

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. 693, 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

of the United States for the Western District of Virginia. Wm. Gordon Robertson, for appellees. Dismissed, pursuant to the twenty-third rule, for failure to print record, on motion of appellees.

MATHUS et al. v. CARROLL. (Circuit Court of Appeals, Ninth Circuit, January 3, 1898.) No. 342. In Error to the District Court of the United States for the District of Alaska. L. S. B. Sawyer, for plaintiffs in error. Richardson C. Harrison, for defendant in error. Dismissed.

SHOWERS 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.

STRATIFF, L. T., 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.

STRATIFF, W. D., 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.

THORP v. BONNIFIELD et al. (Circuit Court of Appeals, Ninth Circuit, January 3, 1898.) No. 289. In Error to the District Court of the United States for the District of Alaska. Harrison Bostwick and W. B. Crews, for plaintiff in error. Richard C. Harrison, for defendants in error. Dismissed. See 71 Fed. 924.

TUNSTALL v. RICHMOND & D. R. CO. et al. (Circuit Court of Appeals, Fourth Circuit, November 3, 1897.) No. 194. In Error to the Circuit Court of the United States for the Western District of North Carolina. A. S. Barnard (W. A. Smith and T. H. Cobb on the brief), for plaintiff in error. George F. Bason and Charles Price, for defendants in error. Before FULLER, Circuit Justice, GOFF, Circuit Judge, and BRAWLEY, District Judge.

BRAWLEY, District Judge. This case was heard at the same term with *Patton v. Railway Co.*, 82 Fed. 979, and is governed by the principles therein decided. The accident occurred at the same place where Patton was injured, and the attendant circumstances were substantially the same. This wreck was in 1890, and there was testimony of several accidents at the same place previous to that time. There was some testimony that the engineer of this train was reckless, and known to be so by the defendant company. To this