

April 1869

Beard, James D.
Null, W. J.

vs.

Parks, William

Appeal

Plaintiff appealed from J. P. M. C.
Jennings on \$23.60 account for
horse shoes and barn hinges and
nails; bill of exceptions; Supreme
Court

Mr Wm Davis J. P. Davis & Co Dr

8 4 new shoes	1 80
" letting one shoe	30
" letting one shoe	25
" letting shoes	90
" showing new	1 40
" 1 new shoe	45
" 2 new shoes	90
" 13 new hinges & nails	17 40

$$\begin{array}{r} 1740 \\ 2360 \\ \hline \end{array}$$

\$168.142

Wm Parks a/c

\$23.60

SUMMONS.

No.

March Term 1867

vs.

}

SUMMONS.

De Humparts

Demand

\$23,60

Served in the within by Acknowledgement
on the 18th of July 1867

John Brown

Concord

Dear & well

Mr Parks }

Now will take notice that
an affidavit to the Circuit Court of
Superior County Wisconsin has been
taken by the plaintiffs in the above
entitled cause, David D. Hall,

Appellant

March 16th 1867,

Service the within by looking a copy with
his with month the 15/1567

and not on 15/1567 from the same Constable

for and finding in a number of
and not in the same

and not in the same

and not in the same

James P. Beard &
W. J. Stull

Before M. C. Jennings
Justice of the Peace,

vs
William Parks

We James P. Beard & W. J. Stull
as principal and Josiah Stull
as security acknowledge ourselves indebted
to William Parks in the sum of fifty
dollars to be void upon this condition
Whereas the said James P. Beard & W. J. Stull
have appealed from the judgment of M. C.
Jennings a Justice of the Peace in an
action between the said Beard & Stull
as plaintiffs and said Parks as 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 appellants and they
shall satisfy such judgment or if their
appeal shall be dismissed and they shall
pay the judgment of the Justice together
with the costs of the appeal this recognition
shall be void

Approved March 16th 1867

Attest

M. C. Jennings
Justice of
the Peace

W. J. Stull
Josiah Stull

Grand School

as

Mr. Smith

Abraham Lincoln

Dear Mr. Smith I am very

much obliged to you

for the money you have

James B. Beard & } affidavit for appeal
W. J. Hull }
vs }
Mr. Parks }

W. J. Hull one of the above
named plaintiffs makes oath and says that
the appeal taken from the judgment of ~~the~~ J. C.
Presiding Justice of the Peace in the above
entitled Cause is not made for vexation or
delay but because he believes the appellant
is injured by the judgment of the justice

W. J. Hull

Grand rehall

or

John Davis

Office clerk for Appled

James P Brand and W J Hull
vs
Wm Parks

Action on an afz
for \$23.60

Summons issued February 12th 1867 made
returnable March 9th 1867 and placed in the
hands of John Vernon Constable in and for coaching
Township.

March 9th 1867 John Vernon Constable
makes return of the Summons

And on this day comes the plaintiff and the def-
endant and both being ready for trial and
with the demanding a jury the justice to proceed
to hear the evidence and try the case
After hearing all the evidence it is considered
by the justice that the plaintiff has failed to
Establish by his evidence the fact of a
Copartnership Existing between James P Brand
and W J Hull and it is therefore adjudged
by the justice that the defendant have judg-
ment for his costs in this behalf expended
And on this 9th day of March 1867 comes
the plaintiff and files his affidavit and
Bond for appeal with Josiah Hull Sen
as security which is granted by the justice

Justices Fees

Indorsing
Docketing

10

10

Summons	35
Swearing Witnesses	45
Entering Judgment	50
Taking Recognisance	35
Writing off for Appeal	35
Certificate to do	15
	2,35

Constables Fees

Serving Summons

35

State of Missouri
County of Jefferson } I, M. C. Jennings a Justice
of the peace within and for the
County of Jefferson do hereby certify the foregoing to be a full
true and correct transcript of the Entries and
proceedings in the case of James P. Brand and W. J.
Hull vs Wm Parks as the same are of record
on my docket and that the papers thereto attached
are all the original papers on file in my office

Witness my hand this 9th day of
March 1867

M. C. Jennings
Justice of the Peace

Brady v. Hall

vs
Hunt

Transcript
of
Appeal

2247

Filed April 23^d 1867
Elias J. Honey, Clerk

COUNTY OF JEFFERSON,

The State of Missouri,

To

James Smith & M. C. Jennings

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 21st last day of May 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

Jeff. Smith and
James Smith is
Plaintiff, and

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this day

of A. D. 1867.

Elias F. Honey, Clerk.

By the Hon. Judge

SUBPŒNA.

TO

Jefferson Circuit Court

TERM, 186

Sheriff fee 1.00

Beard
no
mice

I have taken the within in Jefferson
County Mo on the 6th day of November on
the 7th day of May 1867

John Williams
Sheriff

COUNTY OF JEFFERSON,

The State of Missouri,

To

John Smith

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

May 21st 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

we

Plaintiff, and

William Banks is

Defendant, on the part of

Plaintiff

and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this 2nd day

of May . . . A. D. 1867

Elias F. Honey Clerk.

SUBPŒNA.

TO

Jefferson Circuit Court

May... TERM, 1867.

Beard & Mule

vs

Wm Parks

For Plff.

John Smith

Sheriff fee 50

I Execute the Within in Jefferson County Mo on
John Smith on the 6th day of May 1867
Executing the same to him

John Williams
Sheriff

COUNTY OF JEFFERSON,

The State of Missouri,

To John Smith

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 15th day of May 1867 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

Plaintiff, and Null are Defendant and Edward Park

Defendant on the part of

Null

and herein you are in no wise to fail.

WITNESS, SAMUEL A. REPPY, Clerk of our said Court,

with the seal thereof hereto affixed, at office, this

24th day of April A. D. 1867

Edwin J. Honeys, Clerk.

SUBPENA.

TO

Jefferson Circuit Court

May

Term, 186

Beard & Kull

vs
Wm Parks

for Plff

John Smith

Sheriff fee 50

I Enclose the Within in Jefferson County
Mo on John Smith on the 7th day of May
1867 by beating the same to him

John Williams

Sheriff

2247

COUNTY OF JEFFERSON.

The State of Missouri,

To

James Smith Jr & Orphans

You are Hereby Commanded, That setting aside all manner of excuse and delay you appear before our Circuit Court for the County aforesaid, on the *fourth day of December* *1867* 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

Samuel & Shull and

Plaintiff, and

John J. Parks, is

Defendant, on the part of

Heftendark

and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this *9th* day

of *December* A. D. 186*7*

Elias F. Honey (Clerk)

By J. B. Ashburn & Son

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867

Beard & Hall

vs
Wm Parks

Deo def't

Frank Cadwallader

Thomas Smith

James Smith Sr

for Myatt

Recd the within by reading
the same in there presence 15.11.67
of Boston
John L. Barker Constable

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *Francis M. Cadwallader*

by

body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *forthwith*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *Witness* after being
duly Summoned to do so. Herein fail not, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this *Sixth*
day of *November* A. D. 1867

Elias F. Honey
CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

November Term, 186

State
vs *Adair*

Geo W. Leadwell

THE STATE OF MISSOURI

County of Jefferson ss.

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *Mark C Jennings*
by *his*
body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *for the*
then and there to answer a contempt by him committed, in not attending said
Court as a *Witness* after being
duly Summoned to do so. *Herein fail not, and have you then there this writ.*

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this *Sixth*
day of *November* A. D. 186*7*

Elias F. Honey
CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

Wardman.....Term, 186

State
vs *attachment*
Mark C. Jewett

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *James Smith*

by *his*

body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *forthwith*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *Witresp* after being
duly Summoned to do so. *Herein fail not, and have you then there this writ.*

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this *Seventh*
day of *November* A. D. 1867

Elias F. Honey

CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

November Term, 1867

State

v. Attachment

James Smith

THE STATE OF MISSOURI.

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *John Wiatt*

by *his*

body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *forthwith*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *Witness* after being
duly Summoned to do so. Herein fail not, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this *Sixth*
day of *November* A. D. 186*7*

Elias F. Honey

CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

Warrant Term, 186

State

vs } *attachment*

John Witt

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *Thos. C. Smith*

by his

body, and safely keep, so that you have *his* body before our Honorable

Circuit Court, *for service*

then and there to answer a contempt by *him* committed, in not attending said

Court as a *Witness* after being

duly Summoned to do so. *Herein fail not, and have you then there this writ.*

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,

with the seal thereof hereunto affixed, this *Sixth*

day of *November* A. D. 1867

Elias F. Honey

CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

November Term, 186

State

= vs Attachment

John O Smith

COUNTY OF JEFFERSON,

The State of Missouri,

To

John C. Jennings & John A. Allen

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 *first day of November* *1867* 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

David & Thell are

Plaintiff, and

Wm. Dando is

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *9th* day of *October* A. D. 186*7*.

Elias Honey Clerk.

By C. D. Dando & J. C. Jennings

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867.

Beard & Hull
vs
Wm Parks

For & aft.
M. C. Jennings
Wm Asborn

1 & 2000 to the within by reading
the same in the presence of
John Asborn on 22 1867

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *William J. Osborn*

by *him*

body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *forthwith*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *Witness* after being
duly Summoned to do so. Herein fail not, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this *Sixth*
day of *November* A. D. 1867

Elias F. Honey
CLERK.

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

Newman Lee Term, 186

State } *attachmend*

John J. Wilson

Shull & Mearck
Parkes

THE STATE OF MISSOURI

County of Jefferson ss.

COUNTY OF JEFFERSON.

The State of Missouri,

To You ^{James} ~~James~~, ~~see~~ ^{Wm} ~~Wm~~ ^{Stechman} ~~Stechman~~,
Henry Full Wm. Wadsworth

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 24th day of November next 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 Edward & Full

are

Plaintiff, and

William Parks

Defendant, on the part of

Plaintiff

and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 17th day of October . . . A. D. 186 7

Elias F. Honey (Clerk)

SUBPÆNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867.

Beard & Null

vs
Wm Parks

for Debt

Wm Pinson +

Lee Medley +

Wm Stickland

Henry Null 30

Wm H Washburn 30

~~Copy~~
Sheriff's fees \$2.50

I executed the within at Jefferson County and on
the 30th day of October 1867 on Wm Pinson
Lee Medley Wm Stickland Henry Null
Wm H. Washburn by reading the same
in each of their presence and securing

John Williams Sheriff
By M. W. Starnes Deputy

Beard & Hull
2
Mr. Parker }

The Plaintiffs ask the Court to exclude all that part of the testimony of Defendant relating to an offset, because no offset is on file.

Thomas Atty for Plffs.

22 - That if the Court should believe
that a secret partnership existed
at the time the account was
for was created, and that Preedy
Bacon ^{was} indebted to Defendant in
the sum of ¹Eighty dollars, for material
services, and that Defendant has
contracted with said Bacon, before
Joffe, and went to work in the shop,
for Bacon to do Blacksmith work
in payment of said Bacon's bill,
then the ~~finding~~ ^{finding} should be for
the Defendant

Mull & Beard - Plaintiffs

against

William Parks, - Defendant

In the Circuit
Court of Jefferson

The Defendant moves the Court to set aside the verdict or finding of the Court, & the Judgment rendered in the above Cause, and grant him a New trial, for the following reasons;

- 1- Because the Court admitted illegal & improper testimony offered by the Plaintiffs,
- 2- Because the Court erred in admitting the statements of the Plaintiffs, made ^{to} their own witnesses, to prove a partnership,
- 3- Because there was no proof of ^a partnership in Plaintiffs, at the time Defendant trusted Presly Beane, and agreed with him to take payment for his medical Bill in blacksmith work, -
- 4- Because there was no proof ^{of} any contract forming a partnership,
- 5- Because the Court misconstrued the law governing the case,
- 6- Because the Court erred in not admitting Defendant's medical Bill as proved, in offset against Plaintiffs claim,
- 7- Because ^{the Court} gave judgment for Plaintiffs when it should have been given for Defendants,

- 8 - The Court erred ⁱⁿ refusing the declarations of ^{law} asked by Defendant.
- 9 - There was no proof that Plaintiffs carried on the blacksmith business publicly as partners, - or that Defendant contracted with them, as partners, -
- 10 - Because Defendant was taken by surprise in not finding Defendant's office of Account filed as off-set before the Justice among the papers.
- 11 - Because the Partnership, if any existed, being unknown to Defendant when he gave credit to Presly Beane, ~~and~~ agreed to receive pay in black smith work, it was error to disallow Defendant's bill as proved.
- 12 - Because the finding of the Court is against the evidence and the weight of evidence.
- 13 - Because the finding is against the law of the case, and the judgment is for wrong party.
- 14 - Because the ^{Court} refused to admit the testimony of Frank Cadwallader, offered by Defendant.

Abner Green
Attorney for Defendant,

Given

Beama & Hull

vs,

William Parks

in

Court to declare the law of the case as follows;

The Defendant asks the

1 - The Plaintiff cannot not recover

unless they prove that a partnership

did in fact exist, at the time the

blacksmith work was for, was

made, ~~and that they were known~~

~~to the Defendant~~

was

Edward Hull

no =

Thos Parks,

motion for
a new trial

Check for supply
to Academy etc

examined

J. P. Beard &
Jefferson Mill
vs
Wm Parks

In the Circuit
Court of Jefferson
County Missouri
Nov. Term 1867

This affiant the appellant on
his oath says that this applic-
ation for an appeal is not made
for vexation or delay but because
the affiant believes that the
appellant is aggrieved by the
judgment or decision of the Court

Sworne to and
Subscribed before
me this 13th day
of November 1867

Wm Parks

Elias & Honey Clerk in Ch.
By C. D. Stone Deft.

Bear & Hall

Wm. Brooks

with for
appeal

March 20th 1867
Elias A. Hemeny etc

J. P. Beard &
Jefferson Mull Plffs.
vs
Wm Parks

In the Circuit
Court of Jefferson
County Missouri
Nov. Term 1867

We William Parks as
Principal and James N. Whitehead
as Security acknowledge ourselves
to owe and stand indebted unto
James P. Beard & Jefferson Mull in the
Sum of one hundred Dollars
to be Secured of our goods Chattels Lands
and Tenements to be void upon the
following Conditions To-wit

Whereas the Defendant William
Parks has appealed from the
Judgment of the Circuit Court of
Jefferson County Missouri rendered
at the November Term of said Court
for the Year 1867 for the Sum of
Twenty three & 1/2 Dollars for
and Costs of Suit in an action wherein
James P. Beard & Jefferson Mull were
Plaintiffs and said William Parks
is Defendant, Now if said Appellant
William Parks shall prosecute his
said appeal with effect due diligence
to a decision in the District Court for
the Second District of said State

of Missouri and shall perform
such judgment as shall be given
by such District Court or such as
said District Court may direct
the Circuit Court of said County of
Jefferson to give and if the judgment
of such Court or any part thereof
shall be affirmed and if said
William Parks shall comply with
and perform the same or so far
as it may be affirmed, and shall
pay all damages and costs which
may be awarded against the
appellant by the District Court -
Then this recognizance shall
be void otherwise it shall rem-
-ain in full force & effect

Dated signed & sealed this
12th day of November 1867

W Parks
J. V. Whithead

Seal
Seal

Approved this 11th day of Decr 1867
E. J. Horney clk

Wesley Schae

in
the ~~poor~~ ~~poor~~

Don't for
appear

Filed Dec 11 1869
E. J. M.oney

James P
~~David~~ Beard, - Plaintiffs } In the Circuit Court
 & W. Jeff Mullen, } of Jefferson County
 Against } Missouri
 William Park, - Defendant } November Term 1867

Be it remembered that on the 7th day of November 1867, the above entitled cause coming on for trial, before the Court sitting as a Jury, neither party requiring a Jury, - the Plaintiffs to sustain their Cause of action, offered the following testimony;

W. Jeff Mullen, one of the Plaintiffs, who states that he and Beard did the work charged in the Account sued on for Defendant amounting to \$23.60 in the summer of 1866 - that he went to work ^{with} Beard about the 23 of May 1866, and entered into partnership with him, by which he paid him for half the stock on hand, (Iron &c, in the blacksmith shop) and that he & Beard agreed to have each half the profits of the Blacksmith ^{work} done by them at Bernatite in Jefferson County Missouri, - But, they did not put up any sign as Partners, nor tell ^{every one} ~~friends~~ who dealt with them by having work done at their shop, that they were partners, - ^{but spoke of it to some} that the freight Bills sent to Bernatite were in the name of Beard or in ^{some} ~~some~~ name alone, - that he never told Defendant at any time while they were working for him that they were partners, - When I went into partnership with Beard we took an invoice of the stock of iron on hand & he paid Beard one half of the appraised value of the same, & the stock bought ^{after} the partnership I always paid my half.

The Defendant then in support of his defence offered the following testimony;

- 1 - James Smith, who states that he lives near Wemette, and did in 1866, while Nall was working in the Blacksmith Shop at Wemette with Beard, have a good deal of blacksmith work done at said shop, - that he always settled with Beard for the same, - and never heard anything about Nall & Beard being partners while they worked together, - never heard Nall claim to be a partner until since Beard run away, - that Beard appeared to be the ^{sole} proprietor & superintendent of the Shop. I got Nall to do some work for me once when Beard was not in the shop & I paid Nall for that work.

William Osborn, - who states I live at Wemette, - and in the years 1865, & 1866, I had a store within a few yards of the Blacksmith Shop of Beard in said Town, - ^{James P.} Beard appeared to be the sole proprietor of the Shop, - Nall went to work in the Shop with him in 1866, - I never heard

them spoken of as partners, until after Beard
went away, - Never heard Beard, or Null, or
any body else say they were partners while
Beard remained, - I had ^{blacksmith} work done at the
shop, ^{in the summer of 1866} - always settled with Beard, for the same.

Mr. Goza - who states I resided in the summer of
1866 in Mesquite Jeff. Co, Mo, - Had work done at the
Black ^{smith} Shop there, carried on apparently by James P. Beard
- who appeared to be the sole proprietor of the same,
Mr. Jefferson Null was working with him at the time,
~~as a mere smith~~, He was not then considered a good
blacksmith, I never heard Null, or Beard, or any
person say while they worked together, that they
were partners, There was no notice given to the public
that they claimed to be partners.

William Park, the defendant, being sworn, states, that in the years 1865, & 1866, James P. Beard carried on a Blacksmith Shop at Hemetite in Jefferson County Missouri, - That, in the year 1865, said J. Presley Beard became indebted to me, for medical services rendered in his family, to the amount of sixty dollars, And that some time in the latter part of that year said Beard came to me ~~office~~ ^{some money on} offered to pay me my Bill, but I told him, he need not pay it then as I would have a good deal of blacksmith work to do, soon and that I would let him pay my bill in blacksmith work. Soon afterwards, I got him to do work for me in the shop, intending to give him credit on my Bill against him for work he did for me, - While I was getting the work done in the first part of the year 1866, I saw W. J. Null working in the shop as a ~~sticker~~ ^{said} - but never heard a word about his claiming to be a partner of J. Presley Beard, - Neither Null nor Beard ever told me that they were, or claimed to be partners, - The business of the Blacksmith ^{shop} was carried on ostensibly by Beard as the ^{sole} proprietor of the shop, - the freight bills for Iron were always made in the name of Beard alone, - And I never saw any sign indicating that they were partners, - and never once heard it spoken of by any body that they claimed to be partners, until after J. Presley Beard run away.

I gave Beard Credit on my medical Bill for what Black Smith work he did for me, and which still Beard is debt to me some fifty dollars, - but Beard did not know of this - I mean told him that I credited ^{some} ~~the~~ account, I never engaged M. J. Noll to do any black-Smith for me, - neither while he worked with Beard, nor since Beard run away. nor have I ever got Noll to do any work for me, - And I do not owe him any thing, whatever, - and J. Presley Beard is indebted to me yet for my medical Bill against him, some fifty dollars, as I continued to practice & give medical attention to his family while he was working for me in the shop.

The Defendant here closed his testimony. And the Plaintiffs in rebuttal, called Mr. Noll who, states that some time in the month of May 1866, he was in the Black-Smith Shop at Wemetite, - and saw Beard & Noll take an invoice of the Iron in the shop, and heard Noll say they were going to work as partners. I weighed the iron, which Beard had on hand, for them.

Mr. Medley stated that in the summer of 1866, he saw Noll & Beard settle up almost every night & that Noll was always allowed one half of what was made in the shop for the day. He often during the time they worked together heard Noll & Beard both say they were in partnership. Noll & Beard usually sat - ready to buy their iron for them & the

iron generally come in Cosby's name -

Mr. Pinson also testified that he heard Mule Beard both say in the ^{summer} of 1866, that they were partners in the blacksmith business

Frank Cammallaen, called in rebuttal, - The Defendant offered to prove by him that he had in the summer of 1866, got work done in the Blacksmith ^{shop} at Benetite, - where witness then lived - and that he always heard it called Osana's shop, - & that he appeared to be the sole proprietor & that witness never heard Mule or Beard or any body else say that they were partners, - But, Plaintiffs objected to the witness being sworn because he was not called in the examination in chief by Defendant, - and the Court sustained the objection & would not permit him to be sworn, - To which decision of the Court the Defendant then & there excepted.

The Plaintiffs here closed their evidence, and the foregoing being all the evidence introduced by the Parties in the case, - The Plaintiffs asked the ^{Court} to give the following declarations of law, to wit, (here Copy Plaintiffs declarations of law,) To the declarations of law as prayed by Plaintiffs, the Defendant objected, but the Court overruled the objections, to which decision of the Court in so declaring the law, the Defendant at the time objected and excepted.

The Defendant then asked the Court to declare the law of the Case as follows, To wit, (here Copy the declarations of law, as prayed by defendant, numbered 1, 2,) but the Court refused to declare the law as prayed by the Defendant, - and to which decision & ruling of the Court, the defendant then and there excepted.

The Court then found for the Plaintiffs, and gave judgment for the plaintiffs as follows, To wit, (here Copy

the fragment) The Defendant then filed his motion for a New trial in words & figures as follows, To wit, (here copy motion for new trial) But the Court refused to grant a new trial, and to which decision of the Court in overruling said motion for a new trial, the Defendant then and there excepted, - and now prays that this, his Bill of exceptions may be signed, sealed and made a part of the record in said Cause, which is accordingly done,

J. H. Vail Judge

Clerk

In the Circuit Court
Jefferson County

M. J. Rule &
J. P. Beane
vs,

Wm. Park

Bill of
Exception

Filed Dec 11 1867
Edw. May Clerk

Leno & Hull } Judgt Nov 7 1867,
 Mr Parks.

E. P. Morley Clerk 13 files 65^c court, 25^c 90
 ord for attach^{mt} 20^c Bill of Ex. 35^c bond for appeal 50^c 1.05
 Judgt. 50^c Sub 35^c Bro 20^c Ind to Judgt. 10^c 1.15
 Ind appeal 35^c Orders 20^c rule 20^c 75
 6 Spas 25^c 1.50 Attachments for witnesses @ 4 each 5.00 6.50
 making cost, 50^c ~~10.00~~ 7.50
 11 oaths at 5^c 55^c app. 10^c 65
 does 10^c making Transcript 5265- ~~2132~~ words @ 15 per 100 4.70 7.90 8.00
 certificate and seal there to, motion 20^c rule 20^c 90

John Williams Sheriff, calls. 75
 serv 10 Spas. 5.00

John Vernon Const Serv 6 Spas. 3.00
 " " " " Summons 35^c

M. C. Jennings Justice 12.35

May Term 1867
 M. C. Jennings 1 day 16 2.28
 Wm Washburn 1 14 2.12

Nov Term 1867
 W. L. Piouson 1 d 12 1.96
 L. C. Medley 1 12 1.96
 Wm Washburn 2 14 3.12
 W. H. Hull 1 12 1.96
 Jas Smith L. 1 14 2.12
 11.12

Board & House
no
Dante
New Orleans

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

March Term 1869

May 3rd 1869

J. P. Beard and
W. J. Hull, Plaintiffs in Error
v.
William Parks, Defendant in Error

Error to Second
District Court.

Now again come the
aforesaid by their respective attorneys; and the Court
efficiently advised of and concerning the
matters and adjudge that the judgment
of the said Second District Court be reversed,
and ought to be held and esteemed, and that the
Jefferson County Circuit Court herein be affirmed,
and ordered.

Plaintiffs in Error
Error

recover of the aforesaid
costs and charges herein expended and have execution

STATE OF MISSOURI, SS.

O. J. Fishback

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

In Testimony Whereof, I have herunto set my hand and affixed
the seal of said Court, at office in the City of St. Louis,
this Eighth day of May,
A. D. eighteen hundred and sixty nine.

O. J. Fishback Clerk.

For J. P. Beard

D. C.

MAND

Judgment of Second District
Court Revised and Judged
of Jefferson County Circuit Court
Affirmed.

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