

City of Harrodsburg v. Sallee Teaching Resources

Excerpts from trial record of archival case file of *City of Harrodsburg v. Sallee*, 142 Ky. 829 (1911). The full archival case file is located in the Kentucky Department for Libraries and Archives, Frankfort, Kentucky.

Pleas Before the Hon. MC. Saufley, Judge of the Mercer Circuit Court, At the Court House in Harrodsburg, Ky. On May 20th, 1910.

Be it Remembered, That heretofore to-wit, January 12th 1910, the Plaintiff by her Attorneys filed with the Clerk of the Mercer Circuit Court her petition in words and figures as follows:-

Petition: Rebecca Sallee Plaintiff vs. City of Harrodsburg Defendant

The Plaintiff Rebecca Sallee states that the Defendant City of Harrodsburg is a corporation duly organized under the laws of the State of Kentucky, and by the terms of its charter authorized and empowered to make contracts, to sue and be sued and to do all things necessary or pertaining to such a corporation, that by virtue of the laws under which it is incorporated the Defendant is and was at the times of the matters hereinafter complained of required to keep its side-walks and other public ways free from obstructions of every kind and in a reasonable safe condition, for the use of persons using and traveling thereon.

Plaintiff states that on the 7th day of October 1909 and for sometime prior thereto therewas, in or near the edge of the pavement on side-walk on the East side of College Street in front of lot of Chas. S. Vanarsdall a hole dug the depth of about two feet, and on the pavement was piled dirt, brick and piping making a dangerous and unsafe condition of said side-walk for the traveling public, that said obstruction were known by the defendant, its officers and agents, negligently suffered and permitted said hole and dirt heap to remain on said sidewalk for a considerable time, up to and including the night of October 7th 1909, when the injury hereinafter complained of occurred.

Plaintiff states that while said side-walk was thus obstructed to-wit, on the night of October 7th 1909, while the plaintiff was using said side-walk and was traveling thereon, from her home on Cornishville, street to the town, and without fault on the part of the Plaintiff, she stumbled over the said pile and heap of dirt, brick and piping and fell over same into the hole, whereby her limbs and body, were bruised and hurt and her back was wrenched and injured, producing thereon a large lump, and so violently wrenching, straining and spraining, plaintiff's limbs and body, and by the shock to plaintiff's nerves her kidneys were caused thereby to be disturbed and diseased and by reason of said fall and consequent injury as stated, plaintiff suffered great bodily pain and mental anguish, and has sustained loss of time and labor and was compelled to incur indebtedness for medical aid and attention, and her power to earn money has been permanently lessened. All of which was without the fault of plaintiff and was because of the negligence of defendant and to the damage of Plaintiff in the sum of Fifteen Hundred dollars.

Wherefore she prays judgement against the defendant for said sum of Fifteen Hundred Dollars, for her costs herein and for all proper relief.

10-Q- On which side of the street – on the same side or the opposite side, as to the place where you were hurt?

Ans – On the opposite side.

11-Q- On which side of the street do you live on?

Ans – On the same side Mr Thompson does.

12-Q- In going to and from your work what route do you travel.

Ans – I travel on that side where I am going to his house, but when I am coming to town I usually come on the other side.

13-Q- At this time were there any officers of the City residing on that street?

(Objected to-

Ans- I don't know.

14-Q- Do you know who the City Attorney was then?

Ans – No sir.

15-Q- Do you know Mr. Rodman Keenon?

Ans – Yes sir.

16-Q- Does he live on the same side of the street as Mr Thompson or the opposite side?

Ans – He lives on the opposite side of College street from Mr Thompson.

17-Q- Now just go ahead and state in your own what accident you met with on that street, when it was, and everything about it.

Ans – I was going from home on Thursday night to prayer meeting-----

18-Q- Do you remember what time of the month it was.

Ans- It was the xxxxxx 7th.

19-Q- Is the West side of that street that you usually travel in going to Mr Thompson's have a pavement all the way up to Cornishville street.

Ans- No sir.

20-Q- Did you know anything about any holes or obstruction in the pavement on that street.

Ans – No sir, I did not. As I come down the street there was a pile of dirt and some bricks----

21-Q- Who was with you?

Ans – My little girl, Elizabeth. I stumbled over some bricks or rock, I reckon it was, and that pitched me into the dirt, and that threw me down and I fell with this shoulder into the hole, and hit the side of my neck. I had a bucket and I mashed that – I don't know what part of me hit the bucket- I had a tin bucket I had brought some cream in. When I got up, I found my hand was bloody, and I went on down and went across to Mr. Thompson's so I could see how bad my hand was hurt, and I cleaned my and the cook tied it up for me. I went on to prayer meeting. I didn't feel anything much at that time except my wrist felt like it was strained, but after I got there, my back got to hurting me so bad I went back home. I couldn't turn over the next morning. I wanted to know what was the matter and I went to the Doctor's office and told him about it- Dr Witherspoon.

22-Q- What position does he hold with reference to the town- or did he at that time?

(Objected to---

Ans – I don't know, but I think he is the town Doctor. I went to his office and told him about it and he told me what to do. It knocked me up right smart, and my back didn't have any feeling in it. I done what he told me, put a mustard plaster on it, but it didn't feel like it had any feeling it for a week or two; further up here, it still catches in my back when I bend it.

22-Q- Just go and describe your injuries.

Ans – Nothing hurts me but my back; that hurts me when I drew a long breath, right through here.

24-Q- Does that pain remain with you now?

Ans – In my back it does; it never has quit hurting me. I can't work with my hands good, and my back hurts me and is weak.

25-Q- How long did you remain under the care of Dr Witherspoon?

Ans – I don't know exactly how long; that was on the 7th of October, and the first Monday in January was the first day's work I done. I had two churches and two washings – I was janitor at two churches, cleaned up Dr Witherspoon's office and had two washings.

26-Q- And you had two families to wash for?

Ans – Yes, Mr. Carlisle, and Mrs Thompson, and I took care of the Presbyterian church and the Baptist church. I had to give up one of the churches and all my work except Mrs Thompson's, from the 7th of October until come time in January.

27-Q- Do you mean to say you didn't do any work at all from the 7th day of October until January.

Ans – I couldn't do anything, I couldn't sweep the church.

28-Q- What was the reason you didn't do it?

Ans – I couldn't, and couldn't wash – it hurt my back, and hurts it yet.

29-Q- Were you in bed at any time?

Ans – I couldn't lay down – it hurt me, hurt me to breathe.

30-Q- How long did Dr Witherspoon remain in care of you as a physician?

Ans- I don't think he come out to my house but three times. The first time he come, he didn't look at my back. The next time he came he found it was swollen.

31-Q- How bad was it swollen?

Ans – I couldn't tell you. I couldn't see it. He said my back was swollen. and I asked him what he thought was the matter – was it strained, and he said I had kinder wrenched it---- (Objected to

32-Q- You say that was on the second trip that he made the examination of your back?

Ans – Yes sir.

33-Q- How long after the hurt had been received.

Ans – This was on the 7th, on Thursday I think it was, that I fell, and along about the 10th or 12th was the first time he came. I went back home and done what he told me, and it didn't do me any good and then I sent for him....

...38-Q- You say you suffer with a pain in your back now.

Ans – It is about the same only it don't hurt quite as bad; it never has quit hurting entirely. I am not able to work now. I xxxxxxxx am willing to be examined now.

39-Q- Going back to the time you fell, describe your position so far as it affects your daughter, which was nearer the curbing?

Ans – Coming down this way, over here would be the house; she was on the side next to the house.

40-Q- She was on the inside?

Ans – Yes,; I was on the side next to the pike. This is the street; there is a little grass plot there and this is the pike out here We come down this street this way – the dirt was thrown kinder back this way, and I commenced to stumble along here and fall, about that far from the edge of the walk – the xxxx hole was out here. When I stumbled I pitched over this way, and first my shoulder went in this place, kinder this way; the dirt was on the pavement....

...42-Q- How did you get up?

Ans – The xx little girl pulled me up.

44-Q- Did you hear her speak to you after you fell?

Ans – I never, no sir. When she took hold of me she says – are you hurt, and I says – I don't know whether I am or not. After I got up, I felt the blood on my hand, and I said my hand was hurt. A little later my wrist began to hurt and I thought I had sprained my wrist. I didn't hurt anywhere else until I went on to church and sat down, and then my back got to hurting me.

45-Q- Did you know anything about any obstruction in the xxxx pavement?

Ans- No sir.

46-Q- Did you see it before you stumbled over the bricks?

Ans – No sir, I did not; it was as dark as could be.

47-Q- Did you examine the place the next day?

Ans – Yes sir.

48-Q- Was it still there?

Ans – Yes sir, the bricks were there, not the pipe. I xxx went down to see. I didn't know what it was until the next day; then I went to see the Doctor.

49-Q- In passing to and from your work, had you xxxxx noticed the work on this sewer that was being built there

(Objected to, objection over ruled, to which Deft excepts)

Ans – Yes, I knew they were working over there.

50-Q- Had you seen the sewer open during the time they were working on it.

(Objected to, objection sustained which Plaintiff excepts...

...Cross Examination

1-Q- How old are you, Rebecca?

Ans – I am 48 years old; I was born in 1862.

2-Q- What has been your condition of health all your life up to this time.

Ans – I have been very stout.

3-Q- You live out on the Cornishville pike don't you?

Ans – Yes sir.

...8-Q- How do you place this as being the 7th, Thursday, that you were hurt.

Ans – I was going to prayer meeting.

9-Q- What church were you going to?

Ans – To the Baptist church – their prayer meeting is on Thursday night.

...11-Q- What time of night was it?

Ans – It was between 6 and 7 o'clock, as near as I can come at it.

12-Q- Was it dark?

Ans – Yes sir, it was dark.

13-Q- You had come up the Cornishville pike with your daughter?

Ans – Yes sir...

...17-Q- In coming down that street were the electric lights on?

Ans – No sir.

18-Q- Are you sure?

Ans – Yes sir, I am sure.

19- Q- Was the moon shining?

Ans – No sir.

20-Q- You were walking along here with your daughter.

Ans – Yes sir, I had a bucket in my hand.

21-Q- What was the first thing you saw in the way of an obstruction in the street?

Ans – I didn't see anything until the next day.

22-Q- Then how do you know what you struck your foot against?

Ans – I don't know positively – of course I couldn't pick out the very xxxx brick it was.

23-W- Were they in the middle of the street?

Ans – I don't know. They were laying there where they were thrown out....

46-Q- You got up and the little girl asked you if you were hurt and you said you thought not.

Ans – Yes, I didn't think I was until I got further down, and then I discovered my hand was wet and it was bleeding, and I went on down to Mr Thompson's and the cook tied it up for me, and then I went on to where I was going.

47-Q- You went on to prayer meeting?

Ans – Yes sir.

48-Q- How long did you stay at prayer meeting.

Ans – I don't know; sometimes we stay about an hour- usually.

49-Q- What time did you get back home 10 or 11 o'clock.

Ans – I don't know. I never looked.

50-Q- You had walked on to prayer meeting and back?

Ans – Yes sir.

51-Q- Did you sleep any that night?

Ans – Yes, some.

52-Q- You stayed at home that night?

Ans – Yes sir.

53-Q- Didn't have any Doctor?

Ans – No sir, not until the next day. I got to hurting so bad I went to see the Doctor...

...64-Q- How did you happen to go to see the Doctor?

Ans – My back was hurting me.

65-Q- How did you happen to go to Dr Witherspoon?

Ans – He had been my Doctor ever since he had been here.

66-Q- How many years?

Ans – I couldn't tell you how long. He has been our Doctor ever since Dr. Peddiford left him.

67-Q- You went to see him on Friday.

Ans – Yes sir...

...102-Q- Didn't you try to get others to examine you?

Ans – No sir, I never tried. I went to Dr. Robards.

103-Q- When was that?

Ans – It has been about two months ago.

104-Q- How did you happen to go to him?

Ans – Judge Roach told me he would like for xxx for some other Doctor to see me.

105-Q- And you went to Dr RoBards?

Ans – Yes sir.

106-Q- Did he examine you?

Ans – No sir.

107-Q- Since the 1st of January, have you been working all the time?

Ans – No sir, not all the time...

...112-Q- How much a week did you earn up to the time you were hurt?

Ans – I got \$.60 for the church. \$1.50 a week at Mr. Thompson's; \$1.50 xxxxxx at the other church; \$1.25 at and 50 cts at Dr Witherspoon, besides the other day work that I did

113-Q- ABout how much did you make on average per week?

Ans – You can count it up.

114-Q- How much did you makes outside of what you have given?

Ans – I am hardly ever at home a day in the week.

115-Q- You average about \$5.00 a week?

Ans – Sometimes more.

116-Q- How much more?

Ans – I don't know just how much. did lots of work out by the day.

117-Q- Since the 1st of January, you have been able to do the same amount of work?

Ans – No sir.

118-Q- How much difference does it make?

Ans – I am not doing anything regular but Mr Thompson's work and the church.

119-Q- Who else do you work for?

Ans – Nobody else regular, since Mrs Cardwell went away. I haven't washed for her since I fell...

...Re-examination

1-Q- You sometimes serve as nurse for women, don't you?

Ans – Yes sir.

2-Q- And work in the cornfield if necessary?

Ans – Yes sir....

Dr. W.H. Witherspoon, Examined by Atty for Plff.

1-Q- What is your profession?

Ans – I am a physician.

2-Q- What position do you hold in the City of Harrodsburg?

Ans – I am city physician.

3-Q- What position did you hold in October 1909?

Ans – City physician.

4-Q- Do you know the Plaintiff Rebecca Sallee?

Ans – Yes sir.

5-Q- State whether or not you saw her professionally any time during the month of October of last year?

Ans – Yes sir, I did...

...9-Q- Will you please state to the jury what you found to be the trouble with this woman?

Ans – The day she came to my office she told me about falling, and complained of her back. I examined her at my office and told I didn't think there was anything seriously wrong at the time, though she had a slight fever and her temperature was 99. She complained more of her back than anything else. I told her to go home and lie down and put a plaster on, use some liniment and see if that would remove the pain...

...12-Q- Later on, did yo make an examination of her back?

Ans – Yes sir. My first visit to her house was on October 11th. At that time she complained of her back being very sore. She had a slight xxxx pone of the left side, back, I suppose about that large (indicating).

...15-Q- Later on did you make any further examination of her.

Ans – Yes; after that I had her send me a specimen of her urine. I examined that and found she had albumen in it, which means bright's disease.

...19-Q- Was that condition of the kidneys such as would be produced by a fall, a wrench or a strain.

Ans – Yes, it xxx could have been produced by a wrench or a fall, if the kidney became loosened so that it became a floating kidney; that condition of her kidneys might have been due to some muscular xxxx trouble -----

20-Q- There was a muscular trouble?

Ans – Yes sir....

...25-Q- What is Bright's disease.

Ans – Ordinarily an inflammation of the lining of the kidneys – the kidney itself...