

Jefferson County Circuit Court
Case Files - Civil
April 1858

Box 10 Folder 10

Hopson, John

v.

Pence, John

Appeal

Defendant appealed from Justice of the Peace
George W. Sublett on \$40 debt on account for
digging a well; Judgment for plaintiff \$31.50,
Book no. 4 page 199.

John Pence

No John Hopton

Dr

For Digging a well forty dollars

\$40.00

Sept-1st 1856

D. J. Robbins

The State of Missouri To the Constable of Ball Township in
Jefferson County greeting the command given to summon
John Pence to appear before the undersigned one of the
Justices of the Peace of Ball Township in Jefferson County
on the 19th day of December 1859 at ten of the clock in
the forenoon at my office in the above Township to
answer the Complaint of John Hays on
Given under my hand this 9th day of December 1859

Geo. W. Hubbell
Justice of the Peace

John Haydon
At
John Pence
Summoned

I executed the
within writ by
reading the same
in the presence
and hearing of
John Pence
the undersigned
clerk on the 11 day
of Dec 1857
in Little Room
Ship
of Washburn
court

The State of Michigan to Wm. Stephen Constable of
Belle Torch in the County of Jackson greeting

Now we hereby Commanded to determine this good and
lawful men of your Torch qualified to act as jurors
in the Circuit Court and in no wise of him to either party
nor interested in the suit to appear before me to so that
it one of the Justice of the Peace on the 19th day of December
1859, at my office in Belle Torch in the County of Jackson
don to make a jury for the trial of an action now pending
before me said Justice between John Henson Plaintiff
and John Pence defendant and hear them and their
this to wit-

to stamp my signature this the 9th day of December 1859

Geo. W. Chubbett

Justice of the Peace

John Hopson
As

John Pence
Jury Summons

Robert Savage
Othello Weiskum
Samuel Weiskum
Thomas Ruppel
Charles Menier
James Hairmonte

The State of Ohio vs Henry Healdman James Gorin
and Edmund Hedges You are hereby Comma^ded To be
and appear personally before me Geo^vl Dublett one of the
Justices of the Peace within and for Ball Township in the
County of Jefferson on the 19th day of December 1859 at
the hour of ten of the Clock in the forenoon of that day
at my office in the Township and County aforesaid to
testify on the trial of a Cause wherein John Haysen
is Plaintiff and John Pence is defendant in behalf of
the Plaintiff and him of said not-at your private
testimony my elgⁿ returns this the 9th day of December 1859

Geo^vl, Dublett
Justice of the Peace

John Hayden

At

John Pence
Subpoena

I executed the
within writ by
recalling the
same in the fore
some and hearing
of Henry West
men and also
James Savin
and also
James Siff
the within
witnesses
this 10 day of
Dec. 1857
J. M. Ashburn
Carruthers

The State of Missouri to John West Esq
Hence Ellen Howell and Rebecca, Petition you are
herby Comanded to be and appear personally before
me Geo. W. Hubbard one of the Justices of the Peace
within and for Ball Township in the County of
Jefferson on the 19th day of December 1859 at the
house of ten of the (stock in the foreman of their)
day at office in the Township and County aforesaid
to testify, in the trial of a Cause wherein John
McGowan is Plaintiff and John Pence defendant in
which of the defendant Hence Huey of our Court
your fair

Witness my signature this the 12th day of December 1859.

Geo. W. Hubbard
Justice of the Peace

I executed the
within went
by reading the
same in the
presence and
hearing of Colby
Devine and
also by hear-
ing a call for
Allen Devine
on the 16 day
of Dec 1857
Dr Washburn
Comptroller

John Hopson
At
John Hines
Subscribed

I executed the
within went by
reading the same
in the presence
and hearing of
John Hewart
on the 15 day of
Dec 1857
Dr Washburn
Comptroller
Edward Patton
not found in my
county this 19 day
of Dec 1857
Dr Washburn
Comptroller

The State of Missouri to John Heardt Esqy Clerk
Allen Street and Redwood Station you are hereby.

Commaned to be and appear personally before me
Geo, W. Chubbett one of the Justices of the Peace within
and for Bell Township in the County of Jefferson
on the 20th day of February 1858 at the hour of ten
of the Clock in the forenoon of that day at two o'clock
in the Township and County aforesaid to testify on the
trial of a Cause wherein John Hopson is Plaintiff and
John Dancer defendant in behalf of the defendant and
thereof fail not at your perils
witness my signature this 20th day of Feb 1858

Geo W. Chubbett

Justice of the Peace

John Hopson
At
John Pinner
Subpoener

I executed the
within sent by
receiving the same
in presence and hear-
ing of John Pinner
at and at the
County of Kent the
within written
on the 15th day of
April 1838
Dr M. Ashburn
Clerk of the Court.

the State of Wisconsin to Benedict to establish Constable
of Ball Township in the County of Jefferson granting
You are hereby Commenced to summon ditto Jones
and Lausue men of your Township qualified to act
as Jurors in the circuit Court and in no. void of fair
to either party more interested in the suit to appear
before me Geo. W. Chubbitt one of the Justices of the Peace
on the 20th day of February 1858 at my office in Ball
Township in the County of Jefferson to make a jury
for the trial of an action now pending before me
said Justice between John Hopson Plaintiff and John
Jones defendants and hear you there and there this
twist

Attest my signature this the 2nd day Feb 1858

Geo. W. Chubbitt

Justice of the Peace

John Hopson
As

John Pence
Sperry Summers

James Harwood's
Henry Black
Charles Smith
Henry Smith
James Webster
James Davis

The State of Missouri to James Edwin Hartman
James Riggs and James Riggs you are hereby
commanded to be and appear personally before me
George W. Shultz one of the Justices of the Peace within
and for said Township in the County of Jefferson
on the 19th day of April 1858 at the hour of ten of the
clock in the forenoon of that day at my off. in in the
Township and County aforesaid to testify on the trial
of a cause wherein John Hopson is Plaintiff and
John Pence defendant in behalf of the Plaintiff
and that said Pence at your service
testify my signature this 22nd day of March 1858

Geo. W. Shultz
Justice of the Peace

I executed the
within went by
leaving the same
in ^{the} presence and
hearing of James
Briffy and Samuel
Bridgford Henry
Wastner and
James Grooms
on the 10 day
of April 1858
J. B. Mathews
Com Atls

John Hopson
At
John Pence
Subpoena

The State of Michigan to John Howard Esq, Sheriff of the
County of Alcona Sheriff you are hereby commanded
to do and appear personally before me Geo. W. Abbott
one of the Justices of the Peace within and for the
Township in the County of Jefferson on the 19th day of
April 1858 at the hour of ten of the clock in the fore
noon of that day at my office in the Township of
County of Alcona to testify on the trial of a Cause
between John Hopson is Plaintiff and John Pence
defendant in behalf of the defendant and fair not
as your power

185-8
day of March
Geo. W. Abbott
Justice of the Peace

I executed the
within writ by
my leaving
the same in
the presence
and hearing
of John Stewart
on the 22nd day
of March 1834
S. M. Ashburn
Clerk

John Hopson
As
John Pence
Subpoena

I executed the
within writ by
leaving a copy
of the same to
William David
and a copy of the
same for
Colly David
at their place
of a bark on the
13th day of April
1834
S. M. Ashburn
Clerk

The State of Mississippi to Hurdolph Washburn Constable of
Bella Township in the County of Jefferson greeting

You are hereby Commendated to summon ~~you~~ ^{you}
and lawful men of your Township qualified to act
as jurors in the Circuit Court and in the trial of him
to either party nor interested in the suit to appear
before me Geo. W. Chubbett one of the Justices of the Peace
on the 19th day of April 1858 at my off. in Bella
Township in the County of Jefferson to make a jury
for the trial of an action now pending before me
said Justice between John Hopson Plaintiff and
John Pen a defendant and hear you there and
there this writ

Witness my hand this 2nd day of March 1858

Geo. W. Chubbett
Justice of the Peace

Robert Henry
of the m^{rs} Githen
~~John & Ellen~~
Henry, which was
~~the same as the same~~
John & Ellen
(John & Ellen)
were all the

John Hopson
At
John & Ellen
Henry & Ellen

We the Jury find for the
plaintiff \$38.00

Henry Washburn
foreman

We the undersigned John Pence and John D. Heard
acknowledge our debts indebted to John Hopson in the
sum of seventy five dollars to be paid upon this condition
between John Pence and approved from the judgment of
Geo. Washburn a Justice of the Peace in an action between
John Hopson Plaintiff and John Pence defendant. Now if on
such appeal the judgment of the Justice be affirmed or
if on the trial anew in the appellate Court judgment be
given against the appellant and he shall satisfy such
judgment or if his appeal shall be dismissed and he shall
pay the judgment of the Justice together with the costs
of the appeal the recognizance shall be void
Approved the ~~24~~th day of April 1858

Geo. Washburn

John D. Heard

Justice of the Peace

John Haysen Plaintiff

Against

John Pensa Defendant

Before Geo W. Shublett Justice of the Peace

This agreement states that the application for an appeal by John Pensa defendant in the above entitled cause is not made for vacation or delay but he avers this efficient believes that the appeal and is ignored by the judgment of the Justice Shublett and shown to before me

John Pensa

This 24th day of April 1858

Geo W. Shublett

Justice of the Peace

John Hopson
vs

John Pence
Debt \$40.00

Justice Fees

1 Summons 25
2 Subpoenas 50

Benire for jury 25
notice to witnesses
to appear again 35

1 Subpoena 25
Swearing jury 25

Benire for jury 25
2 Subpoenas 50

Benire for jury 25
8 oaths 40

Judgment 35
appal bond 25

Affidavit 25
410

Constable Fees

1 Summons 25

7 Subpoenas 175

Jury Summons 75

2 Subpoenas 50

Jury Summons 75

8 Subpoenas 200

Jury Summons 75

witnes Fees 75

Samuel Rippey \$1.50

James Rippey 50

Henry Heartman 1.00

James Gowin 1.00

Jury Fees 4.00

Thomas Gibbons 25

Henry Washburn 25

Robert League 25

John Alred 25

Wm Alred 25

Thomas Cook 25

Plaintiff filed December the 5th 1857 an
account for forty dollars dated September
the 1st 1856 and directed a summons
to issue which is done and put into the
hands of R Washburn Constable returnable
December the 19th 1857

Geo W. Sublett Justice of the Peace
December the 19th 1857 the summons issued
in this cause is returned I executed the
within writ by reading the same in the
presence and hearing of John Pence the
within defendant on the 11th day of
December 1857 in Ball Township

R Washburn Constable
Subpoenas returned I executed the within
writ by reading the same in the presence
and hearing of Henry Heartman James
Gowin Samuel Rippey and John Hearst
on the 15th day of December 1857 Edward
Patton not found in my County

R Washburn Constable
A jury being demanded a precept issued
there for and being returned the following
named persons as jurors Robert League
Henry Washburn Samuel Washburn
Hiram Rippey Charles Lenix and James
Haverstick The Cause coming on to be heard

and the defendant being called came and made oath that he could not safely go into trial for the want of two material witnesses The Justice adjourns the Cause until his next law day the 20th of February 1858 The Justice notifies the witnesses in behalf of the Plaintiff to appear again on his law day the 20th day of February 1858

Geo W. Sublett Justice of the Peace Subpoena Issued the 2nd day of February 1858 and put into the hands of R Washburn Constable returnable the 20th day of February 1858 The Subpoena is returned & executed the within writ by reading the same in the presence and hearing of John Hearst and also Eliza Ferrel the within witnesses on the 15th day of February 1858 R Washburn Const a Jury summons being Issued is returned with the following named persons as Jurors James Haverstick Henry Black Charles Lenix Henry Washburn James Robinson and James Jarvis The Plaintiff comes and makes oath that he can not safely go into trial for the want of a material witness who is James Gowin The Justice thinks fit and adjourns the Cause until his next law day the 17th day of April 1858 Defendant files a claim for damages for fifty four dollars Geo W Sublett Justice of the Peace

Subpoenas Issued on the 22nd day of March 1858 returnable on the 17th day of April 1858 my next law day a Jury summons Issued on the 22nd of March 1858

April the 17th 1858 the Subpoenas Issued in this Cause is returned & executed the within by reading the same in the presence and hearing of James Kippys Samuel Kippys Henry Heartman and James Gowin on the 10th day of April 1858
R Washburn Constable

I executed the within writ by leaving a copy for Allen Ferrill and also a copy of the same for Eliza Ferrill on the 13th day of April 1858 at their place of abode R. Washburn Constable

I executed the within by reading the same in the presence and hearing of John Hearst on the 22nd day of March 1858

R. Washburn Constable

The Jury summons in this Cause is returned with the ^{following} named persons as jurors Robert League Thomas Gibbons Henry Washburn John Alfred Thomas Cook and William Alfred who after hearing the evidence returned into Court with the following verdict We the Jury find for the Plaintiff Thirty Eight dollars Henry Washburn foreman It is therefore adjudged that the Plaintiff recover of defendant the sum of Thirty Eight dollars and all Cost There upon defendant tendered his affidavit and appeal bond for seventy five dollars of himself and John D. Hearst as security and prayed an appeal to the Circuit Court from our said judgment which being deemed sufficient it is ordered that an appeal as prayed be allowed defendant

Geo. W. Sublett

State of Missouri } ss
County of Jefferson }

Justice of the Peace

John Hopson Plaintiff

Against

John Pence Defendant

I Geo. W. Sublett a Justice of the Peace within and for the Township of Ball in the County of Jefferson aforesaid hereby Certify that the above and foregoing is a full true and complete transcript of all the entries made in ^{my} docket relating

To Said Case of John Hopson plaintiff against John Pence
defendant and that such transcript is accompanied by all
the process and other papers filed with the justice relating
to such suit

Given under my hand this the 24th day of April 1858

Geo W. Sublett
Justice of the Peace

John Hopson

John Pence

1561

Filed April 26th 1858

Chas & Honeys

Judged for J. H. Oct 29th

1858 for \$21.50

Book No 4 Page 199

(Chs)

COUNTY OF JEFFERSON.

The State of Missouri,

To Henry Hartman,

James Brown, Saml. & Peppy and
James Repping

Greeting:

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 28th day of October 1858
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

John McPherson is

Plaintiff and

John Pence is

Defendant on the part

of P.H.

and herein your wife in no wise to fail.

Witness, THOMAS C. FLETCHER,

Dealt of our said Court

with the Seal thereof hereto affixed, at office this

1st day of October A. D. 1858

Oliver J. Honey

Clerk.

I Executed the within writ at
the County of Jefferson on 25th day of
October 1858 by Reading the same
in the Presence James Rippey
at & James Sheriff
by J. C. Farmer Deput

To Circuit Court
October Term 1858

John Hopson
vs
John Pence

for Debt
Henry Hartman
James Howard
Samuel Rippey
James Rippey
Sheriff \$150.00.

I Executed the within writ at the County
of Jefferson on 28th day of October 1858
by Reading the same in the Presence
and hearing Henry Hartman

J. D. Green

John Hopson, plaintiff } Before
Against } George W.
John Pence, defendant } Sublett
} a justice of
} the peace,

To John Hopson, appellee.
You are hereby notified that
I have taken an appeal from
the judgment of the justice in the
above entitled cause, to the Circuit
Court of the County of Jefferson in
the State of Missouri.

October 2nd, 1858 } John Pence,
} By Abner Green
} his Attorney,

I executed the within notice on John Hopson
on the 7th day of October 1858 in the County of
Jefferson State of Mo by leaving him a true copy of
the original notice at his house of residence with
a free white person over the age of fifteen years
Oscar Dover Sheriff

In Circuit Court
Jefferson County

John Hopson

v.
John Pence

Notice of
Appeal

Shriffs fee \$ 0 50⁵

COUNTY OF JEFFERSON.

The State of Missouri,

To the Hon. Justices, John Howard, Eliza Terrill & Allen Smith

Greeting:

You are hereby commanded, that, settling aside all manner of

excuse and delay, you appear before our Circuit Court for the

County aforesaid, on the 28th day of October next,

at St. Louis, when and where to testify, and the truth to say in a

certain matter of controversy, now pending in our said Court, wherein

John H. Moore is Plaintiff and

John Deere is Defendant on the part

of Defendant and herein you are now to fail.

Witness, THOMAS E. FITCHER, Clerk of our said Court,

with the Seal thereof hereto annexed, at St. Louis, this

25th day of October A. D. 1858

Eliza J. Horney

Clerk.

I executed the within Spa in the County of
Jefferson on John Theasce by reading it within
his presence and hearing on the 29th day of
October 1858

Dea^d Dover Sheriff

Do Lincich County

October Decem 1858

John Hopson

John Pence

for depts

Bro J Vanpraeter

John Howard 28

Eliza Terrill 2

Allen Terrill 3rd

Edward Patton

Sheriff B 2.00

Patton non Est 2.5

I executed the within Spa in the County of
Jefferson on John Vanpraeters, Eliza Terrill
& Allen Terrill on the 23rd day of October 1858
by reading the same within their presence
and hearing

C I Foster

COUNTY OF JEFFERSON.

The State of Missouri,

To

Mr. Linn

Greeting:

You are hereby commanded, that, setting aside all manner of
excuse and delay, you appear before our *Leicester* Court for the
Sunday ~~appeared~~, on the *for the month*

of *November*, then and there to testify, and the truth to say in a
clear and full manner, now pending in our said Court, wherein

John H. Linn

Plaintiff and

John Linn

Defendant on the part

of *John Linn* and herein you are to do full

justice, *THOMAS J. FLETCHER*, Clerk of our said Court

with the seal thereof hereto affixed, at office this

29 day of *Oct* A. D. 185 *8*

Edw. H. Linn

Clerk.

I executed the within ~~Spa~~ in the county
of Jefferson on ~~Wm~~ Summers by reading
within his presence and hearing on the 29th
day of October 1858

Oscar Dover Sheriff

Shops and

Price

for

Wm Summers

Sheriff fee 50 cents

John Hopson } In the Circuit Court
vs } Jefferson County,
John Pence }

The Defendant moves the Court to set aside the verdict in the above cause and grant him a new trial for the following reasons,

- 1 - Because the jury disregarded the instructions of the Court.
- 2 - The verdict is directly and palpably against the evidence in the cause,
- 3 - The verdict is against the law of the case.
- 4 - The damages are excessive, and show that the jury disregarded the evidence & the instructions of the Court.

} Abner Green
} Atty, for def.

John Weston
no,

John Vance

Instructions for
a new trial

Filed Oct 30th 1858

Eliza Sydney Cole

overruled

No opinion }
vs. } Instructions, asked by
Pence } by defendant,

- 1 - If the jury believe from the evidence that the plaintiff failed to perform the contract according to its terms, and was prevented from so doing by sickness, then he cannot recover on the contract, but may recover for his work and labor, what it is reasonably worth.
- 2 - Whatever damage the defendant has sustained by the plaintiff's breach of contract, should be deducted from the value of plaintiff's work.
- 3 - If no time was fixed for the completion of the contract then the law implies that it should be done in a reasonable time.

If the Jury find that Hopson made a Contract with Pency
to dig for him a well for certain specific purposes, and
for a specific price, And that before completing the job
he was taken sick, and was prevented in consequence
from complying with his Contract, And ^{if} they further find
that the Defendant took possession of the well in its
unfinished condition, and appropriated it to his own
use, then the Defendant is responsible for the value of the
work in its condition when taken possession of by him,
after deducting any damages he may have sustained
in consequence of the Plaintiff's breach of agreement,
And the Jury will render their verdict accordingly

are the very spirit from the Personality
which One Culture & Society want -

To Mr. Parker & Co.