



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

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3042

No. 8.

DISTRICT COURT

CARVER COUNTY, MINNESOTA

Herman J. Elke
Plaintiff

vs.

Henry Hammers
Defendant

Odell + Odell
Plaintiff's Atty.

Thos. J. Craven
Defendant's Atty.

Date of Entry *Sept 17th* 190*6*

Register of Actions *J.* Page *459*

Term Tried 190

Judgment for

Amount of Judgment, \$

Date of Judgment 190

Judgment Book Page

Default Judgment Book Page

Date of Docketing 190

Settled by Parties.

No. 3043.

(8.)

DISTRICT COURT,

Eighth Judicial District,
County of Canner

Herman J. Ellis - Pff

vs -
Henry Hammers - Deft.

NOTE OF ISSUE

Issue of Fact Law
LAST PLEADING SERVED

July 15, 1906.

Odele & Odele
Attorney for Plaintiff

J. F. Craven
Attorney for Defendant

Will the Clerk please file this Note of
Issue, and enter the cause on the Calen-
dar for the September
A. D. 1906 General Term
of this Court.

Yours respectfully,

Odele & Odele

Attorney for Pff

Filed Sept 17th 1906.

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(457)

3043
No. ~~7~~ 5.

DISTRICT COURT

CARVER COUNTY, MINNESOTA

Mary Schutz Plaintiff

vs.
Village of Waconia Defendant

Odell & Odell
Plaintiff's Atty.

Thos. J. Craven
Defendant's Atty.

Date of Entry 190
Register of Actions D. Page 460.
Term Tried March Adjourned 1907
Judgment for Defendant
Amount of Judgment \$ 27.23
Date of Judgment Dec. 21st 1907.
Judgment Book D. Page 258.
Default Judgment Book Page
Date of Docketing Dec. 21st 1907

No. 3043.

DISTRICT COURT,

Eighth Judicial District,
County of *Cannon*

Mary Schuty - Plff.
- vs -

The Village of Waconia
Deft.

NOTE OF ISSUE

Issue of *Law*
LAST PLEADING SERVED
Sept. 14 190*6*

Odell & Odell
Attorney for Plaintiff

J. F. Craven
Attorney for Defendant

Will the Clerk please file this Note of
Issue, and enter the cause on the Calen-
dar for the *September*
A. D. 190*6* *General* Term
of this Court.

Yours respectfully,

Odell & Odell
Attorneys for *Plff.*

Filed *Sept 17th* 190*6*

WILLIAM DAVIS PRINTING CO., MINNEAPOLIS

(460)

State of Minnesota }
County of Carver. } ss.

I hereby certify and return, that at the Village of Waconia said County and state aforesaid on the 24th day of August A.D. 1906. I served the Summons and Complaint hereto attached upon the within named Village of Waconia, Defendant by then and there personally handing to and leaving with one H.R. Diesner, then and there the acting President of the Village Council of the Village of Waconia Defendant, a true and correct copy of said Summons and Complaint.

Dated this 27th day of August 1906.

.....*H. A. Gatz*.....

Sheriff's fees service \$1.00
Mileage.....\$2.40
total.....\$3.40

No. _____

State of Minnesota,

County of Carver

IN DISTRICT COURT,

Eighth Judicial District.

Mary Schütz Plaintiff.

vs.

The Village of
Waconia Defendant.

ORIGINAL.

SUMMONS AND COMPLAINT.

W. C. ODELL,

Odell & Odell
Attorney for Plaintiff.

CHASKA, MINN.

CARVER COUNTY,
FILED

MAY 1 1907

H. O. Mueller clerk

(460)

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

Mary Schutz

Plaintiff

vs

The Village of Maconia

Defendant

THE STATE OF MINNESOTA TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to serve your answer to the complaint of the plaintiff in the above entitled action, which complaint is hereto attached and herewith served upon you, by copy, upon the subscribers at their office in the City of Chaska in the County of Carver and State of Minnesota, within twenty days after the service of this Summons upon you, exclusive of the day of such service; and if you fail so to serve your answer within the time aforesaid the plaintiff in this action will apply to the Court for the relief demanded in said complaint, together with the costs and disbursements herein.

Odell & Odell

Attorneys for Plaintiff.

Chaska, Minn.

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----::-----
Mary Schutz

Plaintiff

vs

The Village of Waconia

Defendant
-----::-----

Said plaintiff for her complaint in the above entitled action respectfully states and shows to the Court:

(1). That said defendant is and for more than twenty years past has been a municipal corporation duly created, organized and existing under and by virtue of the general laws of said State of Minnesota.

(2). That said plaintiff is and for more than ten years past has been the owner, seized in fee, and in possession of those certain parcels of land situated in said defendant village and known and described as Lots No. 1, 2 and 3 of Block No. 51.

(3). That said defendant village borders upon Clear Water Lake, the south shore of which constitutes the northern boundary of said village, and said Block No. 51 is one of the northern tier of blocks of said village and the north line thereof is the shore of said Lake. That running along the south line of said block is a street known as Lake Street, and upon the south side of said street and immediately south of said block lies Block No. 36 of said Village, and running along the south line of said Block No. 36 is a street known as Main Street which extends through said defendant village from the eastern to the western boundary thereof. That extending from the shore of said Lake and running along the east line of said Blocks No. 51 and 36 is a street known as Vine Street which extends through said village from the northern to the southern boundary thereof.

(4). That the surface of said Main Street is several feet higher than the surface of said Lake, and from said Street said Vine Street, and the land lying east thereof and constituting Blocks No. 37, 38, 55 and 56 of said village gradually slopes to-

said Lake affording a natural drainage for surface waters coming upon said streets and upon the blocks bordering said Main Street upon the south side thereof, and the natural drainage for such surface waters is along said Vine Street and over said Blocks No. 37, 38, 55 and 56 to said Lake.

(5). That extending from Block No. 31 of said Village across said Main Street through said Block No. 38 across said Lake Street and through said Block No. 51 to said Lake is a ravine into and through which flows the surface water which comes upon said Blocks No. 31 and 38, and said ravine is the natural drainage for surface water coming upon said Blocks No. 31 and 38.

(6). That the village council of said defendant village in improving said Lake Street and putting the same in suitable condition for public travel constructed a tile sewer across said street and in said ravine and extended the same along said ravine into said Block No. 51 for the purpose of collecting and carrying off surface water coming into said ravine in said Block No. 38 and the putting in of said sewer was necessary in order to properly protect said street and preserve the same in a safe and suitable condition for public travel.

(7). That after the building of said sewer across said Lake Street and into said Block No. 51, and in, to-wit, the year 1903, the village council of said defendant village for the purpose of carrying off the surface water coming upon said Main Street and flowing thereto from adjoining lands and to protect said street and preserve the same in a safe and suitable condition for public travel constructed a large sewer along the south side of said Main Street in front of said Block No. 37 and instead of conducting the water collected in said sewer in its natural course down said Vine Street to said Lake diverted such water from its natural course of flowage and conveyed the same across said Vine Street and into the ravine extending through said Block No. 38 and said sewer constitutes and is a part of a system of drainage adopted by the village council of said defendant village for the purpose aforesaid by means of which surface water has been and is ~~divided~~ diverted from its natural course of flowage and into and through said ravine.

(8). That by means of its said sewer and of its drainage system so adopted by the village council of said defendant village said defendant village has wrongfully

and unnecessarily diverted surface water from its usual and natural course of flowage and has collected and conducted the same into said ravine in said Block No. 36 and through the same and across said Lake Street and has thereby caused surface water which otherwise would not have flowed to plaintiff's premises to be conveyed thereto in great and destructive volume and with great and destructive force, and in, to-wit, the spring of the year 1906 plaintiff's said premises were torn out, injured and damaged by the action of surface water conveyed thereto by said defendant wrongfully and unnecessarily as aforesaid and by the means aforesaid, and plaintiff suffered and sustained damage in consequence thereof in to-wit the sum of five hundred dollars.

(9). Plaintiff further shows and states to the court that her said premises mentioned and referred to in paragraph 2 of this complaint are suitable and desirable for residence purposes and are only valuable for such purposes. That by means of the sewers which defendant has constructed to convey surface waters to the ravine in Block No. 36 as hereinbefore particularly stated such great and destructive quantities of water are and will be conveyed to and discharged upon plaintiff's said premises in time of rainfall or melting snow that said premises are and will be flooded and otherwise injured, and in consequence thereof said premises are and will be rendered undesirable and worthless as a place of residence. That it is not necessary for said defendant in order to carry off such surface water to convey the same into said ravine but the same can be feasibly conducted in the natural course of flowage down said Vine Street to said Lake without injury or damage to the property of any citizen, and said defendant now unnecessarily and wrongfully by means of its said sewer conducts great and destructive quantities of surface water to plaintiff's said premises to the great and irreparable injury and damage of plaintiff.

Wherefore plaintiff demands the judgment and decree of this honorable court as follows:

1. Perpetually enjoining and restraining said defendant, its agents and servants, from so diverting the surface water coming upon its streets from its natural course of flowage as to convey the same by means of any artificial drains or sewers to or upon plaintiff's said premises.

2. For her damages in the sum of five hundred dollars together with the costs

and disbursements of this action.

8. For such other and further relief in the premises as to the court may seem meet and proper.

Odell & Odell

Attorneys for Plaintiff.
Chaska, Minn.

STATE OF MINNESOTA,
County of Carver.

DISTRICT COURT,
Eighth Judicial District

Mary Schutz,

Plaintiff.

-VS.-

The Village of Waconia,

Defendant.

Now comes said defendant and for answer to the complaint of said plaintiff in the above entitled action respectfully states and alleges:

1. That said defendant admits paragraphs one, two and three of said complaint.
2. Further answering defendant alleges, that extending through said village of Waconia, from Clear Water Lake on the north thereof to the southern boundary line of the said village, is, and always has been, a well defined ravine or creek which is a well defined channel or water-course with precipitous banks on either side; that said ravine or creek passes through Blocks 9, 14, 31, 36 and 51 of said village and passes through and over the said lands of said plaintiff as described in her said complaint; and that from time without memory said creek was the natural channel for the drainage of the territory embraced within the western and southern boundary line of said village, and was the natural channel and way of drainage for a great extent of territory embraced within the limits of said village and lying to the east of said ravine or creek, as well as of a large territory lying without said corporate limits and to the south thereof. That shortly prior to the building of the so called Main Street Drain or Sewer, on the south side of said Main Street in front of Block 37 as in said complaint alleged, said village, for the purpose of a more speedy drainage of its streets, constructed another drain or sewer which is known and commonly called the Elm Street Sewer which said sewer begins at the alley in Block sixteen and from thence runs north along said Elm Street to said Clear Water Lake; that the so called Elm Street Sewer aforesaid caught up and carried off directly to said Lake the surface waters from a vast extent of territory within the limits of said village that at all times had theretofore been naturally drained into said ravine or creek aforesaid. That after so relieving said ravine or creek by the said Elm Street sewer and as a part of the drainage system of said village said village built

the said sewer or drain of Main Street in front of Block 37 and part of Block 38 and discharged the surface water caught up by this last named sewer or drain into said natural Ravine or Creek at a point where said Ravine or Creek crosses said Main Street in said village. That said drain or sewer so constructed on Main Street gathers up and carries into said natural ravine or creek the surface water from but a small territory not to exceed a few blocks in extent; and said waters so caught up and carried into said Ravine or Creek by said Main Street sewer was and is but a drop in a bucket as compared to the other waters that naturally found their way into said ravine or creek from the west, the south and the east thereof, and was as nothing compared with the waters caught up by the said Main Street Sewer that otherwise would have naturally flowed to the west and into said ravine or creek.

3. That said plaintiff ought not to be permitted to allege that defendant wrongfully and unnecessarily diverted surface water from its natural course

flowage and turned the same through the said Main Street Sewer into said Ravine or Creek because said Main Street Sewer so called was constructed by said village in the year 1903 at great public expense, and said sewer or drain is of a permanent nature and a part of a system of drainage

erected by said village in good faith; that said Main Street sewer was constructed across said Vine Street and on to said Ravine at a time in 1903 when said plaintiff was actually present, residing on Lot 15 in Block 37 of said village, and saw the public work thereon began and progressing from day to day across said Vine Street and on to said Ravine, that said plaintiff then well knew the purpose of said sewer that it was to so convey the waters caught up by said sewer into said Ravine, that plaintiff then well knew that said sewer was of a permanent nature and was being constructed by said village in good faith as a part of a system of drainage

erected by said village, and well knowing the object and effect thereof and that said defendant village relied upon its right so to build said drain, that said plaintiff at no time during such progress of said work objected in any way to so building said sewer, and at no time prior to the bringing of this suit did said plaintiff deny that said village had the free right to convey the waters caught up by said sewer into said Ravine and said defendant in good faith built said sewer relying upon the right so to do and upon the silence of the said plaintiff as aforesaid.

4. Save and except as hereinbefore expressly admitted, said defendant

3.

expressly denies ~~denies~~ said complaint and each and every allegation matter and thing in said complaint contained.

WHEREFORE, Defendant prays judgment that said plaintiff take nothing by this action, that said cause be dismissed, and for its costs and disbursements herein.

Dated Sept. 10th, 1908.

Thos. F. Craven
Attorney for Defendant, Chaska, Minn.

(Original)

STATE OF MINNESOTA,

County of

Carver

District COURT.

Mary Schutz
Plaintiff.

vs.

The Village of Waconia
Defendant.

Answer

Due and personal service of the within

Answer

is hereby admitted

this 11th day of September

A. D. 1906

Odele Odell

Attorney for

Plaintiff

Thos. F. Gaven

Attorney for

Defendant
Chaska Minn.

O. F. GREENWOOD, MANKATO, MINN

State of Minnesota,

County of

ss.

CARVER COUNTY,

FILED

SEP 17 1906

H. O. Muehlberg

(460)

being
first duly sworn upon oath, deposes and says, that at the
in said County of State, on the day of
within upon
the therein named, personally, by leaving
with said at the house of the usual abode of said a person of suitable
age and discretion, then resident therein, a true and correct copy of said
that said is to affiant well known to be the same
as the within named

STATE OF MINNESOTA

DISTRICT COURT

County of Carver.

Eighth Judicial District.

Mary Schutz,

Plaintiff

-VS.-

The Village of Wacenia,

Defendant.

DEFENDANT'S BRIEF.

Statement of Case.

The defendant village for the purpose of ~~the purpose~~ of draining its streets of surface waters coming thereon has heretofore constructed the following so called sewer drain along the streets of its village, viz:

In 1902 an 18 inch tyle drain was built beginning at a point 75 feet east of N.W. corner of Block 31 on Main Street thence running west on said street across Vine Street and terminating in the Creek or Ravine on Main Street at or about the same point where the drain or sewer in controversy terminates; about 1902 said village constructed another drain or sewer beginning at the alley in Block 16 on Elm Street thence running north on said Elm Street to Clear Water Lake; that thereafter and in the year 1903 alleged in the complaint, "the village council for the purpose of carrying off surface water" constructed the so called Main Street drain or sewer which said sewer begins at S.E. corner of Block 37 on Main Street thence running along Main Street, about 1 1/2 blocks, and terminating in the ravine or creek on said Main Street. None of these so called sewers are in any way connected.

It is conceded that from time without memory there was a well defined creek or ravine passing through said village from the southern boundary line thereof to Clear Water Lake and that said creek in its natural state precipitous banks on either side and passed through the property of plaintiff in a well defined channel; that from Main Street to said Lake, a distance of two blocks, this creek had a fall of some 40 or 50 feet; that said creek naturally drained a large part of the territory within the village and a considerable extent of farm lands lying to the west and south of said village. It is practically admitted by the evidence that the Elm Street Sewer relieved said creek from surface waters of at least three blocks of territory, and that all the territory drained by the Main Street

sewer, or the sewer in dispute, is, according to the evidence of Andrew Schutz, less than two blocks; the evidence shows that in 1902 plaintiff caused this said natural Creek to be completely filled in where it passed over her property and a tile drain pipe was placed in the bottom of the creek to convey the waters of the creek to said Lake: this tile drain so placed in said creek failed to work in 1904 and about April of said year the waters coming down said creek from all sources left plaintiff's tile drain and washed out the fill that plaintiff had placed in this creek. It is admitted plaintiff did nothing to restore the tiling or to put this creek in its natural condition.

Argument.

When we consider the kind of a creek said creek is, its rapid descent to the lake, its well defined banks and channel, we can come to no other conclusion than that if its channel was not filled in where it passes over plaintiff's land plaintiff could have suffered no damages by reason of any waters brought to this channel by the so called Main Street sewer: and I

intain that from the same source we must conclude that had the tiling and fill placed in that natural creek been kept in good repair all the waters coming to said creek would have passed on down that creek to said Lake without damage to any one; and I maintain the village council when

it constructed the so called Main Street sewer had the right to assume that that natural watercourse would be kept open, had the right to assume that if plaintiff's fill got out of repair that he would fix or remove it.

When we consider the extent of territory that is naturally drained by said ravine and the extent of territory that is drained into said Main Street sewer we must conclude that very little water comes to said ravine through the said Main Street sewer as compared with the amount of waters reaching said creek from the other sources; and it seems very evident that unless plaintiff leaves this creek over her property unobstructed or keeps it at tile drain in repair it will be of no avail to her to have this court say that defendant must stop up and remove the Main Street sewer, it will be of no avail because the waters coming from the other sources will find their way to the said Lake either through plaintiff's tile drain, if in repair, or by washing their way along side of it, if it is not kept in repair.

I confess it is beyond my conception to trace plaintiff's damage, if damage she has sustained, to any acts of defendant village; but I do maintain that under the evidence in this case the damages, if any, to her property is dir-

ectly attributable to plaintiff's own acts in obstructing and filling in this creek, she filled it in from bank to bank, she reclaimed her lot by filling in creek and all, and now because her work has failed and nature is again at work washing out the old creek, she points her finger to the village and says you did it the channel is bigger. She does not realize she filled in her lot channel and all with loose dirt and it is that that nature is washing away because she does not provide for nature's drainage.

The Law

It is well settled in this State that a municipal corporation in improving its streets for public use has the same rights and power over the land upon which the streets are laid as a private owner and is liable to the same liability for damage done to others through the improvement of such property

McClure v. Red wing, 28 Minn. 186,
O'Brien v. St. Paul, 25 Minn. 331
Dudley v. Buffalo, 73 Minn. 347

The Dudley case above cited holds that such drains, as the evidence in this case shows the sewer in controversy to be, are not sewers in the usual acceptance of that term.

A municipal corporation in the improving and caring for streets being governed by the same rules of law as private individual owners I will simply cite a few of the many decisions of our Supreme Court defining these rights:

Shuehan v. Flynn, 59 Minn. 436,
Gilfillan v. Schmidt, 64 Minn. 29,
Jungblum v. Minneapolis N. & S.W.R. Co., 70 Minn. 153,
Barnett Great Northern Ry. Co., 76 Minn. 461
Ottolie v. Town of Hammond 78 Minn. 275
Werner v. Pepp, 84 Minn. 118

From the above cases I think it quite clear defendant only did what was necessary for the improvement of its streets and was guilty of no negligence in the manner of doing it.

Whether or not defendant diverted surface water is not the test for in the case of Ottolie v. Town of Hammond above cited the court says:
"The truth is that nearly every drainage ditch diverts surface water to the injury of others to a greater or less degree. It is held that it can not lawfully be diverted, no matter what the reason or necessity of the case may be, would seriously embarrass the building of public roads and the drainage of agricultural lands."

A Plaintiff can not even contribute to his own damages, and it is his duty to use ordinary care to protect his lands from injury and if he fails in the use of such care to prevent the injury he can not recover, see extensive note 68 L.R.A. 277, subdivision VII of said note.

There is no evidence in this case that the village had any thing to do with filling in the creek on plaintiff's land; the officers of the village even if they did co-operate with plaintiff in so filling could not by such acts bind the village in any way, see

Peters V. Town of Fergus Falls, 36 Minn 549,

Ottolie V. Town of Hammond, 73 Minn 375

Robinson V. Danville, (Va.) 43 S.E.337

In this last named case court held, "That where a culvert, for the escape of surface water, constructed under a rail road track, was subsequently extended by the city across a street and into vacant property, but without any resolution as to it being passed by the city council or authorized acts being done by the Mayor or other officer or agent in relation thereto, the city is not liable for damages arising from its subsequent obstruction and overflow resulting in injury to property."

It is a well established proposition of law, that acts of municipal officers outside the scope of their authority are not binding on the municipality

Draining water into a Stream:

Treat V. Bates, 27 Mich. 390

A property owner has a right to drain his land into a stream running through such land.

Cumberland V. Willison, 50 Md. 138

A municipal corporation is not liable for damages for draining water into a stream whereby the flow is increased to the damage of property below.

Jenkins V. Wilmington & W.R.Co., 110 N.C. 43

That if the right to drain waters into a stream is exercised in good faith and in a reasonable manner there is no liability.

Conclusion.

This case is one of importance to the defendant village, for if it has not the right to maintain the so called Main Street sewer its labors thereon is lost, and property owners may also complain of the other sewer built in 1882 on the same street and terminating in the same creek.

It seems to me under the liberal construction by the Supreme Court of this state adhered to every time the question of drainage has come before that Court that the evidence in this case shows most conclusively that plaintiff ought not prevail in this case.

I respectfully submit said case to your honor, praying for the relief demanded in defendants answer herein,

very respectfully,

Thos. F. Coover
Attorney for Defendant,

Chaska, Minn.

STATE OF MINNESOTA,

County of

Carver

District

COURT.

Mary Schutz

Plaintiff.

vs.
Village of Waconia

Defendant.

Defendants Brief

Due and personal service of the within

is hereby admitted

this day of

A. D. 190

Odell & Odell

Attorney for

Plaintiff

Thos F. Craven

Attorney for

Defendant
Chaska, Minn.

C. F. GREENWOOD, MANKATO, MINN

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as the within named

ss.

State of Minnesota,

CARVER COUNTY,

FILED

AUG 28 1907

County of

first duly sworn upon oath, deposes and says, that at the

day of

upon

therein named, personally, by

with said

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age and discretion, then resident therein, a true and correct copy of said

that said

(460)

State of Minnesota.
County of Carver.

District Court.
Eighth Judicial District.

Mary Schutz,

Plaintiff.

-VS-

The Village of Waconia,

Defendant.

It is hereby stipulated that all proceedings on the part of the defendant in the above entitled action may be stayed by an order of said court for the period of 60 days from this date.

W. C. O'Connell
att'y for Def
Nov 11 1907
att'y for Dpt

Upon the above entitled stipulation Ordered that all proceedings in said tion on the part of said defendant be and the same are hereby stayed for the period of 60 days from August 31, 1907.

R. W. Morrison
Judge

District Court
County of Carver.

Mary Schütz
Plaintiff

-VS-

The Village of Waconia
Defendant

Stipulation and Order
Staying Proceedings.

Defendant

CARVER COUNTY,

H.O. Marshall Clerk.

W.C. Bull
Attorney for Plaintiff

(460)

District Court
County of Carver

Plaintiff

Plaintiff

Plaintiff

Plaintiff

State of Minnesota,)
County of Carver,) ss.

District Court,
Eighth Judicial District.

Mary Schutz, ----- Plaintiff,

vs.

The Village of Waconia, ----- Defendant.

This cause was duly tried before the court, without a jury, at Waconia in said county and State on the first day of May 1907. By consent of the parties the action was tried at Waconia instead of at the county seat of said county, and before the undersigned judge of the Ninth Judicial District sitting in place of the Judge of said Eighth Judicial District. Messrs. Odell & Odell appeared as attorneys for the plaintiff and Thos. F. Gravens Esq. appeared as attorney for the defendant. The case was thereupon submitted to the court for decision upon the evidence, pleadings and written arguments of counsel. The court also by the request and consent of both parties viewed the premises in question.

Now after due consideration of the evidence, pleadings and arguments the court finds the following facts:-

1. That the defendant, Village of Waconia, is and for more than twenty years last past has been a municipal corporation duly organized and existing under the general laws of this state.

2. That the plaintiff is and for more than ten years last past has been the owner and in possession of lots 1, 2 and 3, in block 51, in said village of Waconia, hereinafter referred to as plaintiff's premises.

3. That said Village of Waconia borders upon Clear Water Lake, hereinafter referred to as lake or the lake. That the South shore of said lake constitutes the North boundary of said Village and said block 51, is one of the northern tier of blocks in said village and the North line thereof is the shore of said lake. That running along the South line of said block is a street known as Lake street, and upon the South side of said street and immediately South of

block 51, is block 36, of said village, and running along the South side of said block 36, is the street known as Main Street, which extends through said village from the East to the West boundary thereof. That extending from the shore line of said lake and running along the East line of said blocks 51 and 36, is a street known as Vine Street, which extends through said village from the north to the South boundary thereof. That East of block 51 is block 55, and East of block 36 is block 37, and South of block 36 is block 31, and South of block 37 is block 30, all in said village. That one block East of Vine street is Olive street running North and South through said village. That the attached map marked exhibit A, correctly shows the relative location of the blocks, streets, ravine and sewer in question in this action and said exhibit is hereby made a part of these findings for reference.

4. That the surface of Main Street in said village is many feet (15-20 feet) higher than the surface of said lake, and that the surface of the ground from Main street along blocks 29 30 and 31, slopes North to the lake, with a steep slope near the lake. That running North through blocks 31, 36 and ~~33~~ 51, is a natural ravine and watercourse which drains said blocks and other blocks South thereof and adjacent thereto and certain low lands outside of said village, and which ravine is a well defined natural water course and run with banks in places 30 feet high through said blocks and sloping back making the ravine 50 to 60 feet wide at the top in some places. That from Main street to the lake said ravine has ample fall sufficient to carry off rapidly all water flowing therein. That the land along said ravine slopes rapidly from where it crosses Main street to the point where it crosses Lake street. That North of Lake street the banks of the ravine spread out and largely disappear leaving a comparatively level tract of land next the lake in the North half of block 51, with a gradual slope to the lake, on which slope is located the lots and buildings of the plaintiff. That across said slope and across the plaintiffs said premises the ravine and natural water course aforesaid had always prior to 1902,

formed a brook or water run two or more feet in depth and three or more feet wide cut out by the action of the water and through which the water flowing from said ravine ran across the plaintiff's premises and into the lake. That in the year 1902, the plaintiff, with some assistance from the officers of said village, but without any official action or lawful authority from the defendant village, placed 24 inch tile in said brook or water run across plaintiffs premises and covered said tile with earth and filled up said run except the opening through said tile, for the purpose of confining the water in said watercourse to the said tile.

5. That prior to 1903, the defendant village had constructed a tile drain or sewer on Lake street from a point a short distance East of Vine street Westerly to and terminating in said ravine where the same crosses Lake street. Such drain being for the purpose of carrying off the surface water from Lake street at that place.

That thereafter in the year 1903, the defendant village constructed a tile drain or sewer with 20 inch diameter tile therein commencing at the corner of Olive and Main Streets and running in said Main street Westerly to and terminating in the ravine aforesaid where the same crosses Main street on the South line of block 36, That said tile drain or sewer was built for the purpose of carrying off the surface water coming upon said Main street and flowing thereon from adjoining land, and to protect said street and preserve the same for public use and travel, and was and is suitable and necessary for that purpose. That the drains or sewers so constructed by the village are not intended or used for domestic sewers or sewage but are constructed and used for drains for carrying off surface water coming upon the streets of said village, and the drainage incident thereto. That said last mentioned sewer or drain carries away the surface water coming upon blocks 29 and 30 in said village and upon the streets adjacent to said blocks and carries such water into said ravine and water course and thence through such ravine and water course across plaintiff's premises and into Clear Water Lake. That the East bank of the ravine in question where the same crosses Main street, is high ground and is higher than

the surface of Main street from thence East to Olive street, so that the surface water thus collected and carried by said drain or sewer into the ravine would not and could not naturally flow into the ravine, but would, without said sewer, naturally drain and find its way in a Northerly direction from said Main street over the blocks and streets and into the lake, but without any definite channel, and only in a gradual way and not so as to drain and protect said Main street.

That in locating and constructing such drains the defendant village acted in a prudent and careful manner and for the best interest of said municipality and conducted said surface water by the shortest and most expedient route at hand into the nearest natural water course, and did not cause any unreasonable or unnecessary damage to the plaintiff or others.

6. That subsequent to the construction of said drain and in the years 1904-'5 and '6, by reason of heavy rains large quantities of water have come down said ravine and natural water course from points above and South of Main street, and large quantities of water have also come through the said tile drain on Main street and into said ravine through the same and all the waters coming into the said ravine and natural water course have flowed down over and across plaintiff's said premises and at times of heavy rains have flooded a part of his lots. That the action of such water has displaced the tile placed in said water run across plaintiff's lots and has carried away the dirt covering said tile and washed out a channel in the original run or brook but wider and deeper than it was before 1903, so that said run across plaintiff's premises is now, in places, 12 feet wide and 7 or 8 feet deep. And that the plaintiff has suffered damage hereby.

7. That all other allegations of the pleadings are found not true.

As conclusions of law from the foregoing facts the court finds:-

First, That the plaintiff is not entitled to any relief in this action.

Second, That the defendant is entitled to recover ~~xx~~ its costs and disbursements herein.

Let judgment be entered accordingly.

Dated August 27 1907.

J. M. Olsen

Judge of District Court.

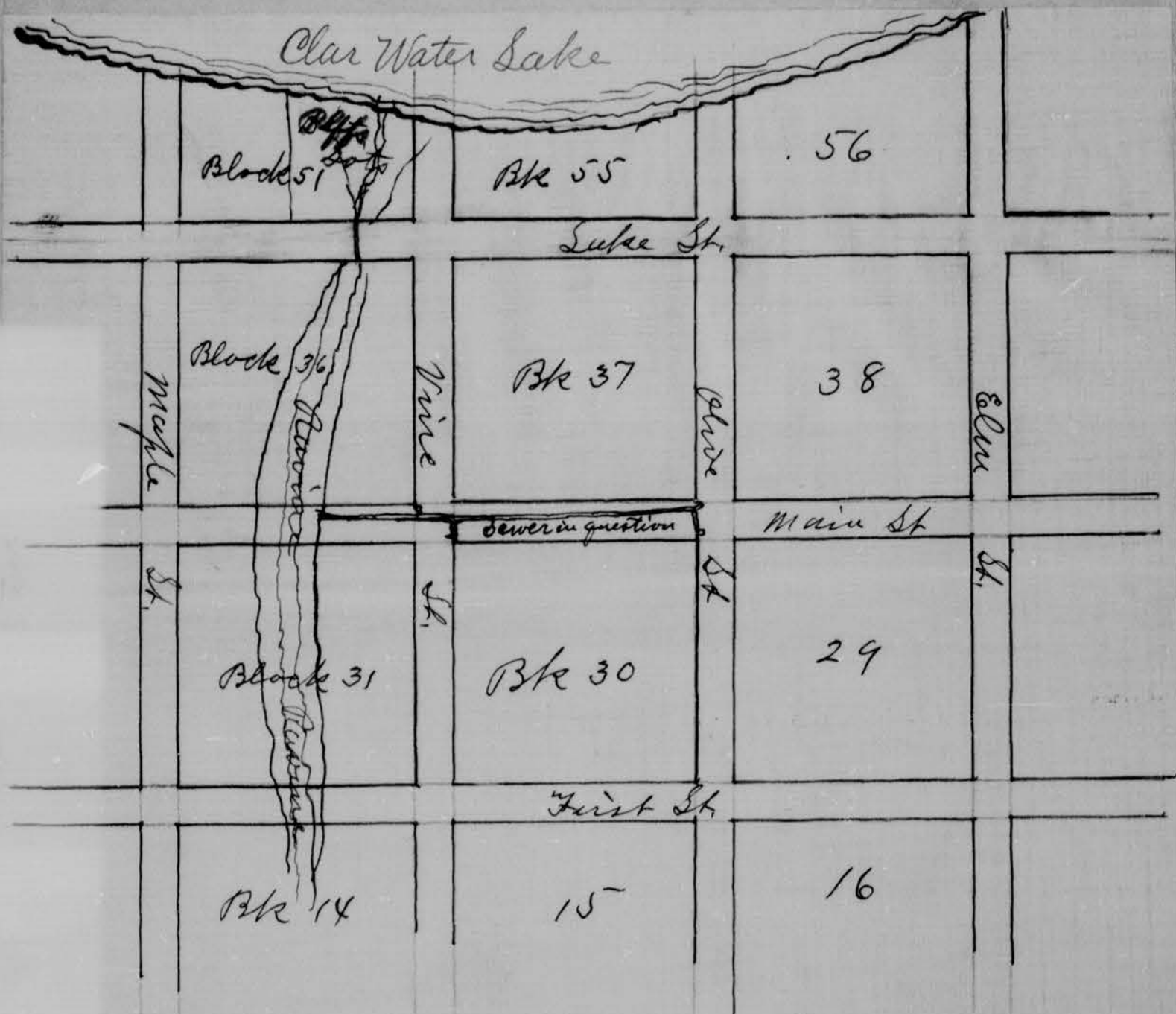
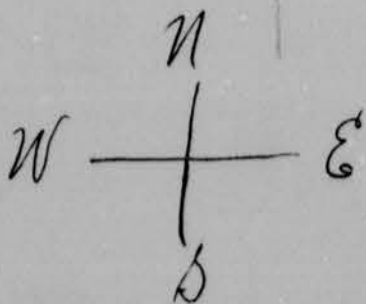


Exhibit A.



Mary Schutz
- vs -
The Village of Wacoma

Decision,

CARVER COUNTY,
FILED

AUG 29 1907

H. O. Muehlberg, Clerk

(460)

State of Minnesota,
County of Carver } ss.

DISTRICT COURT,

Eight

Judicial District.

Mary Schutz Plaintiff
vs
The Village of Waconia Defendant

AMOUNT OF JUDGMENT OR VERDICT.

Amount of Judgment or Verdict, - - - - - \$ 00.00
Interest on same from the - - - day of - - - 1 - - - \$ 00.00

COSTS AND DISBURSEMENTS.

Statutory Costs, - - - - - \$ 10.00
O Affidavits, - - - - - \$
O Acknowledgments, - - - - - \$
Sheriff's Fees, - - - - - \$ 3.40
Jury Fees, - - - - - \$ 00.00
Clerk's Fees (to be taxed), - - - - - \$ 9.35
\$22.75

WITNESS FEES, VIZ.:

(Give name of each Witness, Residence, Number of Days and Dates of Attendance and Number of Miles Traveled.)

NAMES.	RESIDENCE.	NO. DAYS ATTENDANCE.	DATES OF ATTENDANCE	NO. MILE TRAVELED.	
<u>Mat Kugler</u>	<u>Waconia Minn</u>	<u>1</u>	<u>May 1 1907</u>	<u>2</u>	<u>\$1.12</u>
<u>Bernard Ravn</u>	<u>Waconia Minn</u>	<u>1</u>	<u>May 1 1907</u>	<u>2</u>	<u>\$1.12</u>
<u>E. J. J. J. J.</u>	<u>Waconia Minn</u>	<u>1</u>	<u>May 1 1907</u>	<u>2</u>	<u>\$1.12</u>
<u>Thos Burfield</u>	<u>Waconia Minn</u>	<u>1</u>	<u>May 1 1907</u>	<u>2</u>	<u>\$1.12</u>
					\$
					\$
					\$
					\$
					\$

The above Bill of Costs and Disbursements taxed and allowed at - - - \$ 4.48

Dated December 21st 1907. Total Amount, \$ 27.23

H. O. Muehlberg Clerk

AFFIDAVIT OF DISBURSEMENTS.

State of Minnesota,
County of Carver } ss.

Thos L. Cramer

being duly sworn, says on oath, that he is - - - the Attorney of the Defendant in the above entitled action; that the foregoing is a true and correct statement of the costs and disbursements of said Defendant in the above entitled action, and that the foregoing items of disbursements, and each item thereof, have been actually and necessarily paid or incurred therein, by and on behalf of said Defendant; and that each of the above named witnesses was a material witness for the said Defendant in said action, and was duly sworn, and testified on the trial of said action, on behalf of said Defendant. That each of said witnesses actually and necessarily traveled the number of miles above set opposite his name, in going from his said place of residence to, and returning to said place of residence from, the place of trial of said action, and for the purpose of so testifying, actually and necessarily attended said Court the number of days and on the dates hereinbefore stated; and that the residence of each of said witnesses is at the place above stated.

Subscribed and sworn to before me this

16th day of Dec 1907H. O. Muehlberg

Notary Public, County of Carver,
Clerk Dist. Court, Carver Co., Minn.

Thos L. Cramer

NOTICE OF TAXATION OF COSTS.

State of Minnesota,
County of Carver } ss.

DISTRICT COURT,

8th

Judicial District.

Mary Schutz
- vs -

Plaintiff

The Village of Waconia

Defendant

Sir: Please Take Notice, That on the 21th day of December 1907
at One o'clock P.M., application will be made to H. C. Muehlberg Esq.,
Clerk of said Court, at his office in the Court House, in the City
of Chaska in the County of Carver and State of Minnesota, to have the
within bill of costs and disbursements taxed and inserted in the judgment then and there to be entered
herein.

Dated Dec 16th 1907

Yours respectfully,

Thos. F. Craven

Attorney for Defendant

To W. C. Odell

Attorney for Plaintiff

(60 11118)

District Court,
8th Judicial District,
County of Carver

Mary Schutz, Plf
vs
Village of Waconia
Defendant

Office of Taxation of Costs and Bill of
Costs and Disbursements.

Due service of the within bill of disburse-
ments and affidavit to same, and notice of
taxation thereof, by delivery of copy
hereof, is hereby admitted this
day of 1907, at

Attorney for

Filed this 18th day of Dec.

H. O. Muchlberg
Clerk.

No. 13

(460)

STATE OF MINNESOTA
County of Carver.

ss

Thos. F. Craven being first duly sworn, says that
on the 18th day of December 1907 in the City of Chaska Minnesota he served
the hereto annexed bill of costs and notice on W. C. Odell, attorney for said
plaintiff, Mary Schutz, by then and there leaving a true and correct copy
of said bill of costs and notice at his, W. C. Odell's, office, during said
W. C. Odell's absence, with Miss Wier his clerk in said office

Thos. F. Craven

Subscribed and sworn to before me
this 21st day of December 1907

H. O. Muchlberg
Clerk of District Court
Carver County Minn.

State of Minnesota,
County of Carver.

ss.

District Court,

Eighth Judicial District.

Mary Schutz, Plaintiff.

vs.

The Village of Waconia,

Defendant.

JUDGMENT.

The above entitled action having been regularly placed upon the calendar of said Court for the March A. D. 1907, General Term thereof, came on for trial before the Court without a jury, the Hon. I. M. Olsen presiding, at Waconia, in said County and State, on the 1st day of May 1907, and the Court after hearing the evidence adduced at said trial and being fully advised in the premises, did on the 29th day of August, 1907, duly make and file its findings and decision for judgment therein.

Now, pursuant to said order and on motion of Thos. F. Craven Esq., attorney of the defendant, it is hereby adjudged, ordered and decreed that plaintiff take nothing hereby and that the defendant have judgment herein against the plaintiff for the sum of Twenty-seven and 23/100 Dollars the costs and disbursements taxed and allowed herein and that the defendant have execution therefor.

By the Court,

H. O. Muehlberg,

Clerk.

DISTRICT COURT,



County of

Carver

Mary Schutz,
Plff.

AGAINST

The Village of Macomia,
Def.

JUDGMENT ROLL.

Filed Dec. 21st A. D. 1907.

H. O. Muehlberg
Clerk of the District Court.

No. 1071.—PIONEER PRESS CO., St. Paul, Minn.

By the Court.
and that the defendant have execution therefor.
\$2,100 dollars the costs and disbursements taxed and allowed herein
judgment herein against the plaintiff for the sum of twenty-seven and
decided that plaintiff take nothing hereby and that the defendant have
costs attorney of the defendant. It is hereby adjudged, ordered and
now defendant to said order and on motion of Mrs. B. Crover
judgment therein.
day of August, 1907, duly made and like the findings and decision for
at said trial and being duly advised in the premises, did on the 20th
day of May 1907, and the Court after hearing the evidence adduced
L. M. Olsen presiding, of Macomia, in said County and State, on the
thereof, came on for trial before the Court without a jury, the Hon.
upon the request of said Court for the March A. D. 1907, General Term
the above entitled action having been previously placed

STATE OF MINNESOTA
County of Carver

DISTRICT COURT
Eighth Judicial District

Mary Schutz

Plaintiff

vs

The Village of Maconia

Defendant

Sir:

You will please take notice, That the issues in the above entitled action will be brought on for trial at the next General Term of the District Court to be held and for the County of Carver at the Court House in the City of Chaska in said County on the 24th day of September A.D. 1906, at the opening of said Court on that day or as soon thereafter as counsel can be heard.

Dated September 14th, 1906.

Yours &c.,

Odell & Odell

Attorneys for Plaintiff.

Chaska, Minn.

To

T. F. Craven, Esq.,

Attorney for Defendant.

District Court
Carver County

Manly Schutz

- vs -

The Village of Waconia

Notice of Trial

Original.

CARVER COUNTY,
FILED

AUG 29 1907

H. O. Muehlberg, Clerk.

(460)

Odell & Odell
Attys. for Plff.
Charles M. Muehlberg

No. ~~6~~ 3044

DISTRICT COURT

CARVER COUNTY, MINNESOTA

Anna Harms
Plaintiff

vs.

August Graupentine
Defendant

Odell & Odell
Plaintiff's Atty.

Thos. F. Craven
Defendant's Atty.

Date of Entry..... 190.....
Register of Actions *D* Page *461*
Term Tried *September* 190*6*
Judgment for *Plaintiff*
Amount of Judgment, \$ *88.21*
Date of Judgment *Dec. 10th* 190*6*
Judgment Book *D* Page *236*
over *B* Page *88*
Date of Docketing *Dec. 10th* 190*6*

No. 3043.

(6.)

DISTRICT COURT,

Eighth Judicial District,
County of *Carver*

Anna Harris - Plff.

- v -
August Skarpentine
Def.

NOTE OF ISSUE

Issue of *Fact*
LAST PLEADING SERVED

June 28, 190*6*

Odece & Odece
Attorney for Plaintiff

J. F. Guaven
Attorney for Defendant

Will the Clerk please file this Note of
Issue, and enter the cause on the Calen-
dar for the *September*
A. D. 190*6* *General* Term
of this Court.

Yours respectfully,

Odece & Odece
Attorney for *Plff.*

Filed *Sept 17th* 190*6*

WILSON & DAVIS PRINTING CO., MINNEAPOLIS

(461)

State of Minnesota, } ss.
County of Carr
15th day of June 1906, at the Town of Benton
in the County of Carr in said State, I served the within Summons
and Complaint upon the within named defendant, August Graupstein
by then and there handing to and leaving with him personally
copy of said Summons & Complaint
Dated this 16th day of June 1906
Sheriff's Fees, Return, \$ 1 —
Mileage 26 \$ 2.60
Total \$ 3.60
Sheriff E. A. Gatz County, Minn.
By Carr Deputy.

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

Anna Harms

Plaintiff

vs

SUMMONS

August Graupentine

Defendant

THE STATE OF MINNESOTA TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to serve your answer to the complaint of the plaintiff in the above entitled action, which complaint is hereto attached and herewith served upon you, by copy, on the subscribers at their office in the City of Chaska in the County of Carver and State of Minnesota, within twenty days after service of this Summons upon you, exclusive of the day of such service; and if you fail so to serve your answer within the time aforesaid the plaintiff in this action will apply to the Court for the relief demanded in said complaint, together with the costs and disbursements herein.

W. C. M. S. Call

Attorneys for Plaintiff,

Chaska, Minn.

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----
Anna Harms

Plaintiff

vs

August Graupentine

Defendant
-----:-----

Said plaintiff for her complaint in the above entitled action respectfully states and shows to the court:

(1). That heretofore, to-wit, on and prior to the 2nd day of June A.D. 1906 she, said plaintiff was the owner of and had in her possession in the Town of Benton in said County and State a thoroughbred and registered Poland-China boar and that the same was then and there worth and of the value of two hundred dollars.

(2). That on said 2nd day of June 1906 at said Town of Benton aforesaid said defendant did wrongfully, wilfully and maliciously kill and destroy said boar so then and there owned by said plaintiff.

(3). That by reason of the unlawful, wilful and malicious act of said defendant in so killing said boar said defendant suffered and sustained injury and damage in the sum of two hundred dollars, and in consequence thereof and by force of the statute in such case made and provided plaintiff is lawfully entitled to recover from said defendant treble damages for the injury aforesaid.

Wherefore plaintiff demands judgment against said defendant for the sum of six hundred dollars together with her costs and disbursements herein.

W. H. Russell
Attorneys for Plaintiff,
Chaska, Minn.

State of Minnesota,

County of Banner } ss.

Anna Harms being first duly sworn
upon oath says that she is the Plaintiff in the
foregoing within entitled action; that she has heard read the foregoing Complaint
that the same is true. of her own knowledge, except as to matters
therein stated on information and belief, and as to such matters she believes it to be true to the best of
her knowledge, information and belief, and that the reason why this verification is not made by the
heroin is that said is absent from
this County wherein resides this affiant, her attorney.

Subscribed and sworn to before me this

9th day of June 1906

{ NOTARIAL }
{ SEAL }

Notary Public Robert J. Wolf County, Minnesota.
my Com. expires Jan 31 - 1909

State of Minnesota,

County of _____ } ss.

Court,

against

Plaintiff.

SUMMONS.

original
State of Minnesota,

County of *Carver*

District Court.

Anna Hansen
Plaintiff,

vs.

August Gumpert
Defendant.

Summons & Complaint

Due and personal service of the within
admitted
this..... day of..... 19.....

CARVER COUNTY,

FILED

Attorney for

OCT 2 1906

H.O. Muehlberg Clerk.

W.B. Madsen
Attorney for

Charles M. Madsen

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(461)

STATE OF MINNESOTA
County of Carver.

DISTRICT COURT,
Ninth Judicial District

Anna Harms,

Plaintiff.

-VS-

August Graupentine,

Defendant.

Now comes said defendant above named and, for his answer to the Complaint of the said plaintiff in said above entitled action, respectfully alleges:

1. That said defendant denies the said complaint and each and every allegation matter and thing in said complaint contained.

Wherefore defendant prays judgment that plaintiff take nothing by action, that said action be dismissed, and for defendant's costs and disbursements herein.

Dated June 20th, 1906.


Attorney for said Defendant,

State of Minnesota,
County of Carver } ss.

August Garpenhagen being first duly sworn upon oath, says that he is the Refudant in the foregoing within entitled action; that he has heard read the foregoing Answer; that the same is true of his own knowledge, except as to matters therein stated on information and belief, and as to such matters he believes it to be true, ~~to the best of his knowledge, information and belief, and that the reason why this verification is not made by the~~ herein, is that said ~~is absent from this County wherein resides this affiant, a~~ attorney.

Subscribed and sworn to before me this 20th day of June 1906

(NOTARIAL
SEAL.)

Shas A. Carver
Notary Public, Carver County Minnesota
(my Commission Expires Aug 16 1909)

State of Minnesota,

County.

COURT,

JUDICIAL DISTRICT.

AGAINST

Plaintiff

SUMMONS

Defendant.

THE STATE OF MINNESOTA TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to answer the complaint of the Plaintiff in the above entitled action, which complaint—is hereto annexed and herewith served upon you—has been filed in the office of the Clerk of said Court, at the County of and State of Minnesota, and to serve a copy of your answer to the said complaint on the subscriber, at office, in the of, in the said County of within twenty days after 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—apply to the court for the relief demanded in said complaint—have the amount Plaintiff entitled to recover, ascertained by the Court or under its direction, and take judgment for the amount so ascertained—take judgment against you for the sum of Dollars, (\$) with interest at the rate of per cent, per annum since the day of 19 together with the Plaintiff's costs and disbursements herein.

Dated A. D. 19

Plaintiff's Attorney, Minn

STATE OF MINNESOTA,

County of

Carver

District COURT.

Anna Harms

Plaintiff.

vs.
August Graupentius

Defendant.

Answer (Original)

Due and personal service of the within

Answer is hereby admitted
this 28th day of June

A. D. 1906

W. B. Oakes

Attorney for Plaintiff

Thos. F. Graven

Attorney for Defendant
Chaska, Minn.

O. F. GREENWOOD, MANKATO, MINN

(461)

being

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at the house of the usual abode of said

a person of suitable

is to affiant well known to be the same

as the within named

ss.

State of Minnesota,

CARVER COUNTY,

FILED

SEP 2 1906

County of

first duly sworn on oath, deposes and says, that at the

in said County State, on the day of

within upon

therein named, personally, by

with said

age and discretion, then resident therein, a true and correct copy of said

that said

State of Minnesota, } DISTRICT COURT,
COUNTY OF Carver } 8th Judicial District.

Anna Harms Plaintiff,

against
August Graupentner Defendant.

We, the Jury in the above entitled action, find a verdict in favor of the
Plaintiff and assess her damages at the sum of
Twenty five Dollars,

1 Joseph Ess Foreman.

ated at Chaska this 2nd day of
October 1906.

Joseph L. Ess Foreman

State of Minnesota,
County of *Carver*
DISTRICT COURT,
8th Judicial District.

Anna Harris
Plaintiff,

against

August Graepentine
Defendant.

VERDICT.

Filed *Oct. 2nd* 1906

H. O. Muehlberg
Clerk.

By _____ Deputy.

(461)

STATE OF MINNESOTA,

DISTRICT COURT,

County of Carver

Eighth

Judicial District.

Anna Harms

No. 6,

Plaintiff

Against

List of Jurors.

August Graupentine

Defendant

Attorneys Mark Here

NAMES

REMARKS

1 Fred Du Toit Jr.

2 A. J. Truwer

3 John Hoffken

4 Chris Lobitz

5 Jacob Will

6 Alfred Kuntz

7 Herman Roehren

Pl.

8 P. H. Simons.

9 L. W. Warner.

10 H. Ludloff,

11 R. J. Neunsinger

12 Wm. Abrahamson

13 H. Milschewsky

14 Jos. Ess

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No.

STATE OF MINNESOTA,

County of *Carver*

DISTRICT COURT.

Aura Harne

Plaintiff

Against

August Graupentier

Defendant

JURY LIST.

CARVER COUNTY,
FILED

OCT 2 1906

H. O. Muehlberg Clerk

PIONEER PRESS CO., ST. PAUL, MINN.

(461)

State of Minnesota, }
 County of Carver } ss. Eighth Judicial District.
Anna Harris Plaintiff,
 -vs-
August Graupentier Defendant.

AMOUNT OF JUDGMENT OR VERDICT.

Amount of Judgment or Verdict, \$ 35.00
 Interest on same from the 2nd day of October, 1906 \$.40

Plaintiff's COSTS AND DISBURSEMENTS.

Statutory Costs, \$ 10.00
2 Affidavits, \$.50
 Acknowledgments, \$ 3.60
 Sheriff's Fees, \$ 3.00
 Jury Fees, \$ 8.75
 Clerk's Fees (to be taxed), \$ 61.25

WITNESS FEES, VIZ:

(Give name of each Witness, Residence, Number of Days and Dates of Attendance and Number of Miles Traveled.)

NAMES	RESIDENCE	NO. DAYS ATTENDANCE	DATES OF ATTENDANCE	NO. MILES TRAVELED	
<u>Henry Schleyter</u>	<u>Benton, Minn.</u>	<u>2</u>	<u>Oct. 1 and 2, 1906</u>	<u>20</u>	<u>\$ 3.20</u>
<u>Gottfried Schleyter</u>	<u>"</u>	<u>"</u>	<u>" 1 " 2 "</u>	<u>20</u>	<u>\$ 3.20</u>
<u>Otto Muesenbring</u>	<u>Benton, Minn.</u>	<u>2</u>	<u>" 1 & 2 "</u>	<u>20</u>	<u>\$ 3.20</u>
<u>Albert Bräuninger</u>	<u>"</u>	<u>2</u>	<u>" 1 & 2 "</u>	<u>20</u>	<u>\$ 3.20</u>
<u>John Rodschilder</u>	<u>"</u>	<u>2</u>	<u>" 1 & 2 "</u>	<u>20</u>	<u>\$ 3.20</u>
<u>August Herch</u>	<u>"</u>	<u>2</u>	<u>" 1 & 2 "</u>	<u>20</u>	<u>\$ 3.20</u>
<u>Lester Ruschlow</u>	<u>Lakeville, Minn.</u>	<u>2</u>	<u>" 1 & 2 "</u>	<u>46</u>	<u>\$ 4.76</u>
					<u>\$ 23.96</u>

The above Bill of Costs and Disbursements taxed and allowed at

Dated December 10th 1906. Total Amount, \$ 85.21

H. O. Muehlberg
 Clerk.

AFFIDAVIT OF DISBURSEMENTS.

State of Minnesota, }
 County of Carver } ss. W. C. Orell
 being duly sworn, says on oath, that he is one of the Attorneys of the Plaintiff in the above entitled action; that the foregoing is a true and correct statement of the costs and disbursements of said Plaintiff in the above entitled action, and that the foregoing items of disbursements, and each item thereof, have been actually and necessarily paid or incurred therein, by and on behalf of said Plaintiff; and that each of the above named witnesses was a material witness for the said Plaintiff in said action, and was duly sworn, and testified on the trial of said action, on behalf of said Plaintiff. That each of said witnesses actually and necessarily traveled the number of miles above set opposite his name, in going from his said place of residence to, and returning to said place of residence from, the place of trial of said action, and for the purpose of so testifying, actually and necessarily attended said Court the number of days and on the dates hereinbefore stated; and that the residence of each of said witnesses is at the place above stated.

Subscribed and sworn to before me this
7th day of December 1906.

W. C. Orell
 Notary Public, Carver County, Minn.

NOTICE OF TAXATION OF COSTS.

State of Minnesota, }
County of Carver } ss. Eighth Judicial District.

Anna Harms }
Plaintiff }
August Graupentier }
Defendant }

Sir: Please Take Notice. That on the 10th day of December 1906
at 10 o'clock A.M., application will be made to H. O. Muehlberg, Esq.,
Clerk of said Court, at his office in the Court House in the City
of Chaska in the County of Carver and State of Minnesota,
to have the within bill of costs and disbursements taxed and inserted in the judgment then and there to be
entered herein.

Dated December 7th, 1906.

Yours respectfully,

Odell & Odell

To Thos. F. Craven, Esq.
Attorney for Defendant.

Attorney for Plaintiff.

Original

DISTRICT COURT,

Eighth Judicial District.

County of *Cannon*

Anna Harms
Plff.

vs.
August Graupentz
Def.

Notice of Taxation of Costs
and Bill of Costs and
Disbursements.

Due service of the within bill of dis-
bursements and affidavit to same, and
notice of taxation thereof, by delivery of
copy thereof, is hereby admitted this

7th day of *December*
190*6*, at *Chaska, Minn.*

Thos H. Crover
Attorney for *Defendant*

Filed this *10th* day of
December A. D. 190*6*

H. O. Muehlberg
Clerk.

Ocell & Ocell
Attys. for Plff.

WILLER-DAVIS PRINTING CO., MINNEAPOLIS

STATE OF MINNESOTA
County of Carver

DISTRICT COURT
Eighth Judicial District

Anna Harris

Plaintiff

vs

August Graubartine

Defendant

This cause having been duly brought on for trial in its regular order upon the calendar at the General Term of said Court held at the Court House in the City of Chaska in said County of Carver commencing on the 24th day of September A.D. 1903 before a jury duly empaneled and sworn; and the jury having on the 2nd day of October 1903 duly returned its verdict therein in favor of said plaintiff and against said defendant.

Now, On motion of Odell & Odell, attorneys for said plaintiff, It is Ordered, Adjudged and Determined that plaintiff have and recover from said defendant her damages in the sum of Thirty Five Dollars, together with her costs and disbursements taxed and allowed at the sum of Forty Nine and 31/100 Dollars, and that she have execution therefor.

By the Court

H. O. Muehlberg
Clerk.

District Court
Carver County
Anna Hansen

- vs -

August Graupentine
Judgment

CARVER COUNTY,
FILED

DEC 10 1906

H. O. Muehlberg, Clerk.

Ozell & Ozell
Attys. for Plff.
(461)

3045

No. 11.

DISTRICT COURT

CARVER COUNTY, MINNESOTA

William E. Cleveland
Plaintiff

vs.

Joseph Schmidt Jr.
Defendant

Odell + Odell
Plaintiff's Atty.

Thos. J. Craven
Defendant's Atty.

Date of Entry *September 17,* 190*6*

Register of Actions, *D.* Page *462*

Term Tried *September* 190*6*

Judgment for.....

Amount of Judgment, \$.....

Date of Judgment..... 190.....

Judgment Book..... Page.....

Default Judgment Book..... Page.....

Date of Docketing..... 190.....

No. 3043.

(11.)
DISTRICT COURT,

Eighth Judicial District,
County of Cass

William C. Cleveland - Plff.

- vs -
Joseph Schmidt Jr.
Def.

NOTE OF ISSUE

Issue of Fact
LAST PLEADING SERVED
Sept. 1 1906

Odeen & Odeen
Attorney for Plaintiff

J. F. Craven
Attorney for Defendant

Will the Clerk please file this Note of
Issue, and enter the cause on the Calen-
dar for the September
A. D. 1906 General Term
of this Court.

Yours respectfully,

Odeen & Odeen
Attorneys for Plff.

Filed Sept 17th 1906

WALKER & DAVIS PRINTING CO., MINNEAPOLIS
(462)

State of Minnesota,

} ss.

County of Carr23^dday of June1906

I hereby certify and return, that on the

at the Town of Lakewoodin the County of Carrin said State, I served the within Summons& Complaint upon the within named defendant, Joseph Schmuckler

by then and there handing to and leaving with him a true

copy of said Summons & Complaint

Dated this

23^d

day of

June1906Sheriff's Fees, Return, \$ 1.40Mileage 7 \$ 1.40Total \$ 2.80Sheriff Carr County, Minn.

By _____ Deputy.

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----
William E. Cleveland

Plaintiff

vs

SUMMONS

Joseph Schmidt Jr.

Defendant
-----:-----

THE STATE OF MINNESOTA TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to serve your answer to the complaint of the plaintiff in the above entitled action, which complaint is hereto attached and herewith served upon you, by copy, on the subscribers at their office in the City of Chaska in the County of Carver and State of Minnesota, within twenty days after service of this Summons upon you, exclusive of the day of such service; and if you fail so to serve your answer within the time aforesaid the plaintiff in this action will apply to the Court for the relief demanded in said complaint, together with the costs and disbursements herein.

Odell & Odell

Attorneys for Plaintiff.

Chaska, Minn.

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----
William E. Cleveland

Plaintiff

vs

Joseph Schmidt Jr.

Defendant
-----:-----

Said plaintiff for his complaint in the above entitled action respectfully states and shows to the court:

(1). That said plaintiff is and for several years past has been a butter maker by occupation, and for more than one year immediately prior to June 1st 1906 worked as butter maker for the Victoria Creamery Association, a co-operative creamery company doing business in the Township of Laketown in said County and State.

(2). That said plaintiff was employed by said Association at a good salary, to-wit, \$100.00 per month, and his said position with said Association would have been a permanent one but for the wrongful acts of said defendant hereinafter particularly mentioned.

(3). That on, to-wit, the 12th day of May 1906, at a meeting of the Board of Directors of said Victoria Creamery Association held at the usual place of holding such meetings in said Township of Laketown, and in the presence and hearing of Frank Schmied, John Ripole, George Fink, John Poppler and Arnold Notermann, each of whom was then and there a member of the Board of Directors of said Victoria Creamery Association, and in the presence and hearing of Mike Diethelm, Joseph Schneider, Fred Fink, Albert Plocker and Hubert Kelzer, each of whom was then and there a stockholder and member of said Creamery Association, said defendant wrongfully and maliciously spoke and published of and concerning this plaintiff the following false and defamatory words, viz: "We" (meaning and referring to the defendant and other patrons of said Creamery Association) "have got tired of having him" (meaning and referring to this plaintiff) "steal milk". That thereupon plaintiff asked said defendant this question, viz: "Do you say

"I stole milk?", and in reply thereto said defendant then and there and in the presence and hearing of each and all of the persons named above wrongfully and maliciously spoke and published the following words, viz: "If you" (meaning this plaintiff) "want to know it, yes, I said you" (meaning this plaintiff) "stole milk".

(4). That said words so spoken and published by said defendant as aforesaid were spoken and published of and concerning this plaintiff and were false and defamatory and were well known by said defendant to be false and defamatory at the time he so spoke and published the same. And by the speaking and publishing of said false and defamatory words said defendant intended to and did in the presence and hearing of the persons aforesaid wrongfully and maliciously charge this plaintiff with having committed the crime of Larceny.

(5). That by the speaking and publishing of the false and defamatory words aforesaid of and concerning this plaintiff as aforesaid said defendant intended to and did falsely and maliciously charge and accuse this plaintiff to the Board of Directors of said Victoria Creamery Association, while so in the employ of said Association as aforesaid, by short weights and by cheating in weights when weighing milk delivered by defendant and other patrons of said Creamery to the Creamery operated by said Association and of which this plaintiff had charge as the butter maker for said Association, wrongfully and unlawfully and with intent to deprive the true owner of his property and to appropriate the same to the use of said Victoria Creamery Association taken from divers of the patrons of said Association and among them said defendant without allowing or giving the owner of such milk pay or credit for the full quantity delivered by him, and thereby and by means of such false weights wrongfully and unlawfully appropriated to the use of said Victoria Creamery Association milk so delivered to the Creamery operated by said Association by the patrons thereof and particularly by defendant, said defendant. And said defendant so made said false and defamatory charges and accusations to said Board of Directors with the wrongful and malicious purpose of leading said Board of Directors to believe that this plaintiff was not honest and fair in his dealings with the patrons of said Association and was cheating and defrauding such patrons of their milk, and with a view of affording said Board of Directors of

said Association a cause or pretext for discharging this plaintiff from the employment of said Association, and by means of said false and defamatory charges and accusations said defendant caused said Board of Directors to believe that this plaintiff was not honest and fair in his dealings with the patrons of said Association and was cheating and defrauding said patrons of their milk, and forced and compelled this plaintiff to resign his said position with said Victoria Creamery Association to his great loss and damage.

(6). That by reason of the aforesaid wrongful and malicious speaking and publishing by said defendant of the false and defamatory words aforesaid of and concerning this plaintiff as aforesaid this plaintiff has been injured in his good name, fame and credit and has been brought into scandal and disgrace with and among his neighbors and associates and has been greatly humiliated and caused much mental suffering to his damage in the sum of Two Thousand Dollars.

Wherefore plaintiff demands judgment against said defendant for the sum of Two Thousand Dollars together with his costs and disbursements herein.

Odell & Odell

Attorneys for Plaintiff.

Chaska, Minn.

ORIGINAL.

State of Minnesota,

County of

Carver

District

Court.

Wm. E. Cleveland

Plaintiff,

vs.

Joseph Schmidt Jr.

Defendant.

Summons and Complaint

Due and personal service of the within

admitted

this day of 19

CARVER COUNTY,

FILED

Attorney for

OCT 4 1906

H. O. Muehlberg

Clerk.

Odell & Odell

Attorneys for

Charles M. Muehlberg

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(462)

State of Minnesota,

County of

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fol, STATE OF MINNESOTA

DISTRICT COURT

County of Carver.

Eighth Judicial District.

William E. Cleveland,

Plaintiff.

-VS.-

(ANSWER)

Joseph Schmidt Jr.,

Defendant.

Defendant above named for his answer, to the Complaint of the plaintiff in the above entitled action, states and alleges:

1. That save as hereinafter expressly admitted the defendant denies the said Complaint and each and every allegation matter and thing in said complaint contained.

2. For his second defense to said action, defendant further alleges:

(1) That this defendant and all the other persons named in paragraph three of said complaint, save said plaintiff, together with many other farmers formed owned and operated a co-operative creamery which said creamery is known and called The Victoria Creamery Association; that on the 12th day of May 1906, and for years prior thereto, said Creamery Company then was, and now is, composed of all of said persons aforesaid each of whom then was, and now is, a stockholder therein and patron thereof. Defendant further admits and alleges that on said 12th day of May 1906, and for a considerable time immediately prior thereto, the said plaintiff was an employee of said co-operative creamery company as butter maker and general manager or superintendent therein a part of whose duties it was to weigh, test and receive for said Creamery milk offered for sale thereof by the patrons thereof, and to extend to said patrons and each of them a proper credit for milk so sold and delivered. That plaintiff's management of said Creamery was under the control and subject to the directions of a Board of Directors of said Association, and on the 12th day of May 1906 the said Board of Directors was composed of the persons stated in paragraph three of said complaint, and were in regular session for the transaction of the general business of said Creamery and for the transaction of all business pertaining to management and to hear and consider any and all complaints from the stockholders and patrons relative to said management and business.

(2) That for many months immediately prior to said 12th day of May 1906 and up to the time of holding the meeting, alleged in the complaint, of the said Board of Directors and stockholders of said Creamery Association there

had existed, and then was, a general dissatisfaction among many of the stockholders of said association, including this defendant owing to poor returns credited to said patrons by said plaintiff for milk theretofore sold and delivered by said stockholders to said Creamery. That on and prior to the said 12th day of May 1906 this defendant had been informed by the patrons of said Creamery Association and knew at the time of said meeting of this general dissatisfaction growing out of poor returns credited the patrons as aforesaid, and at the time of said meeting, from the reports of said patrons as aforesaid and from this defendant's own returns and credits given him for milk sold to said creamery, this defendant believed and had reasonable and probable cause to believe that said plaintiff, as the employee of said Creamery Company, had not theretofore given to this defendant and many of the other stockholders of said Company full credit for all the milk sold by him and them to said Creamery Company, but to the contra that in weighing in and testing milk said plaintiff had favored said Creamery Association.

(3) That on to-wit, the said 12th day of May 1906 a meeting of the said Board of Directors of said Creamery Association was held for the purpose of transacting the general business of said Association, including the hearing complaints of the said patrons of said Association on the question of weights tests returns and credits, and any other complaints relative to the way and manner in which said plaintiff performed his duties as employee of said Association. That said meeting so held as aforesaid had full jurisdiction power and authority by and through the Board of Directors aforesaid to redress the said grievances growing out of the complaints relative to the management of said Association aforesaid. That this defendant together with many of the other stockholders, all of whom were patrons of said Association in that they sold their milk product thereto, were invited by the said Board of Directors, and had the right, to attend said meeting and to fully and freely discuss the management of said Association; and this defendant and the other said stockholders so attending said meeting were expressly invited and requested by the said Board of Directors to then and there state any and all complaints which they or any of them had, or supposed they had, relative to the business of said Association and the management of said creamery by said plaintiff and the said Board of Directors. That this defendant and all other persons present at said

204, meeting ^{also} stockholders and patrons thereof, that all persons so present at said meeting ^{were} investors in and patrons of said Creamery Association and were vitally interested in the best possible management and success of the business of said Association; that this defendant had theretofore been informed by a goodly number of the patrons of said Association that said patrons had been receiving light weight and poor test for the milk product sold and delivered by the said patrons to said Association through said plaintiff's management of the said Creamery Association, that theretofore this defendant had at times received light weight at the hands of said plaintiff for milk so sold and delivered by defendant to said Association; that because of the information so received defendant had reasonable and probable cause to believe, and did honestly believe, at the time of the holding of said meeting, himself and many of his brother stockholders to be aggrieved by reason of said plaintiff's management of said Association.

"9 (4) That at said meeting of said Board of Directors and Stockholders held as aforesaid, the said Board of Directors expressly asked and requested the said complaining stockholders, including this defendant, to state to said meeting any and all grievances and complaints which they had relative to the sale of milk by them or any of them to said Creamery Association, or relative to the business and management of said Creamery in any way. That at said meeting and in response to said invitation and request to complain, some of the stockholders, including this defendant, did then and there make known to said meeting the grievances and complaints relative to the management of said Association, and told said Association their grievances with respect to light weight and poor tests for the milk theretofore sold and delivered to said Creamery by them. That while said matter of weights, tests and poor returns for milk were under consideration and discussion in said meeting, said plaintiff took part in said discussion and during the course of said friendly discussion, the said plaintiff turned to defendant and the complaining stockholders and asked them the following question: "Did I ever steal any thing of you?" and then this defendant answered: " You stole milk of us?" That said answer of said defendant and whatever other statements made or words spoken by defendant were spoken at said meeting in answer to questions asked By said Board of Directors or by said Plaintiff himself, and were spoken in good faith and without malice and with reasonable and probable cause to believe the said words so spoken to be true, and defendant then so believed.


(5) That the meeting so held by said Creamery Association on said 12th day of May 1906 hereinbefore alleged is the same identical meeting referred to in paragraph three of plaintiff's complaint in this said action, and whatever words were spoken thereat by this defendant, whether as alleged in said complaint or otherwise, were privileged, and were spoken in good faith without malice, and were spoken in answer to questions, and for the purpose of seeking redress, from said meeting for grievances which defendant then had reasonable and probable cause to believe, and did believe, existed and which said meeting had power and authority to remedy.

For a Third defense defendant further alleges:

(1) Further answering and in mitigation of any damages to which said plaintiff might otherwise appear entitled by reason of the publication of said alleged libelous matter set forth in said complaint, defendant hereby re-peats and re-alleges all and singular the matters stated under the second defense in this answer alleged, and upon the trial of said cause will give evidence thereof in mitigation of damages as well as in justification and privilege.

Wherefore defendant prays judgment that plaintiff take nothing by this action, that said action be dismissed, and for defendant's costs and disbursements herein.

July, 25, 1906.


 Attorney for Defendant,
 Chaska, Minn.

STATE OF MINNESOTA,

County of

Carver

District COURT.

William E. Cleveland
Plaintiff.

vs.
Joseph Schmidt Jr.
Defendant.

Answer (Original)

Due and personal service of the within
Answer is hereby admitted
this 23rd day of July
A. D. 1906

W. B. Olden
Attorney for Plaintiff

Thos F. Cavan
Attorney for Defendant
Chaska Minn.

C. F. GREENWOOD, MANKATO, MINN

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State of Minnesota,

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STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

William E. Cleveland

Plaintiff

vs

Joseph Schmidt Jr.

Defendant

Said plaintiff for his reply in the above entitled action respectfully states and shows to the Court that he denies each and every allegation of new matter contained in the answer of defendant herein.

Wherefore said plaintiff demands judgment as in and by his complaint herein.

Odell & Odell
Attorneys for Plaintiff.
Chaska, Minn.

ORIGINAL.
State of Minnesota,

County of Carver
District Court.

Wm. E. Cleveland
Plaintiff,

vs.

Joseph Schmidt Jr.
Defendant.

Reply

Due and personal service of the within
admitted
this day of 19

CARVER COUNTY,
Attorney for FILED

OCT 4 1906

H. O. Muehlberg Clerk.

Charles Muehlberg
Attorney for Plff.

Charles Muehlberg

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(462)

State of Minnesota,

County of

ss.

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1. It is the law, that the right to seek redress is not limited to seeking it in a court of justice. Every one who is aggrieved, or has reasonable and probable cause to believe himself aggrieved, may, in good faith seek redress from any Body, Officer or Individual having jurisdiction, power or authority to redress the wrong or supposed wrong; and whatever is spoken in good faith in such pursuit for redress is privileged. And such privilege exists not only where the Body, Officer or Individual appealed to has direct jurisdiction or power but also in cases where there is an indirect jurisdiction or power to afford redress.

2. I further charge you, that if you find the defendant uttered and published the alleged slanderous words, and from the evidence in this case you further find that at the time defendant so spoke said words he had reasonable cause for belief, and then believed himself possessed of knowledge which if true did or may affect the rights or interests of said corporation or its stockholders, said defendant then had the right, in good faith, to communicate such his belief to the officers and stockholders of said corporation; and said defendant might make such communications as aforesaid to the said officers and stockholders of said corporation without previous request and whether he had or had not personally any interest in the subject matter of the communication, and although in fact no reasonable or probable cause for the belief may exist. The right to so communicate such knowledge is founded on defendant's belief, all you have to examine under such circumstances is whether defendant stated to said meeting more than he believed and what he, in good faith, might reasonably believe, if he stated no more than this he is not liable in this action and plaintiff can not recover.

3. I further charge you, that if you find that said defendant did utter and publish the slanderous words alleged in said complaint, and you further find from the evidence in this case that said plaintiff by a question addressed to said defendant invited the said defendant to publish such slanderous words then and in that case defendant's answer to plaintiff's question is privileged, and plaintiff can not recover without further proving malice for in such case malice is not to be inferred from the publication of the slanderous words.

4. Gentlemen of the jury, I further charge you that at such a meeting of the stockholders and Board of Directors as the evidence in this case shows to have been in session at the time the alleged slanderous words were published, if published at all by the defendant,--the said defendant had a right--it was his privilege--to communicate to the said Board of Directors and every stockholder present whatever he knew, or had had reason to believe, and did in fact honestly believe, in respect to the management of the said corporation or the conduct of the plaintiff as employee of said corporation in the discharge of plaintiff's duties as such employee; and if this defendant did use in that meeting the words charged; and if upon information that he had received, either from others or from his own observation, or from both sources, he believed in good faith that the statements which he then made were true,--then the fact that such statements were made in that meeting would constitute the plaintiff's communication one of privilege, and not actionable.

Privilege and not confession.

In that meeting would constitute the Plaintiff's communication one of which he then made was true. Then the fact that such statements were made from both sources, he believed in good faith that the statements furnished that he had received, either from others or from his own observation and was in that meeting the same occurred; and it, upon its location in the records of Plaintiff's office as upon records; and its said corporation or the conduct of the Plaintiff as evidence of said corporation and in that meeting, believe in respect to the management of the said stockholders present whether he knew or not had reason to believe right--it was his privilege--to communicate to the said Board of Directors. It is believed at all of the defendant--the said defendant to have been in session at the time the alleged statements were made from the stockholders and Board of Directors as the evidence in fact of the defendant of the said I further advise not that it was made of

CARVER COUNTY

FILED

OCT 4 1906

H. D. Muchberry, Clerk

(462)

STATE OF MINNESOTA,

DISTRICT COURT,

County of Carver

Eighth

Judicial District.

William E. Cleveland

Plaintiff

No.

Against

List of Jurors.

Joseph Schmidt Jr

Defendant

Attorneys Mark Here	NAMES	REMARKS
	1 Casper Kapp	
	2 J. B. Johnson	
	3 Wm. Abrahamson	
	4 P. H. Simons	
	5 Geo. Goodridge	
	6 L. W. Werner	
	7 Andrew Mattison	
	8 F. J. Truwr	
	9 Adolph Splettstoss	
	10 E. Volkenant	
	11 Henry Buegens	
	12 Christ Lobitz	
	13 Herman Peschke	
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No. _____

STATE OF MINNESOTA,

County of *Carver*

DISTRICT COURT.

William E. Cleveland

Plaintiff

Against

Joseph Schmid Jr

Defendant

JURY LIST.

CARVER COUNTY,
FILED

OCT 4 1906

H.O. Muehlberg

PIONEER PRESS CO., ST. PAUL, MINN.

(462)

15

STATE OF MINNESOTA, }
COUNTY OF CARVER. } ss.

DISTRICT COURT,
EIGHTH JUDICIAL DISTRICT.

No. 2407

THE STATE OF MINNESOTA

TO ¹⁹⁶John Poppler, ¹⁸⁴John Rippel, ¹²²Frank Schmiegel ¹⁰²Arnold Notermann

In the name of the State of Minnesota, we command you, that all business and excuses being laid aside, you, and each of you, appear and attend before the Judge of the said Court, at a Court to be held in the Court House in Chaska, in and for the County of Carver, on the Fourth day of October ¹⁹⁰⁶A. D. ~~189~~, at 9 o'clock in the forenoon, to testify in a

certain action now pending in the District Court, then and there to be tried, between

William E. Cleveland

plaintiff....., and

Joseph ^{Schmidt} Schneider Jr

defendant.....on

the part of the Pltff and remain in attendance till said cause is disposed of; and for failure to attend you will be deemed guilty of contempt of Court, and liable to pay all loss and damages sustained thereby to the party aggrieved.

WITNESS The Hon. ^{P. W. MORRISON,}~~Francis Cadwell~~, Judge of said Court, at Chaska, this 3^d day of October ¹⁹⁰⁶A. D. ~~189~~

Seal

Odell & Odell

H. O. Muchilberg Clerk.
by Albert Meyer Deputy
Attorney.

P. 1. 72
R. 1. 74
S. 1. 60

STATE OF MINNESOTA, } ss.
CARVER COUNTY.

DISTRICT COURT,
EIGHTH JUDICIAL DISTRICT.

I HEREBY CERTIFY And return that I served the within Subpoena on the within named
Thompson, John Ruppel, Gust Schumacher, Arnold Holmstrom
by reading said Subpoena to him in his
presence, in County and State aforesaid, on this *6th* day of *Oct* *1906*

Fees *3.20*
Paid

By *G. A. Galt* Sheriff of Carver County.
Deputy Sheriff.

No. 2407

DISTRICT COURT,
EIGHTH JUDICIAL DISTRICT.

STATE OF MINNESOTA,
COUNTY OF CARVER.

William C Cleveland
Plff.

AGAINST

Joseph ~~Schmidt~~ ^{Schmidt} Jr.
Def.

SUBPENA.

Issued Oct 3 1906
189

H. O. Muehlberg
Clerk District Court.

RETURNED AND FILED

Oct. 12th 1906
H O Muehlberg
Clerk.

On part of Plff.

State of Minnesota,
County of *Carver*

IN DISTRICT COURT OF SAID COUNTY,

vs.

8th Judicial District*Term, 1906*

IN THE MATTER OF

William E. Cleveland
vs. Plaintiff

Joseph Schmid
Defendant

We, The Jury impaneled and sworn in the above entitled action, find for the defendant

Andrew Matheson

Foreman.

Dated at *Chaska* this *4th* day of *October* A. D. 190 *6*

DISTRICT COURT,

8th Judicial District

Term, 190

State of Minnesota, }
County of *Carver* } ss.

VERDICT FOR DEFENDANT

IN THE MATTER OF

William C. Cleveland
vs. Plaintiff

Joseph Schmid
Defendant

Filed in open Court the *4th*
day of *October* 190*6*
H. O. Muehlberg
Clerk.

No. 864

(462)