

is not liable for the errors or misconduct of the subagent if he has used due care in his selection. *Darling v. Stanwood*, 14 Allen, 507; *Dorchester Bank v. New England Bank*, supra; *Barnard v. Coffin*, 141 Mass. 37, 6 N. E. Rep. 364.

In the case at bar the inquiry in Birmingham, Ala., for information as to the standing of a person in Oswego, N. Y., necessarily required the employment of a subagent in the latter place. The plaintiff, under its subscription agreement, authorized the employment of a subagent to obtain such information. In collecting special information the subagent was acting in consequence of the special request of the plaintiff, and he was the agent of the plaintiff, selected by the defendants in accordance with a rule fixed by the subscription agreement. The defendants did not undertake to do this part of the business; they declined to do it, but agreed that they would transmit the information so obtained to the plaintiff.

For these reasons we think the court erred in that portion of his charge to the jury in which he stated that "for losses occasioned by the willful fraud and not by the mere carelessness or ignorance of the agents in communicating information known by them to be untrue, and with intent to mislead the inquirer, the defendants are liable, if the plaintiffs, having placed reliance upon the fraudulent misrepresentations, gave credit in consequence of such fraud, and were lured thereby to their pecuniary loss and damage."

The judgment is reversed.

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WESLEY v. CLOW et al.

(Circuit Court, D. Illinois. March 3, 1893.)

PATENTS FOR INVENTIONS—NOVELTY—CEMENT WASHTUBS.

Letters patent No. 327,209, issued September 29, 1885, to Carl Wesley, for washtubs and sinks made with metal strips at the upper edges, having flanges imbedded in the cement, are void for want of novelty.

In Equity. Suit by Carl Wesley against James B. Clow and others to restrain alleged infringement of a patent. Decree for defendants.

Dyrenforth & Dyrenforth, for complainant.  
Coburn & Thacher, for defendants.

WOODS, Circuit Judge. Suit to enjoin infringement of the second claim of letters patent No. 327,209 issued September 29, 1885, to the complainant. The following is the claim:

"(2) As a new article of manufacture, a washtub, sink, and other articles, made substantially as herein described, the upper edges of the vessel of metal strips, F, having flanges imbedded in the outer and inner surfaces of the cement or cement compound, as and for the purposes set forth."

The proof shows that, before the issue of this patent, tubs and other articles had been made of marble, slate, and soapstone, with metal edges fastened on with screws or nails, and cement tubs had been made with wooden protection upon their edges. The

mechanical difference between the metal edges of the complainant's tub, and those of the older tubs of marble or slate, is that the former, being imbedded in the cement, adhere without other fastenings; this imbedding being effected in the process of casting or molding the tubs. There was, it is plain, no invention in the conception or design of a metal edge for a tub or other vessel made of cement. The claim is not for a process, but simply for an article of manufacture; but, if it were possible to include in it the process of manufacture, it would still be without novelty. Patents No. 114,946 (James J. Johnston) and No. 180,794 (F. Schaffer) show articles of manufacture (artificial stones and building blocks) made of cement or cement compounds, with metal casings or facings attached or imbedded in the same manner. The patent in suit must therefore be deemed void for want of novelty. Decree accordingly.

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**NORTHWESTERN STOVE REPAIR CO. et al. v. LEE et al.**

(Circuit Court of Appeals, Seventh Circuit. October 2, 1893.)

No. 57.

**PATENTS FOR INVENTIONS—PATENTABILITY—HEATING STOVES.**

Letters patent No. 289,802, issued December 11, 1883, to Philo D. Beckwith, for an improvement in heating stoves, consisting of a flaring ring cast in two sections which fit into the top of the fire pot in which the coal basket, cast integral, is suspended, the ring having legs which rest on an annular flange at the base of the fire pot, and having holes in its periphery into which pintles cast on the under side of the coal basket pass, so as to hold the ring together, are void for want of invention. 50 Fed. Rep. 202, reversed.

Appeal from the Circuit Court of the United States for the Northern District of Illinois.

Bill by Fred E. Lee and William G. Howard against the Northwestern Stove Repair Company and others to restrain alleged infringement of a patent. Decree for complainants. 50 Fed. Rep. 202. Defendants appeal. Reversed.

Statement by WOODS, Circuit Judge:

The appellees, as executors of the will of Philo D. Beckwith, sued the appellants for infringement of letters patent No. 289,802, dated December 11, 1883, and for an accounting. The specification, claims, and drawings of the patent are as follows:

"Be it known that I, Philo D. Beckwith, of Dowagiac, in the county of Cass, and state of Michigan, have invented a new and useful improvement in heating stoves, relating to the 'Round-Oak Stove,' and all heating stoves of this class; and I do hereby declare that the following is a full, clear, and exact description thereof, reference being had to the accompanying drawings, making a part of this specification. The stove herein represented is one on which I have obtained several letters patent, and was designed for burning wood. My present invention consists in the arrangement of a basket, a shaking grate, and the means employed for supporting the parts within the fire pot of the stove; also, in the construction of the parts that enables me to use a coal basket cast integral,—one that may be readily inserted or taken out through the ordinary stove door,—as set forth in the following specification. This invention is designed as an improvement upon my letters patent dated April 28, 1874, No. 150,277, and is designed for burning hard and soft coal. \* \* \*