

1854

18540227 Complaint L Carson-1

To Greenbury Smith
Administrator of David Carson
Deceased
Sir

Take notice that I shall present to the Probate Court of the County in
& for of Benton appointed to be held in & for said county at Corvallis on the
second Monday of March next for allowance the damages which I have sustained
in consequence of the non performance of the following personal contract made &
entered into by & between the said David Carson during his life time and myself
and also the annexed account, which said contract⁵ is in substances as follows, and
said account is in the words and figures following to wit:

Sometime in the months of May or June in the Year AD 1845 David Carson
since deceased while on the road from the state of Missouri to the territory of
Oregon and after he had passed the state line of the said state of Missouri stipulated
& agreed to & with me that in consideration that I would live with & work for the
said David Carson for and during the term of his natural life that at his decease he
would make me his sole heir or that he would give me his entire property which
should own or be possessed of at the time of his said decease, that in

18540227 Complaint L Carson-2

pursuance of said contract I continued to live with & work for the said David until
the time of his decease, but the said David not regarding his said contract neglected
to make me heir to his entire property or to give me the same or any part thereof
either by will or otherwise wherefore I have sustained great damage to wit five
thousand dollars, which I shall ask for and insist that the same be allowed at said
term of court.

Damages on contract	\$5000.00
To 7 years 5 months labor at \$400500.00 per year	3750.00

“ 29 head of Cattle at \$50.00 per head	1450.00
“ the use of 10 cows 7 years	1000.00

when & where you may attend if you think proper

18540228 Notice Smith

Given under my hand this 27th day of February AD 1854

Lutershia Carson
Pr A. J. Thayer

Lewticia Carson

Atty

Filed March the 18 AD 1854

Luteshia Carson

vs

Greenbury Smith

Administrator of

David Carson deceased

Notice

Served on Greenbury

Smith by reading and

Copy 3 files	\$7[?]
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Reading	1.00
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Mileage	3.00
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Served Fer. 28th 1854

18540300 Kelsay Statement-1

Territory of Oregon

Benton County

Greenbury Smith

Administrator of the
Estate of David Carson
Deceased

In the District court of Benton County
Oregon Territory
March Term A.D. 1854

Ats

Lutenshia Carson

And the said defendant by John Kelsay his attorney comes and refutes the damages and injury, when etc and says that the said declaration is not entitled of any court, neither does it appear by the said declaration in what court the **action** said action is brought, and also for that it doth not appear in and by the said declaration who the plaintiff is in said suit, and also for that it doth not appear in and by said declaration that the several causes of action in said declaration mentioned arose in the said county of Benton, neither

18540300 Kelsay Statement-2

doth it appear in and by said declaration that the said several causes of action in said declaration mentioned arose within the jurisdiction of said Probate Court, and also for that as there is no venue or place alleged in or by the second count in said declaration where the said Lutensha Carson done and performed the said seven years labour in the said second count **mentioned** in the said declaration mentioned, neither doth it appear in or by said second count by whom the said **servaces** seven years labour was performed. And also for that it doth not appear in or by the said second count at what time the said seven years labour was done either doth it appear by said second count when said labour was done nor by whom said labour was done, neither doth it appear in or by said second count

18540300 Kelsay Statement-3

for whom said labour was done nor when the said defendant was deceased was indebted to the said Lutisha nor when said indebtedness accrued, nor when nor where the said administrator was indebted to the said Lutisha Lutersha Carson and for that the said last mentioned counts are uncertain and obscure – And also for that ~~the third count in said declaration~~ as there is no venue or place by the said third count in said declaration when the said deceased got the said twenty nine head of cattle in said count mentioned neither doth it appear in and by the said declaration count that the said cattle was ever the property of the said Lutersha Lutersha neither doth it appear in and by said third count at what time the said deceased got said twenty nine head of cattle or any part thereof from the said

18540300 Kelsay Statement-4

Lutersha Carson, neither doth it appear from in and by the said third count that the said deceased was in debt to the said Lutersha for the said twenty nine head of cattle or any part thereof nor at what time neither doth it appear in and by the said third county that the said twenty nine head of cattle ever did belong to the said Lutersha Carson, ~~neither doth it appear in or by the said third count at what time the said deceased ?? to the said Lutersha Carson for said cattle~~ neither doth it appear in or by said third count at what time the said administrator as such was indebted to said Lutisha in the said neither doth it appear in or by said third count that the said administrator is indebted to the said Lutersha for the said twenty nine head of cattle or any part thereof – and for that

18540300 Kelsay Statement-5

~~Neither doth it appear~~

For that as there is no venue or place in or by the said third count ~~wherein~~ alleged when the said administrator was indebted to the said Lutensha Carson, neither doth it appear at ~~what~~ what time or by said ~~administrator~~ third count the said administrator as such was indebted to the said Lutensha, neither doth it appear in and by said third count that the said administrator as such is or was indebted to the said Lutensha—And for that the said Lutensha has laid no proper venue in the said third count and ~~for the~~ also that there was divers blanks and void spaces which make ~~said third count~~ the sense thereof uncertain and obscure

~~And for that ? not appear the fourth count in the said declaration mentioned~~

18540300 Kelsay Statement-6

and for that as there is no venue or place alleged in or by the fourth count in said declaration where the said deceased or the said administrator of the estate of said deceased was indebted to the said Lutersha Carson the said thousand dollars for the use of ten cows for seven years, neither doth it appear from the said fourth count that the deceased nor the said administrator of the estate of said deceased ever was indebted to the said Lutersha Carson any part of the said sum mentioned in the said ~~mention~~ fourth count, ~~neither doth it ? for that the said Lutersha has not laid any proper venue~~ neither doth it appear at what time the said deceased and the said administrator was indebted to the said Lutersha Carson -- And for that as the

18540300 Kelsay Statement-7

said Lutersha Carson has laid no proper venue in the said fourth count and is in other respects uncertain and obscure And this he is ready to verify, wherefore by reason of the insufficiency of the several counts in said declaration in this behalf of the said defendant prays Judgement.

Greenbury Smith
Administrator of
the estate of
David Carson
deceased by
John Kelsay his
Atty

18540301 Subpoena A Carson

Territory of Oregon Benton County SS

To Andrew Carson in the name of the United States of America you are here by required to appear before me Judge of Probate Court in said county at my office therein on the 18 day of March 1854 at 10 of the Clock AM of said day to testify in a suit where-in Lucretia Carson is plaintiff and Green Bery Smith administrator of the estate of David Carson Deceased is defendant on the part of the defendant Giving under my hand this the first day of March 1854

A N Locke
Judge of Probate

18540301 Subpoena D Carson et al

Territory of Oregon
Benton County SS

To David Carson Francis Writsman Alfred Writsman Joseph Hugard John Wiley in the name of the United States of American you are here by required to appear before me Judge of the Probate Court at Corvallis in said county at my office therein on the 15 day of March 1854 at ten of the clock AM of said day to testify in a suit wherein Lucretia Carson is plaintiff and Greenbury Smith administrator of the estate of David is defendent on the part of the defendent.
Giving under my hand this the first day of March 1854

A N Locke
Judge of Probate

18540306 Subpoena D Carson Bill

Supponey for
David Carson
Francis Writsman
Alfred Writsman
Joseph Huggart
John Wiles

Received Mar. 1st 1854

Served David Carson and
Joseph Huggart by Copy
Mar. 6th 1.50

Alfred Writsman
by reading Mar 6 1.50

Francis Writsman
by reading Mar 6 .50

John Wiles

by reading Mar 6 .50

Mileage ----- 2.40

Wm Jackson Depty Shff
Of Benton County

18540307 Subpoena Knighton Walker

Territory of Oregon

Benton county SS To Henry M Knighton ~~Henry W Walker~~ William H Walker

In the name of the United States of America You are hereby required to appear before me Judge of the Probate court for said county at my office in the town of Corvallis in said county on the second Monday of March inst at 10 oclock AM of said day to testify in a suit wherein Luticia Carson is plaintiff & Greenbury Smith administrator of the Estate of David Carson deceased defendant on the part of the plaintiff.

Given under my hand this 7th day of March AD 1854

A N Locke

Judge of Probate

18540313 Billing Jackson

Henry W. Knighton

Not found in County

Mileage \$1.00

Wm H Walker not
found in county

W. Jackson

Mar 13th 1854 Dpty Shff
Benton County

18540313 Statement L Carson-1

Oregon Territory
Benton County SS Probate Court for said County
Lutishia Carson March Term AD 1854
vs
Greenbury Smith
administor of the
astate of David Carson
deceased

Andrew J. Thayer of said county being duly sworn deposes & says that he is atty for the plff in the above entitled action that he is informed by said plff that Henry W Knighton is a material witness for said plff on the trial of said action that deponent has in his possession two letters purporting to have been written by the said Knighton wherein the said Knighton states that sometime during the fore part of the year AD 1845 he the said Knighton sold a cow to David Carson deceased that the said David informed him the said Knighton that he was purchasing said cow for said plff & with her money, and deponent further says that his able to prove by William Walker the other witness now absent from said county that the 29 head of cattle originated from said cow and deponent furthers says that he is not able to prove said facts by any other witnesses, as deponin is informed deponent further says that said witnesses are material for said plff on said trial, deponent further says

18540313 Statement L Carson-2

not.

Subscribed & sworn
To before me this
13th day of March AD 1853

A.J. Thayer

Sworn before me Judge of Probate this 15 day of March 1854
A N Locke Judge of Probate

A J Thayer
Affidavit
Filed
March 13 1854
A N Locke
Judge of Probate

18540313 Subpoena A Carson Bill

Suponey for
Andrew Carson
Not found in the
County
Mileage \$1.00
Wm Jackson
Dpt Shff
Benton County
Service \$1.00
March 13th 1854

18540327 Walker Deposition

Oregon Territory
Benton County
In the matter of
Lutisha Carson
vs
Greenbury Smith
Administrator of
The Estate of David

Probate for
said County

To John Kelsey [sic]

Carson Deceased

Agent or Attorney for said Defendant

Sir take notice that I shall take my deposition of William H Walker a witness in the above entitled action before D W Russell a justice of the Peace for said county on the 27th day of March AD 1854 at 3 oclock PM at his office in said town.

Yours etc

Lutisha Carson

per A J Thayer her atty

18540327 Walker Deposition Bill

Received Mar 27th 1854

Personally Served

By delivering a copy

March 27th 1854

Service --- \$2.00

Wm Jackson

Dpty Shff

Benton Co

18540717 L Carson Labor Bill

David Carson &r

To Lutishia Carson

To

Seven years & six months labor done & performed for the said David Carson between the 1st day of May AD 1845 and the 1st day of March AD 1853, at \$200.00 per year making in all \$1500.00.

David Carson & by board & clothing for children 2 during a part
of the above mentioned time, whole amount \$ 500.00
Leaving now due the said Lutishia Carson over and above all setoffs \$1000.00
Dated Corvallis July 12th AD 1854.

Oregon Territory
Benton County

Lutishia Carson being duly sworn deposes & says that the above claim of
one thousand dollars is justly due deponent, that no payments have been made
thereon, and that there are no offsets to the same to the knowledge of Deponent,
and further deponent says not.

Subscribed & sworn to before me in said County this 17th day of July AD 1854.

her
Lutishia X Carson
Mark
D. W. Russell JP

18540731 Label GB Smith Refusal

I hereby refuse to
Allow the within
Claim or demand
Dated July 31st 1854
Green B Smith
Bill of ?
Filed Oct 10th 1854
Jas H Slater
Clerk

18540900 Request Subpoena Read et al

Oregon Territory In the District Court of the United States of America
Benton County in & for said county
Luteshia Carson plff Oct Term AD 1854
vs
Green B Smith administrator
Of the estate of
David Carson deceased Deft
To the Clerk of the District Court in & for said County
Sir please

To issue a subpoena for the following named witnesses in the above entitled action on the part of the plff To Wit Thomas Reed David Davis, Jehial Kendall, Joseph Huggard & Archimedes Stewart and hand the subpoena to the Sheriff of your county

Yours truly
A J Thayer
Plffs atty

18540922 L Carson Complaint

To Territory of Oregon In the District Courts
Benton County of the United States
Lutishia Carson plff in & for said county
vs Oct term AD 1854
Green B Smith
Administrator of the Estate
Of David Carson deceased Deft

Lutishia Carson plff in the above entitled action by AJ Thayer her atty Complains of the Deft Green B Smith Administrator of the Estate of David Carson deceased for that whereas the said plaintiff worked labored & performed services for the said David Carson during his life time & at his special instances & request for the term of seven years & six months in the county of Benton territory of Oregon and also on the road while crossing the plains between the State of Missouri & said Territory, which said work labor & services were done & performed between the 1st day of May in the year AD 1845 and the 1st day of March AD 1853. Which And that said work labor & services were reasonably worth the just & full sum of one thousand dollars over & above all setoffs. Wherefore said plff claims one thousand dollars that there is now justly due her over & above all setoffs the sum of one thousand dollars besides the costs of this action for which she brings suit.

Dated Corvallis Sept 22 AD1854

AJ Thayer

Plffs Atty

18540922 Subpoena GB Smith

Territory of Oregon

Benton county

Lutishia Carson Plfft

vs

Green B Smith Deft

Administrator of the estate

Of David Carson Deceased

In the District Court in

and for said County

To Green B Smith Administrator of the estate of David Carson deceased
In the name of the United States of America you are hereby required to appear and answer the complaint of Lutishia Carson Plfft (a copy of which is herewith served) on the first day of the next term of said court to be held in said county on the second Monday of October in the year AD 1854; or judgment by default will be taken against you.

Notice is hereby given that the plaintiff will take judgment for the sum of one thousand dollars (\$1000.00) if the defendant fails to answer the complaint.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 22nd day of September AD 1854 at Corvallis.

Jas. H. Slater
Clerk said Court

18540922 Testimony Thayer

Oregon Territory
Benton County

Andrew J Thayer being duly sworn deposes & says that he is attorney for Lutishia Carson the plff in the above entitled action, that he knows the contents of the complaint therein and that he believes the same to be true. Affiant further States says that said belief is founded upon information derived from different individuals residing in said county & who crossed the plains during the summer of AD 1845 and saw said plff at work for said Carson & have known of her working for said Carson until the time of his death which took place during the Spring of AD 1853 & and further said individuals have informed said Affiant that said work & labor was worth the sum of one thousand dollars over & above all setoffs, and Affiant further states that he makes the above affidavit in consequence of the plaintiff being absent from the county.

Subscribed & sworn to
Before me this 22 day of
Sept AD 1854

Andrew J Thayer

Jas. H. Slater Clerk Dist Court

18540925 Subpoena Bill

Lutishia Carson	Served the within
vs	personally at
Green B Smith	Residence of
administrator of the	each by reading
estate of David Carson	Sept 25 th AD 1854
	Fees
Subpoena	Service \$2.50
	Mileage 14 <u>2.80</u>
Filed Oct 9 th 1854	\$5.50 [sic]
Jas H Slater	TJ Right Shff
Clerk	by L Abbott Dpty

18540925 Subpoena Read et al

Territory of Oregon	In the District Court said County
Benton County	May Term AD 1854

To the Sheriff of said County Greeting

In the name of the United States of America you are hereby commanded to summon Thomas M Reed, David Davis, Jehial Kendall Joseph Huggard and Archemades Stewart to be and appear before the District court in and for said County on the first day of the next term thereof to be holden at the Court house in said county on the Second Monday of October AD 1854 at one oclock PM to testify in a cause pending in said court wherein Lutishia Carson is plaintiff and Green B Smith Administrator of the estate of David Carson deceased is defendant; on the part of the plaintiff.

Hereof fail not at your peril and of this writ make due service and return

In testimony whereof I have hereunto set my hand and affixed the seal of said court

Dated at Corvallis this 25th day of September AD 1854

Jas H Slater
Clerk said court

18540928 Subpoena Smith Bill

In the District	Served personally
Court Benton Co Oct	Sept 28 th AD 1854
term 1854	by reading and delivering
	a copy of the within
Lutishia Carson Plff	Summons together
Vs	with a copy of the
Green B Smith Deft	Complaint to
Adminstrator of the estate	Green B Smith
of David Carson Dec	Fees
	Service \$1.00
Summons	Copy Summons .25
	“ Complaint
	2[?] .25 50
	Miles 12. <u>2.40</u>
	\$4.15

TJ Right Sheriff
by Wm Jackson Dpty
Benton Co

18541005 Subpoena Hughart et al

Territory of Oregon
County of Benton SS
To the Sheriff of said County Greeting

In the name of the United States of America you are hereby commanded to summon Joseph Hughart, Francis Writsman, & Mark Cayhoon to be and appear before the District Court for said County OT on the first day of the next Term thereof to be holden at the court house in said County on the secon [sic] Monday of October AD 1854 to testify in a cause where Lutishia Carson is plft and Green B

Smith Administrator of the estate of David Carson deceased is deft on the part of the deft

Hereof fail not at your peril and of this writ make legal service and due return
In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Corvallis this 5th day of Oct AD 1854

Jas H Slater
Clerk of said Court

18541007 Hughart et al Subpoena Bill

Served personally
On Jos Huggart Francis Writsman & Mark Cahoon
Oct 7th 1854

Luteshia Carson
vs
Green. B Smith
Admstr of &c
Subpoena

Fees
Service \$1.50
Mileage 10 2.00
\$3.50

TJ Right Shff
By W Jackson Dpty

Filed Oct 9th 1854
Jas H Slater
Clerk

18541007 Motion Thayer

Dist Court of Benton
County Oct. 5, 1854

Lutishia Carson Plf

vs

Motion of Strike out

Green B Smith admr

Estate of David Carson dcd

Defendt.

Said plaintiff by her attorneys comes and moves the court to strike out all that portion of said Defendant's answer now on file in the above entitled cause, contained in the second clause thereof, beginning with the word "Defendant" and ending with the word "removal" for reason that the same is irrellivant [sic] and constitutes no defence [sic].

Also all that portion of said answer contained in the fourth clause thereof commencing with the word "defendant" and ending with the word "decease" for reason that the same is pleading by implication and constitutes no defence.

Thayer & Grove

Attorneys for plf.

18541009 Subpoena Writsman et al

Territory of Oregon

Benton County

To the Sheriff of said country or his Deputy

In the name of the United States you are hereby commanded to summon Alfred Wrightsman, WH Johnson, & David Carson to appear before the District Court for said County forthwith to **answer** testify in a cause wherein Lutishia Carson is

Plaintiff [sic] and Green B Smith Administrator of the estate of David Carson
deceased on part Deft

Hereof fail not at your peril and of this writ make legal service and return
Witness Jas H Slater Clerk of said court his hand and he seal of said court at
Corvallis this 9th day of Oct 1854

Jas H. Slater
Clerk

18541009 Subpoena Writsman et al Bill

Lutishia Carson	Served personally
Vs	by reading once
Green B Smith	the within
	Oct 9 th 1854
Subpoena	Fees
	Service \$1.50
Filed Oct 9 th 1854	TJ Right
Jas H Slater	Shf
Clerk	by Wm Jackson
	Dpty

18541010 Answer GB Smith-1

District Court Benton County
October Term AD 1854

Lutitia Carson plff

vs Answers

Green B Smith admr

Defendant

- 1) Defendant for answer to plaintiffs complaint says, that it is not true the plaintiff worked labored and performed services for David Carson deceased for seven years & six months as stated in complant [sic], neither were **the** any services performed by said plaintiff for said Carson reasonable [sic] worth one thousand dollars.
 - 2) Defendant further answering says that he is informed and verily believes that said plaintiff was a slave in the State of Missouri and owned by David Carson deceased at the time said Carson re-moved with said plaintiff to Oregon sometime in the year 1845 and so remained up to the time of the death of David Carson relation of master & slave was changed by the removal of the deceased. David Carson unless the
 - 3) That **as such slave** said deceased moved from the state of Missouri to Oregon some time in 1845 bringing said slave with him and she continued to reside with said Deceased as one of his family for the term and during the time stated in the plffs complaint and not otherwise. Defendant says that the deceased board ? clothing plaintiff & her children was reasonable worth as much as her labor and work.
-

18541010 Answer GB Smith-2

- 4) Defendant says that the emancipation of said plaintiff was reasonable worth as much as any labor she did for the Defendant from the time he left the State of Missouri to the time of David Carsons decease.
 - 5) Defendant says that during the time plaintiff lived with ? David Carson she was sick for the space of about **one year** six consecutive months in the years 1851 & 52 during all which time she was unable to work or labor for David Carson dec'd or even to wait upon herself during all which time Deceased waited upon said plaintiff and employed & paid for her medical attendance at the instance and request of plaintiff. Defendant says then Decease David Carson boarded & clothed one of the children of the deceased from some time in 1845 when said child was born to the time of the decease of said David Carson.
Defendant says that David Carson boarded & clothed one other of the children of plff from 1849 when it was born up to the time of his death. Defendant says that the boarding clothing of plaintiff & her children the attention bestowed upon her during her sickness the trouble & expense of bringing her across the plains was
-

18541010 Answer GB Smith-3

reasonable worth as much as any and all services rendered by plaintiff to deceased David Carson.

Defendant says that in the winter of 1849 plaintiff was taken to Joseph Gages in Polk county previous to her sickness and remained and was taken care of & boarded by said Gage at the expense of Deceased until she was delivered of a child & recovered. Wherefore plaintiff says that **he is not** Deceased David Carson was not in his lifetime or Defendant since his death indebted to plaintiff in any sum whatever, having answered Deft prays to be discharged with his costs.

Kelsay & Logan
Defts Attys

Benton County SS

Green B Smith Defendant says that he has heard the foregoing answer read & knows the contents thereof and that to the best of his knowledge information & belief the statements therein made are true. Defendant says that he is informed by persons who knew said Carson Decease in Missouri & in crossing the plains that plaintiff was a slave & belonged to said Deceased. Defendant also has a bill of sale of said Lutitia Carson plaintiff to deceased David Carson

18541010 Answer GB Smith-4

As to the sickness of plaintiff & the boarding & clothing of herself and children Defendant has made strict inquiries in regard thereto from those he supposed were informed and had been informed that the statements made in the foregoing answer as to the value of the plffs service & the value of boarding clothing plff & her children ~~Plaintiff Deft has made strict enquiries to ascertain the truth from persons ? informed as Deft believes & these they inform him in the Statements in relationship as stated~~ in the answer ~~were correct and true.~~

Green B Smith
Administrator

Subscribed and sworn to
Before me this 10th day of
Oct AD 1854

Jas H Slater
Clerk

18541011 Response Thayer-1

Lutishia Carson Plf

Dist Court Benton Co
Oct Term 1/54

vs

Green B Smith admin

Estate of David Carson dcd

Replication

Said plaintiff for replication to said defendant answers pleaded says that she affirms that her services for seven years and six months as stated in her said complaint were reasonably worth one thousand dollars, ~~that she denies that from the year 1845 she has remained a slave of said David Carson deceased up to the time of his death as in said answer alleged~~ [sic], and she further denies that she lived and continued to reside in the family of said David Carson decd as one of his family merely, as in said answer alleged, but she avers that she resided in said family as a servant and performed menial [sic] service as such during said period mentioned, ~~and she further denies that the emancipation of said Plaintiff was reasonable worth as much as any labor she did for the defendeant from the time he left the State of Missouri to the time of David Carsons decease as alleged in said Defts answer, and she denies that said emancipation was any consideration in said plaintiff moving ?? David Carson.~~ And she further denies that plaintiff was sick during the time plaintiff lived with David Carson for the space of about six months consecutively in the years of 1851 & 1852 and unable to work or labor for said David Carson decd.

18541011 Response Thayer-2

And that he waited on said plaintiff and obtained medical aid as in said answer alleged. And she further denies that defendant boarded and clothed the children of said plaintiff in manner and during the time alleged in said answer. And she further denies that in the winter of 1849 Plaintiff was taken to Joseph Gages in Polk County and was taken care of and boarded by said Gage at the expense of said David Carson decd as in said defendants answer alleged.

Wherefore she says the ought not to be barred by anything in said answer pleaded, from having and recovery of said defendant administrator aforesaid , the said full sum of one thousand dollars, or any part thereof.

Thayer & Grove
Attorneys for Plf

Territory of Oregon
Benton County

Lutishia Carson the above named plaintiff being duly sworn says that she has heard the foregoing replication read and knows the contents thereof, and that the same is true to the knowledge of said plaintiff.

Subscribed and sworn to
Before me this 11th day
of Oct AD 1854

her
Lutishia X Carson
mark

Jas H Slater
Clerk

Oregon Statesman 18541017

District Court, Benton County.

Judge Williams presiding.

Present – R. P. Bois, prosecuting attorney for territory; L. F. Grover, deputy U.S. district attorney; J. G. Wilson, deputy U. S. Marshal.

Attorneys – Pratt, Logan, Chadwick, Thayer, D. Smith, I. N. Smith, Brock, Kelsey, Machell, and Boyd.

Same twenty causes on the docket, mostly compromised; no criminal trials.

Lutensia Censor v. Green B. Smith, administrator on estate of David Censor, deceased. This was an action by a black woman to recover the value of her service rendered in this territory to defendant, from the year 1845 to 1852. Lutensia was a slave in Missouri, but came to Oregon and served her master faithfully until his death. In the absence of circumstances which would imply an agreement to pay, Jury disagreed – 9 for and 3 against – jury discharged. Cause continued. D. Smith, Grover and Thayer for plaintiff, Logan and Kelsey for defendant.

1855

18550000 Kelsay Appeal

Oregon Territory
Benton County

In the District Court
of said county

Green B. Smith
administrator of
the estate of David
Carson dcd – Deft
vs
Lutisha Carson, Plft

The said Defendant by his attys Logan & Kelsay comes & moves the court ~~to set aside the verdict of the jury anent the Judgement~~ to set aside the Judgment & grant a new trial in the above entitled action for the following reasons, to wit

- 1st That the verdict of the Jury was against evidence.
- 2 That the verdict of the Jury was against the weight of evidence –
- 3 That the verdict of the Jury was against law & evidence.

T. Logan & J. Kelsay atty For Deft.

18550000 Kelsay Argument

Letitia Carson
vs
Greenbury Smith Admor
Of estate of David Carson

This day comes deft by his counsel and demurs to complaint of Plff for it does not state sufficient facts to entitle Plff to recover --

1st It does not show that said administrator is **legaly** [sic] indebted to the said Plf in an sum of money whatever.

2nd It does not show that the Plff has taken proper steps to entitle her to bring suit vs defendant.

Kelsay & Chinn

18550317 Summon Hughart et al

Oregon Territory

Benton County

Lutishia Carson Plff

vs

Green B Smith administrator

of the estate of

David Caron Deceased Deft

In the District Court

of the United States

To the Sheriff of said County Greeting

In the name of the United States you are hereby commanded to summon Joseph Hughart, Francis Writsman, Mark Cayhoon, Alfred Writsman, WH Johnson, David Carson, GW Roberts, Mrs Roberts, AG Hovey Hovey [sic] & Sarah Davis if to be found in your county to be and appear before the US District Court in and for Benton County OT to be held at the court house in said county on the first Monday of May AD 1855 to testify in the of Lutishia Carson vs Green B Smith Administrator of the estate of David Carson deceased to appear on part of Defense.

Hereof fail not at your peril and of this writ make legal service and return.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 17th day of March AD 1855 at Corvallis O.T.

Jas. H. Slater

Clerk of said court

18550507 Subpoena Bill (1)

District Court in
& for Benton County SS

Lutishia Carson
Vs

Green B. Smith
administrator of
the estate of the es-
tate of David Carson
deceased

Served the within by
reading to all except
David Davis for whom
a copy was left

Service	2.00
Copy	.25
Mileage	<u>2.00</u>
	\$4.25

Subpoena
Benton County

T.B. Odeneal
Dpty Sheriff
Benton Co

Filed May 7th 1855
Jas H Slater
Clerk

18550507 Subpoena Bill (2)

District Court	Served the within
Benton County O.T.	by reading to all except
Lutishia Carson	Joseph Hughart & David
vs	Carson for whom
Green B Smith	copies were left
administrator of	
the estate of David Carson	Service 5.00
	2 Copies .50
Subpoenal [sic]	Mileage <u>2.00</u>
	7.50

Benton County

Thos B Odeneal Dep Sher
Benton Co.

Filed May 7th 1855
Jas H Slater
Clerk

18550508 Subpoena Hartless

Territory of Oregon	In the United States
Benton County	District Court for said Co
Lutishia Carson	
vs	Assumpsit
Green B Smith	
Administrator etc	

In the Name of the United States to the Sherif of said county

You are hereby commanded to summon E Heartless if to be found to be and appear before the District Court of said county forthwith to testify in the case of Lutishia Carson vs Greenberry Smith administrator etc on the part of the plaintiff.

Hereof fail not at your peril and of this writ make legal service & return.

Witness Jas H Slater Clerk his hand and the seal of said court this 8th day
May AD 1855.

Jas. H. Slater Clerk

18550510 Subpoena Bill

Lutishia Carson Served by
vs Reading
Green B Smith Servis [sic] 50
 TJ Right
 Sheriff

Filed May 10th 1855
 Jas H Slater
 Clerk

18550511 Subpoena Read et al

Oregon Territory In the District court
Benton County for said County
Lutishia Carson Plfft
vs
Green B Smith
Administrator of the
estate of David Carson
Deceased Deft

To the Sheriff of said county Greeting

In the name of the United States of America you are hereby commanded to summon Thomas M Read, David Davis, Jehiel Kendall ~~Joseph Hughart~~ and W H Johnson and ~~Sarah Davis~~ to be and appear [sic] before the United State District Court in and for Benton County OT on the first day of the next Term thereof to be holden at the court house in said county O.T. on the first Monday of May AD 1855 to testify in the case of Lutishia Carson vs Green B Smith administrator of the estate of David Carson Deceased on the part of the plff.

Hereof fail not at your peril and of this writ make legal service & return.

Witness my name and the Seal of said court this 16th day of May AD 1855 at
Corvallis OT

Jas. H. Slater Clerk

18550511 Subpoena St Clair

Territory of Oregon

Benton County

Lutishia Carson

vs

Greenberry Smith

Administrator etc

United States to the Sheriff of said county

You are hereby commanded to summon W St Clair if to be found in your
county ~~to testify in the cause of~~ to forthwith appear before the District court for
said county now in session at the court house to testify in the cause of Lutishia
Carson vs Greenbery Smith Administrator etc on the part of the **Plaintiff** Deft.

Hereof fail not at your peril and of this writ make legal service and return.

Witness my hand and the seal of said court this 11th day of May 1855.

Jas H Slater

Clerk

18550511 Subpoena St Clair Bill

Lutishia Carson

vs

Greenbery [sic] Smith

Administrator &c

W. St Clair

Served the with in

By Reading to W St Clare

On the 11 day of May 1855

A.N. Locke Baff

Servis [sic] 50

18550512 Judgment

May Term AD 1855

Be it remembered that on this seventh day of May one thousand eight hundred and fifty five, The United States District Court of the county of Benton and Territory of Oregon commenced its regular session and the court house in said county; present honorable Geo. H William Judge etc

At which said term the following proceedings were had that is to say

Lutishia Carson

vs

Greenberry Smith

Administrator etc

Now on this day came the Plaintiff by Thayer and Smith her attorneys and the Deft by Logan and Kelsay his attorneys and issue being found thereupon came

a jury to wit James L Bounds, William P Smith, Alfred Rinehart, Wiley Winkle Joseph Dimick George Belknap John Bryant John Hillhouse, George Knowlton, Galatin Atkins, Lazarus Vanbeber and William L Cardwell who were duly empaneled and sworn and after hearing the whole case gave the following verdict to wit “we the jury for the Plaintiff the sum of three hundred dollars.

Thereupon it was ordered and adjudged by the court that said plaintiff have judgment and execution for said sum of three hundred dollars together with her costs in this behalf to be taxed.

18550512 Judgment True Copy

I do certify that the foregoing to be a true copy of the judgment in the foregoing cause.

May 12th 1855

Jas H. Slater
Clerk

We the jurors find for the **pleant** plaintiff [sic] and **assess her damages at** \$3,000 [sic] dollars.

18550600 Receipt Modie

June 1855

Received of Green B. Smith as administrator of the Estate of David Carson two dollars aul debetes billing and demandes against the Estate of David Carson.

Jacob Modie

18550605 Bill Allowed

Excepted [sic] by Green B. Smith as administrator of the estate of David Carson

I except to this the account for five dollars this June the 5 1855.

A.N. Locke

Judge of Probate

Filed June the 5 1855 A.N. Locke

18550606 Judgment

Territory of Oregon

In the district court

Benton County

for said county

United States to the Sheriff of said county Greeting

Whereas at the May Term of the United States District Court AD 1855 in and for said county of Benton judgment was rendered against Greenberry Smith administrator of the estate of David Carson deceased at the suit of Lutishia Carson for the sum of three hundred dollars and costs of suit taxed at two hundred and twenty two 20/100 dollars and the judgment roll being on file in this office.

These are therefore in the name of the United States to command you that you satisfy said judgment and costs and other costs that may accrue out of the personal property of said estate in the possession of Said Greenberry Smith administrator and if personly [sic] property be not found sufficient to satisfy said

sums then you are to satisfy the same out of the real estate belonging to said estate at the time of the docketing of this judgment and any time thereafter.

Hereof fail not at your peril and of this writ make legal service and return.

Witness my hand and seal this 6th day of June AD 1855
Jas H. Slater Clerk

18550624 Judgment Bill

Lutisha Carson	24 June 1855
vs	Satisfied
Greenberry Smith	
administrator &c	Returned Satis
	fied in full 24
Execution	the June 1855 by
	T J Right
Judgment \$300.00	Sheriff of
Sheriffs fees 29.00	Benton Co
Clerks fees 27.10	
Witness fees <u>166.10</u>	
Total \$522.20	

Jas. H. Slater
Clerk

18550704 Receipt Hovey

Received of Jas H Slater Clerk of U S District Court in & for Benton County O.T. the sum of ten 60/100 dollars being the full amt of fees due me in the case of Lutishia Carson vs G B Smith admr tried at the May term of said court AD 1855.

This 4th day of July AD 1855
A.G. Hovey

18550802 Complaint Thayer-1

Oregon Territory
Benton County SS
Lutishia Carson plff
vs
Greenbury Smith Deft

In the District Court of the United States
on & for said county
May October Term AD 1855

Lutishia Carson plff in this suit by A.J. Thayer her Atty complains of Greenbury Smith Deft For that whereas the said plff heretofor to wit once about the first day of March AD 1853 in said county was lawfully possessed & owned twenty nine head of cattle consisting of cows heifers, steers, & claves, which said Cattle were worth the just & full sum of two thousand dollars, And the said Deft at the time & place aforesaid took said cattle & converted them to his own use contrary to the will & against the consent of said plff, wherefore said plff has sustained damages to the amount of two thousand dollars and thereon she brings suit.

A.J. Thayer plffs Atty

Oregon Territory
Benton County SS

A.J. Thayer being duly sworn deposes & says he is Atty for the plff in the above entitled action that he knows the contents of the forgoing complaint, that he believes in sum to be true, that said belief is based

18550802 Complaint Thayer-2

upon information derived from different individuals who resided near said plff at the time said cattle were converted by said Deft as alleged in said complaint, And further Affiant states as the reason why he makes said affidavit instead of said plff that she is absent from said County. A.J. Thayer

Subscribed & sworn to
Before me this 2 day of August
of March AD 1855
Jas H Slater
Clerk

18550920 Discontinuance Thayer

Oregon Territory
Benton County SS In the District Court
Lutishia Carson plff in & for said Co
Vs Oct Term AD 1855
Greenberry Smith Deft

To the Clerk of said Court Sir
Take notice that the plff in the above entitled action hereby discontinues same at her costs.

Sept 20th 1855

A.J. Thayer
Plffs Atty

18550921 L Carson Subpoenas Request

Lutistia Carson

Vs

Green B Smith

Administrator &c To

The Clerk of the District Court

Sir

please to issue Supboenas in the above entitled action for the following individuals

Thomas Read

David Davis

Henry Walker

Locke

Jehiel Kendall

Phillip Riley

18550921 Subpoena Bill

District Court Benton

County O.T.

Lutishia Carson

vs

Greenberry Smith

Summons

I hereby certify that I served
the within on the 21st day of
Sept A.D. 1855 by delivering
personaly to the defendant in the
County of Benton O.T. a true

copp[sic] of the within summons and complaint fees		John P. Hoskins
travel 24 miles	2.40	Dept Sheriff
serving writ	1.00	
copp[sic] writ	<u>.50</u>	
	3.90	

Filed Sept 25th 1855
 Jas. H. Slater
 Clerk

18550921 Subpoena GB Smith

Oregon Territory	In the District Court in and
County of Benton	for said county O.T.
Lutishia Carson Plff	
vs Civil Action	
Greenbury Smith Deft	

To Greenbury Smith Administrator of the Estate of David Carson deceased
 Defendant in the above entitled action

You are hereby required to be and appear before the District court in and for said county O.T. on the first day of the next Term thereof to be holden at the court house in said county on the first Monday of October AD 1855 to answer the complaint of Lutishia Carson or judgment by default will be taken against you – Notice is hereby given that the Plaintiff will take judgment for the sum of two thousand dollars if defendant fails to answer said complaint. Hereof fail not at your peril

And of this writ the Sheriff of said county will make due service and return the same with his doings hereon on the first day of said Term of Court.

Witness my hand and the seal of said court this 21st day of Sept AD 1855

Jas. H. Slater
Clerk

18550921 Subpoena Read et al

Territory of Oregon

County of Benton SS

To the Sheriff of said county Greeting

In the name of the United States you are hereby commanded to summon Thomas M Read David Davis Henry Walker Jehiel Kendall Phillip Riley if to be found in your county to be and appear before the District Court in and for said county on the 1st day of Oct AD 1855 to testify in the case of Lutishia Carson vs G Smith Administrator etc on the part of the Plff.

Hereof fail not at your peril and of this writ make legal service and return.

Witness my hand and the seal of said court this 26th day of Sept AD 1855.

Jas. H. Slater
Clerk

18550921 Testimony Thayer-1

Oregon Territory

Benton County SS

Lutishia Carson plff

vs

Greenbury Smith Administrator

Of the estate of David Carson

Deceased Deft

In the District Court

in & for Said County

Oct term AD 1855

Lutishia Carson plff in the above entitled action by her Atty AJ Thayer complains of the Deft Greenbury Smith Administrator of the Estate of David Carson deceased for that whereas the Said Deft (being administrator as aforesaid) sometime in the Spring of AD 1853 took twenty nine head of cattle consisting of cows, heifers, steers, & calves the property of said plff of the value of twelve hundred dollars and sold them as property belonging to the Estate of the said David Carson deceased for the said sum of twelve hundred dollars or thereabouts, whereupon since plff claims judgement [sic] for the sum of twelve hundred dollars together with interest from the date of aforesaid besides the costs of this action.

AJ Thayer

Plffs Atty

Oregon Territory

Benton County SS

AJ Thayer being duly

18550921 Testimony Thayer-2

sworn deposes & says that he is Atty for the plff in the foregoing entitled action that he has read the foregoing complain & knows the contents thereof and that he believes the same to be true, that said belief is based upon what different individuals have informed said Affiant who resided near the parties at the time when said Cattle were sold as alleged in said Complaint & who will be witnesses on the trial of said action. Affiant further says that he makes said Affidavit on the account of said plffs being absent from said county.

Subscribed & sworn to
Before me this 21st day
Of Sept AD 1855

A.J. Thayer

Jas. H. Slater
Clerk

18550925 Subpoena Bill

Lutisha Carosn
vs
G Smith

Subpoena
served the with-
in on D. D. Davis
and Thos M. Read

fees \$2.20
Filed Sept 25
AD 1855

Jas. H. Slater
Clerk

18551004 Response Smith-1

District court
County of Benton

Letitia Carson

vs

Greenbury Smith Admtr
Of the estate of David Carson

Greenbury Smith Admor as aforesaid of the state of David Carson deceased for answer to the complaint of the Plff says that he has no knowledge information or belief sufficient to ennabe [sic] him to answer said complaint as to having sold any cattle of any kind for any sum of money whatever.

He further says that if any such cattle were the property of said Letitia Carson that said Letitia Carson is indebted to the estate of the decedant [sic] in the sum of (\$500) Five hundred dollars for the securing and rearing of said cattle from 1845 to the time of said sale which he offers to offset against any sum which said Plff may recover in this action.

Kelsay Logan & Chinn

Oregon Benton County

Greenbury Smith being duly sworn says the facts stated in the foregoing complaint are true to his knowledge except

18551004 Response Smith-2

as to matters stated on information and belief as to those he believes them true.

Green B Smith

Subscribed & sworn to before me this 4th day of Oct 1855.

Jas. H. Slater

Clerk

1856

18560225 Subpoena Read et al

Territory of Oregon,

Benton County ss.

To the Sheriff of said County, Greeting:

In the name of the UNITED STATES you are commanded to summon:

Thomas Read David Davis, Henry Walker, A.N. Locke, Jehiel Kendall, Phillip Riley

on the first day of the next regular term thereof, to be holden at the court-house in said county, on the *third* Monday in *May* A.D., 1856 to testify in the case of *Lutishia Carson vs Greenberry Smith administrator of the Estate of David Carson deceased* on the part of the *Plff*

Hereof fail not, at your peril, but of this writ make legal service and return. Witness my hand and the seal of said court this *25th* day of *February* 1856

Jas. G. Slater, CLERK

18560305 Subpoena Bill

I hereby certify that I served the within subpoena upon Thomas Read David Davis Henry Walker A N Lock and Jehiel Kendall by reading the same in their hearing this *5th* day of *March* 1856

Jas A Burnett
Sheriff B.C.

District Court

Benton County O.T.

Lutishia Carson

vs

Greenberry Smith

Administrator &c

Sheriffs fees

Service	1.50
Mileage	<u>2.20</u>
	\$3.70

Filed March 5th
AD 1856

Jas. H. Slater
Clerk

18560500 A Carson Deposition Bill

Letishia Carson

vs

Greenberry Smith adm of David Carson Dec'd

Justice fees on notice of Plaintiff to take Deposition of Andrew Carson

for filing notice & Issuing Subpoena \$0.50

one Days attendance to take Dept. 1.50

\$2.00

Constables fees for servg. – do \$.50

Travel to serve do 1.00

\$3.50

R. H. Parsons, Justice of Peace

18560503 Deposition A Carson

Letishia Carson plf
vs
Greenbury Smith admr
of Estate of David Carson decd

In District Court
Benton County

A.J. Thayer Esqr

Attorney of record for the plaintiff you are hereby notified that the deposition of Andrew Carson of Lane County will be taken before Esquire R H Parsons Justice of the Peace Eugene City precinct Lane County at his office in Eugene City on Thursday the fifteenth day of May at 12 O Clock in 1856 in the matter of the above cause when & where you may be and cross examine.
Corvallis May 5th 1856.

Kelsay Logan & Chinn
DC Dade Attorneys for dft
By DC Dade Atty

18560503 Subpoena Writsman et al

Territory of Oregon

Benton County SS

To the Sheriff of said County Greeting:

In the name of the United States you are commanded to summon *Alfred Writsman Joseph Hughart A G Hovey Sarah Davis Washington Roberts Thursea Roberts & David Carson*

if to be found in your county to be and appear before the U.S. District Court, at the next regular term thereof to be holden at the Court-house in Said county on the *Third Monday of May A.D. 1856* to testify in the case of *Lutisha Carson vs Greenberry Smith, administrator of the Estate of David Carson deceased* on the part of the *Deft.*

Hereof fail not, at your peril, but of this writ make legal service and return. Witness my hand and the seal of said Court this *3rd* day of *May 1856*

Jas. H. Slater Clerk

18560517 Sheriff Fees

I hereby certify that I have served the within subpoena by reading the same in the hearing of Alfred Writsman Sarah Davis and Theresa Roberts and by leaving a copy at the residence of Joseph Hughart Washington Roberts & David Carson and acknowledgment of service of A.G. Hovey

Jas. A. Bennett Sheriff B.C.

May 17th 1856

Lutishia Carson

Vs

Greenberry Smith

Subpoena

Sheriffs fees

Service 2.10

Three Copies 1.50
Mileage 3.90
 \$7.50

Filed May 17th 1856

Jas. H. Slater

18560519 Response L Carson-1

Oregon Territory
Benton County SS
1856

In the US District Court in
& for said Co May term AD

Luticia Carson plff
vs
G B Smith Administrator
of the Estate of
David Carson deceased

The plff in reply to the Defts Answer in the above Entitled action says that she denies that she is indebted to the estate of David Carson in the sum of \$500.00 or in any other sum whatever for ~~takeing of her Cattle~~ receiving or keeping of said cattle ~~or for any thing~~ from 1845 until the sale as alleged in said Answer or for any other time.

AJ Thayer
Plffs Atty

Oregon Territory
Benton County SS

Andrew J Thayer being duly sworn deposes & says that he is Atty for the plff for the in the forgoing Entitled action that he has read the forgoing reply & knows the contents thereof & that he believes the same to be true, that said belief is based upon what different individuals have informed said affiant who resided near the parties while said cattle were being secured & who will be witnesses on the trial

18560519 Response L Carson-2

of this action and affiant further says that he makes this affidavit on the account of said plff's being absent from said County.

A.J. Thayer

Subscribed & sworn to before me this 19th
Day of May AD 1856

Jas.H.Slater
Clerk

Lutishia Carson
Vs
Greenberry Smith
Administrator of &c

Reply

Filed May 19th 1856

Jas. H. Slater
Clerk

18560522 Continuance Smith

Oregon Territory
Benton County SS
Letishia Carson plf

In District Court in and for
said County
Oct AD 1855

vs

Greenberry Smith Admr for
Estate of David Carson dect deft

The defendant in the above entitled action makes oath that he ought to have a continuance in the above cause for that ~~he verily believes~~ Sarah Davis is absent, that said Sarah Davis is as he verily believes a material witness for the defendant and that she had been duly subpoenaed, that she lives in Benton County Oregon Territory within twenty miles of the Court house of said County.

~~Deft verily believes he can prove by said witness that plf had nor had no right~~

Green B Smith

Subscribed and sworn to before me
This 22nd day of May AD 1856

Jas. H. Slater
Jas. H. Slater

18560916 Thayer Notification

Oregon Territory
Benton County SS
Lutisha Carson Plff

vs

Greenbury B Smith Administrator
Of the Estate of
David Carson deceased

To John Kelsay and D.C. Dade Esqs Attys for Deft

Sir take Notice that I will take the deposition of Henry Walker on the part of the plff in the above Entitled action before J M Pyle District Clerk in & for Douglas County O.T. at his office on the 8th day of October next at 10 oclock AM of that day or as soon thereafter as the same can be done. Said witness being more than 20 miles from the court house in Benton Co when & where you may cross examine said witness if you deem proper.

Yours etc

A. J. Thayer

Atty for plff

Sept 16th 56

18560927 Subpoena Read et al

Territory of Oregon
County of Benton SS

To the Sheriff of said County Greeting:

In the name of the United States you are hereby commanded to summon Thomas Read, D.D. Davis, Henry Mather, Jehiel Kendall if to be found in your County to be and appear before the U.S. District Court in and for said County on the first day of the next regular term thereof to be holden at the Court house in said County on the third Monday in October A.D. 1856 to testify in the case of Lutisha Carson vs Greenberry Smith, administrator of the Estate of David Carson, deceased, on the part of the plaintiff.

Hereof fail not, at your peril, but of this writ make legal service and return.
Witness my hand and the Seal of said Court, this 27th day of September A.D. 1856.

T.H.B. Odeneal, Clk.

18560929 Subpoena Writsman et al

Territory of Oregon

Benton County SS

To the Sheriff of said County Greeting:

In the name of the United States you are commanded to summon Alfred Writsman, Joseph Hughart, Sarah Davis, Washington Roberts, Thursea Roberts and David Carson if to be found in your county to be and appear before the U.S. District Court, at the next regular term thereof to be holden at the Court-house in Said county on the third Monday of October A.D. 1856 to testify in the case of Lutisha Carson vs Greenberry Smith, administrator of the Estate of David Carson deceased on the part of the defendant.

Hereof fail not, at your peril, but of this writ make legal service and return.

Witness my hand and the seal of said Court this 29th day of September 1856

T.H.B. Odeneal Clerk

18561006 Subpoena Bill (1)

Lutisha Carson

vs

Greenberry Smith

Admin of the Estate of
David Carson deceased

Subpoena

Served by reading to
All except Alfred Writs-
man for whom a copy
was left at the house of
Mr Jones. Oct. 6th 1856

Fees

Service 2.10

Copy .50

Mileage 3.10

\$5.70

S.B. Fargo Sheriff

Filed Oct 14th 1856

THB Odeneal

Clerk

18561006 Subpoena Bill (2)

Lutisha Carson

vs

Greenberry Smith

Admin of the Estate of
David Carson deceased

Subpoena

Served by reading to
all but Henry
Walker who was not
Found in the County
October 6th 1856

Fees:

Service	.90
Mileage	<u>1.90</u>
	\$2.80

S.B. Fargo Sheriff

Filed Oct 14th 1856
THB Odeneal
Clerk

18561008 Deposition Walker-1

Deposition of Henry Walker

Question 1st Are you acquainted with Lutishia Carson & Greenberry B Smith and if so how long have you known them.

Answer I am acquainted with both of them have known them both since the year 1848

Q 2nd Were you acquainted with David Carson (deceased) and if so were you acquainted with him in Benton Co O.T. and how long.

Answer -- I was acquainted with him since the year 1849 until he died. I knew him to live in Benton County all of said time.

Q 3rd State whether or not you had a conversation with him a short time previous to his death relative to cattle claimed by Lutishia Carson.

Answer -- I had a conversation with him about the last of August 1852 on said subject.

Q 4th State what that conversation was.

Answer – In the last week of August 1852 David Carson & Lutishia Carson were both sick, and I was stopping with them, taking care of them. When I first went there during said time David Carson asked me to get up the cattle, or cows for the purpose of milking. I drove into the corral seven calves and seven cows and two yoke of oxen. Out of the number which I had drove up which was about 40 head. While standing with me at the corral

18561008 Deposition Walker-2

I remarked to David Carson that he had quite a large band of cattle. When he replied that those cattle there were not his except seven head which consisted of two yoke of oxen one cow one yearling & one sucking calf, and he further said that Twenty seven head of the cattle belonged to Lutishia Carson. He particularly pointed out an old pied cow that Lutishia Carson had bought said cow on the plains in 1845 and remarked that 27 head which he pointed out as Lutishia Carson's were the natural increase of said cow.

Q 5th State whether or not he pointed out the cattle claimed by Plaintiff to you and if so what kind were they & how many of each kind were they.

Answer -- He did. They were 27 head in all nine cows, eight calves, the remaining ten head were young cattle of various kinds.

Q6th State what the said David Carson informed you in relation to where the said Lutisiha Carson got said cattle.

Answer – He told me shad bought that cow (which he pointed out) on the plains in 1845. That the balance were the offspring of said cow, all of which he said were the property of Lutishia Carson.

18561008 Deposition Walker-3

Question 7th – State if you know how many other cattle aside from the ones pointed by the said David Carson had he at that time.

Answer – He pointed out seven head which he said belonged to him. I do not know whether or not he had any other cattle.

Q 8th – State if you know what were done with the cattle pointed out to you by the said David Carson at the time when the Estate of the said David Carson was administered upon.

Answer – I do not know what was done with the said cattle.

his
William Henry Harrison X Walker
mark

Witness

James M. Pyle

P.A. Reilly

Territory of Oregon

Douglas County SS

I James M. Pyle Clerk of the US District Court in and for the county of Douglas, do hereby certify that the above deposition was taken before me, and reduced to writing by myself at Deer Creek in said county on the 8th day of October 1856 at 4 O'clock P.M. in pursuance of notice; that the above named

18561008 Deposition Walker-4

witness before examination was sworn to testify the truth, the whole truth and nothing but the truth and that the said deposition was carefully read to said witness and then subscribed by him.

In witness of which I have hereto set my hand and affixed the seal of the US District Court at Deer Creek this 8th day of October AD 1856.

James M. Pyle

Clerk

Fees of Clerk \$3.00

Fees of Sheriff 5.30

Witness 7.00

\$15.30

J.M. Pyle

18561020 Judgment \$1200

Be it remembered that at a term of the United States district within and for Benton County and Territory of Oregon begun and held at the Court house in said County, on the 20th day of October AD 1856, present Hon Geo H Williams Judge, John McCracken U.S. Marshal, Geo K. Shiel Prosecuting attorney, S.B. Fargo, Sheriff, and T.H.B. Odeneal, Clerk, the following proceedings were had, that is to say:

Lutisha Carson

vs Civil action for property

G.B.Smith admr etc

This day came into open Court the Jury heretofore empaneled to try the issue found in this cause, and having duly considered the same, say: "We the Jury find a verdict for the plaintiff for twelve hundred dollars," thereupon it was ordered by the Court that the plaintiff have judgment for twelve hundred dollars, together with costs, in this behalf to be taxed and that execution be had therefor.

18561020 Judgment Label Carson

Lutisha Carson
Vs
Greenberry Smith
Admin &c

Execution

Judgment	\$1200.00
Costs	<u>193.00</u>
Total	\$1393.00

THB Odeneal
Clerk

18561020 Subpoena Bear Williams

Oregon Territory
Benton County SS

To the Sheriff of said Co Greeting

In the name of the United States you are commanded to summon Bear Williams if he be found in your County, to be and appear before the U.S. District Court on the first day of the October term, thereof to be held at the court house in said County on the third Monday in October AD 1856 to testify in the case of Lutisha Carson plff vs Greenberry Smith, etc defendant on the part of the defendant.

Hereof fail not but of this writ make legal Service & return.

October 20th AD 1856

Witness my hand and the seal of Said court

T H B Odeneal Clerk

Served on 20th of October AD 1856

By reading in his hearing

S B Fargo

Sheriff

18561020 Subpoena Bill

Lutisha Carson

Vs

Green B Smith

Subpoena

Sheriff fees

14 miles travel	1.40
Serving	<u>.30</u>
	1.70

Filed Oct 20 1856

18561021 A Carson Subpoena Bill

Lutisha Carson

Vs

Green B Smith

Admin &c

Subpoena

Service .30

Mileage .20

Served by reading

in his presence

Oct 21st 1856

James Kinney

Depty Sheriff

Filed Oct 21st 1856

THB Odeneal

Clerk

18561021 Jury Judgment \$1200

October the 21 1856

We the jury find for the plaintiff [sic] twelve hundred Dollars

18561021 Modie Subpoena Bill

Lutisha Carson

Vs

Green B Smith

Admin &c

Subpoena

Service .30

Mileage 2.00

\$2.30

Served by reading

in his hearing

Oct 21st 1856

SB Fargo

Sheriff

Filed Oct 21st 1856

THB Odeneal

Clerk

18561021 Subpoena A Carson

Oregon Territory
County of Benton S

To the Sheriff of Said County Greeting.

In the name of the United States, you are commanded to summon Andrew Carson if he be found in your county to be and appear before the U.S. District Court (which is now in Session at the Court house in said Co.) forthwith to testify in the case of Lutisha Carson Plff vs Green B. Smith deft, on the part of the defendant.

Hereof fail not but of this writ make legal service and return.
Witness my hand and the Seal of Said Court Oct 21st 1856

T H B Odeneal Clerk

18561021 Subpoena Bill

Lutisha Carson
Vs
Green B Smith
Admin &c

Subpoena

Served by reading
in his hearing
Oct 21st 1856

Service .30
Mileage .20
.50

SB Fargo
Sheriff

Filed Oct 21st 1856

THB Odeneal
Clerk

18561021 Subpoena Modie

Oregon Territory
County of Benton SS

To the Sheriff of Said County greeting:

In the name of the United States you are hereby commanded to summon Jacob Modie if to be found in your county to be and appear forthwith before the U.S. District Court, now in session at the Court house in said County – to testify in the case of Lutisha Carson plff vs Green B Smith deft on the part of the defendant. Hereof fail not, but of this writ make legal service & return.

Witness my hand the Seal of Said Court Oct 21st 1856
T H B Odeneal Clk

18561021 Subpoena Stewart

Territory of Oregon

County of Benton SS

To the Sheriff of Said

County greeting:

In the name of the United States you are hereby commanded to Summon John Stewart if to be found in your county to be and appear for ?? before the Dist Court now in session at the court house in said County to testify for the case of L. Carson Plff vs G B Smith admin &c defendant on the part of the plff.

Hereof fail not but of this writ make legal service and return

Witness my hand and the seal of said court Oct 21st 1856

THB Odeneal, Clerk

18561101 Judgment Collection \$1393

Oregon Territory

In the District Court

Benton County SS

for said County

In the name of the United States to S.B. Fargo, Sheriff of said County, Greeting:

Whereas at the October term of the United States district Court begun and held at the Court house in Corvallis, in Said County of Benton on the 20th day of October A.D. 1856, Judgment was rendered against Greenberry Smith, administrator of the Estate of David Carson, deceased, at the suit of Lutisha Carson for the sum of Twelve hundred dollars and costs of suit taxed at one hundred and ninety three dollars and five cents: the Judgment Roll being on file in my office;

Therefore, these are, in the name of the United States, to command you to satisfy said Judgment and costs and all other costs that may accrue, out of the personal property of said Estate, in the possession of the Said Greenberry Smith, and if personal property be not found sufficient to satisfy said sums, then you are

to satisfy the same of the real estate belonging to said Estate, at or subsequent to the time this judgment was docketed.

Whereof fail not, at your peril, but of this writ make legal service & return.

Witness my hand and seal of office

This 1st November 1856

THB Odeneal Clk

18561201 Judgment Label Carson Filed *Not in documentation

Lutisha Carson

vs

Greenberry Smith,

Admir. &c

Execution

Judgment \$1200.00

Costs 193.05

Total \$1393.05

T H B Odeneal

Clerk

18561202 Judgment Order

Oregon Territory
Benton County SS
Lutishia Carson plff

In the U S District Court in and for said Co
Oct term AD 1856

vs

Greenbury Smith Administrator
of the Estate
of David Carson deceased Deft

I hereby certify that at the above mentioned term of court to wit: on the 25th day of Oct AD 1856 judgement was rendered in said action ~~by a jury~~ for the sum of \$1200. damages in favor of the above named plff & against the Estate of said David Carson deceased besides the costs which amounted to sum of \$199.75 Judgement and costs amounting in all to the sum of \$1399.75.

In testimony whereof I have hereunto set my hand and the seal of said Court affixed this 2d day of December AD 1856
THB Odeneal Clerk

18561202 Subpoena GB Smith

Territory of Oregon
County of Benton SS

To the Sherriff or any constable of said County.

In the name of the United States you are hereby commanded to cite Greenberry Smith Administrator of the estate of David Carson deceased to be found in your County to be and appear before the undersigned Judge of Probate in and for said County on the first Tuesday of January next at one Oclock P.M. then and there at the court house in Corvallis to render his exhibit, and make final settlement of said Estate or show cause if any why an attachment should not issue compelling such attendance.

And have you then and there this citation

Given under my hand this 2nd day of Dec. A.D. 1856
Wm Cardwell Judge of Probate

1857

18570109 Citation Billing Smith

Citation
to
G. Smith Admr
of
D. Carson decd
Costs \$2.90

The within Citation served
by reading to the defendant
personally on the 9th day of June
1856

S B Fargo, Sheriff
[illegible]

18570223 Billing Dade

Greenbury Smith
Administrator of the
Estate of David Carson dcd }
To Smith & Dade Atty

For professional services in the case of Letitia Carson & Greenbury Smith
administrator of said estate and in probate Court in 1855 and 1856 one hundred
dollars \$100

Febry 23rd 1857
Smith & Dade
Per I N Smith

I N Smith being first duly sworn according to law deposes and says that the above services have been rendered and that the foregoing account is correct and just and that the sum of one hundred dollars yet remains wholly unpaid and due the firm of Smith & Dade for professional services rendered as above stated.

Sworn and subscribed I.N. Smith
to before me this day of February AD 1857

E J Harding Clerk District Court
1st Judicial District of Oregon

18570602 Receipt Jackson

Recd of Greenberry Smith Admr of the estate of David Carson decd forty eight dollars & 67 cents in full of all demands against said estate, June 2nd 1857

Wm Jackson & W L Cardwell

18570602 Receipt Kelsay

Received \$81.12 cts of Green B. Smith as administrator of the estate of David Carson decd in full of all demands and accounts &c. ~~as administrator of said estate~~ for my services as atty
This the 2 day of June 1857.

John Kelsay

18570602 Receipt L Carson

Corvallis June 2 1857

Received of Greenbury Smith Administrator of the Estate of David Carson deceased seven hundred & seventy eight dollars & eighty cents being in full of all demands against estate.

Lutishia Carson
By A. J. Thayer her Atty

18570602 Receipt Odeneal (1)

Lutisha Carson

Vs

G.B. Smith admr

Of the Estate of David Carson deceased

Received, Benton Co. June 2d 1857, of Wm L. Cardwell Judge of Probate, the sum of one hundred & twenty nine dollars and sixty three cents, costs in the above entitled cause in the District court for said County.

THB Odeneal Dep Clk
of said Court

18570602 Receipt Odeneal (2)

Received Corvallis June 2d 1857 of Greenberry Smith administrator of the estate of David Carson, deceased the sum of five dollars in full for printing notices of sale of land belonging to said Estate.

T. H. B. Odeneal