or transactions
with the plaintiff of any kind whatever -

Ques.

I will read to you the following names

D F England the Plaintiff.

J. E. Waggener - Theodore Ehrick -
Walter Cheney. or Dallas Cherry. -

Thomas Shannon, Nancy Dewit or
her two sons - W. S. Baker

John Siefert. John W. Martin -

Jesse Waggoner. William Bradfield
A Chamberlin? -

Ans.

I do not know any of the parties - nor had
I any transactions with them ^{whatsoever} ~~outside~~ of
the plaintiff except the plaintiff. - By this
I mean that I never had any transactions
or dealings with the plaintiff, and only know
him as I before stated. -

Ques.

What if any interest did you have in
the getting the sand ^{on to} ~~out of~~ the barges at
Rush Lower in 1876?

Ans.

None whatever - -

Ques.

What Capacity was Mr Durnan acting in
in getting in getting the sand out and putting
it on the barges at Rush Lower in 1876?

Ans.

He agreed to put the sand on the Barge
at 80¢ per ton. I had no Control of the
management down there, outside of the
contract - I had not the Employment of

the hands down there, I had nothing to do with ^{them} of any kind whatever.

Quest

What authority, if any, had Mr Dunn ^{from} you to contract any debts or make any obligation for you, or for you and him jointly, or ~~severally~~?

Ans

None whatever.

Ques

What if, any thing, had you to do with the teams, laborers, or any other obligation or expense, in getting out the sand and putting it on the ^{Barge} ~~sand~~ at Rush Tower in 1876?

Ans -

Nothing at all.

Ques.

Did you have any other transaction with Mr Dunn, except the transaction of the sand Contract which you speak of in 1876 at 80¢. per ton?

Ans

None whatever.

Ques

Who, if any body, did you pay for all the sand delivered you in St Louis under that Contract?

Ans.

I paid Mr Dunn.

Ques

How do you stand with Mr Dunn in regard to your accounts between you?

Ans

He owes me according to my Books a small balance.

Ques.

What, if any, claim or ^{demands} claims were made upon you by the plaintiff, or any of the

parties named in the petition by the Plaintiff, for any of the parties mentioned in the petition as assignors of their respective claims?—

Ans

There were no demands whatever made upon me by any body. It was only upon the petition being served upon me that I had notice of any such pretended claim.

Ques

Who, if any one, was in partnership in getting out with Mr Dumm in getting out that sand, and putting it on the Barge?

Ans -

To my knowledge - nobody.

+ Examined by Mr Thomas, on the part of the Plaintiff. -

Ques.

Mr Fick please state fully the Contract that you made with Mr Dumm in regard to the getting out, hauling, loading on the Barges, shipment to St Louis, and sale of the sand that you have mentioned?

Ans.

I have to separate the Contract. Mr Dumm agreed to put the sand on the barge at 80¢ pr ton - ~~he~~ I agreed to bring it to St Louis on my Barge; sell it to the best advantage; deduct the 80¢ pr ton, to be paid to Mr Dumm for putting the sand on the Barge, and the Expenses of bringing it to St Louis and delivering it here. - any surplus, left over, was to be divided between Mr Dumm and myself.

Ques. Was this Contract with regard to the whole thing made at the same time?

Ans. Yes Sir,

Ques. Did you ever pay Mr Dumm for the sand loaded on the barge which was sunk?

Ans. Mr England in Company with Mr Dumm and myself went to the Memphis Packet Company's Office - Mr England claimed payment for that Barge - load of sand in presence of Mr Dumm, and in his (Dumm's) presence. England receipted in full to the Memphis Packet Co - for the sand lost, on the barge sunk, by the Memphis Packet Company - I never paid for it - but the Memphis Packet Co did in the way I have above stated.

Ques. You were present at the same time - were you?

Ans. Yes Sir,

Ques. What were you doing there, and how did you happen to go there?

Ans. I went in Company with Dumm and England went to the Packet Company for settlement of the sunk barge and sand. I do not remember how we met, but we went to the Company for a business purpose.

Ques. Did Mr England represent himself, or represent Mr Dumm, in that

transaction with the Packer Co?

Ans. I cannot state. They were both there, in concert together.

[A paper was here shown the witness marked Exhibit A and is asked the following question]

Ques. Was this Statement Contained in Exhibit A made out by you or your Clerk -

Ans. It was made out by me and given to Mr Dunn -

[This Exhibit A is herewith returned with this Deposition]

Reexamined by Mr Hart

Ques. Was this Exhibit A made under the written Contract with Mr Dunn, or under the verbal Contract which you have testified to at 80 p. -

Ans. - It was made under the written Contract.

Ques. Was the written Contract made prior or subsequent to the verbal Contract?

Ans. It was made ~~prior~~ prior -

Ques. In your Cross Examination you say that the arrangement with Dunn, as to dividing the surplus, was made at the same time you Contracted with him; now please state what amount per ton, in that Contract you first agreed to pay for the Sano, and if the Contract was changed, please state in what respect

be shipped and sold; or was this business
to be continued by you and Mr. Dummer
so long as you could agree?

There was no agreement as to how
much and should be shipped & sold; nor
was there any agreement as to how long
it was to be continued.

Objected to by Counsel for Defendant Finch on
the ground that the Re-Crop-Examination
Does not grow out of the Re-Examination;
otherwise, illegal and incompetent.

J. C. Finck

Now to and subscribed before me this 5th
day of January, ^{28 1878} between the same hours and
at the place mentioned in said notice

James R. Cameron
Notary Public
for the City of St. Louis Mo.
Commⁿ Expires 28th Oct 1881.

I James R Cameron a Notary Public for the
City of St Louis and State of Missouri duly commissioned
and qualified, residing in said City (whose Commission
will expire on the 28th day of October A.D. 1881) do hereby
certify that in pursuance of the annexed notice, Came
before me. John C Finck who was by me duly sworn
to testify the whole truth of his knowledge touching the
matters in Controversy in the Cause aforesaid; that he
was examined, and his Examination reduced to writing
by me and subscribed by him in my presence on the
the 5th day of January A.D. 1878 between the hours
of 8 O'clock in the forenoon and 6 O'clock in
the afternoon of that day at the place in that behalf
first aforesaid and his said deposition is herewith now
returned. And I hereby Certify that the said
John C Finck resides in the City of St Louis
in the State of Missouri

In Testimony whereof I have
hereto set my hand and Notarial
Seal, this 5th day of January
A.D. 1878 at the City of St Louis aforesaid
James R Cameron
Notary Public for the
City of St Louis Mo.



In the Jefferson
Circuit Court
County of Jefferson
State of Missouri

D. J. England
— Plaintiff —
John E. Throckmold
— Defendant —

Decisions of
Circuit Court of
J. E. Throckmold
proff: Throckmold

Filed May 13 1878
at St. Louis, Mo.
Clerk,

Cost Bill	
Writing Depositions	9 00
Costs @ 15¢	10
Witnesses	50
Costs @ 15¢	20
Postage	\$ 9.50

Received of the Court of
Jefferson County, Mo.
the sum of \$9.50 for
costs of the case of
D. J. England vs. John E. Throckmold

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *C. Drum*

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 *16th* day of *May*, 187*8*, 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 *B. F. England*

is Plaintiff, and *C. Drum et al*
vs Defendant, on the part of *Plaintiff*, and herein you are in no wise
to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the
seal thereof hereto affixed, at office, this
day
of *A. D.*, 187*8*

C. Th. Horine, CLERK.

of marine battery on the coast in April 1850
May 1858 at the City of ~~St. Louis~~ ~~St. Louis~~
Missouri

of acknowledge service of the within
the, and marine necessity of service by a
proper officer St. Louis May 15th 1848.

to Dismore

P. J. England
vs
Lumm & Pickett
02/13/00

P

FILED

MAY
16
1872

to the Marine
CLERK.

Refused

1
The court declares the law to be that
if the court sitting as a jury shall
find from the evidence in this
cause that in 1876 defendants
entered into ~~an express~~ contract
whereby Leola Dumm being
the owner of a sand bank near
Reel Town Jefferson Co. Mo. agreed
to attend to getting out & delivering
sand on barges at Reel Town
to be furnished by John C. Finck
or that ~~thereupon~~ said Finck
was to advance to said Dumm
the expense of getting out and
delivering the sand on the barges
which the parties ~~agreed at the~~
~~time~~ at the time estimated at
80 cents per ton and that said
Finck should ship said sand to
St Louis sell it & after deducting
the expense of shipment & sale and
~~80 cents per ton~~ the expense of
getting ^{out} & delivering the sand
on the barges at the rate of 80
cents per ton should divide the
surplus between them then
they were partners in that
business and the putting of the

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

PAID
MAY 20 1878

L. H. HAYNE
CLERK.

Count should be for Plaintiff on
that issue.

2
The court ~~instructs~~ declares
the law to be that if the court
shall find from the evidence
that defendants entered
into a contract in 1876 by which
defendant Dumm being
the owner of lands bank near
Rush Tower Jefferson Co. Mo.
agreed to deliver sand on barges
at Rush Tower to be furnished
by John C. Frick & that said
Frick agreed to pay said Dumm
80 cents per ton for getting
out & delivering on said
barges the sand aforesaid &
agreed thereupon to transport
said sand to St Louis & sell it
& after deducting the 10 cents
per ton for getting & delivering
said sand on said barges
& the other expenses of transporting
& selling said sand divide
the surplus of money arising
from such sales of said sand
equally between himself & said
Dumm then they were
partners & the finding of
the court should be for plaintiff

for plaintiff

on that issue

Engler

June 1878

June 1878

FILED

MAY 20 1878

E. H. Hume
CLERK

Given

Superior Court Judge's instructions.

I.

The court, sitting as a jury declares
the law to be that under the
pleadings and the evidence the
plaintiff cannot recover -

1

Dependant's (Fenck's) instructions

11 If she be not sitting as a jury declares the law to be, "that Partnership is a matter of contract, and dependant Fenck cannot be made a partner with dependant Sumner against his will, by accident or the conduct of others. He must have agreed to be a partner of Sumner, or held himself out as a partner to the parties named in the petition and who must have treated him as such. If therefore Sum dependant Fenck did not agree to be co-partner, or did not hold himself out as a partner to the persons whose accounts are filed with the petition he cannot be held liable in this action against Fenck

See Freeman & Bloomfield 43 Me 391

Given

Superior Court of the District of Columbia

III

The court ~~sitting as a court~~ declares the law to be that before defendant Feinck can be made liable in this action on the ground that he held himself out as a partner - ~~there~~ it devolves upon the plaintiff to prove that he so held himself out to each of the parties holding such accounts previous to their assignment and was trusted accordingly. And the failure to make such proof as to any such account must preclude a recovery on such account as against Feinck.

Given

Dependant Feind's instructions

V.

The court ~~sitting as a jury~~ declares the law to be. That if it appear by the evidence that dependant Sumner was the owner of a Sand Bank and engaged in the sale of same and that dependant Feind undertook to purchase same, agreed with dependant Sumner that he would pay him 80¢ per ton delivered upon Barge at of Sand Feind at Rush Town. independent of any question as to what such sand might afterwards sell for and independent of any loss thereon. Then the fact that said Feind agreed to pay said Sumner one half of profits, if any, which he might realize after selling said sand and deducting same 80¢ per ton & expenses does not create said Feind a partner ^{and delivering the same upon the barge} in getting out such sand. And in determining the question as to how the said parties themselves regarded the matter it is proper to consider the circumstances growing out of the accounts and receipt offered in evidence

His Honor by said Feind in shipping said sand to the town's understanding the same and in the sale thereof by Feind

may

DECEMBER

MAY 20 1878

L. M. Davis.
CLERK.

Superintendent Flinck's Instructions -

VII. ~~If the Court~~

The Court sitting as a jury declares the law to be, that if the Superintendent Osburn, incurred the debts in the petition mentioned on his own personal account, and the said creditors so understood it and trusted him individually, then the plaintiffs cannot recover upon said accounts or either of them against said Flinck.

Refused

B. F. Ingland Plaintiff
Carlos Sumner & John
C. Fiske Defendants

In the Jefferson Circuit
Court May Term 1878.

Now at this day comes
said Plaintiff and moves
the Court to set aside the
finding of the Court and
grant him a new trial herein
for the following reasons.

1. Because the finding of
the Court is against the evidence
& the weight of evidence.
2. The Court refused proper
instructions prayed for by
Plaintiff.
3. Because the Court gave
improper instructions as prayed
by Defendant Fiske.
4. The finding should have
been for Plaintiff instead of
Defendant Fiske.

John L. Moore & Co
Attys for Plaintiff

B. F. Engle

27

Dunham & French

Chatham for B. F. Engle

FILED

MAY 20 1878

L. H. Stone
CLERK

Benjamin F. England Plaintiff }
vs }
John C. Fick & Carlos }
Dunn Defendants }

In the Jefferson Circuit Court,
May Term 1878.

Be it remembered that on the trial
of this cause the Plaintiff to sustain
the issue on his part introduced
the following testimony viz:

1. Carlos Dunn one of the Defendants
being sworn stated I reside at St. Louis
and reside there in 1876. Mr. Fick
my Co-defendant also resides
in St. Louis. In 1876 I was the owner
of a sand bank near Rush Town
Jefferson County Missouri and
Fick & I entered into a partnership
to ship sand to St. Louis & sell it. The
agreement was reduced to writing.
Ques. Please state what the contract
was?

Defendant Fick through his counsel
objected to this question because
it called for parole testimony as
to what the agreement was when
it appears it was reduced to writing.
Plaintiff then to lay the foundation

In the introduction of such testimony asked the witness the following question -

Ques. Is the written agreement in your possession or under your control? Ans. No. I never had a copy of it. Mr. Frick kept the only copy that was made & I have never seen it since we signed it.

Plaintiff then called John Kroun who testified that he heard John C. Frick say that this written agreement was lost - that he did not know & he did not know what had become of it. Whereupon the Court permitted Mr. Kroun to answer the question.

Ans. The agreement was that I was to ~~put the~~ furnish the sand & I agreed to deliver on barges at Rush Town to be furnished by Mr. Frick but as I had no capital Mr. Frick agreed to advance me 65 cents per ton for delivering it on the barges. He figured it up about same thought 65 cents would pay for getting the sand out, hauling

delivering it on the barges. The
first ~~loss~~ ^{loss} however was a mere
experiment to see if it could be
delivered on the barge for that
sum per ton. Mr. Frick was to
furnish the barges, have the
sand transported to St. Louis & sold
after deducting all the expenses
including the 65 cents per ton
for delivering on the barge, the
net profits were to be divided between
us equally. I was to superintend
the business at Rich Tower &
Mr. Frick at St. Louis. After I had
got out one barge load I discovered
that 65 ~~cent~~ cents per ton would
not cover the expense of getting
out, ~~but~~ hauling & delivering
the sand on the barge, & I informed
Mr. Frick of this & told him it
would cost 80 cents per ton to do
thereupon Mr. Frick agreed with
me to advance me 80 cents per
ton instead of 65 cents for getting out
& delivering this sand on the barge
& this was to be paid for the loss already
shipped & sold. After the first load
of sand was sold Mr. Frick rendered
me an account which was

Plaintiff then read in evidence the account thus rendered, which Defendant and I both admitted to be in his hand-writing & to have been furnished by him at the time stated in the account or following:

(The clerk will take copy this of)

Witness Dumm continued "The item in said account 'To 4099 1/2 tons sand at 65¢ \$266.44' is intended to represent the amount I was to get for delivering the sand on the barge. This account was rendered prior to our change of the agreement from 65 to 80 cents. The item in said account 'To hauling 4099 1/2 tons at 35¢ \$143.47' is for hauling from the barge to the Mississippi Glass Company in St. Louis for which we got the sand out. This account shows the gross amount the sand brought & the expenses of getting out, shipment & sale. The item for carting at Rush Town I had done myself. Sometime in the fall of 1876 we loaded a barge with sand at Rush Town but before it was taken away the River froze up & about 150 tons of the sand

2

were thrown overboard leaving about 155 tons still on board. The barge lay there till next spring when Mr. Frink & I hired Plaintiff to put on 325 tons of sand on this barge & agreed to pay him for it 90 cents per ton. Plaintiff put this sand on the barge shortly afterwards the Belle Memphis a steamboat belonging to the Memphis Packet Co ran into the barge & sank it. Mr. Frink & I claimed that Memphis Packet Co. was liable to us for the sand & sunk & finally the matter was adjusted the Packet Co. paying for the same. Mr. Frink received the money & he paid Plaintiff for the 325 tons he had put on, though he jemed him down to 80 cents per ton. Mr. Frink then paid Plaintiff \$65 on the 155 tons of the sand that was first put on the barge with directions to credit \$42 on Plaintiff's account for getting first sand, & \$17 on account of Geo. Ehrlich for some & to retain the remainder \$6 till he settled with one Keeffer who had a bill for wages for putting the sand on the barge at Rush Town. Frink retained \$39 of the money

for the purpose settling with & paying
Keeper off as he said he thought
he could make better terms with
Keeper than I could & he said
to Plaintiff that when he settled
with Keeper he would send him
the balance of the \$59 after paying
Keeper & Plaintiff should add it
to the \$6 he already had & divide
the whole pro rata among the parties
at Rock Town who had aid in getting
througling the land, the parties would
in this suit. I did not get a cent
of the money myself.

I hired the different parties for whom
accounts this suit is brought.
All the accounts mentioned in all
the counts of the petition are correct
& the amounts claimed are due.
I told the parties I employed that
Fisk was ~~was~~ in the business with
me but as to whether I told them
that he was a partner I do not
recollect. I told them that Fisk
was to pay me 80 cents per ton
for getting the land out and
delivering it on the barge.

Case examined by counsel for Defendants

I got 80 cents per ton for delivering
sand on the barge. I hired Plaintiff
& the parties named in the petition
on my own ^{personal} account to do the work
in getting out the sand & furnishing
gravel. A receipt signed by Plaintiff
& witness is here shown the witness
& he states that the receipt is genuine.
Thereupon Defendant Fink read
the receipt in evidence or follow
(He copy the receipt) I can't
explain why this receipt was not
given to Fink & Dumm instead
of Fink alone.

Witness was then asked: "Have you not given
your deposition in this case, which is now
on file (depositions were shown witness) and
are the statements made by you in such
deposition true?"

Witness replied: "I did give that deposition
and as that I testified to then is true."

By consent of parties the said deposition
was then ~~read~~ offered in evidence as a
part of the cross examination and it was
agreed that no objection should be made
to its introduction. It was as follows:
(Then read Dumm's deposition in full)

In my cross-examination I stated I knew
Plaintiff & the other parties named
on my own personal account
I mean by that that I was alone when
I hired them but I did not tell them
that was the alone responsible for
the pay or that Fink was not the
responsible for the pay. The work
was done & the job permitted for
the business Mr. Fink & I were
engaged in. The receipt read in
evidence was not intended to cover
any land that was thrown overboard
& was intended to cover the land
that was on the barge at the time it
sunk. Though I signed the receipt
I did not get a cent of the money
& Plaintiff did not get any of the
amount named therein. Mr.
Fink never paid me or anyone else
for the land that was thrown overboard.

B. F. England Plainly testified
 I did the work mentioned in my account
 for Fink & Deum. Mr. Deum
 told me that Fink was his partner
 & we knew Deum had no means
 & we would not have done the work
 for him alone. It was generally
 understood at Rich Town
 that Deum & Fink were partners
 in the land business. After the
 sand was on the boat before any sand
 was thrown overboard I got orders from
 the parties named in the petition
 to go to St. Louis to see Fink to
 get pay. He told me that he would
 settle their bill as soon as the barge
 arrived. The barge was frozen in
 the ice & a large portion of the load
 was thrown overboard & the barge
 lay there till spring & then Fink
 in the presence of Deum hired
 me to pick out the lost & unpaid
 & pay me 90 cents per ton. I put
 on this same barge 325 tons of
 sand. This barge was sunk by the
 Memphis Packet Co. & Mr. Fink
 made the Co. pay for the sand. It
 was estimated that were 155 tons
 of the fruit lost & sand still on the

boat when it sunk. Mr. Hink
paid me 80 cents per ton for the
325 tons I put on in the Spring
of 1877. & gave me \$65 of the money
received by him for the 155 tons
of coal sunk with directions that
I credit my account and
on with \$42 & pay \$17 to Shicks
on his account & to keep the
remaining \$6 till he settled with
one keeper who had a bill for putting
land on the barge & to pay keeper
he returned about 1/4 of the money
received for the 155 tons & he said
to me that when he settled with keeper
he would send me the balance of
the \$59 if any & I should divide the
\$6 among the parties at Rushdown
who had accounts. He stated as
a reason for wanting to pay keeper
himself he thought he could settle
on better terms than I could.
The receipt read in evidence was intended
to cover the land on the barge at the
time it sunk & none other.

Mr. Hink got me to have one of the
barges loaded & coal towed up to Spring
which I did & for which I paid

Five dollars, this he has not paid. He
also got me to get the stage plants which
had worked away. I got them for which
I paid \$2. This he has not paid.

Geo. Church sworn testifies my account
which I assigned to Plaintiff in this
suit is correct. Mr. Sumner told
me to do the work & I learned from
him that he & Fink were partners
I would not have done the work
for Sumner or I knew he was not
responsible.

Defendant Fink here admitted
the correctness of the account
made on & that they had been assigned
as stated in the petition & Plaintiff
here closed. and Defendant

to sustain the issue on his part
introduced the deposition of
John C. Fink as follows viz (

Here copy same) and he drew
his com. And this was all the evidence ^{by either party} presented.
Plaintiff asked the Court to declare
the law as follows (here copy in. 102
asked by Plff) which declaration of law
the Court refused to give to which
Plaintiff at the time accepted.

Defendant Fink asked the Court
to declare the law as follows (See
Copy Vis. 1, 2, 3, 4, 5 & 6 asked of Fink)
& the Court ^{gave} the declarations nos 1, 2, 3, 4 &
5 as prayed of Defendant to which Plaintiff
at the time accepted & refused No 6
to which Defendant Fink at the
time accepted.

The Court then rendered judgment
for Defendant First & against
Dum.

Plaintiff then filed his motion
for new trial or follow - (then copy
same) which the Court overruled to
which Plaintiff at the time accepted
& Court being then about to adjourn
the Court made an order by the consent
of Defendant that Plaintiff

should have been after the adjournment of court to file his bill of exceptions & affidavit for appeal herein and court hereupon adjourned on the 24th day of May 1878 and now Plaintiff in compliance with the order of court here tendering this his bill of exceptions on this 27th day of June 1878 & prays that it may be signed sealed & made a part of the record in this cause which is accordingly done.

J. F. Dunning
 Judge

Approved
Wm. R. H. H. H.

R. F. England.

W. H.

L. H. H. H.

Will Exceptions

Filed June 25th 1878
C. H. H. H.
Clerk

B. A. England, } In the Circuit Court of Mo.
 vs
 Humm & Finch }

The Sheriffs Clerk,

3 Copies per. 1568 words & fig in each, 156 each @ 100/100
 words & fig, 4.68 3 cert seals 1.50 2 writs 2.00 2 copies 20/ 8.38
 order 35/ Cont. 25/ order 10 pub & file dep 35/ 95-
 Appr. 10/ Sub. 35/ Vend 372 words & fig @ 150/ 55/ 1.00
 Indgt. 50/ motion 20/ rule 20/ Bill Ex 35/ order for appd 35/ 1.60
 1 Shw 25/ Dockets 40/ 3 B's 10/ missing cash 25/ 1.00
 14 files. 50/ 70/ 1.70 13.63

Sheriff St. Louis Serv Deft. p. 6 by Reff 1.00

John Williams Sheriff, Serv 1 Sum 1.00
 1 Shw 50/ calls. 25/ 75- 1.75

Total,

16.38

Only amt. pd by England to
 Sheriff St. Louis,

1.00

Bal due,

15.38

Paid May 8 1879

287
 19 6 8
 1568 28 8
 224 7
 1568
 372
 451

England

to

Dunham & Finch

9.55 / Bill

May 20 1898

1876

Mr C. Damm & J. C. Funch
in A/c with

Bf. England

Sept 30 To Hauling 291500 lbs Sand at 40¢ per ton 58.30

Oct 31 " " 296000 " " " " 59.20

Nov 30 " " 212000 " " " " 42.40

" " " Pd Valentine for work 50

1877 " Pd Memphis Packet Co for Long Bridge 5.00

" " " John Siefer to " for Catching Stage freight 2.00

167.90

1876

Cr

Oct 19th By Cash pr C. Damm 36.00

Nov 11 " " " " C Damm 31.90

" 11 " " 1 Steel Trap 40

1877 " " Pd By J. C. Funch 48.00

116.30

Bal Due Bf England \$ 57.10