LaGrange & Monticello Plank Road Co. v. Mays, John 1857 Lewis 386/16

Old Box 590/9

List of Stockholders

AA# = Wagner, David

RA# = Anderson, Thomas L.
Lipscomb.

Dismissed

Mays made sub. of stock & had
verbal agreement he wouldn't
have to pay until road was built
road abandoned & money required of ~~stockholders~~
Mays won

The State of Missouri, ss.

The State of Missouri, *To the Honorable the* Circuit Court of Lewis County *in said State, GREETING:*

WHEREAS, In the record and proceedings in a certain cause lately pending in the said Circuit Court

wherein the "La Grange and Monticello Plank Road company" were, Plaintiffs and John Mays was Defendant

in an action of account originally before J P manifest error hath intervened, to the great damage of said Plaintiffs as by their complaint we are informed.

NOW, we being willing that the error, if any there be, should be corrected, and full and speedy justice done to the parties aforesaid, in that behalf, COMMAND YOU, that you send to us, certified under your seal, the record and proceedings in the cause aforesaid, as fully as the same remain of record before you in said Court, so that we may have them before us at our Supreme Court, to be begun and held in the City of Saint Louis, in the County of Saint Louis, in said State, on the third Monday in October next, so that our Judges of our Supreme Court, on inspecting the record and proceedings aforesaid, may cause to be further done therein, for correcting the error, what of right, and according to law, ought to be done.

Witness, WILLIAM S. GLANVILLE, Clerk of our said Supreme Court, at office, in the City of Saint Louis, the ninth day of September in the year of our Lord one thousand eight hundred and fifty Sixty.

W. S. Glanville,

CLERK.

$1.50

LaGrange and Monticello
Plank Road Company
against
John Mays

State of Missouri
County of Lewis ss

Be it remembered that heretofore to wit. on the 16th day of November A D 1855 there was filed in the office of the Clerk of the Circuit Court within and for said County a Transcript from Daniel Creasey Esqr a Justice of the peace within and for said County in words and figures as follows to wit;

No 7 Sept 7th 1855
The LaGrange and Monticello Plank Road Company
vs
John Mays } On what act, dated 1855 Summons the 7th Sept 1855 Returned Executed the 13th Sept 1855 " W.T. Wright Const " This being the 15th of Sept 1855 the parties appeared and the suit Continued by Consent of parties to the 17th of November 1855.

This being the 17th of November 1855 the
parties appeared, and upon the evidence
judgment for the plaintiffs $ 28,80
And on this the 17th day of November
1855 the defendant prayed an appeal
from said judgment filed his affidavit
and entered into bond, and therefore
the appeal is granted fee 62½ cts.
Con: fees sum 25 Subp 25 2 Subp 50. $1,00
Justice fees sum 15. Subp 15, Subp 15, Judgt 35
Swearing witnesses 10. appl 62½ $1,52½
State of Missouri
County of Lewis ss I Daniel Creasey
an acting Justice of the peace within
and for said County do Certify the above
to be a true Copy from Docket
November the 26th 1855
Daniel Creasey Justice.
Endorsed filed Novr 26th 1855
C. R. Magee Clerk
By M Million D.C

And afterwards to wit, on the 15th day
of April A.D 1856 at a Circuit Court
Continued and held at the Court House
in the Town of Monticello, within and for
said County among other proceedings
the following were had to wit,

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Plank Road Company Plff
against
John Mays defendant } Appeal from J. P.

On motion and agreement of parties by their attorneys this Cause is Continued until the next term of this Court.

And afterwards to wit. on the 5th day of September A.D 1856 at a Circuit Court Continued and held as aforesaid among other proceedings the following were had to wit.

La Grange and Monticello Plank Road Company } Plff
against
John Mays defendant } Appeal from J. P.

Now at this day Comes the aforesaid parties by their attorneys and by agreement Submit this Cause to the Court, and the Court doth find for said defendant, It is therefore Considered by the Court that said defendant have and recover against said plaintiff his Costs and Charges herein laid out and expended, and that he have his writ of Execution therefor.

Thereupon came said plaintiff by her attorney and files her motion for a new trial herein, which said motion was by the Court seen and fully understood and the same was by the Court overruled to the opinion of the Court in overruling said motion, the plaintiff by her attorney excepts and here tenders her Bill of Exceptions which is by the Court signed sealed and made apart of the Record herein.

Which said Bill of exceptions is in words and figures as follows to wit,

LaGrange and Monticello
Plank Road Company } Plffs } Lewis
against } Circuit
John Mays Deft } Court,

Be it remembered that on this day this cause came on to be tried before the Court without a Jury upon the following agreed case to wit, the plffs read the articles of association in words and figures as follows to wit,

Articles of association for LaGrange and Monticello Plank Road Company.

The undersigned persons for the pur-

=pose of forming an association for the
Constructing of a Plank Road from
LaGrange to Monticello in the County
of Lewis and State of Missouri in accor.
=dance with an act, entitled an act to
authorize the formation of associations
to Construct Plank Roads and McAdam
=ized Roads" approved February 27. 1851
do agree on the following articles, to wit,
1st The name and style of this Company
shall be the "LaGrange and Monticello
Plank Road Company"
2nd Said Road shall begin at the City
of LaGrange and run in a direction north
of west and terminate at the Town of
Monticello, all lying and being situate
in the County of ~~Lewis~~ and State aforesaid
3rd The general plan of said Road is
that it shall be graded and Covered
in whole or in part with Plank.
4th The amount of Capital Stock of
this Company shall be twenty five thousand
dollars,
5th The amount of each share shall be
fifty dollars.
6th The terms of years to which this Com
=pany shall be limited is thirty years.
7th The number of directors to be elected

by the Stockholders of this association shall be nine

Subscribers names	Residence	Full amount	No. Shares
C.S. Skinner	LaGrange Mo	3000 00/100	60
A.C. Waltman	" "	1000 00/100	20
Judson C Jones	near LaGrange Mo	100 00/100	2
William Gray	LaGrange Mo	100 00/100	2
E.S. Saunders	LaGrange	100 00/100	2
J.T. Hagood	LaGrange	250 00/100	5
Lafon & Williams	LaGrange Mo	100 00/100	2
T.J. Holt	LaGrange Mo	50 00/100	1
Saml McAfee	LaGrange Mo	250 00/100	5
Talbot & Lenthan	LaGrange	2000 00/100	40
H.F. Bartlett	LaGrange	50 00/100	1
W.M. Smith & Co	LaGrange	100 00/100	2
William E Bourn	near LaGrange	250 00/100	5
Robert & S Glore	LaGrange	500 00/100	10
Jas H Poage	near LaGrange	100 00/100	2
Wm Hagood	LaGrange	500 00/100	10
P.P. Cluff	LaGrange	1000 00/100	20
Henry Dasback	LaGrange	200 00/100	4
Frederick Leser	LaGrange	100 00/100	2
David Smith	Do	50 00/100	1
Hiram Harrison	near LaGrange	300 00/100	6
Durell & Triplett	LaGrange	500 00/100	10
A Merill	near LaGrange	100 00/100	2
C F Marlow	near LaGrange	500 00/100	10
Joseph Biggs	Bozarth Prairie	100 00/100	2

Wm J Hargis	Lafayette	100 00/100	2
Samuel A Williams	Lafayette	100 00/100	2
E W Lancaster.	near Lafayette	300 00/100	6
Thomas Pryce	Lafayette	50 00/100	1
Joseph Fowler	Lafayette	50 00/100	1
Jno. Lafon	"	300 00/100	6
Peter Turner	Lafayette	100 00/100	2
David M Fuller	Do	250 00/100	5
John M Cashman	Do	250 00/100	5
A. A. Smith	Do	250 00/100	5
William B Reynolds	Do	250 00/100	5
Thomas W Willis	Do	100 00/100	2
F. L. Hardesty	Do	50 00/100	1
F. Gill		250 00/100	5
W Dearing		250 00/100	5
B. E. Davis		50 00/100	1
Thos B Reveley		250 00/100	5
W. E. Ellery		100 00/100	2
L Hagood	Lafayette	200 00/100	4
J A Blair	Monticello	100 00/100	2
Geo Railey	"	100 00/100	2
Wm Ellis	"	200 00/100	4
J L Fisher	Lewis County	50 00/100	1
W. G. Watson	Monticello	100 00/100	2
J. P. Caldwell	Monticello	50 00/100	1
Franklin Talbott	Monticello	50	1
Thos M. Howard	"	50	1
Joseph Fible	"	200	4

M. W. Plant	Monticello	200	4
J. D. Million	"	200	4
P. T. Dimmitt	"	100	2
J. W. Cupper	"	50	1
Z. T. Knight	"	100	2
Thomas Richardson	Lagrange	200	4
J. A. Hay	Do	200	4
John Mays	Marion City	300	6
F. Garrett	Monticello	50	1
J. J. Kindley	Do	100	2
David Wagner	Lagrange	50	1

It was agreed that at the time the deft Mays made his Subscription of Stock A. C. Waltman one of the Corporators who obtained the subscription from said Mays agreed verbally with said Mays he would not be required to pay his share of the Subscription without the Road was built, and upon that agreement said Mays Subscribed, And it was further agreed that afterwards the Company was organized under the Plank Road Law passed by the General assembly of the State of Missouri approved.
proceeded to make a Survey of the route &c. Costing the Company about 1600 dollars and made 3 ~~Calls~~ Several Calls of 2½ per

cent and 5 per cent and ½ per cent on the Stock Subscribed by the several Stockholders to pay for the Same, and also 20 per cent damages on the ~~same~~ amt of said Calls according to by-law of said Company. And that the Road has never been Completed but has been abandoned by the Company. The pltff then asked the Court to decide that the Statements of Waltman made to the defendant Mays was incompetent evidence and insufficient to defeat the pltffs Cause of action, to decide which the Court refused, to which opinion and decision of the Court the pltff excepted. But then found a verdict for the defts.

The pltff then filed a motion for a new trial in the words and figures following to wit.

Plank Road Co
against
John Mays

The pltff appear by their attorney, and move the Court to set aside the verdict and grant them a new trial for the following reasons to wit,
1st Because the Court erred in finding

for the deft when it should have found for the pltff.
2nd The Verdict is against the Law & the evidence.
3rd The Court admitted illegal & incompetent evidence at the instance of the deft.
4th The Court illegally refused to decide the insufficiency of Wallmans statements as a defence for the deft.

David Wagner
atty for pltff.

Endorsed, filed Sept 5th 1856
C. R. Magee Clk

Which motion was by the Court overruled to the decision & opinion of the Court in overruling which the pltff by their Counsel excepted and now pray the Court to sign & seal this their Bill of Exceptions and make the same a part of the Record which is done accordingly A. Reese Judge (Seal)

David Wagner atty for pltff
Thos L Anderson atty for deft

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State of Missouri
County of Lewis } I. C. R. MaGee
Clerk of the Circuit Court within
and for said County of Lewis, do
hereby Certify that the foregoing
ten pages Contain a full true and
Complete transcript of the Record
and proceedings as had in the fore-
-going entitled Cause, as fully as the
Same remains of Record and on file
in my office.

Given under my hand, and
the seal of said Court
Done at office in Monti-
-cello, at the County
aforesaid on this the
16th day of September
AD 1856.

C. R. MaGee Clerk
By Milton Million D.C

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Waquois Conf witherman 24 Jan. '57

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(9) Oct. Term. 1857

Lagrange & Monticello
Plank R. Company
S.C.

v.

John Mays.
D.E.

Error to Lewis C. Ct.

Wagner — Anderson

Filed 25th September 1856.
Wm. S. Glanville
Clk.

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Lagrange & Monticello
Plank Road Co
John Mays

Supreme Court
at St Louis

Oct Term 1857

Deft comes & moves the Court to dismiss this cause for the reason that there is no assignment of errors by Pltff error.

Lipscomb
for Deft in error

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Lapauge & Monkeys
Plank Road
Co
v
John Mays

Motion
to Dismiss

Filed 21 Oct. 1857
W S Glanville
C.