

Jefferson County Circuit Court
Case Files - Civil
November 1857, No. 8

Box 9 Folder 12

Henry, Augustus

vs

Lee, Samuel

Assault and battery

Defendant assaulted plaintiff with
a knife; \$3,000 damages

Augustus Henry, Plaintiff } In the Circuit
Against } Court of Jefferson
Samuel Lee, defendant, } County Missouri,

The Plaintiff states that on the 13th day of January 1857, at the County of Jefferson aforesaid, the Defendant with a large knife in his hand, unlawfully assaulted and stabbed the Plaintiff in the left arm, inflicting thereon a deep and dangerous wound, so as greatly to endanger his life, by reason of which, the Plaintiff had to endure great bodily pain for a long space of time, and was put to much trouble and expense in endeavoring to effect a cure. And after many months bodily suffering, and incurring great expense for medical treatment of said wound, Plaintiff has been unable to get effectually cured, but he has lost the entire use of said arm in consequence of the wound inflicted by the Defendant. By reason of which injury, Plaintiff says he is damaged to the amount of three thousand dollars, for which he asks judgment.

Alexander Green
Atty. for Plaintiff

Augustus Henry, Plaintiff, makes oath and says the above Petition, and the matters therein as stated he believes to be true,
Sworn to and subscribed } Augustus ^{his} Henry
before me Sept 1st 1857 } mark
Chas. F. Honey, Clerk

In the Circuit Court
of Jefferson County
Virginia Henry
vs.
James Lee
Petitioner
Let numerous issues
of Green for 1853.

Attest Sept 1st 1853
Geo. S. Honey
Clerk

Augustus Henry Plaintiff } For the Circuit Court
Against } of Jefferson County
Samuel Lee. Defendant } Missouri

Plaintiff States that on the 13th day of January 1857 at the County of Jefferson, aforesaid the Defendant with a knife in his hand unlawfully assaulted and stabbed the Plaintiff in the left arm, inflicting thereon a deep and dangerous wound, so as greatly to endanger his life, by reason of which, the plaintiff had to endure great bodily pain for a long space of time, and was put to much trouble and expense in endeavoring to effect a cure. And after many months, bodily suffering and incurring great expense for medical treatment of said wound, Plaintiff has been unable to get effectually cured, but has lost the entire use of said arm in consequence of the wound inflicted by the defendant. By reason of which injury Plaintiff says he is damaged to the amount of three thousand dollars for which he asks Judgment.

Abner Green atty for Plaintiff

Augustus Henry plaintiff makes oath and says that the above petition and the matters therein as stated he believes to be true

Sworn to and subscribed } Augustus ^{his} + Henry
before me Sept. 1st 1857 } mark
Elias D. Hoovey clk }

Endorsed

"Filed Sept. 1st 1857 Elias D. Hoovey clk

A true Copy of the original petition and affidavit on file in my office

In Testimony whereof I hereto
Set my hand and affix the
Seal of said Court at office Sept
2nd A D 1857
Elias D. Honey Clerk



COUNTY OF JEFFERSON, SS.

The State of Missouri.

To the Sheriff of the County of Jefferson--Greeting:

We command you, that you summon Samuel Lee

----- if - he - be
found in your County, that - he - be and appear before the Hon.
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 fourth Monday of November
next, then and there to answer unto Augustus Henry

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

Elias J. Hoarey
Witness, ~~THO. C. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this 2nd
day of Sept. A. D. 1857

Elias J. Hoarey

CLERK CIRCUIT COURT.

I Executed the within writ at the County of Jefferson
on Samuel Lee on the 28th day of September 1857 by
leaving a true copy of the within writ and the annexed
petition (as furnished by the clerk) at his usual place
of abode with a free white person of the family over
the age of fifteen years
Augustine Wiley Sheriff.

No. 81577
So Jefferson Circuit Court
Nov. Term 1857

Augustus Henry
vs. } Successors
Samuel Lee.

Sheriff's fee \$1.00

Dismissed by agreement
April 29th 1858.

. Chd

Green for. p. 25.

State of Missouri Jefferson County,
In the Circuit Court
November Term 1857.

Augustus Henry Plaintiff
 Against
Samuel Lee Defendant

Defendant for answer to plaintiff's petition states: That on or about the time mentioned in petition the plaintiff in company with ~~several~~ other gentlemen was at the house of defendant, when a conversation arose in regard to picking a dime off the back of the chair with the teeth. Defendant thinks that the plaintiff asked him if he could do it. Defendant replied that he could, and immediately, he placed the chair upon the floor, with the back up, and taking hold of the posts, about their middle, raised himself on his arms, and while reaching forward, with his mouth to pick off the dime placed on the top back piece, the plaintiff came behind him and gave him a push with such violence as to throw him upon his face with such force as to drive the blood from defendant's mouth and nose. Defendant was so much exasperated at the conduct of the plaintiff, (and, at the same time, being under the influence of liquor) that he suddenly, in the heat of passion, drew out his knife and pushed upon the plaintiff, who threw ~~down~~ down his arm and received the point of the knife in the lower part of the arm inflicting a small wound, which

was neither deep nor dangerous. Defendant has no recollection of stabbing at the plaintiff though in his then excited state of mind he may have done so. After it was ascertained that plaintiff was cut defendant took him into the house and stopped the blood and sent for Dr. Myatt who dressed the wound. Plaintiff began immediately to recover, but before the wound was sufficiently healed he exposed and exercised himself in so careless and reckless manner as to break open the wound and cause it to bleed more than ever before. Defendant again employed Drs. Myatt & Cox and sent for Drs. Clark & Pinn to treat the case, but as plaintiff seemed to get no better he took him to St Louis and placed him under the treatment of Dr. Pope by whom he was finally cured although his arm is somewhat disabled.

Defendant further says that he paid all the expenses of board in St Louis medicine and medical treatment both in and out of St Louis. He denies that plaintiff was at great expense or any expense at all for any such purposes.

Defendant further states and charges, that the wound which plaintiff received was the result of his own rash and imprudent conduct, that it would have soon been healed, without disabling him in the least, if he had not exposed himself contrary to the advice of his physicians, that the permanent injury which he has sustained was ^{caused by} ~~caused by~~ this exposure and not by the cutting in the first instance, that all the injury, bodily pain and

Suffering, and all the expense which the plaintiff
has sustained and suffered was the result of
plaintiff's own rash conduct in the first place
and imprudence afterwards. Defendant
therefore says that the plaintiff has ~~not~~ ^{no} right
to a judgment against him for the sum of
three thousand dollars or any other sum, neither
is he damaged three thousand dollars nor any
other sum by this defendant.

And having fully answered asks to be discharged
with his costs.

P. P. Kirk att:
for defendant.

Samuel Lee on oath states that the above answers
and the matters therein as stated he believes to be true,
sworn to & subscribed
before me this 17 day
of November. 1857

J. H. Weaver Justice of
the peace

Samuel Lee

Augustus Henry
Esq.

Samuel Bee

Defendant and others

Filed Nov. 24th 1857
Geo. J. Hornsey Clerk

Augustus Henry } In the Circuit Court of
vs. } Jefferson County
Samuel Lee } Nov. Term 1857.

Defendant comes and moves the Court
to rule plaintiff to Security for costs in the
above Cause because plaintiff is unable
to pay costs.

P. Piptin Atty.
for defendant

Henry

my

dear

Provision to make up
the entry for cart

Feb. 24 1857

Dear Henry all

Augustus Henry
against-

Samuel Lee

Amendment to the original
petition filed by leave of the court and
to be taken as a part of the same

Plaintiff further states that the said
defendant is a practicing physician and surgeon
or proposes to be such and after the wound above
mentioned had been inflicted upon him by
the ~~plaintiff~~ ^{defendant} he attempted to treat ^{and did treat} said wound
as such surgeon, and he treated said wound
so unskillfully that the plaintiff has become
crippled in said arm permanently and so
badly crippled that he is unable to attend
to or perform his ordinary labours. Plaintiff
further says that the said defendant did call
in other surgeons under the pretense of
consultation. still the said defendant per-
sisted in the mode of treatment by him
first adopted contrary to the advice of the
surgeons so called in. In consequence of
said wound and the unskillful treatment thereof
by defendant the plaintiff has become
unable to earn his living or defend his
person or his country. Wherefore he says
he has sustained damage to the amount
of three thousand dollars and for which
he asks judgment

Green & Fairbairn

attys for plaintiff

Plaintiff makes oath and says that
the foregoing amendment to his petition
and the matters therein as stated he

believes to be true.

Emm to and Subscribed
before me November 30th
A D 1857

Augustus
Henry

Elias J Honey Clerk

Aug^r Henry
against
Samuel Lee

James Dutton

Julius Allen 1st 1857
Elin J. Henry etc

Augustus Henry, Plaintiff, } In the
Against } Circuit
Samuel Lee, defendant } Court of
Jefferson County
Missouri.

We, Augustus Henry ———, and
E. Vernon, — residents of Jef-
ferson County aforesaid, do hereby
bind ourselves to pay all costs
which have accrued, or that may
accrue in the above entitled cause
and be adjudged against the plain-
tiff, given under our hands this
13th day of ~~January~~ February 1858.

Augustus Henry
& Vernon

In circuit Court
Lefferson County

Augustus Henry

vs. /

Samuel Lee

Bond for
Court

Shelby, 15th 1858

Chas. G. Henry
Clerk

Augustus Henry }
Against }
Samuel Lee }
3

Defendant for answer to the
Amendment to the original petition in this Cause
denies that he either attempted to treat or did treat
the wound mentioned in petition ~~that he did~~
~~he did it so~~ must skillfully that the plaintiff has
become crippled in said arm and so badly
crippled that he is unable to attend to or perform
his ordinary labors—

He also denies that he called in another surgeon
under a pretence of consultation, or that he
persisted in the mode of treatment by him first
adopted contrary to the advice of the surgeon so called
in. Defendant further denies, that the plaintiff,
in consequence of said wound, and the must skillful
treatment thereof by defendant has become unable
to earn his living, or defend his person or his Country.
He therefore says that the plaintiff is not damaged
to the amount of three thousand dollars or any
other sum, and is not entitled to the judgment
prayed for nor any other judgment—

Pepkin atty,
for defendant,

Sam'l W. Lee on oath states that the above answers
and the matters therein as stated he believes to
be true,

sworn to & subscribed }
before me this 25th day }
of July 1858 }

Samuel W. Lee

Sam

W. W. Weaver
Justice of the Peace

Augustus Henry
Spaulding

Samuel Lee

Answers of respondents
to Amendment to the
original Petition

Dated July 26th 1858
Oliver H. Cheney etc

COUNTY OF JEFFERSON.

The State of Missouri,

To John Hyatt, Stephen Johnston, Thomas Hudson
Greeting:

You are hereby commanded, that settling aside all manner of
excuse and delay, you appear before our District Court for the
County aforesaid, on the 29th day of April next.

at St. Louis, then and there to testify, and do well to say in a
certain matter of controversy, now pending in our said Court, wherein

Augustus Henry is Plaintiff and

Samuel St. Lee is Defendant on the part

of Plaintiff and herein you are made to find.

Witness, THOMAS C. FLETCHER, Clerk of our said Court

within the Seal thereof hereto affixed, at office this

14th day of March A. D. 1858

Chas. J. Henry Clerk.

I Executed the within writ on John Whitt on the 14th day
of April 1838 by receding in his presence and hearing
and also on Stephen Johnston on the 21st day of April
1838 by leaving a true copy at his usual place of abode
with a free white person of the family over the age of
fifteen years Showneas Wisdom is not found in my country
Augustine Wiley Sheriff

To be paid to Court
April Term 1838

Augustus Henry
for 3 sh
dand. J. H. Lee

for 2 sh
John Whitt 14
Step^r Johnston 21
Showneas Wisdom 0

Sherriff fees \$1.00
C. Mon. 25-
\$1.25

County of Jefferson.

The State of Missouri,

To Elizabeth Lee, ex. Jure Lee, Mrs Heinrich
Greeting:

You are hereby commanded, that selling aside all manner of
excuse and delay, you appear before our Circuit Court for the
County aforesaid, on the 29th day of April next
at St. Louis, then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein

Augusta Henry is

Plaintiff and

Samuel H. Lee is

Defendant, on the part

of Plaintiff

and herein you are in via vice de part.

Witness,

THOMAS C. FLETCHER,

Sherriff of our said Court

with the Seal thereof hereto affixed, at office this

11th day of March A. D. 1858

Chas. Johnson

Clerk.

I Executed the within writ on Dr John Lee on the 18th
and on Mrs Hendrix on the 30th day of March 1858
by reaching in their presence and securing Elizabeth
Lee is not found in my County

Augustine Wiley Sheriff

De Circuit Court

April Term 1858

Augustus Henry

vs J. M. Lee

Sam. J. M. Lee

for self

Elizabeth Lee

vs J. M. Lee

Mrs Hendrix

Sherriff fees 2500 00
25
Sherriff cost 17.25

COUNTY OF JEFFERSON.

The State of Missouri,

To

John Witt, Clerk, Schuman, Alex. Weaver, Wm Weaver, Jas. Cowan

Greeting:

and you are hereby commanded, that seeing none all manner of
excuse and delay, you appear before our Circuit Court for the
County aforesaid, on the 29th day of March next
at St. Louis, then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein
Augustus Henry is Plaintiff and
Sam. J. W. Lee, is Defendant on the part
of Defendants and herein you are in no wise to fail.

Witness, THOMAS C. FLETCHER, Clerk of our said Court

with the Seal thereof hereto affixed, at office this

2nd day of April A. D. 1858

Geo. J. Honey

Clerk.

Sept 1858

John W. Lee
John W. Lee
John W. Lee

I executed the within writ on
April 13th 1858 by reading
the same in the presence of
John W. Lee

John W. Lee
John W. Lee
John W. Lee

To Circuit Court
April Term 1858

Augustus Henry

for
Sam. J. W. Lee
Sheriff due \$100

for debt
John W. Lee
Step. Johnson
Alex. Barnes
W. B. Weaver
James Cowan
Elizabeth Lee

I executed the within writ at the County of
Jefferson on 29th day of April 1858 by reading
the same in the presence of John W. Lee
Sheriff due \$100

By this instrument of writing it is agreed between
Augustus Henry, of the one part and Samuel
J. Lee of the other part, ~~that~~ ^{that} the first
party ~~is~~ to dismiss his suit now pending in
the Jefferson County Circuit Court against
the second party, for damages for cutting said
Henry's arm, at the cost of said second party
and in consideration of said dismissal said
second party is to school clothe and board
for one year from this date, at any of the
common schools of the country, said first
party and also to pay said Henry's attorney
fees in the said cause provided they
shall not exceed two dollars, in that
event said Henry is to pay the excess
over two dollars and ~~Lee~~ that amount
or up as the case may be.

Witness our hands and seals this 29th
day of April 1858

Augustus
Henry
Samuel Lee,

Seal
Seal

Aug 22nd 1858
at
J. W. Lee

Agreement to
Conferment

Attest April 29th 1858
John J. Henry Clerk

 (Augustus Henry }
against } In the Circuit Court
Samuel P. Lee. } of Jefferson County Mo.
Received of Samuel P. Lee the Sum of
One hundred dollars in full of all claims
and demands which I have against him
for Schooling Board clothing and attorney
fees which said Lee agreed to furnish
- by the compromise agreed upon
between us in the above entitled cause
that is to say the above sum is taken
in lieu of and in full pay of all
claims I may now or hereafter have
by reason of said compromise as witness
my hand this 14th day of July A.D. 1858

Acknowledged and
Signed before me
this day and year above
written

J. W. Weaver

Justice of the peace

Augustus Henry

Mr. E. F. Honey Clerk of the Circuit Court of Jeffers-
-on County Mo. Sir you are hereby requested to file
the above in your Office and enter Satisfaction
in full in the above case Augustus Henry