



Minnesota District Court (Carver County)
Civil and criminal case files

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Promissory
Note

No. 1190

DISTRICT COURT,
CARVER COUNTY, MINN.

James H. Mayall,
Plaintiff.

vs.

John W. Gregg et al
Defendant.

John B. & W. H. Lamburn
Plaintiff's Attorneys

W. C. Odell
Defendant's Attorney.

Date of Entry Dec 30th 1878

Register of Actions "A" Page 242

Term Tried April General 1879

Judgment for Plaintiff

Amount of Judgment \$ 2600.00

Date of Judgment April 17th 1879

Minute Record "A" Page 562

Default Judgment Book Page

Date of Docketing April 17th 1879

Judgment Record "A" Page 290

IT.

District.

County of

St. Paul

James H. Royall Plaintiff
vs
John W. Gugg and William B. Gris.
Defendants

SUMMONS.

The State of Minnesota, TO THE ABOVE NAMED DEFENDANT:

You and each of you are hereby summoned and required to answer the Complaint in this action which has been filed in the office of the Clerk of said Court.

and to serve a copy of your Answer to the said Complaint on the subscribers, at their office in Number 10 East Third Street in Saint Paul Minn within twenty days after the service of this Summons upon you, exclusive of the day of such service, and if you fail to answer the said Complaint within the time aforesaid, the Plaintiff in this action will take judgment against you for thirty three hundred dollars interest on twelve hundred dollars from August 1st A.D. 1878 interest on twenty one hundred dollars from September First A.D. 1878 and the costs and disbursements of this action

Dated St Paul Dec 16

A. D. 1878

John B. McArthur
Plaintiffs Attorneys St Paul Minn.

State of Minnesota } ss
County of Carver }

I hereby certify and return that
I did at the village of Chaska in the County of Carver
Minn., on the 18th day of December A.D. 1898, serve
the within summons for John W. Gregg and William
B. Griswold, Co-partners as Gregg & Griswold the
defendants herein named by handing to and leaving
with each of them personally a true and correct
copy of the within summons.
FEB. Service of 2 Summons \$2.00
2 miles travel .20
\$2.20

J. E. DeWitt.
Sheriff Carver Co. Minn.

DISTRICT COURT.

Second Judicial District.

County of Carver

JAMES H. MAYALL

vs
John W. Gregg et al

SUMMONS.

1st December 1898
C. W. GREGG
vs
J. W. GREGG
et al

John B. & W. H. Lusk
Plaintiff's Attorney

Pioneer Press.

Folio 1

State of Minnesota
County of Ramsey

District Court

Second Judicial District

James H. Mayall Plaintiff

vs.

John H. Gugg and William B. Grievold Defendants

Complaint.

The plaintiff respectfully complaining alleges and avers:

That heretofore and on or about the 29th day of August AD 1874 in consideration of the sale conveyance and delivery to said defendants by said plaintiff which was then made of certain lands ^{and property thereon} situated in Chaska County Minnesota ~~and~~ which constitutes the brick yard now occupied by the defendants at said Chaska, the said defendants and each of them made and executed ~~and~~ signed and delivered to the plaintiff their certain promissory note and instrument in writing dated on that day whereby for value received they promised to pay to the order of this plaintiff Sixteen thousand Eight hundred dollars in good merchantable brick delivered on the brick yard at Chaska aforesaid at the terms of the

" 2

character and on the terms following
to wit:

One hundred thousand brick on or before
September 29th AD 1874

" 3 One hundred thousand brick October 15th
AD 1874

One hundred thousand brick from 1st AD
1875:

Two hundred thousand brick July 1st AD
1875

Two hundred thousand brick August 1st
AD 1875

Fifty thousand brick September 1st AD
1875

One hundred thousand brick from 1st AD 1876

Two hundred thousand brick July 1st AD 1876

Two hundred thousand brick August 1st AD 1876

Fifty thousand brick September 1st AD 1876

One hundred thousand brick from 1st AD 1877

" 4 Two hundred thousand brick July 1st AD 1877

Two hundred thousand brick August 1st AD 1877

Fifty thousand brick September 1st AD 1877

One hundred thousand brick from 1st AD 1878

Two hundred thousand brick July 1st AD 1878

Two hundred thousand brick August 1st AD 1878

And Three hundred and fifty thousand brick
on September 1st AD 1878

And whereby they further provided and

5 agreed to and with said Plaintiff that
the brick so to be delivered should be good
merchantable brick which should be taken
from the kiln by said Mayall or his agents
before any brick had been picked or culled
therefrom;

And whereby it was agreed by and between
this Plaintiff and said defendants and
each of them that the amount that should
be due ^{and payable} at any time on said instrument
in case said defendants failed to deliver
any of said bricks as therein agreed
should be the value of the whole amount
of bricks due and payable at such time
estimated at six dollars per thousand
and that it should be so taken and
considered in all suits on or on account
of said instrument.

6 That the Plaintiff demanded of said de-
fendants the delivery to him of the
two hundred thousand brick agreed by
said instrument and note to be delivered on
August 1st AD 1878 and the
three hundred and fifty thousand ~~last~~
brick payable September 1st AD 1878
at the respective times and places

that said amount became due and payable and at divers other times but no part thereof has ever been paid or delivered:

" 7 That in and by the premises there became due and payable to the ^{plaintiff} ~~defendants~~ on the first day of August AD 1878 the sum of twelve hundred dollars

And on the first day of September AD 1878 twenty one hundred dollars more no part of which has ever been paid though often demanded

Wherefore the plaintiff demands judgment against the defendants and each of them for the sum of thirty three hundred dollars vizt. on twelve hundred dollars from August first AD 1878 - vizt. on twenty one hundred dollars from September first AD 1878 and the costs and disbursements of this action

John B. de Sanborn
Plaintiff's Attorney

STATE OF MINNESOTA, }
County of Ramsey } ss.

James H. Mayall came
before me personally, and being duly sworn, doth say that he is the plaintiff

in the above entitled action; that the foregoing pleading
is true of his own knowledge, except as to the matters which are therein stated on his in-
formation and belief, and as to those matters, that he believes it to be true.

Subscribed and sworn to before me, on this

16th day of Dec

A. D. 1878

William Porten

Notary Public, Minn.

James H. Mayall

11773

DISTRICT COURT.

County of

Ramsey

James Whayall
Plff

-VS.-

John W. Guggiswil
Defts

Filed this

17

day of

Dec

A. D. 1878

R. Keefe
By James B. McKinnon Clerk.

John B. McKinnon
Plaintiff Attorney &
Saint Paul Minn.

Published by John B. West & Co., 11 Watson St. St. Paul.

Filed Dec 17 1878

Wm. Guggiswil

Defendant

State of Minnesota
District Court
Eighth Judicial District
County of Carver.
James H. Mayall
Plaintiff.

^{vs}
John W. Gregg and
William B. Griswold
Defendants.

The above named Defendants for answer to the complaint of the Plaintiff in the above entitled action, deny each and every allegation in said Complaint contained, except such as are hereinafter admitted or qualified.

Said Defendants further answering said Complaint admit, that in August 1874 said Defendants in consideration of the sale by said Plaintiff to said Defendants of certain Real Estate which now constitutes said Defendants brick yard in Chaska, made and delivered to said Plaintiff their certain note or instrument in writing whereby they promised

to pay to the order of said Plaintiff
Sixteen thousand eight hundred dollars
in merchantable brick to be delivered
in the kiln on the Defendants brick
yard in Chaska. at the times in
said complaint stated. and that
said brick for the purposes of such
transaction should be considered
worth the sum of six dollars per
thousand.

And said Defendants aver that
prior to the commencement of
this action. they said Defendants
paid to said Plaintiff upon the sum
in and by said note or agreement
stipulated to be paid by said Defend-
ants. Thirteen Thousand six hund-
red and fifty dollars. by delivering
to said Plaintiff and on the order
of said Plaintiff. two million two
hundred and seventy five thousand
good merchantable brick. of the
kind. and in the manner. in
said agreement provided for.

Said Defendants. do and for
a first Counter Claim against
said Plaintiff state and show to
the Court that under and by

the terms of the agreement in
said Complaint and herein referred
to, the brick therein mentioned were
to be delivered by said Defendants
in the kiln, and were to be taken
therefrom by said Plaintiff or his
agents, and these Defendants aver
that said Plaintiff in possessing
himself of the brick turned over
and delivered to him by these
Defendants under said agreement
in the years 1874, 1875, 1876, 1877 & 1878
by his agents and servants, broke
trampled upon, destroyed and
wasted a large number of mer-
chantable brick to wit two hundred
thousand brick, the property of said
Defendants: that said brick so wasted
and destroyed by said Plaintiff ^{worth} more
and of the value of twelve hundred
dollars, and that the same were
wholly lost to the Defendants. In
consideration whereof said Plaintiff
afterwards and before the commence-
ment of this action promised these
Defendants to pay them said sum
of twelve hundred dollars therefor;
that no part of said sum has ever

been paid. and the whole amount thereof is and was at the time of the commencement of this action due and owing from said Plaintiff to these Defendants.

And said Defendants do and for a second Counter Claim against said Plaintiff, states and shows to the Court that in the year 1876. said Defendants purchased from said Plaintiff a large number of brick. that said Plaintiff in consideration of such purchase, promised and agreed to furnish for the use of ^{without charge or cost to said Defendants.} said Defendants, a scow or boat upon which said Defendants could transport the bricks so purchased from said Plaintiff to market; and these Defendants aver that said Plaintiff neglected and refused to furnish such scow or boat. although often requested so to do. to the great damage of said Defendants. and said Defendants were obliged to and did expend a large sum of money to wit two hundred dollars in procuring a boat with which to transport said brick to market.

2

In consideration whereof said Plaintiff afterwards, and before the commencement of this action promised to pay these Defendants, said sum of two hundred dollars, that no part of said sum has ever been paid, and the whole amount thereof is and was at the time of the commencement of this action due and owing from said Plaintiff.

And said Defendants as and for a third Counter Claim against said Plaintiff state and show that in July 1875 said Plaintiff left upon said Defendants brick yard a large number of brick to wit four hundred thousand brick, and although often requested to remove the same from said yard, neglected and refused to do so until some time in April of 1876: that by reason thereof said Defendants were greatly hindered and obstructed in the prosecution of their business, and suffered great loss and damage, to wit two hundred dollars. In consideration whereof and of the use and occupation of said premises, said Plaintiff

afterwards and before the commencement of this action promised these Defendants to pay their said sum of two hundred dollars therefor that no part of said sum has ever been paid. and the whole amount thereof is and was at the time of the commencement of this action due and owing from said Plaintiff to these Defendants.

And said Defendants do and for a fourth counter claim against said Plaintiff state and show to the Court that in the early part of the year 1877 said Plaintiff left upon said Defendants brick yard a large number of brick. and although often requested to remove the same from said yard neglected and refused to do so until some time in the Spring of 1878. that by reason thereof said Defendants were greatly hindered and obstructed in the prosecution of their business and suffered great loss and damage to wit one hundred and fifty dollars. In consideration whereof and of the use and occupation of said premises said Plaintiff afterwards and

Before the commencement of this action promised these Defendants to pay them said sum of One hundred and fifty dollars therefor: that no part of said sum has ever been paid. and the whole amount thereof is and was at the time of the commencement of this action due and owing from said Plaintiffs to these Defendants.

And said Defendants do and for a fifth Counter Claim against said Plaintiff state and show to the Court that said Plaintiff for a period of eighteen months from and after April 1876 used and occupied a portion of the Defendants brick yard wherein to pile and store a large number of bricks: that such use and occupation of said premises was reasonably worth and of the value of one hundred dollars. which amount said Plaintiff afterwards in consideration of the premises promised to pay these Defendants therefor: that no part of said sum has ever been paid. and the whole amount thereof

is and was at the time of the
commencement of this action,
due and owing from said Plaintiff
to these Defendants.

Wherefore these Defendants ask
that the amounts of the several
Counter Claims heretofore set
forth may be set off against the
Plaintiffs claims in this action.

Dated January 7th 1899

W. C. Odell

Atty for Deft

Chaska Minn.

State of Minnesota } ss.
County of Carver. }

John W. Gregg of said County
being first duly sworn says that
he is one of the defendants in the
action in the foregoing answer
entitled. that he has heard said
answer read and knows the
contents thereof. and that the
same is true of his own knowledge
except as to those matters which
are therein stated on information
and belief. and as to those matters
he believes it to be true.

Subscribed & sworn to before
me this 7th day of January 1899

W. C. Odell

Notary Public Carver Co Minn.

District Court
8th Judicial District
County of Larver.

James H. Mayall
Plaintiff.

vs
John W. Gregg et al
Defendants.

Answer

Filed Jan 17th 1874.
G. W. Venable
Clerk.
- Mr.

W. L. Odell
Atty for Defs.

Feb. 1.

State of Minnesota
County of Carver District Court
Eighteenth Judicial District

James H. Mayall
Plaintiff

vs.
John H. Gregg and William
B. Griswold Defendants

And now comes the plaintiff and
has a reply hereto:

Denies that he ever by his agents
or servants or otherwise broke
trampled upon or wasted two
hundred thousand brick or any
brick whatever of the defendants
or that any brick whatever were
ever lost to the defendants by
the plaintiff or his servants actions

He denies that any brick ^{referred} to in
Paragraph 4 & 5 of the answer as
trampled upon destroyed and
wasted were ever of any value
whatever. He avers that he did by
his servants and agents carefully
prudently and without any un-
necessary damage or injury

Feb. 2

Feb. 3.

to the defendants remove the brick
which he received during the years
mentioned in Article 14. of the
answer as provided in said
agreement. He expressly denies
that he ever made the agreement
set forth in Article 5. of the
answer either as there stated
or otherwise and denies that any
sum whatever was ever due or
owing on account of the defend-
ants first counter-claim in his
answer set forth.

II

He denies that he ever promised
or agreed to furnish for the use
of the defendants any scow or
boat as set forth in Article 6. of
the answer or otherwise. He denies
that said defendants were ever
damaged in any sum whatever
by the failure of the plaintiffs
to furnish such boat. He denies
that he has any knowledge or
information sufficient to form
a belief whether or not the
defendants expended any sum

4-

" 5 -

whatever in procuring a boat to
transport the brick referred to
in Galis 7 of the answer and he
denies that he ever made the
agreement set forth in said Galis
7 as therein stated or otherwise
and denies that any sum whatever
was ever due or owing from the
plaintiff to the defendants on
account of the second pretended
counter-claim in the answer set
forth.

111

" 6

He denies that by reason of the
leaving of the brick mentioned in
Galis 8. upon the defendants brick-
yard said defendants were in
any way hindered, or suffered any
damage whatever but avers that said
brick were left there with the
express permission consent and
agreement of the defendants with
the plaintiff which was made
by the said defendants in con-
sideration of the plaintiffs extend-
ing the time until the spring of
1878 of the delivery of certain
brick which were then aver-
due — that said brick of the

plaintiff should remain upon
said yard as long as he pleased
without cost or charge to him.

n 7
He expressly denies that he ever
made the agreement either as
therein stated or otherwise set
forth in paragraphs 8. & 9. of the answer, and he denies that any sum
or amount whatever ever became
or was due or owing on account
of the defendants their pretended
counter claim. in their answer
set forth and denies that the
defendants ever requested the
plaintiff to remove the brick
therein referred to from said
yard.

" 8

IV

The plaintiff denies that the defendants ever requested the plaintiff to remove any brick from said yard during the years 1877 and 1878. He denies that the defendant ever in any way hindered or obstructed or the prosecution of their business or suffered any loss or damage in any sum whatever by

9

reason of the plaintiffs leaving
his brick upon said yard
but avers that all brick so
left were left with the express
permission and agreement of
the defendants made by them
in consideration of the extension
of the time of delivering of
brick to him then over due
— that said brick should
so remain without cost to
the plaintiffs. He expressly
denies that he ever made the
agreement set forth in folio
10 of the answer as therein
stated or otherwise and denies
that there ever was or is now
any sum whatever due or owing
on account of the said
pretended counter-claim in
the answer set forth

10

V
The plaintiff avers that the
portion of the yard used
and occupied by him after
April 22 1846 was so used
and occupied by him under
an express agreement with

The defendant with the defen-
dents made by them with the
plaintiff in consideration of
his forbearance & forbearance,
the immediate delivery of brick
over due under said contract
— that he might use and
might occupy said portion
of said yard without cost
charge, or expense. He denies
that he ever used the same
for a longer time than was
necessarily employed, in the
removal of brick then over
due after they were ready for
delivery, and avers that he
removed the same as quickly
and expeditiously as possible
and he denies that the use
and occupation of said portion
of said yard was of any value
whatever. He denies that he ever
made the agreement set
forth in para 12 of the
answer, either as therein stated
or otherwise and denies that
any sum or amount whatever
ever became or was due or

" 12

coming an account of the defen-
dant's fifth pretended counter
claim in their answer set
forth.

Wherefore the plaintiff demands
judgment as in his complaint
is demanded
Sagitt Paul, Minn.
January 9. 1849

John B. W. Sanborn
Plaintiff's Attorney

STATE OF MINNESOTA, }
County of Ramsey } ss.

James H. Mayall came
before me personally, and being duly sworn, doth say that he is
the Plaintiff

in the above entitled action; that the foregoing pleading
is true of his own knowledge, except as to the matters which are therein stated on his in-
formation and belief, and as to those matters, that he believes it to be true.

Subscribed and sworn to before me, on this

9th day of January A. D. 1879

Samuel Whales

James H. Mayall

Copy

DISTRICT COURT.

County of *Carr*

James H. Mayall

—VS.—

John W. Gregg
vs.

Reply

Filed this *Jan 17th* day of
A. D. 187*9*.

G. W. Wray Clerk.

John M. McSweeney
Plaintiff's Attorney
St. Paul Minn.

Filed

Fol 1

State of Minnesota
District Court
Eighth Judicial District
County of Carver.
James H. Mayall
Plaintiff.

vs
John H. Gregg and
William B. Griswold
Defendants.

The above named Defendants for
amended answer to the Complaint
of the Plaintiff in the above entitled
action deny each and every allegation
in said Complaint contained except
such as are hereinafter admitted
or qualified.

Said Defendants admit that in
August 1874 said Defendants in
consideration of the sale by said
Plaintiff to said Defendants of
certain Real Estate which now
constitutes said Defendants brick
yard in Chaska, made and deliver-

Fol 2

ed to said Plaintiff their certain
Note or Instrument in writing.
whereby they promised to pay to
the order of said Plaintiff Sixteen
Thousand Eight hundred Dollars in

merchautable brick to be delivered
in the kiln on the Defendants brick
yard in Chaska at the times in
said Complainit stated. and that
said brick for the purposes of
such transaction should be taken
and considered as worth the sum
of six dollars per thousand.

Pol 3 And said Defendants aver that
prior to the commencement of
this action they said Defendants
paid to said Plaintiff upon the
sum in and by said note or
agreement stipulated to be paid
by said Defendants. Fourteen Thousand
Two hundred and fifty dollars. by
delivering to said Plaintiff and
on the order of said Plaintiff two
million ~~three~~ hundred and seventy
five thousand good merchautable
brick of the kind and in the manner
in said agreement provided for.

Said Defendants as and for a
first Counter Claim against said
Plaintiff states and shows to the
Court that under and by the terms
of the agreement in said Complainit
and herein referred to the brick herein

Vol 4

mentioned were to be delivered by
said Defendants in the Keku, and
were to be taken therefrom by said
Plaintiff or his agents, and these
Defendants aver that said Plaintiff
in possessing himself of the Brick
turned over and delivered to him
by these Defendants, under said agree-
ment in the years 1874, 1875, 1876, 1877
& 1878 by his agents and servants broke
trampled upon destroyed and wasted
a large number of merchantable brick
to wit two hundred thousand brick
the property of said Defendants: that
said brick so wasted and destroyed
by said Plaintiff were worth and
of the value of twelve hundred
dollars, and that the same were
wholly lost to the Defendants. In
consideration whereof said Plaintiff
afterwards and before the commence-
ment of this action promised these
Defendants to pay them said sum
of twelve hundred dollars therefor
that no part of said sum has ever
been paid, and the whole amount
thereof is and was at the time
of the commencement of this action
due and owing from said Plaintiff

Vol 5

to these Defendants.

Pol 6

And said Defendants do and for a second Counter Claim against said Plaintiff state and show to the Court. that in the year 1876, said Defendants purchased from said Plaintiff a large number of brick that said Plaintiff in consideration of such purchase promised and agreed to furnish for the use of said Defendants. without charge or cost to said Defendants. a scow or boat upon which said Defendants could transport the brick so purchased from said Plaintiff to market: and these Defendants aver that said Plaintiff neglected and refused. to furnish such scow or boat. although often requested so to do. to the great damage of said Defendants. and said Defendants

Pol 7

were obliged to and did expend a large sum of money to wit two hundred dollars. in procuring a boat with which to transport said brick to market. In consideration whereof said Plaintiff afterwards and before the commencement

of this action promises to pay
these defendants said sum of
two hundred dollars. that no part
of said sum has ever been paid.
and the whole amount thereof
is and was at the time of the
commencement of this action
due and owing from said Plaintiff.

And said Defendants do and
for a third Counters claim against
said Plaintiff state and show that
Pol 8 in July 1875 said Plaintiff left
upon said Defendants brick yard
a large number of brick. to wit
four hundred thousand brick.
and although often requested to
remove the same from said
yard requested and refused to do
so until sometime in April of
1876 that by reason thereof said
Defendants were greatly hindered
and obstructed in the prosecution
of their business. and suffered
great loss and damage to wit two
hundred dollars. In consideration
whereof. and of the use and occupation
of said premises said Plaintiff
afterwards and before the commence-
ment of this action promises these

Feb 9

Defendants, to pay them said sum of two hundred dollars therefore that no part of said sum has ever been paid, and the whole amount thereof is and was at the time of the commencement of this action, due and owing from said Plaintiff to them Defendants.

Feb 10

And said Defendants do and for a fourth Count claim against said Plaintiff state and show to the Court that in the early part of the year 1877 said Plaintiff left upon said Defendants brick yard, a large number of brick and although often requested to remove the same from said yard requested and refused to do so, until some time in the Spring of 1878 that by reason thereof said Defendants were greatly hindered and obstructed in the prosecution of their business and suffered great loss and damage to wit one hundred and fifty dollars. In consideration whereof and of the use and occupation of said premises, which was reasonably worth and of the value of said sum said Plaintiff afterwards and before

Pol 11

the commencement of this action
promised these Defendants to pay
their said sum of One hundred
and fifty dollars herefor. that no
part of said sum has ever been paid,
and the whole amount thereof is
and was at the time of the commence-
ment of this action due and owing
from said Plaintiff to these Defendants.

Pol 12

And said Defendants as and for
a fifth counter claim against
said Plaintiff state and show to the
Court: that said Plaintiff for a
period of eighteen months, from
and after April 1876 used and
occupied a portion of the Defendants
brick yard, wherein to pile and store
a large number of brick. that such
use and occupation of said premises
was reasonably worth and of the
value of One hundred dollars. which
amount said Plaintiff afterwards
in consideration of the premises
promised to pay these Defendants herefor
that no part of said sum has ever been
paid. and the whole amount thereof
is and was at the time of the com-
mencement of this action, due
and owing from said Plaintiff to

these defendants.

Wherefore these defendants ask
that the amounts of the several Counter
Claims heretofore set forth may be
set off against the Plaintiff's claim in
this action.

H. B. Odell

Atty for Defts

Chaska Minn

State of Minnesota }
County of Carver. } 20

John W. Gregg. and William
B. Griswold. being each duly and
severally sworn say and each for
himself says that he is defendant
in the action in the foregoing amended
answer entitled; that the facts set
forth in the foregoing amended answer
are true of his own knowledge, except
as to those matters therein stated
on information and belief and
as to those matters he believes it to
be true.

Subscribed and sworn to by W. B. Griswold
before me this 10th day of } J. W. Gregg
April A.D. 1879.
J. W. Griswold
Clerk of Court.

Dist Court
8th Jud District
County of Curver
James H Mayall
Plaintiff.

vs

John W Gregg et al
Defendants,

Answered Answer

Filed April 10 5 AM 1879.
G. Grayson
Clerk.

242

W C Odell
att'y for Defs

State of Minnesota
District Court 8th Judicial District
County of Carver.

James H. Mayall, Plaintiff
Against
John W. Gregg and
Jas. B. Griswold, Defendants

This cause came on to be tried
at its regular order in the Calendar at the General Term
of said Court, on the 10th day of April A.D. 1879, before
a jury duly impanelled and sworn to try the same,
and the said jury having rendered a verdict for the
sum of Twenty Six hundred dollars in favor of
the plaintiff and against said defendants.

Now therefore upon motion of J.B. and W.H. Sanborn
Attorneys for said plaintiff, It is ordered and adjudged
that said plaintiff have and recover from said
defendants the sum of Twenty Six hundred dollars,
and that he have execution therefor.

And by consent of parties, entered in open Court
it was further ordered that each party pay his own
costs incurred in said action.

Dated April 14th A.D. 1879.

By the Court:

G. Krusenbuhl
Clerk.

State of Minnesota
District Court
County of Carver,

James H. Mayall

vs
John W. Gregg and
John B. Griswold,

Judgment Roll

Judgment for Plaintiff
\$2600.00.

Given, April 17th AD 1879,
J. W. Griswold Clerk.

- 242. -

John B. & W. H. Sanborn
attys for def. St Paul, Minn

State of Minnesota
District Court
Eighth Judicial District
County of Carver.
James H. Mayall
Plaintiff.
vs
John H. Gregg and
William B. Griswold.
Defendants.

State of Minnesota } ss.
County of Carver. }

Henry Strobach of said County and State being first duly sworn says that for fourteen years last past he has been engaged in the business of manufacturing brick: that for six years last past and up to about October 1898 he was employed as Foreman on the brick yard owned and operated by the above named Defendants at Chaska: that about October last this affair together with one Muhoffer became the owner by purchase of a brick yard adjacent to said Defendants said brick yard: that this affair has

carefully and repeatedly examined
the clay bed of said Defendants and said
yard and knows the character and
extent thereof: that this affiant knows
the value of said yard, and that the
same is worth fifteen thousand
dollars.

This affiant further says that he knows
the manner in which said Defendants
have transacted their business, and
that the same has been conducted in
a prudent careful and honorable
manner: that said Defendants have
at no time manifested an intention
or desire to delay or defraud their
creditors, and have at no time
disposed of property other than
in the usual and ordinary course
of business.

This affiant further says that he
is one of the creditors of said
Defendants.

Subscribed & Sworn to } Henry Clark
before me this 9th day of }
January A.D. 1879.

W. C. Dull

Notary Public.

Carver & Sons

Debt Court
S. & J. Dist.
County of Carroll.

James H. Mayall

vs

John W. Gregg et al

Aff on motion

Filed Jan 11th A.D. 1879.
Guthrie Clerk.

File

Plff case.
Saul Mayall

[Blank No. 1.]

The North Western Telegraph Co.

The rules of this Company require that all messages received for transmission shall be written on the message blanks of the Company, under and subject to the conditions printed thereon, which conditions have been agreed to by the sender of the following message.

C. H. HASKINS, Gen'l Mgr.

MILWAUKEE, WIS.

E. C. SIMMONS, President.

H. B. HINGDALE, Secretary.

KENOSHA, WIS.

THE J. M. W. JONES STATIONERY & PRINTING CO., CHICAGO

Dated,

St. Paul, Minn.
ST. PAUL, MINN.

1879

Received at

To *W. H. Sanborn*

10 E 3rd St

*Just received postal too
late to come ad down
Case El Howe*

1/10

State of Minnesota
County of Carver District Court

James H. Mayall Plaintiff

vs.
John H. Gregg and William
B. Griswold Defendants

State of Minnesota }
Ramsey County } ss

Walter C. Sanborn
being duly sworn swears that he is
one of the attorneys for the plaintiff in
the action above entitled - that his only
partner John B. Sanborn left this State
to attend Court in Washington D C.
on Thursday January 2nd 1879:
That this affidavit was ordered by
His Honor Judge Cox to appear
before him on Friday January
3rd 1879 and that he was obliged
to leave St Paul on Friday morning
and could not return until this
day:

That the order to show cause in
this case was served on him on
Thursday at about One o'clock
P. M. That this affidavit
has not had time to prepare the

necessary affidavits. to present prop-
erly the case of the plaintiff upon said
order.

This affiant further swears that im-
mediately on receiving the order he
wrote and posted a postal card to
E. L. Howe at Chaska who is a
notarial witness whose affidavit is
necessary to come to St Paul this after-
noon and bring with him other witnesses
who live at Chaska and are necessary
witnesses and whose affidavits are
necessary to a proper presentation of
said case and he has just received
from him the telegram hereto attached.
And he asks that the hearing be ad-
journed until January 10th 1879
Subscribed & sworn to before me this 4th day
of January 1879

Walter H. Sampson
William Forten
Notary Public
Minn

On reading the above affidavit
it is ordered that the hearing on
the order to show cause be ad-
journed until the 10th day of

January 1879 at the same
place

State of Minnesota
County of Carver

District Court

James H Mayall Plaintiff

vs
John W Gugg & William B Griswold
Defendants

State of Minnesota
County of Ramsey

James H Mayall
being first duly sworn saith that he is
the Plaintiff

in the above entitled action and that
he knows the grounds and causes upon
which the writ of attachment was
applied for and issued in this
case. That he has fully and fairly
stated to John B T W H Lamborn
who reside at Saint Paul
Minnesota and are the retained
attorneys of the plaintiff herein
all the said grounds and causes
and the facts out of which they
arose and upon the plaintiff
relies to sustain the same
And that he has good and substantial
grounds and causes for the
application for and issuance of said writ

on the merits and ^{has and} can show good
substantial Cause ^{on the merits} ~~why said writ~~
as he is advised by his said
Counsel and verily believes true
why said writ of attachment
should not be vacated set aside
or dissolved.

This affiant further saith that the
Defendants have no just or valid
Counter claim or offset against
the plaintiff in this action or
defense thereto, that said Defendants
have three hundred thousand brick
which they contracted and agreed
to deliver to the plaintiff as stated
in the complaint and that
they have no other personal
property of any amount subject
to levy or sale on execution.

That said Defendants have had
since the 1st day of September 1878
a large number of other brick which
they had agreed to deliver to the
plaintiff before that time but that
they have refused to deliver the same
or any thereof or to pay the plaintiff
any money due on account thereof
but have sold and disposed of all

said other brick and received the money therefor and disposed of that otherwise than to the plaintiff with intent to hinder and delay the plaintiff in the collection of his debt.

That the defendants have contracted to sell and are about to assign and dispose of the said three hundred thousand brick their only remaining personal property of any value subject to execution to O. A. Ray of Minneapolis with the intent to hinder and delay this plaintiff and that they have openly and boastfully stated to the agent of this plaintiff that they would not deliver said brick & pay the proceeds thereof to the plaintiff as they lawfully ought, but that they would by such assignment and sale keep said personal property beyond the reach of this plaintiff and so hinder and delay him in the collection of his debt.

Subscribed & Sworn to before me

this 4th day of January A.D. 1879

Samuel H. Mayall
Notary Public Minn

District Court
Carver County

Geo H Mayall
vs
Jno M Gregg et al

affidavit of W. H.
Sauborn

filed Jan 14th 1879.
Guthrie
- mtr -

John B. Smith
for Plaintiff

Holm 1

State of Minnesota
District Court
Eighth Judicial District
County of Carver.
James H. Mayall.
Plaintiff.

vs
John W. Gregg and
William B. Griswold.
Defendants.

In this cause on reading
and filing the annexed affidavits
and taking judicial notice of
the records and files therein.
and on motion of W. C. Odell
Attorney for said Defendants.
It is ordered, that said Plaintiff
appear in person, or by his
Attorneys in said action, before
said Court at a special term
thereof to be held at the chambers
of the ~~Hon. J. D. Macdonald~~ Judge
of said Court, in the City of
Shakopee in the County of Scott
and State of Minnesota, on the
6th day of January 1879 at
10 o'clock in the forenoon of
that day, and show cause if
they can why the attachment

3 issued in this action should
not be vacated and discharged,
with ten dollars costs of motion,
upon the ground that said
attachment was improvidently
allowed and issued, and that
the allegations in the affidavit
upon which said attachment
was issued are false; such motion
to be heard on the part of said
defendants on the affidavits
hereto annexed and the records
files and proceedings in said
action.

4 It is further ordered that a copy
of this order and of the affidavits
hereto attached be served on the
Plaintiffs Attorney in this
action at least two days before
the hearing of said motion.

Dated December 31st 1878.

J. L. MacDonnell
Judge 8th Dist.

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State of Minnesota
District Court
Eight Judicial District
County of Carver
James H. Mayall
Plaintiff.

John W. Gregg and
William B. Griswold.

Defendants.
County of Carver ss.

William B. Griswold of
said County being first duly sworn
says that he is one of the above
named Defendants; that this Affiant
and John W. Gregg Defendant above
named, now are and for more
than five years last past have been
engaged in the business of manufact-
uring and selling Brick, and the
sale of Lumber, at Chaska in the
County of Carver and State of
Minnesota.

This Affiant further says that he
has read the Affidavit of James H.
Mayall on which the Attachment
in the above entitled cause issued
and knows the contents thereof; that
the allegations in said Affidavit
contained that this Affiant and
said John W. Gregg, have assigned
and disposed of a part of their
property with intent to delay

1 their creditors and especially said
2 Plaintiff, and that they are about
3 to assign and dispose of the re-
4 mainder of their property with
5 like intent, are false in each and
6 every particular.

7 This affidavit further says that said
8 Defendants in the prosecution of
9 their said business of manufacturing
10 and selling Brick and buying and
11 selling Lumber, have during the year
12 last past and since they embarked
13 in such business, from day to day
14 sold large quantities of brick and
15 lumber. But this affidavit expressly
16 avers that such sales have in each
17 and every case been made in the
18 ordinary and usual course of bus-
19 -ness and not otherwise, and for
20 prices as high as the market for
21 such commodities afforded, and
22 that the proceeds arising from such
23 sales have been used, in defraying
24 the expenses of their said business,
25 and in the payment of their indebted-
26 -ness: that at no time has this af-
27 -fiant or said Gregg, assigned or
28 disposed of any property in a
29 manner other than as aforesaid,
30 and at no time has there existed
31 a purpose or intent on the part
32 of this affiant or of said Gregg, to
33 assign or dispose of property with

intent to delay their creditors, or
in any manner to place their
property beyond the reach of their
creditors, or in any manner to
interfere with or impede the collection
of claims against them.

This affiant further says that in
August 1874 said Defendants pur-
chased from said Plaintiff, certain
land and premises which now
constitute the brick yard of said
Defendants at Chuska, and agreed
to pay therefor the sum of Sixteen
Thousand Eight hundred dollars in
brick at six dollars per thousand,
payable in eighteen installments
and that this action is brought to
recover for two two last installments
or payments on said contract; That
to secure the delivery of said brick
or the cash payment therefor, in the
manner and at the times stipulated
in said agreement, this affiant and
said Gregg executed and delivered to
said Plaintiff a mortgage upon the
property so purchased from him, which
mortgage said Plaintiff still owns and
holds as security for the fulfillment
of said contract on the part of said
Defendants. That the premises so sold
by said Plaintiff to said Defendants
are now at the present time from
twenty thousand to fifteen thousand

11 dollars. and at least nine tenths
2 as much as they were worth at the
3 time of the aforesaid sale to said
4 Defendants. and the mortgage thereon
5 so held and owned by said Plaintiff.
6 constitutes ample and sufficient
7 security for Plaintiff's claim against
8 said Defendants.

9 This Affiant further says that all
10 payments due upon said contract
11 prior and up to August 1st 1878 have
12 been fully paid by said Defendants:
13 that on August 1st 1878. and at the
14 time an installment of two hundred
15 thousand brick became due and
16 payable to said Plaintiff. said Defend-
17 x ants were and ever since have
18 been ready and willing to deliver
19 the same in accordance with the
20 terms of said agreement. of which
21 said Plaintiff has notice: that said
22 Defendants have just and legal Counter
23 Claims against said Plaintiff. as they
24 are advised by their Attorney W. C. Oull
25 to whom this affiant has fully and
26 fairly stated the case. and the nature
27 and grounds of such claims. and
28 verily believes to be true. and this affiant
29 avers that said Defendants are now
30 and always have been ready and
31 13 willing to fairly and equitably ad-
32 just all matters of difference with
33 said Plaintiff. and pay to him all

2
1 money (if any) that may be due
2 to him on such settlement.

3 This Affiant further says that at the
4 time of the commencement of this
5 action. said Defendants were and
6 now are the owners of the land and
7 premises mentioned in the Complaint
8 herein. and which constitutes the
9 Defendants brick yard at Chaska.
10 and the machinery and appliances
11 thereon used in the prosecution of
12 their said business of brick making
13 and that said yard and machinery
14 are worth and of the value of Fifteen
15 Thousand Dollars. that said Defendants
16 were at the time aforesaid and now
17 are the owners of a quantity of brick,
18 lumber and other personal property
19 at Chaska aforesaid. worth and of
20 the value of Three Thousand five
21 hundred dollars. and that there is
22 due and owing to said Defendants
23 from divers and sundry persons
24 three thousand five hundred dollars
25 all of which is due from responsible
26 parties and is collectible. and this
27 affiant avers that the total indebted-
28 ness of both this affiant and said
29 Gregg. including the amount of
30 their indebtedness to the Plaintiff
31 herein does not exceed the amount
32 or sum of seven thousand dollars.

33 This Affiant denies that said Plaintiff
x

1 was at any time in danger of losing
2 his claim against said Defendants by
3 reason of the facts in his Affidavit
4 for attachment mentioned, or for any
5 other cause, unless such attachment
6 issued, and expressly avers that
7 said Attachment was procured to be
8 issued and levied to harass and
9 annoy said Defendants and for
10 no other purpose.

11 This Affidavit further says that by virtue
12 of the attachment issued in this cause
13 the Sheriff of the County of Carver has
14 levied upon and attached said Defendants
15 brick yard and appurtenances, being
16 the same property upon which Plaintiff
17 holds a first mortgage as aforesaid, and
18 all the brick and lumber owned and
19 possessed by said Defendants, and
20 such Attachment ~~obstructs~~ and
21 entirely prevents said Defendants
22 from transacting their usual and
23 ordinary business, to the great injury
24 and damage of said Defendants.

17 And this Affidavit in behalf of said
25 Defendants prays that said Attach-
26 -ment may be vacated

Subscribed & sworn to before
me this 31st day of December 1878

N. C. Odell

Notary Public.

W. B. Brimbold

State of Minnesota District Court
Eighth Judicial District
County of Carver.
James H. Mayall
Plaintiff.

John W. Gregg and
William B. Griswold.
Defendants.

County of Carver ss.

John W. Gregg of said County
being first duly sworn says that
he is one of the Defendants in the
above entitled action: that he has
heard read the affidavit of William
B. Griswold hereto attached, and that
the same is true.

This affidavit further says that at no
time has this affiant or said Griswold
assigned or disposed of any property
with intent to delay creditors, or in
any manner to hinder or obstruct
the collection of claims against them
or either of them, and at no time

has this affiant or said Griswold made
any transfer or assignment of
property in a manner other than
in the regular course of trade and
business, and at no time has this
affiant or said Griswold contemplated
or intended to transfer, assign or dispose
of property with intent to delay

creditors or to defeat or obstruct
the collection of claims against
them.

20 This Affiant further says that said
Plaintiffs holds a first mortgage
upon Real Estate worth at least
Twenty Thousand Dollars. to secure
the payment of any claim or demand
due and owing from the Defendants,
and that the attachment in this cause
was procured to be issued and
levied by said Plaintiff without
any cause or reason existing therefor,
and to harass and annoy said
Defendants and for no other cause.

This Affiant further says that under
and by virtue of the Attachment in
this cause the Sheriff of Carver County
has levied upon and attached all the
lumber and brick together with the
brick yard owned by said Defendants,
and in consequence thereof said
Defendants are prevented from pros-
ecuting their business and are greatly
injured and damaged thereby.

21 Subscribed & sworn to before me this 31st day of December 1877
J. W. 1877

W. C. Odell

Notary Public

State of Minnesota
District Court
Eight Judicial District
County of Carver
James H. Mayall
Plaintiff.

vs
John W. Gregg and
William B. Griswold.

Defendants
County of Carver ss.

Phillip Hunt of said County
being first duly sworn says that he
resides at Chaska. and is engaged
in the sale of hardware and agricul-
tural implements: that he knows
the above named Defendants: that
he knows said Defendants brick yard
in Chaska and knows the value thereof.
that this affiant holds a mortgage upon
said yard, for twenty five hundred
dollars. which is a subsequent lien
to the lien of the Plaintiffs mortgage
thereon and that said yard is ample
and sufficient security for both the
mortgage of said Plaintiff and this
affiant's mortgage.

This affiant further says that said
Defendants have made no assignments
or transfers of property other than
in the usual and ordinary course
of business. and have in no manner
attempted to interfere with or impede

1 the collection of claims against
2 them: that said defendants have
3 been extensively engaged in the
4 manufacture and sale of brick
5 and the sale of lumber at Chaska
6 and have conducted their business
7 in a prudent and careful manner
24 8 and their sales and business trans-
9 actions have at all times been
10 made in good faith and as affairs
11 believe for fair prices.

12 This affidavit further says that he is
13 a creditor of said defendants to the
14 amount of two thousand five hundred
15 dollars, and that there has at no
16 time been any cause or ground
17 for the creditors of said defendants
18 to apprehend or fear a loss of their
19 claims because of any acts or
20 transactions of said defendants.

Subscribed & sworn to }
before me this 30th day
of December 1878

B. H. N. K.

25 Geo. A. DuToit

Notary Public

Minn.

State of Minnesota
District Court
Eighth Judicial District
County of Carver
James H. Mayall
Plaintiff.

vs
John W. Gregg and
William B. Griswold
Defendants.

26 County of Carver ss.

George Trust of said County
being duly sworn says that he now
and for several years last past
has been engaged in the business
of manufacturing brick; that he
affiant knows the brick yards owned
by the above named Defendants
at Chaska and the same one on
which the above named Plaintiff
holds a mortgage, and knows the
value thereof, and that said brick
yard is worth Fifteen Thousand
Dollars.

Subscribed & Sworn to before me this 31st day of December 1878

W. C. Odell

Notary Public

Carver County Minn.

State of Minnesota
District Court
County of Carver.

James H. Mayall
John W. Gregg and
William B. Griswold.

Affidavits under to show cause.

Filed December 31st 1878
G. Krugenholtz
Clerk

242

State of Minnesota }
County of Carver. } P.P.

W.B. Griswold of said
County being first duly sworn
says that on Thursday the 2nd day
of January 1879. at the City of
St Paul in said State he personally
served the annexed order to show
cause, and the affidavits hereto
attached on John B & W F Sanborn
Attorneys for the Plaintiff in
the cause in said order entitled,
by handing to and leaving with
said John B & W F Sanborn true
and correct copies of said
order and said affidavits.

Subscribed & sworn to before
me this 4th day of January 1879 } W.B. Griswold

Given to and subscribed before me
this 4th day of January A.D. 1879.

G. Graymiller

Notary Public

Carver County

State of Minnesota
County of Carver,
County of Carver,

James H. Mayall
vs
John W. Gregory and
William B. Griswold.

Affidavit of W.B. Griswold.

Filed Jan 14th A.D. 1899.
G. H. Grayson
clerk.

- 242 -

State of Minnesota,
County of Ramsey

}

District Court.
Second Jud. District

James H. Mayall plaintiff
John W. Gregg and William B. Griswold
Defendants

Know all Men by these Presents, That James H. Mayall as
Principal and J. P. Allen and M. J. C. Flower
as sureties
are held and firmly bound unto John W. Gregg and William B. Griswold and each of them defendant &
in the above entitled action, in the sum of One Thousand
Dollars, lawful money of the United States, to be paid unto the said Defendants and
Each of them their
heirs, executors, administrators or assigns, for which payment well and duly to be made, we jointly
and severally bind ourselves, our heirs, executors and administrators, firmly by these presents.

Sealed with our Seals. Dated this 16th day of December A. D. 1878

The condition of this obligation is such, that WHEREAS, the above named plaintiff has
duly applied for a Writ of Attachment against the property of said defendant in this action,
according to the statute in such case provided:

NOW THEREFORE, if the said defendant recover judgment, if the plaintiff shall pay
all costs that may be awarded to the defendant and all damages which he may sustain by rea-
son of the attachment, not exceeding the penalty of this Bond, then this obligation shall be void,
otherwise of force.

IN TESTIMONY WHEREOF, we have hereunto set our hands and seals, on this

16th day of December A. D. 1878

Signed, Sealed and Delivered in Presence of

Edward P. Sachornus
William Porter

James H. Mayall [L. S.]
J. P. Allen [L. S.]
M. J. C. Flower [L. S.]

State of Minnesota,
County of Ramsey

}

Be it known, that on this

day of December

A. D. 1878

J. P. Allen

came before me personally James H. Mayall
and M. J. C. Flower

to me well known to be the same persons who executed the foregoing Bond, and each severally
acknowledged the same to be his own free act and deed.

William Porter
Notary Public

of Minnesota,
County of Ramsey

M. T. C. Flower and
J. P. Allen upon oath doth say, each for himself, that he is one
of the sureties above named; that he is a resident and freeholder of and in the State of Minnesota,
and worth the amount of *Two Thousand* Dollars,
specified in the foregoing bond, above his debts and liabilities, and exclusive of his property which
is exempt from execution.

Sworn and subscribed before me, on this
17th day of *December* A. D. 187*8*

M. T. C. Flower
J. P. Allen

William Porter

Notary Public
Min

11723
District

Count

County of *Ramsey*

James H. Bayard

Robert H. Gregg et al

Bond for Attachment.

I hereby approve the within Bond, and the
sureties thereon.

Dated *Dec 17th* A. D. 187*8*

Wm. Porter

District Judge

True Dec 17/1878

C. P. Allen

my Jas C. Allen

John D. McLean

Notary Public

Printed and for sale at the office of the St. Paul Pioneer.

John D. McLean
Notary Public

State of Minnesota, } District Court
County of Ramsey } Second Ind. District

Jamus H. Mayall Plaintiff
AGAINST
John W. Gregg and William B. Griswold Defendants

AFFIDAVIT FOR ATTACHMENT.

State of Minnesota, } ss.
County of Ramsey } Jamus H. Mayall came
before me personally, and being first duly sworn, doth say, that he is the

said Plaintiff in the above entitled action, which is brought for the recovery of money, and a summons has been issued therein.

That a cause of action exists against the Defendant, and in favor of said Plaintiff therein, and the amount of said Plaintiff's claim therein is ^{Thirty three hundred dollars on 2/100 and instant on 1/200 from Aug 1st 78} and instant ~~from~~ September 1st AD 1878 ^{on 2/100 and instant on 1/200 from Aug 1st 78} Dollars, and the ground thereof is as follows, that is to say: That the defendants on August 29th 1874 for value received promised in writing to pay and deliver to the plaintiffs two hundred thousand good merchantable brick on August 1st 1878 and three hundred and fifty thousand good merchantable brick on September 1st AD 1878 at Chaska Minn. And in the same instrument agreed with this plaintiff that the amount due at any time on said instrument should be the value of the whole amount of brick due at such time estimated at six dollars per thousand and should be so computed in all suits on said instrument: That the plaintiff demanded payment and delivery of said brick above named at the times they respectively became due but the defendants have neglected & refused to pay or deliver any of said brick or of the money due thereon though often demanded. And that And:

And that the defendants and each of them have assigned and disposed of a part of their property with intent to delay their creditors and especially this plaintiff And that said defendants and each of them are about to assign and dispose of the remainder of their property with like intent.

And said Affiant doth depose and say, that said Plaintiff is in danger of losing his

said claim by reason of the facts aforesaid, unless a Writ of Attachment issue; and prays that such Writ of Attachment may be allowed and issued against the property of said Defendant therein, according to the Statute in such case provided; and said Affiant says that no previous application has been made therein for such order, and further saith not.

Subscribed and Sworn to before me,

On this 16th day of December A.D. 1878

William Porter

Notary Public
Immer

James H. Mayall

17723
District Court

County of Ramsey

James H. Mayall, Plaintiff

against

John H. Gugg et al
Defendants

AFFIDAVIT FOR ATTACHMENT.

To the Clerk of said Court:

On filing the within affidavit and a Bond approved by me in the within entitled cause, let a Writ of Attachment issue as within prayed.

December 17 1878

Wm. Porter
Judge of said Court.

Filed Dec 17 A.D. 1878

A. B. Keefe
Clerk of Court.

James H. Mayall
Plaintiff's Attorney

Pioneer Press Co., St. Paul.

Printed by
James H. Mayall
Attorney at Law

fol 1

1 copy

State of Minnesota
Ramsey County } In West Court

James H Mayall
vs
John W Grogg and
William B Groswood }

State of Minnesota }
Ramsey County } William B
Groswood after being duly sworn
deposes and says: I am one of the
defendants in this action: both of
the defendants in said action now
reside and live since a time long
prior to the commencement of this
action have resided at Leaska in
the county of Carver in said State
and said plaintiffs well knew that
to be so before he began this action:
2 That said defendants have duly
demanded that the place of trial
of this action be changed from
Ramsey County to Carver County
and said plaintiffs attorneys
have wrongfully refuse to consent
to such change of venue being
made in this action: That this

3 action was not commenced
prior to December 18th 1878 and
said defendants have a good
defense thereto upon the merits
as they are advised by their attorney
in said action W.B. Odell upon &
after they had stated to him all
the facts relating to such action
and as they truly believe to be true.
That this action is based upon
~~upon~~ written contract and per-
formance ^{by said defendants} thereto and for more
than one year past past has been
secured by a good valid first
mortgage upon real property of
the value of more than \$12000 ⁰⁰/₁₀₀
yet said plaintiff has caused
4 a writ of attachment to be issued
in said action and has caused
the same to be levied and it is
levied upon property of the said
defendants whereby their business
as mechanics and dealers in Brock
has been obstructed to their great
and continuous damage and
that said defendants desire
an immediate change of venue
so that they can interpose their

5/ answer in this action and
thereupon apply for an order
vacating said attachment
and the very thing.

Whereupon deponent on behalf
of said defendants asks the
following order in this action
W B Griswold

sworn to and subscribed
before me December 28th 1878
W P Warm

Notary Public
Ramsay Co
Minn

on reading the foregoing
affidavit and taking judicial
notice of the record and files
in the action therein entitled
and on motion of the defendants
in said action

6/ It is ordered, that said
plaintiff appear in person
or by his attorney in said
action before said Court at a
special term thereof to be held
in the Court House in the

City of Saint Paul in said County
of Ramsey State of Minnesota on the
28th day of December at 10 o'clock ^{in the} ~~forenoon~~ ^{afternoon}

and show cause if they can
why the place of trial in said
action should not be changed
to the county of Carver in said
State. with the dollars costs of
motion upon the ground that
the defendants both reside now
and since a time prior to the
commencement of said action
have resided in the said county
of Carver and have duly dem-
anded that the venue in said
action be changed to said
Carver county and that said
plaintiffs attorneys have
wrongfully refused to consent
to such change of venue: such
motion to be heard on part of the
said defendants upon the
 foregoing affidavit and the
records and files in said action
and upon the annexed notice
and affidavit of W.B. Groszold
It is further ordered that
a copy of this order and of

1
said motion and two affidavits
8 he served on the respondents
allowing in his action at
least two days

before the hearing of said motion
Dated Dec 24th 1887

Charles Simon.
District Judge

Yield here 30 to 40 bushels
Extra very much
Edison

State of Minnesota
District Court
Second Judicial District
County of Ramsey.

James H. Mayall.
Plaintiff.

^{vs}
John W. Gregg and
William B. Griswold.
Defendants.

County of Ramsey ss.

William B. Griswold being
first duly sworn says that he
is one of the defendants in
the above entitled action: that
this affiant and John W. Gregg,
defendant above named, at the
time of the commencement of
this action resided for a long
time prior thereto and now
do reside in the County of
Carver in said State of Minnesota.

9 This affiant further says that on
the 23rd day of December 1878, he
personally served upon John B.
W. H. Sartons, Attorneys for the Plaintiff
in the above entitled action a demand
in writing that said action be changed

to the proper County for the
County of Carver. for trial. a copy
of which demand is hereto attached
and reads a part hereof. That said
Plaintiffs Attorneys then and there
refused to consent to such change
of the place of trial of said action.

10 / Subscribed and sworn to }
before me this 23rd day of } WTB Griswold
December A.D. 1878 }
William Porter
Notary Public
Ransom Co. Minn.

District Court
and Just Dist
County of Ramsey

Jessie H. Mayall
Plaintiff.

vs
John W. Gregg et al
Defendants,
Affidavit.

Filed, December 29th 1878
Gibbs & Co. Notary
Minneapolis

State of Minnesota
District Court
Second Judicial District
County of Ramsey.
James H. Mayall
Plaintiff.
vs
John W. Gregg, and
William B. Griswold
Defendants.
Gentlemen,

You will please take notice
that I have been retained by, and
appear as Attorney for the Defen-
dants in the above entitled action.

You will also take notice that said
Defendants and each of them, at
the time of the commencement
of this action, resided, for a long
time prior thereto had, and now
do reside, in the County of Carver
in said State of Minnesota, and
that said Defendants hereby demand
that the trial of said action be had
in the proper County, to wit said
County of Carver.

Dated Dec 23rd 1878. - Yours re

John B. & H. H. Sanborn.
Atty for Plff

W. C. Odell
Atty for Defs
Chaska, Minn

Rec'd copy within Dec 24th 1878

John O. McLauborn
plffs attys

Dist Court
117th 3rd
2nd Jas District
County of Ramsey

James H. Mayall
Plaintiff.

vs

John M. Gregg et al.
Defendants.

Notice of Retra-
demands for change
of place of trial.

Filed, December 21st AD 1878
J. H. Mayall Clerk

Filed Dec. 26, 1878

A. R. Kiefer
Chas
N. C. Odell
attys for defts.

State of Minnesota
Ramsey County District Court

James H. Mayall

vs.

John W. Bugg and
William B. Snowd

at the special term of said court
held at the Court House in St.
Paul in Ramsey County and
State of Minnesota on the
28th day of December A.D. 1878
the motion of the defendants
in this cause for an order ch=
anging the place of trial and
venue in this cause from said
Ramsey County to the County
of Carver in said State, came
on in due course to be heard
upon order to show cause; and
after hearing counsel for the
respective parties and due
consideration

It is ordered that the venue
and place of trial of the above
entitled action be and the same
is hereby changed from the
County of Ramsey in the
State of Minnesota to the County
of Carver in said State and
that all further proceedings
in said action be had in

Westcott
Ramsay Co

James H. Maynard

Gregg & Griswood

order charging
venue

Service of within this
28th Dec 1878 v. ad.

Initiated by
John B. W. & Son
pys atty

Filed November 28. 1878

J. B. Ramsay with
W. C. O'Connell

Defendants
Filed Dec 30 5 a.m. 1878
O'Connell & Son

the District Court for said Barren
County; also that the clerk of
said District Court for said
Ramsay County do forthwith
transmit all the files in the
said action and duly certified
copies of all record thereof to
the clerk of the District Court
for the ^{said} County of Barren; also
that said plaintiffs do pay
to said defendants the sum
of Ten dollars costs of this motion

W. C. O'Connell
District Judge

State of Minnesota 3 ss
County of Ramsey

I A R Kiefer Clerk of the District
Court County of Ramsey State of
Minnesota do hereby certify and
return to the Honble District Court of
the County of Ramsey State of Minnesota
that the annexed are all the papers
found and returned in an action wherein
James H. Mayall is Plaintiff and
Ernest E. Johnson is defendant as appears
from the records and files in this office
Witness my hand and seal of said
Court at St Paul this 28 day of
Nov A D 1898

A R Kiefer Clerk
By James E. King
J. E. King

District Court
County of Ramsey,

James H. Mayall vs
John W. Gregg and
Wm. B. Grunwald Defts

Transcript of Ramsey Co. Court.

Filed, December 30th 1898.
Deputy Clerk
Edw. C.

State of Minnesota }
Ramsey County } ss

Samuel Hooyall being
first duly sworn deposes and says that
he is and ever since the date of the writ
in the complaint mentioned has been
the attorney in fact and managing agent of
the plaintiff in this action in reference
to the matters here in controversy:

That the said defendants have assigned
and disposed of a portion of their property
and are about to assign and dispose
of all the remainder of their personal
property that is subject to execution with
intent to delay their creditors and especially
the plaintiff in the collection of his debt
herein:

That at the time of the commencement
of this writ and before the defendants
had in their possession at Chaska in
said County Three hundred and twenty
thousand brick and about fifty thousand
feet of lumber of all of which they were
the owners: That this constituted then
and constitutes now all the personal
property that is subject to execution
or attachment that the defendants have:
That this personal property is not worth
or of the value of more than twenty one

hundred dollars, while said defendants owe more than seven thousand dollars:

That by the terms of the agreement in suit the defendants had agreed to deliver over and pay to this plaintiff on the first of August and the first of September A.D. 1878 all of said 320 000 brick and ^{and} 230 000 brick more as appears from the complaint herein being in all 550 000 brick:

That on the first of August 1878 said defendants had on hand at Chuska aforesaid 200 000 brick

That on the first of September A.D. 1878 said defendants had on hand 200 000 brick at said place ^{and} in December 1878 550 000 brick

That this affiant demanded and requested the delivery by defendants to him of said brick which they had on hand and had agreed to deliver to this plaintiff but that said defendants utterly neglected and refused to deliver the same or any thereof:

But that said defendants proceeded to sell and dispose of said bricks to other persons and to take and place where the plaintiff could not reach or collect the same on his debt the proceeds of said brick and that they have con-

travally and do still neglect and refuse to pay any moneys on account of said debt:

That said defendants have since the 1st day of August A D 1878 assigned and disposed of more than 500 000 bricks to persons other than the plaintiff notwithstanding their said agreement and while they have refused to deliver any bricks to the plaintiff and have refused to pay him any moneys on account of said debt:

This affiant further with that said defendants have now made an agreement to assign and dispose of all the remainder of their brick which constitutes in value all of their personal property which is subject to execution except said five hundred dollars worth of lumber to one O. A. Proyer of Minneapolis to be delivered during this winter and that if this writ of attachment is dissolved the plaintiff will be delayed in the collection of his debt for Eighteen months and until he can sell real estate under a mortgage foreclosure:

This affiant further with that said defendants have assigned and disposed of said brick above mentioned and are about to assign and dispose of the remain-

do thereof for the purpose and with the
intent to delay ~~the~~ plaintiff said eight-
teen months and compel him to foreclose
his mortgage while said defendants had
and have in their possession a large
portion of the brick due the plaintiff and
could have paid the same as they
agreed in August and September AD
1878 had they not intended to delay this plaintiff.
This affiant further saith that since the
first day of September AD 1879 said
defendants have openly boasted and
stated that they would not pay or deliver
any brick or money to this plaintiff
this year but would delay him by selling
and disposing of their personal property
to other persons and placing the proceeds
thereof beyond his reach and would thereby
compel said plaintiff to foreclose his
real estate mortgage and wait eighteen
months for his pay on this debt and that
said sales assignments and disposals made
and to be made have been made with
the intent and are to be made with
the intent and purpose of delaying this
~~the~~ plaintiff in the collection of his
said debt:

This affiant further saith that at

1
Saint Paul in Minnesota on the 23rd day
of December A.D. 1878 he met the Defen-
dant William B. Griswold after the
writ of attachment herein was issued
and that said defendant then admitted
and stated that the defendants had had
since August 1st 1878 large amounts
of brick of which they had disposed and
that they then had over 300,000 of
brick on hand but he said the de-
fendants would not deliver any of said
brick to the plaintiff and that they
would not pay him the amount due
him in money but openly said and
boasted that they would dispose of all
said brick to O A Proyer and
so dispose of the proceeds that the plain-
tiff could not reach them and would
thus compel the plaintiff to resort to
his real estate mortgage and to wait
Eighteen months for this debt and he
stated that they had and would dispose
of said brick for the purpose ~~of~~ ^{and} intent
of delaying the plaintiff in the collec-
tion of this debt:

This affiant further swears that he
is personally familiar with all the
contracts and transactions between the plain-
tiff and the defendants and that

no counter claim or offset and no facts out of which one could arise against the plaintiff and in favor of the defendants exist or have ever existed ^{and} he further with that said Grimaud at St Paul on said 23rd December admitted and stated that defendants owed the plaintiff for all the brick claimed for in the complaint:

This affiant further with that said defendants have never been and are not ready or willing to deliver any of said brick or to pay any money or to make any just or equitable payment or settlement of this claim:

That the real estate covered by the plaintiff's mortgage with the machinery and appurtenances belonging to said brick yard is not worth more than \$5000 - and that the same has during the occupation of the defendants been depreciated in value by the consumption of the ^{and the depreciation of real estate} Clay ^{and} ~~the~~ ^{the} ~~depreciation~~ ^{depreciation} of real estate to an amount equal to at least twenty five per cent of its value ^{and} that by the time another season comes and a foreclosure of his mortgage is effected said real estate would not be worth over \$1000 -

This affiant further swears that he directed
in connection with the plaintiff the
suit to be brought and this writ of attach-
ment to be issued and that the same was
not procured or issued for the purpose of
harassing or annoying the defendants or
either of them but solely for the pur-
pose of preventing the defendants from carry-
ing out their boasted intention of delay-
ing the collection of this just debt 18
months by the assignment and disposal
of their personal property as said defen-
dants had done were doing and were
threatening to do. And he prays that
this writ of attachment be sustained and be
not dissolved

Subscribed and sworn
to before me this day
of June AD 1879
Samuel Whaley
Notary Public
Minn

Samuel Mayall

State of Minnesota
Randy County } ss

James H. Mayall
being first duly sworn deposes and says that
he is the plaintiff in this action and has been
during the time since the date of the note
in the complaint named Concoment
and familiar with all the transactions in
relation to the same and has in con-
nection with and jointly with his attorney
in fact and general managing agent
Samuel Mayall been conversant with
all said transactions:

That he has heard the foregoing Affidavit
of Samuel Mayall read - and that
the same is true except as to that part thereof
which states the admissions and statements
made to Samuel Mayall on December
23rd 1878 at Saint Paul Minn. ^{by William B. Guigault} and as to that part
he knows it only from the statement of
Samuel Mayall which he believes to be true

~~Subscribed and sworn to~~

before me this 6th day

of January A.D. 1879

Walter H. Sanford

Notary Public

Alderson 4th Ward

Saint Paul

State of Minnesota } ss
County of Ramsey }

Commons L.

Howe being first duly sworn deposes and says that he resides and ever since the date of the note in the complaint mentioned has resided at Chaska in Carver County Minnesota and has during all said time been the agent of the plaintiff in receiving brick from the defendants at Chaska and shipping the same to Saint Paul and in seeking to collect and demanding the payment of the brick in the complaint mentioned:

That this affiant has during all said time been intimately acquainted with and has watched the doings of the defendants in this action and has been and is acquainted with their financial standing and proceedings:

That since the first day of August AD 1878 this affiant has repeatedly on behalf of the plaintiff demanded of the defendants payment and delivery of the brick due as mentioned in the complaint but that they have always neglected and refused and still do neglect and refuse to deliver any of said brick or to pay any money on account thereof

That the said defendants have assigned and disposed of a portion of their property with intent to hinder and delay their creditors and especially the plaintiff and that they are about to assign and dispose of all the remainder of their personal property that is subject to execution with the same intent and purpose:

That ~~on~~ the first day of August AD 1878 said defendants had on their brickyard at Chucha 200 000 brick and this affiant demanded the delivery thereof to the plaintiff but said defendants neglected and refused to deliver the same or any thereof or to pay any money on account thereof but did continually assign dispose of ~~and~~ come to be taken away, said brick ^{by other persons} and obtain the proceeds thereof and place the same beyond the reach of the plaintiff:

That during the month of August 1878 said defendants manufactured at least four hundred and twenty-five thousand brick, but they had assigned and disposed of so many of said brick to other parties that they had only about 200 000 brick on hand on September first AD 1878 when this affiant

demanded that the brick due on said note and contract should be delivered but that they neglected and refused to deliver any of said brick or to pay any money on account thereof:

That said defendants manufactured on said yard at Chaska at least six hundred and forty thousand brick between September 1st and November 31st AD 1878, but that they continued to dispose of and ~~sell~~ ~~convey~~ said brick to parties other than the plaintiff so that at the time of the commencement of this action they had ~~but~~ ~~about~~ 320,000 brick on hand:

That the 320,000 brick and about fifty thousand feet of lumber constitutes all the personal property said defendants have subject to execution:

That said defendants have agreed to sell and assign to O. A. Proyer & Co. of Minneapolis Minn. all said brick now held by them and to deliver the same this winter and that they will place the proceeds thereof beyond the reach of the plaintiff and the only personal property of said defendants that will then remain ^{subject to execution} will be said lumber which is not worth

more than \$500 &:

That this affiant has repeatedly and again and again since September 1st AD 1884 demanded of said defendants the delivery of said brick but they have neglected and refused to deliver the same or any thereof or to pay any money thereon and he says that they have never been ready or willing to deliver said brick or to pay their debt on account thereof or to make any equitable adjustment thereof but on the other hand have constantly endeavored and intended and do endeavor and intend to hinder and delay this plaintiff in the collection of his debt by assigning and disposing of their personal property and placing the same and the proceeds thereof beyond the reach of plaintiff and the execution from this Court. That the said assignments and disposals of said brick heretofore made and about to be made have been made by the defendants and or about to be made by them with intent to hinder and

delay this plaintiff in the collection
of his debt.

That before the commencement
of this action and on or about
December 12th. 1878 on the street
at Chaska in ^{Carver} ~~Carver~~ Minnesota
when this officer demanded of the
defendant William B. Griswold the
delivery of said brick the defend-
ant Griswold told him that he
would not deliver said brick
but that he would ^{sell} ~~assign and~~
dispose of the same to other parties
and that he ~~was not~~ ^{did not} ~~place the~~ ^{did not} ~~brick~~ ^{place the} ~~brick~~ ^{brick}
~~part of the proceeds of said brick or otherwise~~
~~pay him the price of the plaintiff~~
and thus ^{would} ~~compel~~ him to fore-
close his real estate mortgage and
wait eighteen months for the
collection of his debt.

That prior to this time said Gris-
wold had stated to this officer
that they would dispose of their
brick which was the only per-
sonal property they had sub-
ject to execution and compel
the plaintiff to resort to the
real estate and thus he delayed
eighteen months in the collection
of his debt.

That on or about the 13th day
of December AD 1878 said defen-
dant, again stated and boasted
to this affiant that they would
by disposing of this ^{brick} ~~personal~~
~~property~~ delay the plaintiff a
year or eighteen months in the
collection of his debt by making
him resort to his real estate
mortgage and this affiant saith
that said defendant Groszold
has openly and repeatedly boasted
and stated to this affiant and
in his hearing that they the
defendants had disposed and
were disposing of said brick
for the purpose and with the
intent of hindering and delay-
ing the plaintiff in the col-
lection of his debt by placing
~~all their personal property~~
~~of value beyond the reach~~
~~of creditors~~

This affiant further saith that
he has been personally ac-
quainted with all the contracts
and transactions occurring at
Chaska in relation to the claim

here in suit and that no
counterclaim or set off of any
kind and no facts out of which
any counterclaim or set off could
arise in favor of the defendants
and against the plaintiff ex-
ists in this matter.

That he knows the value of the
real estate mortgaged to the plain-
tiff herein, that it is not worth
more than five thousand dollars.

That by the consumption of clay
in making brick and the depre-
ciation real estate it has since
said mortgage was made lost
at least seventy five percent of
its value and that after another
season's use in brick making
said property will not be worth
over four thousand dollars.

This affiant further says that
he consulted and conversed
with said plaintiff in reference
to the commencement of this suit
and the issuance of the attachment
herein and that the plaintiff
did not cause said writ to be
issued to harass or annoy the
defendants but solely for

The purpose of collecting his debt
and of preventing the defendants
from placing their property
beyond the reach of the plain-
tiff and the process of the court
with the intent to hinder and
delay him in the collection of
his debt as they had been doing
were going and were about to
do as they openly threatened and
boasted.

Subscribed & sworn to
before me this 5th day Common & House
of January A.D. 1879
Samuel Whaley

Notary Public.
Minn.

State of Minnesota }
County of Ramsey } ss.

Lucas Heane being
first duly sworn deposes and says
that he knows the plaintiff and
the defendants in the action here
intituled and has been for three
years past and is personally ac-
quainted with the business finan-
cial standing and property of the
defendants, that said defendants
have no personal property sub-
ject to execution except about
three hundred and twenty thousand
brick and fifty thousand feet
of lumber which is not worth
over twenty and hundred dollars
in all and that said defendants
owe more than seven thousand
dollars.

That said defendants have in
their brick yard at Blue Earth
two hundred thousand brick
in August 1st 1878 and man-
ufactured at least four hundred
and twenty five thousand during
that month, and during the
months of September and October
at least six hundred and forty

thousand more but that they assigned
and disposed of to other persons than
the plaintiffs all of said truck
except the amount they now
have on hand and that they
have agreed to assign and dispose
of these to C. A. Pray Esq of
Minneapolis and that they have
assigned and disposed of and
are about to so assign and dispose
of for the purpose and with
the intent of hindering and
delaying this plaintiff in the
collection of his debt herein
That after said remaining truck
shall have been delivered as the
defendants are about to do they
will not have over five hundred
dollars worth of personal prop-
erty subject to execution

This affiant further saith that
on the day of November AD
1878 at Chaska Carver County Min-
nesota the defendants William B
Griswold stated and admitted
in conversation with this
affiant that the defendants did
not intend to and would not

delivers the writ due to the plaintiff
or pay him therefor but that
they had disposed of and were
about to dispose of all their real
estate was all the personal
property they had of any value
subject to execution. To parties
other than the plaintiff. that they
~~they would thus get all their~~
~~personal property before the~~
~~reach of execution and would~~
thus make the plaintiff wait
sixteen months and until he
could fore close his real estate
mortgage before collecting some
debt.

This affair further with the said
defendant ^{Wm B. Emery} has repeatedly and again
and again within the last few
months in conversation with
this officer and in his hearing
~~clearly stated and stated and said~~
~~that said defendant had assigned~~
~~and disposed of and would dispose~~
~~and dispose of all their real~~
so that Mayall increasing the plain-
tiff could get no such or
money but pay off his debt
but would have to wait

~~His real estate nearly all and~~
~~was righteously enough for his~~
~~money.~~ And he says that
 said assignments and disposi-
 tions of this stock by defendants
 have been and are about to
 be for the purpose and with
 the intent of hindering and
 delaying the plaintiff in the
 collection of his debt.

Subscribed and sworn, Lucius Howe
 to before me this 8th day
 of January, A.D. 1878
 J. F. Dilly
 Justice of the Peace.

District Court.

Ramy County

James H. Brownell
 Plaintiff

vs.
 John H. Guggis et al

Defendants opposing
 dissolution of attach-
 ment.

John W. McArthur
 Atty. for Defs.

State of Minnesota }
County of Scott } ss

Ernest H. Howe
being first duly sworn deposes and says
that the defendants in and by the
real estate mortgage referred to in
their affidavits herein provided and
expressly agreed to pay all the taxes on
said real estate so mortgaged before
the day for the sale thereof for each
year

And this affiant with that the said
defendants have not paid the taxes upon
~~the~~ ^{any of} said real estate

for the years 1874 1875 1876 1877
or 1878 but that said land has
been sold under distress laws for
the taxes of each of said years and
bid off by the State of Minnesota and
the time for redemption from the
taxes of the first two of said years ^{has expired}
^{long since and little or no time} has expired in the State so that this land
no longer constitutes any security for
the debt but the title thereto is vested
absolutely in the State and the defen-
dants and said mortgage have no interest
claim or lien thereon

District Court.

Crowder County

James H. Bryant
Plff

vs.
John W. Bryant
Def't

Affidavit of proving
Execution of Attachment

Filed, Jan 19th 1899.
J. G. Bryant and wife
J. G. Bryant

= 2472 =

John B. McSampson
Plff. & Attorney

Subscribed and sworn to
before me this 18th day
of January AD 1899
Halter McSampson
Alderman 4th Ward
St Louis
Miss

Emmons & Howe

April 14th 1849.

James H. Mayall
against
John W. Gregg and
Wm. B. Griswold,

Edwin B. Harrison D1

August Klemmer

Wm. Keaton

Peter Nelson

~~Lucas Pass~~

~~Frederick Bangs~~

William Burton D2

Charles Block

Charles Aue Junr.

Vernum Wesson

Patrick Canby

Leonard Daseh D3

Paul Mahrbacher

Henry Haefken

John Simon

Mathew Kelly

~~Henry Asglen~~ Ref 3

Phil V. H. Johnson

List of Jurors,

Filed, April 11th 1879
Chas. W. Krayenbush
Clerk

— 442 —

State of Minnesota
County of Carver

District Court

Eighth Judicial District

James H. Mayall Plaintiff

vs.

John N. Gregg and William
B. Griswold Defendants -

~~John B. & W. H. Sanborn Plffs Attorneys~~

W. C. Osell Defendants Atty

Trial of Issues of Law & Fact

Issue joined March 8th 1879

Dear Sir:

Please enter the above re-
titled action for trial upon the
Refunder of the above named case
for the next General Term the
holders of churka are the 7th
day of April A.D. 1879

To Clerk of District } James Tracy
Court Carver County } John B. & W. H. Sanborn

Not of Issue

Filed March 11th 1879
Geo. W. W. W. W.
Delaware.

District Court. }
Carver County. }

James H. Mayall }
vs }
John W. Gregg and }
William B. Griswold. }

Sir
Let W. C. Odell Attorney
for the Defendants in said
cause have the files therein
for use before me at Chambers,
Dated Dec 31st 1878

J. L. MacDonald
Judge 8th Dist

To
Krayenbuhl
Clerk

Mr Krayenbuhl

Please deliver the
files in above entitled
cause to Mr Gregg.
I go to Shakopee in noon
and will not have time
Yours very truly
W. C. Odell.

State of Minnesota
District Court
County of Carver.

James H. Mayall
vs
John W. Gregg and
Wm. B. Grubbs.

Indorsement for files.

Filed Jan 15 1879.
G. Krugenthal
Clerk.

247

Feb 1.

District Court
Conner County
James H. Mayall

vs

John W. Gregg &
Jas B. Griswold

This is a motion to vacate
the attachment heretofore issued herein,
for the alleged reason that the facts stated
in the affidavit upon which it was
granted are untrue. The grounds stated
in that affidavit and upon which the
writ was asked and issued are that
the defendants and each of them have
assigned and disposed of a part of
their property with intent to delay
their creditors and especially this plaintiff
and that said defendants and each of
them are about to assign and dispose
of the remainder of their property with
like intent.

The defendants in support of this mo-
tion show, and I so find, that for more
than five years last past they have been
engaged in the business of manufactur-
ing and selling brick and the sale of
lumber at Chaska in said County of
Conner, and that during that time they

3.

have from day to day sold large quantities of brick and lumber and that each of said sales were made in the ordinary and usual course of business and for prices as high as the market afforded; that in 1874 they purchased the land and premises which constitute the brick yard of defendants and agreed to pay therefor sixteen thousand eight hundred dollars in brick at six dollars per thousand payable in eighteen installments and that this action is brought to recover on the two last installments or payments on said contract; that to secure the delivery of said brick or the money payment therefor, as agreed, defendants executed and delivered to Plaintiff upon the said property so purchased a first mortgage which mortgage plaintiff still owns and holds; that all installments of brick due prior and up to August 1st 1878 have been fully paid by defendants; that defendants are in addition to said brick yard and premises the owners of brick lumber and other personal property at said Chaska worth and of the value of two thousand dollars and that there is due ~~them~~ and owing to said de-

4.

1
1
defendants from others responsible parties
the further sum of three thousand five hundred
dollars which is collectable.

5
Defendants are and insist that said
land, premises and brick yard upon which
plaintiff has a first mortgage as afore-
said are worth from twelve to fifteen
thousand dollars and that the amount
due creditors does not exceed the sum
of seven thousand dollars. Defendants ex-
pressly deny that they have disposed of,
or are about to dispose of any of their
property with intent to hinder or delay
plaintiff or any of their creditors,
and over that the statement to that effect
in said affidavit "is false in every partic-
ular", and they deny that plaintiff was
at any time in danger of losing his
claim against them and expressly aver
that said attachment was procured to be
issued and levied upon their property
to harass and annoy defendants
and for no other purpose. They also aver
6
that when the two hundred thousand brick
became due on August 1st 1878 they were
and ever since have been ready and
willing to deliver the same to plaintiff
and that they have just and legal counter

4.
Claims against said Plaintiff and that they
are ready and willing to fairly and equitably
adjust all claims between them and pay all
money that may be found due to Plaintiff.
If these averments of defendant are all
true it is manifest that Plaintiff is not
by any act of defendant which he has
mentioned in danger of losing his said
claim. Philip Heck who has a second
mortgage of \$2,500 upon it, George Weist
and Henry Stobuck also testify that the
present value of said brick yard is as great
as that stated by the defendants. After con-
sidering the evidence of defendants and
these facts upon the value of said brick
yard and that of Plaintiff offered in oppo-
sition I find the value of said brick yard
to be at least ten thousand dollars and
that the same is ample security for
Plaintiff's claims herein. I find further
from the evidence offered that defendants
have not disposed of any of their property
and are not about to dispose of any of
their property with intent to hinder or delay
or defraud said Plaintiff or any of their
creditors; and that all of the sales of their
property made or about to be made
here and are made in the usual

and ordinary course of business. No
importance is to be attached to the statement
of Defendant Greenwald as alleged in
Plaintiff's own affidavit. In one case no
time or place is given and in the other
they were made after the attachment was
issued and very much later. As to the statute
of Home of the same character it is only
necessary to say that all the brick on
hand had previously been contracted to
Gray with the knowledge and con-
sent of Plaintiff and these remarks to
Home could not have been made seri-
ously. The only act alleged in support
of the writ of Attachment is the sale
to Gray, and it is uncontracted that
that was made with the knowledge and
consent of Plaintiff; and from all that
appears it certainly was made in the usual
and ordinary course of business as much
as any previous sale.

It is not for me to decide here whether
Defendants have been guilty of a breach
of contract; but even if they have
it is not a ground for attachment
Disposition of property with intent to hin-
der, delay or defraud is the only ground.
What property has been disposed of with

that intent; What property are they
about to dispose of with the intent and
to whom? I fail to discover any
such, from the evidence.

11/ It is difficult to understand how
Plaintiff expects to hasten the col-
lection of his claim by attaching the
property covered by his said mort-
gage as has been done. A judgment
of foreclosure of that mortgage could
be procured as soon as the judgment
asked for in this action can be.

There is nothing in the point that the
brick yard is the property of the
State. Under the tax law of 1878 a
county Auditor had authority to
execute the certificate of redemption
found in evidence.

In disposing of this matter I have
disregarded the Defendants answer and
sustained Plaintiffs objection to its be-
ing used. I have also disregarded
Plaintiffs reply to the same.

12/ It is therefore ordered that said writ
of attachment be vacated and the levy
made thereunder be set aside with
ten dollars costs of this motion to
Defendants.

January 16th 1879

J. L. MacDonald
Judge 8th Dist

Dist Court
8th Jno Dist
County of Carver.

James H Mayall

vs

John W Gregg et al.

Order vacating
attachment

Filed Jan 20th 1879.

E. Wray Clerk
clerk

24th

W. C. Odell
att'y for Defs.

State of Minnesota
District Court
Eighth Judicial District
County of Carver
James H. Mayall,

^{vs}
John W. Gregg and
William B. Griswold.

State of Minnesota }
County of Scott } P.O.

John W. Gregg, being first
duly sworn says that he is one
of the above named Defendants,
that he has read the affidavit of
James H. Mayall in support of
his application for a postponement
of the hearing on the order to show
cause heretofore granted in said
cause, and knows the contents
thereof; that with reference to
the sale of brick to O. A. Pray in
said affidavit referred to this
affidavit says that said Defendants
before contracting with said Pray
for the sale of said brick to him
repeatedly stated to the agents of
said Plaintiff that they were
negotiating with said Pray for
the sale of 1,000,000 brick, and

Plaintiff of J. W. Gregg,
Filed Jan 19th 1879,
Gibson v. Gregg, et al.

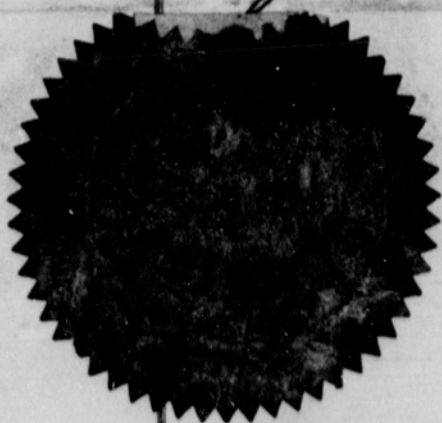
that said Plaintiff approved of
such sale, and repeatedly told
said Defendants that they could
use brick which would be due
to said Plaintiff under his
contract with said Defendants
to fill said Defendants contract
with said brick.

This affidavit further says that
under and by virtue of the
attachment in said cause the
Sheriff has levied upon and
attached all the property owned
by said Defendants in Alaska
and in consequence thereof
said Defendants are entirely
prevented from transacting
their usual and ordinary bus-
-ness, and are constantly and
daily suffering loss and damage.

Subscribed & sworn to
Before me this 6th day
of January 1879

J. W. Gregg

Before me at J. Peck
Notary Public
Scott & Wm.



State of Minnesota,

COUNTY OF RAMSEY

DISTRICT COURT,

Second Judicial District.

James H. Mayall

John W. Grogg & William
B. Griswold

Plaintiff

AGAINST

Defendant

WRIT OF ATTACHMENT.

STATE OF MINNESOTA,

County of Ramsey.

THE STATE OF MINNESOTA,

To the Sheriff of the County of *Carver*

WHEREAS, In the above entitled action, an application has been made to the proper officer for a Writ of Attachment against the property of *Daniel*

defendant therein, setting forth by affidavit that a cause of action exists against such defendant and specifying the amount of the claim and the ground thereof; and that the defendants *and each of them* have assigned and disposed of a part of their property with intent to delay their creditors and especially this plaintiff and that said defendants and each of them are about to assign and dispose of the remainder of their property with like intent

and the bond required by law has been duly executed and filed, and said writ allowed and directed to issue by said officer;

THEREFORE, You are hereby commanded and required to attach and safely keep all the property of said *defendants* within your county, not exempt from execution, or so much thereof as may be sufficient to satisfy the said plaintiff demand, which amounts to the sum of *\$ 3,300 & interest* as appears by the Complaint in said action, together with costs and expenses, and that you proceed herein in the manner required of you by law.

WITNESS, The Honorable WESTCOTT WILKIN, Judge of the District Court aforesaid, at Saint Paul, this *17* day of *Nov* in the year 187*8*

W. R. Kiefer Clerk.
By *James O'Brien* Deputy Clerk.

State of Minnesota }
County of Carver } ss.

Levy & return in execution
of within writ is hereto attached.
Dec. 18th 1878.

J. E. DuSail,
Sheriff under C. W.

No. _____
District Court,
COUNTY OF RAMSEY.

J. H. Mayall
Plaintiff

Ernest Grosvold
Defendant

WRIT OF ATTACHMENT.

Issued Nov 17 1878

Adelbert
Clerk.

Geo. O'Brien
Deputy Clerk

Returned and filed Dec 3rd 1878

W. Graymiller
Clerk

By _____
Deputy Clerk.

Received the within for service this
day of _____ 187 at _____ o'clock _____ M.

J. E. DuSail
Plaintiff's Attorney

Plaintiff's Attorney.

State of Minnesota B.S.
County of Carver B.S.

I hereby certify ^{and return} that on the
18th day of December 1898, I executed the annexed
Writ of Attachment to me directed, by at-
taching in the manner provided by law
the following described Real Estate situate
lying and being in said County of Carver and
State of Minnesota, to-wit: Commencing at a
point which is the South West Corner of land
formerly deeded by David Ebinger to J. W. Gregg,
and in 1874 owned by Berline Hes., which
said point bears east from the east side of the
Chaska Townsite Nineteen and one half ($19\frac{1}{2}$) rods,
thence running south parallel with said Townsite
line twenty (20) rods, thence at right angles
East thirty (30) rods to the South West Corner
of Gregg & Griggs four and one half ($4\frac{1}{2}$) acres
piece thence north twenty rods to the west
line of Gregg & Griggs four and one half
acre piece to the South East Corner of land
formerly owned by Hour, and thence westerly
to the place of beginning, lying and being
partly in the North East quarter, and in a
fraction joining said North East quarter of
Section Nine (9) in Township One hundred
and fifteen (115) Range twenty three (23) and
containing three and three fourths ($3\frac{3}{4}$) acres

More or less; also a tract of land situate in the Town of Chaska East of the reared plat thereof bounded and described as follows viz, Commencing at a point two and one half ($2\frac{1}{2}$) rods northerly from the south east corner of land owned by Jacob Hoyer, (some time since) in a line parallel with the east line of said Town site running thence southerly parallel with said Townsite line, twenty two and one half ($22\frac{1}{2}$) rods, thence easterly at right angles thirty two (32) rods, thence northerly parallel to the said westerly line of this tract twenty two and one half ($22\frac{1}{2}$) rods, thence westerly at right angles thirty two (32) rods to place of beginning, containing four and one half ($4\frac{1}{2}$) acres more or less lying and being in the north east quarter of Section Nine (9) in Township One hundred and fifteen (115) Range twenty three (23) according to Government Survey. Also the right of way from the south west corner of the said four and a half acre piece to the eastern boundary of Chaska Townsite, Also a tract of land bounded and described as follows. Commencing at the North East Corner part of a one and one quarter ($1\frac{1}{4}$) acre piece formerly deeded by David Ebinger to Heinrich Hammer as appears from the Records of Carver County, Book I of Deeds of page 297, and lying in the North East quarter of Section nine (9) of said, thence running northerly at right angles

with said Heinrich Hammers north line
on a parallel with the east line of Chaska
Townsite sixteen feet to a post, thence Westward
at right angles with the last mentioned line
thirty two feet to a post, thence southerly parallel
with the first mentioned line sixteen feet to
a post, in the north of H. Hammers land, thence
easterly along said line to the place of
beginning thirty two feet, all lying and
being in the North East quarter of Section Nine (9),
the whole being the same land deeded by James
H. Mayall, to said Gregg & Groswood August
29th 1875 by Warranty Deed, recorded in the
Register of Deeds office of said Carver County
in Book "C" of deeds pages 559 & 560.

And the following Personal property, then &
there the property of said defendants, to wit:
About 300,000 Bricks, situate being upon
said above described Real Estate, and a quantity
of lumber, consisting of about 50,000
feet situate lying and being upon Lot
No 10, in Block No 37, in the village of
Chaska in said County and State.

And I further certify and return
that I did on said 18th day of December
1878, leave a certified copy of said attachments
and of this my return therein in each of the
following named places, to wit: At the office
of the Register of Deeds of said County of Carver

and State aforesaid, and in the office
of the Town Clerk of the Town of Chaska
in said County and State the town in
which said personal property is situated
And further that I did on said
day and year at said Chaska
in the County and State aforesaid,
personally serve upon the Defendants
named in said Writ of Attachment,
a copy of such writ and this my re-
turn ^{and keep} thereof, by handing too and leaving
with said Defendants and each of them
true and correct copies of such writ
and of ^{this} my return thereof.

J. E. DuBois, Sheriff
Carver Co. Minn

Fees.

Service 2 Attachments \$2⁰⁰
4 copies " + Searching 2.00.

Cash paid Town clk, filing
attachment & return. 25-

Levy on Bk, lumber & land 1.00

Total \$5.25-

District Court
County of Ramsey.

James H. Mayall, Esq.
John W. Gregg and
Wm. B. Griswold, Esqs.

Writ of Attachment & returns.

Filed December 31st 1898.
Exrayenbuhl
Clerk,

File