

MEMORANDUM DECISIONS.

ALASKA GOLD & SILVER MIN. CO. v. BRADY. (Circuit Court of Appeals, Ninth Circuit. January 3, 1898.) No. 272. In Error to the District Court of the United States for the District of Alaska. Lorenzo S. B. Sawyer, for plaintiff in error. R. C. Harrison, for defendant in error. Dismissed.

ALLISON v. UNITED STATES. (Circuit Court of Appeals, Third Circuit.) In Error to the District Court of the United States for the Western District of Pennsylvania. Before ACHESON and DALLAS, Circuit Judges, and KIRKPATRICK, District Judge.

PER CURIAM. This case does not differ from that of *Culp v. U. S.*, 82 Fed. 990, and for the reasons set forth in the opinion in that case the judgment herein is affirmed.

BOSWORTH et al. v. MELLOR et al. (Circuit Court of Appeals, Seventh Circuit. October 28, 1897.) No. 417. Appeal from the Circuit Court of the United States for the Southern District of Illinois. Bluford Wilson and P. B. Warren, for C. H. Bosworth and others. James H. Connolly, T. C. Mather, and John H. Overall, for Jesse B. Mellor and Clara C. Mellor. Dismissed on motion of appellants.

CARPENTER et al. v. EBERHARD MFG. CO. (Circuit Court of Appeals, Sixth Circuit. December 13, 1897.) No. 518. Appeal from the Circuit Court of the United States for the Eastern Division of the Northern District of Ohio. Poole & Brown, for appellants. Bakewell & Bakewell and Webster, Angell & Cook, for appellee. No opinion. Affirmed.

CENTRAL TRUST CO. OF NEW YORK v. FARMERS' LOAN & TRUST CO. (Circuit Court of Appeals, Sixth Circuit. November 11, 1897.) No. 515. Appeal from the Circuit Court of the United States for the Western District of Tennessee. Butler, Notman, Joline & Myndersee, Wallack & Cook, and Turley & Wright, for appellant. Turner, McClure & Ralston and Estes & Fentress, for appellee. No opinion. Affirmed, on appellant's motion, with certain directions as to the method to be pursued by the circuit court in exercising the right to redeem the mortgage being foreclosed.

CITY OF DENVER v. BARBER ASPHALT PAV. CO. (Circuit Court of Appeals, Eighth Circuit. September 27, 1897.) No. 902. In Error to the Circuit Court of the United States for the District of Colorado. This was an action at law by the Barber Asphalt Paving Company against the city of Denver to recover a balance alleged to be due it from the city for the performance of four contracts for grading and paving with sheet asphalt portions of four of its streets. In the circuit court a demurrer to the bill was sustained, and judgment entered for defendant, and complainant sued out a writ of error to this court. Heretofore, and on January 6, 1896, an opinion was filed, reversing the judgment below, and remanding the cause, with instructions to overrule the demurrer and permit the defendant to answer.

19 C. C. A. 139, 72 Fed. 336. The defendant accordingly filed an answer, to which a replication was filed by the plaintiff. The cause being called for trial, the court, upon the pleadings and an admitted statement of facts, directed the jury to find for the plaintiff, and the defendant thereupon sued out this writ of error. In this court the counsel for plaintiff have contended that the questions involved upon this writ of error are identical with those decided by this court on the former writ of error, and that the decisions then made must stand as the law of the case. Emerson J. Short (George C. Norris on brief), for plaintiff in error. Edward O. Wolcott, Joel F. Vaile, Charles W. Waterman, and James H. Brown, for defendant in error. Before BREWER, Circuit Justice, and SANBORN and THAYER, Circuit Judges.

PER CURIAM. The judgment in this case is affirmed, on the authority of Barber Asphalt Pav. Co. v. City of Denver, 36 U. S. App. 499, 19 C. C. A. 139, and 72 Fed. 336; Thatcher v. Gottlieb, 19 U. S. App. 469, 8 C. C. A. 334, and 59 Fed. 872, and cases cited in the opinion; Balch v. Haas, 36 U. S. App. 698, 20 C. C. A. 151, and 73 Fed. 974.

CLEVELAND CITY CABLE RY. CO. v. YALE & TOWN MFG. CO. (Circuit Court of Appeals, Sixth Circuit. November 1, 1897.) No. 574. Appeal from the Circuit Court of the United States for the Eastern Division of the Northern District of Ohio. E. L. Thurston, for appellant. Garfield & Garfield, for appellee. Dismissed, on appellant's motion, at appellant's costs.

COBURN TROLLEY TRACK MFG. CO. v. McCABE MFG. CO. (Circuit Court of Appeals, Second Circuit. December 14, 1897.) No. 30. Appeal from the Circuit Court of the United States for the Southern District of New York. Arthur v. Briesen, for appellant. Thos. Ewing, for appellee. Before WAL-LACE, LACOMBE, and SHIPMAN, Circuit Judges. Decree of circuit court affirmed, with costs, on opinion in circuit court. See 80 Fed. 915.

COPEs v. NEW ENGLAND MUT. ACC. ASS'N. (Circuit Court of Appeals, Fourth Circuit. November 4, 1897.) No. 224. In Error to the Circuit Court of the United States for the District of South Carolina. Raysor & Summers, for plaintiff in error. Abial Lathrop, for defendant in error. Dismissed on agreement of attorneys.

FRANCIS v. RICHMOND & D. R. CO. (Circuit Court of Appeals, Fourth Circuit. November 6, 1897.) No. 195. In Error to the Circuit Court of the United States for the Western District of North Carolina. A. C. Avery (Pritchard & Gudger on the brief), for plaintiff in error. George F. Bason and Charles Price, for defendant in error. Before FULLER, Circuit Justice, GOFF, Circuit Judge, and BRAWLEY, District Judge.

BRAWLEY, District Judge. We do not find in the record in this case any testimony from which fair-minded men could justly conclude that the defendant company was guilty of negligence, and according to the principles which we have laid down in Patton v. Railway Co., 82 Fed. 979, a case heard at the same term, we are of opinion that there was no error in directing a verdict for the defendant. The judgment of the court below is affirmed.

JOSEPH BUERY MILL CREEK COAL & COKE CO. v. FIDELITY INSURANCE TRUST & SAFE DEPOSIT CO. et al. (Circuit Court of Appeals, Fourth Circuit. November 12, 1897.) No. 244. Appeal from the Circuit Court