INDEX.

	Page
Notice of Appeal	i
Grounds of Appeal	ii
Rule to Show Cause	1
Reasons	3
Summons	4
Complaint	5
Answer	10
Stipulation	12
Opening	14
Charge to Jury	471
Exceptions to Charge	484
Verdict	487

TESTIMONY FOR PLAINTIFF.

Franklin M. Jones,	
direct examination	15, 273
cross "	17, 274
Leonard Dreyfus,	
direct examination	18
cross "	23
Frank B. Ray,	
direct examination	27
cross "	29
James H. Galvin,	
direct examination	37
cross "	43
Joseph Farrell,	
direct examination	58
Samuel H. Dawson,	
direct examination	60
cross "	62
Edward M. Slocum,	
direct examination	64, 270
cross "	72, 271

PAGE.

Charles Herman,
direct examination 34, 77
cross " 78
Joseph E. Collins,
direct examination 81
cross " 82
Thomas F. J. Kelly,
direct examination 84, 247
cross " 95, 251
re-direct " 97, 125
re-cross " 100, 136
David L. Holcombe,
direct examination 141
cross " 142
Frank Fitzsimmons,
direct examination 143
cross " 152
re-direct " 165, 180
re-cross " 171, 181
John Webb,
direct examination 182
cross " 186
Joseph Brook,
direct examination 191
cross " 192
re-direct " 193
re-cross " 194
George Martin,
direct examination 197
cross " 200
James Telford,
direct examination 206
cross " 208
William McCall,
direct examination 214
cross " 215

PAGE.

Earl R. Birnie,
direct examination 221, 227
cross " 224, 278
William G. Brown,
direct examination 262, 279
cross " 264, 280
Joseph H. Jarvis,
direct examination 267
cross " 269

TESTIMONY FOR DEFENDANT.

William Hefferman,
direct examination 283
cross " 287
Oliver Lee Mahan,
direct examination 288, 345
cross " 306, 353
re-direct " 312
re-cross " 314
Leonard Dreyfus,
direct examination 317
cross " 329
Anna Kate,
direct examination 354
cross " 360
Hugh J. Kavney,
direct examination 368
cross " 373, 405
Ellis E. Erickson,
direct examination 391
Michael J. Cullen,
direct examination 394
Louie Frank,
direct examination 396
cross " 397
Daniel F. Taylor,
direct examination 402

PAGE.

Franklin M. Jones,
direct examination 407, 458
James H. Galvin,
direct examination 409
Samuel Pratt,
direct examination 412
cross " 415
Nellie Gilleece,
direct examination 433
cross " 434
Ellen Gilleece,
cross examination 436
Mary G. Galvin,
direct examination 440
Frank D. Ray,
direct examination 443
cross " 444
Herman A. Roedhler,
direct examination 445
cross " 447
Thomas F. J. Kelly,
direct examination 451
cross " 453
George McIntyre,
direct examination 459
cross " 460
Arthur H. Guertin,
direct examination 461
Joseph Jarvis,
direct examination 463
Henry Pomerehne,
direct examination 464
cross " 465

Exhibits.

		Offered.	Printed.
Exhibit	P. 1	151	489
	P. 2	241	489
	P. 4	151	490
	P. 5	151	490
	P. 16	197	490
	P. 17	197	490
	P. 19	205	491
	P. 20	205	491
	P. 24		508
	P. 25		508
	P. 26	277	513
	P. 27	277	514
	P. 28 O. J. Gude Contract	277	319
	P. 28 Order for Bill of Particulars in suit of N. J. Advertising Company vs. Samuel Pratt, et al.	282	521
	P. 29	282	526
	P. 30	282	531
	P. 31	282	536
	P. 32	282	537
	D. 1	468	539
	D. K. 2	451	540
	D. 6	329	541
	D. 7	329	543
	D. 8	365	544
	D. 9	459	551
	D. 10	459	552
	D. 11	469	553
	D. K. S.	469	

Notice of Appeal.

Filed

New Jersey Supreme Court.

THE O. J. GUDE CO., N. Y., a Corporation, *Plaintiff.* *vs.* NEWARK SIGN COMPANY, a Corporation, NEWARK BILL POSTING COMPANY, a Corporation, NEWARK POSTER ADVERTISING COMPANY, a Corporation, HUGH J. KAVNEY, and SAMUEL PRATT, *Defendants.*	*Action at Law.* *Notice of Appeal.*

To LUM, TAMBLYN & COLYER,
Attorneys of Plaintiff.

SIRS:

TAKE NOTICE, that the defendants appeal from the whole of the judgment entered in this cause, to the Court of Errors and Appeals.

Dated, November 14th.

KALISCH & KALISCH,
Attorneys of Defendants.

Grounds of Appeal.

Filed

New Jersey Court of Errors and Appeals

O. J. GUDE COMPANY, a Corporation,
Plaintiff-Respondent,

vs.

NEWARK SIGN COMPANY, a Corporation, NEWARK BILL POSTING COMPANY, a Corporation, NEWARK POSTER ADVERTISING COMPANY, a Corporation, HUGH J. KAVNEY, SAMUEL PRATT and MICHAEL J. CULLEN,
Defendants-Appellants,

On Appeal from Supreme Court.

The appellants state the following grounds of appeal:

1. Because the Court erred in permitting Edward M. Slocum, a witness produced on behalf of the plaintiff, on direct examination, to be asked the following question, over the objection of counsel for defendants, Newark Sign Company, Newark Bill Posting Company, Newark Poster Advertising Company, Hugh J. Kavney, Samuel Pratt and Michael J. Cullen:

"Q Will you tell us whether or not you heard him make any statement with reference to the New Jersey Sign Company continuing in business?"

2. Because the Court erred in permitting Edward M. Slocum, a witness produced on behalf of the plaintiff, on direct and cross examination, to give testimony concerning an alleged conversation between the said witness Edward M. Slocum, and Samuel Pratt, the defendant, which conversation is said to have taken place during, or before the year 1907 or 1908, over the objection of counsel for the above named defendants, and notwithstanding that a motion was made to strike out said testimony.

3. Because the Court erred in refusing to strike out, on application of counsel for the above defendants, the testimony of Edward M. Slocum, a witness produced on behalf of plaintiff, concerning an alleged conversation between the said witness Edward M. Slocum, and Samuel Pratt, the defendant, which conversation is said to have taken place during or before the year 1907 or 1908.

4. Because the Court erred in permitting Thomas F. J. Kelly, a witness produced on behalf of the plaintiff, on direct examination, to give the following testimony, over the objection of counsel for the above named defendants:

"Q What did he say to you with reference to doing away with the sign?"

5. Because the Court erred in refusing to permit counsel for the above named defendants, to ask Thomas F. J. Kelly, a witness produced on behalf of the plaintiff, on re-cross examination, the following question:

"Q What did you tell Captain Tuite?"

Grounds of Appeal.

6. Because the Court erred in refusing to permit counsel for the above named defendants to ask Thomas F. J. Kelly, a witness produced on behalf of the plaintiff, on re-cross examination the following question:

"Q That doesn't join any of those offices? A No, sir. I explained to him—"

7. Because the Court erred in refusing to permit counsel for the above named defendants to ask Thomas F. J. Kelly, a witness produced on behalf of the plaintiff, on re-cross examination, the following question:

"Q How did you make it out, that is what I want to know?"

8. Because the Court erred in permitting counsel for the plaintiff to ask Thomas F. J. Kelly, a witness produced on behalf of the plaintiff, on re-direct examination, the following question, over the objection of counsel for the above named defendants:

"Q While you were an officer of the Newark Sign Company and the other companies, what was done with reference to the acquiring of the New Jersey Sign Company?"

9. Because the Court erred in permitting counsel for the plaintiff to ask Thomas F. J. Kelly, a witness produced on behalf of the plaintiff, on re-direct examination, the following question over the objection of counsel for the above named defendants:

"Q Did the Newark Sign Company acquire the New Jersey Sign Company? A How did it acquire it?

Q Yes?

Mr. Kalisch. I object to that.

The Court. Question allowed.

Counsel for defendant prays an exception to the ruling of the Court. Exception noted as grounds of appeal."

10. Because the Court erred in permitting counsel for the plaintiff to ask Thomas F. J. Kelly, a witness produced on behalf of the plaintiff, on re-direct examination, the following question, over the objection of counsel for the above named defendants:

"A I consumated the deal in Pitney, Hardin & Skinner's office to pay and take over the damage suit.

Mr. Kalisch. I object to that.

The Court. Objection overruled.

Counsel for defendant prays an exception to the ruling of the Court. Exception noted as grounds of appeal."

11. Because the Court erred in refusing to strike out, on application of counsel for the above defendants, the testimony of Thomas Fitzsimmons, a witness produced on behalf of the plaintiff.

12. Because the Court erred in permitting counsel for the plaintiff to ask Earl R. Birnie, a witness produced on behalf of the plaintiff, on direct examination the following question, over the objection of counsel for the above named defendants:

"Q Did the conference show whether allowances were made?"

13. Because the Court erred in permitting counsel for the plaintiff to ask Earl R. Birnie, a witness produced on behalf of the plaintiff, on cross examination, the following question, over the objection of counsel for the above named defendants:

Grounds of Appeal.

"Q Will you tell us whether your books show, irrespective of any contract, that an allowance was made on a Cusenir sign, referring to your books?"

14. Because the Court erred in admitting in evidence over the objection of counsel for above defendants a certain record of the Supreme Court of the State of New Jersey, marked Exhibit P. 28 to P. 32 inclusive.

15. Because the Court erred in refusing to grant a non-suit as to the defendant Newark Bill Posting Company, and the defendant Newark Poster Advertising Company.

16. Because the Court erred in refusing to permit counsel for the above named defendants to ask Oliver Lee Mahan, a witness produced on behalf of the defendants, on direct examination, the following question:

"Q Did this conversation take place at that same time in which you said, 'Well, what is up with those people? What have you done to them? Galvin—Well, I will tell you. I turned off a couple of tricks on these people on account of an old grudge against Trowbridge himself. Mahan—Tricks, what tricks do you refer to? Galvin—Oh, you remember reading it in the paper, smearing over four or five of their boards with a lot of tar and stuff. Well, I did that and through some G. D. sucker they found out I was the man, but just the same as the Gude Company they found out that I did this while I was working for Kavney, so just the same as the Gude people they were looking for bigger bait and one day Mr. Lum met me on the street and invited me up to his office.

Mahan—Who was this Mr. Lum, an employee of Mr. Trowbridge? Galvin—No, he was a lawyer and he was in with some other people. Mahan—Is that Mr. Lum, of Lum, Tamblyn & Colyer? Mr. Galvin—That is it, that is it. Mahan—Well, as I said they were looking for bigger bait and I admitted doing the job, but I made a statement that Kavney gave me the stuff and Kelly told me to do it and that I did it for the Newark Sign Company. Mahan—Well, did you do it for the Newark Sign Company? Galvin—No, I did it to carry out my grudge against that S. of a B. Trowbridge. Mahan—Did you sign this statement? Galvin—Yes, I did sign that statement. Mahan—Did you know that it wasn't true? Galvin—Yes, I knew it wasn't true. Mahan—What did you sign it for? Galvin—Trowbridge promised me a job. Mahan—Did money pass between you and the lawyer and Mr. Trowbridge for the signing of this statement? Galvin—What the H. are you trying to get at? Mahan—Well! Galvin—I know what you mean. If I did get anything it is none of your D. business. Mahan—Well, then, you mean to say, Mr. Galvin, you tore down those boards that were the property of the Gude Company and you sold the material and received money for them and that you were instigated by the Gude Company and backed up by Bruce Campbell to conspire against the Newark Sign Company, its officers and its employes? Galvin—Now, you listen, Mahan. I don't want Bruce Campbell's name brought into this. Mahan

—Well, you visited Mr. Bruce Campbell in his New York office before you visited the Gude Company and he told you he would back you up in trying to get the hooks on the Newark Sign Company, didn't he? Galvin—Yes, but I don't want his name brought in this. Bruce and I have been good friends for a long while and Bruce is a D. good skate and I want his name left out of this whole thing.' That is all of the conversation."

17. Because the Court erred in permitting counsel for the above named plaintiff to ask Hugh J. Kavney, a witness produced on behalf of the defendants, on cross examination, the following question, over the objection of counsel for the above named defendants:

"Q Did she not say to you then: 'He is going to New Haven?' "

18. Because the Court erred in permitting counsel for the plaintiff to ask Hugh J. Kavney, a witness produced on behalf of the defendant, on re-cross examination, the following question over the objection of counsel for the above named defendants:

"Q Never heard of a suit against your company by the New Jersey Sign Advertising Company?"

19. Because the Court erred in permitting counsel for the plaintiff to ask Hugh J. Kavney, a witness produced on behalf of the defendant, on re-cross examination, the following question over the objection of counsel for the above named defendants:

"Q Will you swear that was never mentioned in your hearing in the office?"

20. Because the Court erred in refusing to receive in evidence a certain affidavit offered by counsel for the above named defendants, and made by James H. Galvin, a witness produced on behalf of the defendants, and which affidavit was marked "D. 1" for identification.

21. Because the Court erred in permitting counsel for the plaintiff to ask Samuel Pratt, one of the defendants, and a witness produced on behalf of the defendants, on cross-examination, the following question, over the objection of the counsel for the above named defendants:

"Q And that suit was settled?"

22. Because the Court erred in refusing to strike out, on application of counsel for the above defendants, the testimony that had been offered by the plaintiff covering acts which do not appear to have been ordered to be done by any of the defendants.

23. Because the Court erred in permitting Thomas F. J. Kelly, a witness produced on behalf of the plaintiff, on direct examination, to be asked the following question, over the objection of counsel for the above named defendants:

"From the year 1910 until you left the employ of this company, either from your own knowledge or from reports received in the course of your employment, the destruction of signs of this plaintiff,—the destruction of what signs of this plaintiff was brought to your attention."

24. Because the Court erred in refusing to strike out, on application of counsel for the above named defendants, the testimony of Mr. Kelly, a witness produced on behalf of the

plaintiff, concerning the disposition of signs other than the seven that are mentioned in a certain report which Mr. Kelly testified to, and which said signs are referred to in the seven cards received in evidence and marked Exhibits P. 1, P. 2, P. 4, P. 5, P. 16, P. 17, P. 19 and P. 20.

25. Because the Court erred in refusing to strike out the testimony of all the witnesses concerning signs other than the seven mentioned in the seven cards received in evidence and marked Exhibits P. 1, P. 2, P. 4, P. 5, P. 16, P. 17, P. 19, and P. 20.

26. Because the Court erred in charging the jury as follows: "That if the officers were connected with the companies, the companies may be held."

27. Because the Court erred in charging the jury as follows: "There has been evidence offered showing that another company brought suit against some of these defendants on a similar complaint, and that suit was settled by one of the defendant companies in this suit taking over that company, but that does not show the liability of the defendants in this suit to the plaintiff, *but it should be considered by you as showing the knowledge of at least some of the defendants, that similar charges had been previously made.*"

28. Because the Court erred in refusing, upon the application of counsel for the defendants, to direct the verdict in favor of the said defendant at the close of said case.

29. Because the Court erred in refusing to charge the above mentioned defendants' second request to charge, which was as follows:

Grounds of Appeal.

"The damages, if any, in this case must be limited to the two signs at Rahway, as the plaintiff has not connected the defendants with the damaging of any other signs than the two at Rahway."

30. Because the Court erred in refusing to charge the above mentioned defendants' third request to charge, which was as follows:

"No damages may be allowed the plaintiff in the way of punishing defendants."

KALISCH & KALISCH,
Attorneys for and of counsel with Defendants-Appellants.

Due and legal service of the within grounds of appeal is hereby acknowledged as of the 15th day of December, 1916.

LUM, TAMBLYN & COLYER,
Att'ys, etc.

Rule to Show Cause.

Filed July 13, 1916.

New Jersey Supreme Court.

ESSEX COUNTY.

THE O. J. GUDE CO., N. Y., a corporation, *Plaintiff,* *vs.* NEWARK SIGN COMPANY, a Corporation; NEWARK BILL POSTING COMPANY, a Corporation; NEWARK POSTER ADVERTISING COMPANY, a Corporation; HUGH J. KAVNEY, and SAMUEL PRATT, *Defendants.*	*Rule to Show Cause, Reserving Exceptions.*

Application having been made on behalf of the above defendants, to the undersigned, the Judge of the Circuit Court, who tried the above stated cause, within six days after the verdict rendered therein, it is on this First day of July, Nineteen Hundred and Sixteen,

ORDERED, that the plaintiff show cause before the Supreme Court, at the State House in Trenton, on the first day of the next stated Term thereof, in November, A. D. Nineteen Hundred and Sixteen, at eleven o'clock in the forenoon or as soon thereafter as the matter can be heard, why the verdict rendered against the said defendants could not be set aside, and a

new trial granted, expressly reserving all exceptions as grounds of appeal taken or entered upon the record at the trial of the within cause, this rule to show cause, however, being limited to the following grounds:

1. That the verdict was contrary to the weight of the evidence.

2. That the verdict was excessive.

3. That the jury disregarded the charge of the court.

NELSON Y. DUNGAN,
Circuit Court Judge.

Reasons.

NEW JERSEY SUPREME COURT.

ESSEX COUNTY.

THE O. J. GUDE CO., N. Y., a corporation, *Plaintiff,* *vs.* NEWARK SIGN COMPANY, a Corporation; NEWARK BILL POSTING COMPANY, a Corporation; NEWARK POSTER ADVERTISING COMPANY, a Corporation; HUGH J. KAVNEY, and SAMUEL PRATT, *Defendants.*	*Action at Law.* *On Rule to Show Cause.* *Reasons.*

The defendants assign the following reasons why the verdict in the above entitled cause should not be set aside and a new trial granted:

1. That the verdict was contrary to the weight of the evidence.

2. That the verdict was excessive.

3. That the jury disregarded the charge of the Court.

KALISCH & KALISCH,
Attorneys of Defendants.

Summons.

Issued April 3, 1916.

THE STATE OF NEW JERSEY to NEWARK SIGN COMPANY, a corporation; NEWARK BILL POSTING COMPANY, a corporation; NEWARK POSTER ADVERTISING COMPANY, a corporation; THOMAS F. J. KELLY and HUGH J. KAVNEY:

You are summoned to answer the annexed complaint of The O. J. Gude Co., New York, a corporation, in an action at law in the Supreme Court. And take notice that unless you file your answer to said complaint with the Clerk of the Supreme Court at Trenton within twenty days after service upon you of this writ and the annexed complaint, the plaintiff may proceed in the suit and judgment may be entered against you.

[L. S.]

WITNESS: WILLIAM S. GUMMERE, Chief Justice of the Supreme Court at Trenton, this fourth day of January, nineteen hundred and sixteen.

WM. C. GEBHARDT,
Clerk.

LUM, TAMBLYN & COLYER,
Attorneys.

Complaint.

Filed April 11, 1916.

NEW JERSEY SUPREME COURT.

ESSEX COUNTY.

THE O. J. GUDE CO., N. Y., a corporation,
Plaintiff,

vs.

NEWARK SIGN COMPANY, a Corporation; NEWARK BILL POSTING COMPANY, a Corporation; NEWARK POSTER ADVERTISING COMPANY, a Corporation; THOMAS F. J. KELLY, HUGH J. KAVNEY, and SAMUEL PRATT, and MICHAEL J. CULLEN,
Defendants.

Transcript of Pleadings for Trial.

Summons Issued April 3, 1916.

LUM, TAMBLYN & COLYER,
Attorneys for Plaintiff.

KALISCH & KALISCH,
Attorneys for Defendants—Newark Sign Company, a Corporation; Newark Bill Posting Company, a Corporation; Newark Poster Advertising Company, a Corporation. Hugh J. Kavney.

FAIRLIE & VANDERBILT,
Attorneys for Defendant, Thomas F. J. Kelly.

Complaint.

Plaintiff, a corporation organized and doing business under the laws of the State of New York, says that:

1. At the times and during the period hereinafter mentioned it was and still is engaged in the business of sign advertising, which, during said period did and still does consist of leasing or controlling sign spaces or privileges and entering into contracts with persons and corporations for the placing and maintaining of signs and advertisements of such persons and corporations on the spaces so as aforesaid leased or controlled by the plaintiff, and placing and maintaining upon such spaces signs and advertisements of such persons and corporations pursuant to said contracts entered into by plaintiff, and in consideration of moneys paid or agreed to be paid to plaintiff by said persons and corporations.

2. At the times and during the period hereinafter mentioned the defendant corporations were and still are each engaged in the same business as that described in the preceding paragraph, and were and are competitors and rivals in trade of plaintiff throughout the City of Newark and the surrounding territory.

3. At the times and during the period hereinafter mentioned the defendants Thomas F. J. Kelly and Hugh J. Kavney were and still are officers, directors and employes of each and all of said defendant corporations, and were and are actively engaged in the conduct, management and promotion of the business of each and all of said defendant corporations and of their rivalry and competition with plaintiff.

4. Said defendant corporations, by their respective officers and directors, and said defendants Thomas F. J. Kelly, Hugh J. Kavney, Samuel Pratt and Michael J. Cullen, maliciously intending to harass, annoy and embarrass plaintiff in the carrying on of its said business, and to damage and destroy its signs and property, and to cause dissatisfaction among its customers and to injure it and drive it out of its said business and to prevent from increasing its said business and from acquiring any profit or gain therefrom and from continuing the same, did maliciously conspire, combine and agree and have maliciously conspired, combined and agreed to harass, annoy and embarrass plaintiff in the carrying on of its said business and to damage and destroy its signs and property and to cause dissatisfaction among its customers and to injure it in and drive it out of its said business and prevent it from increasing its said business and from acquiring any profit or gain therefrom and from continuing the same.

5. In pursuance of said malicious and unlawful conspiracy, combination and agreement, the said defendant corporations, by their respective agents, servants and employes, and the said Thomas F. J. Kelly, Hugh I. Kavney, Samuel Pratt and Michael J. Cullen, continuously and at divers times and numerous times and places since January 1st, 1914, have broken, torn down, sawed, chopped, pasted over with paper and posters, painted over, daubed with paint and stains, and otherwise defaced and damaged the signs so as aforesaid erected and maintained by plaintiff under contracts with its customers throughout the City of Newark and the County of Essex aforesaid, and the surrounding coun-

ties, towns and cities, and have caused and procured the same to be broken, torn down, sawed, chopped, pasted over with paper and posters, painted over, daubed with paint and stains, and otherwise defaced and damaged.

6. By means whereof during all of said time plaintiff has been harassed, annoyed, embarrassed, and greatly and seriously injured in its said business, and its said signs and property have been damaged and destroyed; and time, effort and attention of itself and its employes which should and otherwise would have been devoted to the conduct, promotion and increasing of its business have of necessity been diverted therefrom to the repairing of the damage done as aforesaid to its signs and property, and in attempting to overcome and counteract the injurious effects of the said wrongful acts of the defendants upon its said business; and many of its customers have become dissatisfied because of the damage done to the signs which plaintiff had contracted to maintain for them, and they have withdrawn and withheld business which plaintiff otherwise could and would have had from them, and an injurious belief and reputation has been created among its customers and throughout the said community that plaintiff is unable to perform and complete its contracts to erect and maintain signs, and public confidence in plaintiff's ability so to do has been prevented and destroyed; and it has been compelled to and has laid out and expended large sums of money in endeavoring to repair the damage done as aforesaid to its signs and property, and the conduct, promotion and increasing of its business have been prevented, impeded and interfered with; and it has been

prevented from acquiring profit and gain from its said business which it otherwise could and would have acquired and gained.

Plaintiff demands $30,000 damages.

LUM, TAMBLYN & COLYER,
Attorneys for Plaintiff.

Answer.

Filed March 17, 1916.

The defendants, Newark Sign Company, a corporation; Newark Bill Posting Company, a corporation; Newark Poster Advertising Company, a corporation, and Hugh J. Kavney, all of the City of Newark, say:

1. That they have no knowledge or information sufficient to form a belief as to the allegations of paragraph 1 of the complaint.

2. That they deny the allegations of paragraph 2 of the complaint, excepting that they admit that at the times and during the period mentioned in the complaint the defendant corporations were engaged in the same business as that described in paragraph 1 of the complaint.

3. That they deny the allegations of paragraph 3 of the complaint, excepting that they admit that at the times and during the period mentioned in the complaint the defendants, Thomas F. J. Kelly and Hugh Kavney, were employes of the defendant corporations.

4. That they deny the allegations of paragraph 4 of the complaint.

5. That they deny the allegations of paragraph 5 of the complaint.

6. That they deny the allegations of paragraph 6 of the complaint.

KALISCH & KALISCH,
Attorneys for Defendants.

Answer.

(Filed February 17, 1916).

Defendant, Thomas F. J. Kelly, residing in the City of Newark, Essex County, New Jersey, says:

1. He admits paragraphs 1, 2 and 3 of the complaint.

2. He denies paragraphs 4, 5 and 6 of the complaint.

FAIRLIE & VANDERBILT,
Attorneys for Defendant, Thomas F. J. Kelly.

Stipulation.

(Filed May 1, 1916).

It is hereby stipulated and agreed by and between Chester W. Fairlie, attorney for the defendant, Thomas F. J. Kelly, Kalisch & Kalisch, attorneys for the defendants; Newark Sign Company, Newark Bill Posting Company, Newark Poster Advertising Company and Hugh J. Kavney, and Lum, Tamblyn & Colyer, attorneys for plaintiff. The O. J. Gude Co., N. Y., that the answers heretofore filed by these defendants to the complaint in the above entitled cause stand and remain as their respective answers to the amended complaint filed by the plaintiff herein, in pursuance to the leave granted said plaintiff to make Samuel Pratt and Michael J. Cullen parties defendant and to file an amended complaint, entered on April first, nineteen hundred and sixteen.

FAIRLIE & VANDERBILT,
Attys. for Thomas F. J. Kelly.

KALISCH & KALISCH,
Attys. for Newark Sign Company, Newark Bill Posting Company, Newark Poster Advertising Company and Hugh J. Kavney.

LUM, TAMBLYN & COLYER,
Attys. for Plaintiff, The O. J. Gude Co., N. Y.

Affidavit.

I, WILLIAM C. GEBHARDT, Clerk of the Supreme Court of the State of New Jersey, do certify that the foregoing is a true transcript of the pleadings in the above stated cause as the same remain on file in my office.

In testimony whereof I have set my
[L. S.] hand and the seal of said Court at
Trenton, this tenth day of June, A. D.
Nineteen Hundred and Sixteen.

WM. C. GEBHARDT,
Clerk.

Opening.

NEW JERSEY SUPREME COURT.

THE O. J. GUDE CO., N. Y., a corporation, *Plaintiff,* *vs.* NEWARK SIGN COMPANY, a Corporation; NEWARK BILL POSTING COMPANY, a Corporation; NEWARK POSTER ADVERTISING COMPANY, a Corporation; HUGH J. KAVNEY, SAMUEL PRATT and MICHAEL J. CULLEN, *Defendants.*	*On Rule to Show Cause.*

Transcript of stenographic notes taken before Hon. Willard W. Cutler, judge, and a jury, on Monday, June 12, 1916, at the Court House, Newark, New Jersey.

For the plaintiff, Lum, Tamblyn & Colyer, by Ralph Lum, Esq.

For the defendants Kalisch & Kalisch, by Harry Kalisch, Esq., for defendant Newark Sign Company, Newark Bill Poster Company, Newark Poster Advertising Company, Hugh J. Kavney, Samuel Pratt and Michael J. Cullen.

Fairlie & Vanderbilt, by Chester W. Fairlie, Esq., for defendant, Thomas J. F. Kelly.

Jury impanelled and sworn.

Mr. Lum opens.

Mr. Kalisch opens.

Mr. Fairlie opens.

Franklin M. Jones, direct.

FRANKLIN M. JONES, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your business, Mr. Jones? A Outdoor advertising business; one of the officers of O. J. Gude Company, New York.

Q What officer are you? A Secretary.

Q How long has the Gude Company been in business, approximately? A Twenty-five years.

Q Do they do business in New Jersey? A They do.

Q Approximately how many signs have you in this neighborhood? A Between six and seven hundred.

Q Just what area is that? A Within the counties of Hudson, Essex, Union, Morris, Bergen, Somerset.

Q The Gude Company is still doing business in this neighborhood? A Yes, sir.

Cross examination by Mr. Kalisch.

Q Are they doing business here? A They are doing business here, yes, sir.

Q Where did you say they were doing business, what counties? A Doing business in the counties of Hudson, Essex, Morris; Mr. Lum spoke about this section. I am naming the counties right around here within forty or fifty miles of Jersey City.

Q In Passaic county? A They are doing business all throughout the State of New Jersey, every State in the Union.

Q How long have you been doing business in the State of New Jersey? A Over twenty years.

Franklin M. Jones, direct.

Q You say that you do business in every State in the Union? A Almost every State in the Union, yes, sir.

Q Have you any idea how many signs there are within the County of Essex? A It is all according to the class; if you tell me the class.

Q How do you classify them? A We have two different decorations; we have railroad bulletin signs which may measure from 50 feet in length to 300 or 400 feet in length and also signs on automobile roads; a bulletin distinction or bulletin classification.

Q How many classes are there? A I should say in the State of Jersey two; not any more than three. There is electric signs. Electric signs is in a class by itself; wall painting is in a class by itself, railroad bulletins or automobile bulletins are in a class by themselves. There might also be another small class, small fixed sign boards of certain kind.

By the court.

Q I do not think you have answered Mr. Kalisch's question yet. A In Essex county we probably have got two hundred different locations about equally divided or one-half of railroad bulletins and one-half painted walls.

By Mr. Kalisch.

Q That is in Essex? A That is in Essex.

Q Are these various places under lease or are they property that your company owns? A They are under lease.

Q Are they different terms, each one, or are they all the same? A Under different terms. All according to the country or owner of the property.

Franklin M. Jones, cross.

Q When did you first start doing business in Essex county? A Probably about twenty years ago.

Q It took some time to build it up, did it? A Yes.

Q Is two hundred places, do you consider that it is or consider that a large number of localities or small number? A That is a fairly good sized number, fairly large number.

Q Is this in Essex the largest number of localities? A No, we have more than that in Union.

Q What other counties are there that have more? A And probably Hudson.

Q And Hudson and Union have? A More than Essex.

Q Have you any in Mercer county? A A few in Mercer.

Q Have you ever had any down there in Middlesex or isn't that much of a territory? A I don't recall that. You see I haven't any records with me.

Q Has your business increased in Jersey? A It has increased in Jersey along certain lines, in wall especially.

Q Have you increased the number of railroad bulletins? A We have had great difficulty because of depredations.

Q I just asked the question, have you increased the number of your railroad bulletins, yes or no? A We have probably put up as many as come down.

Cross examination by Mr. Fairlie.

Q What do you mean by "came down?" A Well, railroad bulletins will last a certain length of time under natural, ordinary conditions and

its life is timed to last a certain number of years under ordinary weather. If it come down before that for any reason whatsoever we have to replace it and it is quite a burden to do that at times, but we have at least kept pace with that; however, many that have been removed through unnatural causes we have replaced them, at least.

Q You say you have had great difficulty? A We have had great difficulty, yes, sir.

LEONARD DREYFUS, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your business, Mr. Dreyfus? A General manager of the Newark Sign Company.

Q You are now employed by them? A Yes, sir.

Q And have been such for how long? A Five months.

Q Are you an officer? A Yes, sir.

Q What officer? A Vice president and treasurer.

Q Vice president and treasurer of the Newark Sign Company. Are you an officer of the Newark Bill Posting Company? A Same office.

Q And Newark Poster Advertising Company? A Same office.

Q What is the relation between the Newark Sign Company and Newark Bill Posting Company? A The Newark Bill Posting Company is a holding company for the Newark Sign Company.

Mr. Kalisch. I object to this. I don't see how Mr. Dreyfus is bound to testify. I don't

know what he means by relationship in the first place. It is unfair. The question is misleading. It does not tell the witness just what is wanted, what the relationship is. I don't understand what is meant.

Mr. Lum. The witness seems to understand.

Mr. Kalisch. I shall object to it. It is not the best evidence.

The Court. If he knows himself he may answer.

Q You were answering the question.

Mr. Kalisch. That is all hearsay testimony and I ask to have the answer stricken out. It is second-hand information that he acquires from the record.

The Court. That is true.

Q You were subpoenaed to produce the record?

The Court. You may strike that out.

Q Have you the records of the Newark Sign Company? A The records requested are very bulky. We have some of them.

Mr. Lum. Produce them. I want the records which you will have to refer to to answer this question.

Mr. Kalisch. I object to that. I don't think he is bound to produce all records except those he is subpoenaed to produce.

The Court. You object because it is a matter of record. Now, turn to that record.

Q (Question repeated). Referring to your records will you answer the question which you were answering before as to relations between the various companies?

Mr. Kalisch. I shall object to that.

The Court. Produce the record.

Q Referring to your records will you tell us the relation between these various companies?

Mr. Kalisch. I object to that. It is a very general question. I don't know what is meant by it.

The Court. I think, Mr. Lum, if you will ask him to produce the record which shows the relationship between the companies and then from the record if he knows what it is.

Q Produce the records which show the relationship between the various companies; that is, the stockholdings of the officers of them. A We have the minute book of each company here that will show who those officers are.

Q Turn to your certificate of incorporation of the Newark Bill Posting Company? A I have the certificate of incorporation.

Q Referring to it, who are the officers? A The officers shall be a president and an amendment appended for a vice president and treasurer, and secretary.

Mr. Kalisch. I object to that. I think the record speaks for itself. It is introduced in evidence.

The Court. Mr. Dreyfus has the record and he knows what it is.

Q Who are the officers? What do the records show? A The present officers of the company?

Q Who are they? A Mr. Samuel Pratt, president; Leonard Dreyfus, vice president and treasurer; Mr. H. C. Johnson, secretary.

Leonard Dreyfus, direct.

By the Court.

Q Where is that found, in what book and page? A Found in our minute book.

By Mr. Lum.

Q Which company? A Page 61.

Q Of which company? A Of the Newark Bill Posting.

Q Referring to the Newark Sign Company record of the officers.

Mr. Kalisch. What date?

Mr. Lum. Present.

By the Court.

Q What date is that? A February 1st is the date of the meeting authorizing these officers—

By Mr. Kalisch.

Q What year? A 1916. Newark Sign Company; president, Mr. Samuel Pratt; vice president, Mr. Dreyfus, and treasurer, Mr. Dreyfus; secretary, Mr. H. C. Johnson.

By the Court.

Q Where does that begin, what date? A Meeting of February 1st, page 36. Referring to the other company—

Mr. Kalisch. I object. I didn't know what date Mr. Lum was referring to or I would have objected before. This suit was brought in January, 1916.

Mr. Lum. Summons issued April 3, 1916.

Mr. Kalisch. Very well.

Leonard Dreyfus, direct.

By Mr. Lum.

Q If you will take the next one? A Newark Poster Advertising Company, same officers as the other two companies.

By the Court.

Q What date? A February 1st.

Q What is the page of the book? A Page seems to be unnumbered.

Q Have you the records which will show the stock holdings of the various people? A Yes, I have.

Q Refer to that. A I believe that is one of the records that were not brought.

Q Are you familiar wit hit? A Partly so.

Q Just tell us.

The Court. If you object—

Mr. Lum. He cannot object. He was subpoenaed to produce them.

A The stocklists of the three concerns are identical; Mr. Pratt and myself and Mr. Johnson.

Q How much stock do you hold?

Mr. Kalisch. I object to that. I don't see that that is material, what stock he holds. This man is his own witness. He cannot show his interest in the case; he cannot contradict him or affect his credibility.

The Court. I will allow it.

Q Answer the question. The stockholdings. How much stock do you hold? A I can produce that record exactly at two.

Q How much stock do you hold?

The Court. Produce the record. That is the better way. Then there is no question about it.

Mr. Kalisch. There was a subpoena issued, a notice of a number of sets covering a period of six years upon Mr. Dreyfus that would take a pretty large sized automobile to bring up here and it is almost impossible for Mr. Dreyfus to get those checks up here.

Mr. Lum. We will waive nothing and we will have to insist upon everything if he follows this course.

At this point the court takes a recess of one hour.

AFTER RECESS.

LEONARD DREYFUS resumes the stand.

Cross examination (continued) by Mr. Lum.

Q How much stock do you hold? A Seventy-six shares.

Q You individually? A Yes. This is the Newark Bill Posting Company.

Q You didn't pay for the stock?

Mr. Kalisch. I object to that and ask that it be stricken out.

Mr. Lum. I withdraw the question.

Q How many shares does Mr. Pratt hold? A Two hundred and fifteen.

Q Who are the other holders? A H. B. Johnson, one share.

Q That is which company? A The Newark Bill Posting Company.

Q Turn to the Newark Sign Company. A Newark Sign Company, Samuel Pratt, seven, Leonard Dreyfus, two, H. C. Johnson, one.

Q That is all the stock of that company? A Newark Bill Posting Company, four hundred and ninety.

Q How are they held? A Owned by the Bill Posting Company.

Q The Bill Posting Company holds four hundred and ninety shares of the Poster Advertising Company? A The Bill Posting Company holds twelve hundred and forty shares. Mr. Samuel Pratt six, Mr. Dreyfus three, Mr. Jackson one.

Q When was your last annual meeting according to your record? A February 1, 1916.

Q That is the time of holding the annual meeting in February? A Yes.

Q Turn to February, 1915. What were the stockholdings of the Newark Sign Company? A I will have to turn to the certificate books. There was no stock certificate record kept. Mr. Kelly held 52 shares of the Newark Bill Posting Company and Mr. Pratt the same number of shares, 215, and Leonard Dreyfus one, the equivalent amount in the other companies.

Q The same proportion was observed as that just given us? A Yes, sir.

Q In 1914 what was the stockholdings of February? A Well, the status wasn't charged with the exception of the share that I held was held by Mr. George McIntyre.

Q Go back to your annual meeting of 1915. You have the manifest. A Of which book?

Q Each of the three starting with the Newark Sign Company. A Yes, the Newark Bill Posting Company will give it.

Q Yes, who are your officers at that time? A Mr. Pratt, Mr. Dreyfus—before or after the meeting?

Q Before? A Mr. Pratt, Mr. Dreyfus, Mr. Kelly.

Q And who after the meeting? A Mr. Pratt, Mr. Dreyfus, Mr. Johnson.

Q That is the 1916 meeting? A That is the 1916 meeting.

Q Turn to the 1915 meeting. You gave us the 1916 this morning. A Before the meeting, Mr. Pratt, Mr. Kelly, Mr. McIntyre and after the meeting Mr. Pratt, Mr. Kelly, Mr. Dreyfus.

Q Turn to your 1914. A Mr. Pratt, Mr. Kelly, Mr. Blair and after the meeting Mr. Pratt, Mr. Kelly, Mr. McIntyre.

Q The year 1913. A Mr. Pratt, Mr. Slocum, Mr. Kelly and after the meeting Mr. Pratt, Mr. Kelly, Mr. Blair.

Q The year before that, 1912? A Same, no change.

Q And 1911? A Mr. Pratt, Mr. Slocum, Mr. Veddel.

Q And each of the other companies mentioned by you had the same officers as shown before that during the respective periods? A Yes.

Q And the meetings were each held at the same time and place? A No, they were not. The meeting of 1916 was held on the 1st day of February, which is the day they subscribed. The meeting in 1915 was held on February, 19th, as was the meeting in 1914.

Q When did the other companies hold their— A On the same date, they were all held on the same date. The legal meeting should be the 1st day of February. I discovered an error in the holding of the meeting in 1914 and 1913.

Q But my question was this: On the day that the meeting was held each of the three compan-

ies held their meetings on the same day? A On the same day.

By the Court.

Q Have these companies the same books? A Yes.

By Mr. Lum.

Q Will you give me the stockholdings in 1911? A That is rather a lengthy job. There was no stock transfer book record kept under Mr. Kelly's management and I would have to go all through these to give it to you.

Q I will ask you to have it so you can give it to me at your convenience later tomorrow? A Yes.

Mr. Kalisch. I would like to state this, that with the consent of Mr. Lum I would ask to introduce the plea of the statute of limitations, in view of a judgment, of this State of 1910 covering a period of six years, the suit being brought in April of this year, and Mr. Lum says he will consent that such a plea should be entered.

Mr. Fairlie. We join in the application.

The Court. That would only affect the difference between the several months.

Mr. Lum. That is all.

Mr. Kalisch. In view of that I will ask to strike out all this testimony. I didn't interrupt Mr. Lum while he was examining this witness concerning the record dated from 1911 to date.

Mr. Lum. 1911 is within the statute.

The Court. I do not think anything has been admitted so far in regard to that. If

there has you may point it out and I will strike it out.

FRANK B. RAY, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your business, Mr. Ray? A Sign advertising.

Q By whom are you employed? A Working for myself at the present time and for Mr. Gormerly.

Q Were you ever employed by the Newark Sign Company, Newark Sign Advertising Company, Newark Bill Poster Company, and so forth? A Yes, sir.

Q Do you know Mr. Pratt? A Not personally, no, sir.

Q Do you know Mr. Kelly? A Yes, sir.

Q Do you know Mr. Kavney? A Yes, sir.

Q When were you employed by these companies? A Some time in the month of September, 1914.

Q How long were you in their employ? A I was in their employ January 9, 1915.

Q What was your occupation with them? A Carpenter.

Q What was the position of carpenter with the concern? A Construction superintendent.

Q And from whom did you receive your instructions for the work? A Mr. Kavney.

Q Some time in the month of September, 1914, did you receive any instruction from him with reference to certain signs at Roselle? A No, sir; not Roselle.

Q Well, west of Aldene? A In the month of November, if I remember correctly.

Q What were your instructions? A I was told to go to a point a little beyond the B. & O.

crossing, where the B. & O. crosses the main line trolley and drop two signs.

Q Did you do it? A Yes, sir.

Q What about, was the date of that? A I can't say.

Q How big were these signs? A If I remember rightly one was eighty feet and the other fifty.

Q Did you receive any other instruction from him of a similar nature? A Yes.

Q When? A In the latter part of October, if I remember rightly.

Q What were these instructions? A To go to Elmora and drop four signs.

Q Did you do it? A Yes, sir.

Q How big were those signs, approximately? A I think they were fifty-foot signs; 200 feet in all.

Q Any person besides yourself present when you were given the instruction? A Yes, sir.

Q Who? A Mr. Galvin.

Q Who was he? A My helper.

Q Did he go with you? A Yes, sir.

Q How did you get there? A On the main line trolley from Newark.

Q Do you recall taking down of any sign in West Orange near the Valley road? A Yes, sir.

Mr. Kalisch. I object to that. By whom?

Mr. Lum. I can't ask it all in one question.

The Court. I will allow the question with the understanding that it is connected up. I will strike out if he does not connect it up.

Q About when? A It must have been some time in the month of December. I can't posi-

tively say, because I never thought anything about it at the time.

Q What was being done?

Mr. Kalisch. What time?

Q What year? A 1914.

Q What was being done? A The back braces were all cut.

Q By whom? A John McDougal, I believe his name was, or his helper. They were both together.

Q John McDougal and his helper? A Yes, sir.

Q By whom were they employed?

Mr. Kalisch. If he knows of his own personal knowledge.

A I passed there at the time it was happening. I was going to another job farther up in West Orange.

Q By whom was he employed? A Newark Sign Company.

Q One of your fellow employees? A Yes, sir.

Q You know that of your own knowledge? A Yes, sir. He held the same position I did.

Q Were you discharged by the sign advertiser company? A I was let go at a general lay off. Everybody was laid off including the shop carpenter.

Q When was that? A January 9, 1915.

Cross examination by Mr. Kalisch.

Q How long did you work for the Newark Sign Company? A From some time in September until the 9th of January.

Q September of what year? A 1914.

Q Until January of what year? A 1915.

Q Who engaged you? A Mr. Kavney.

Q Where did you see Mr. Kavney? A Up in his office. I met him downstairs first, I believe, or I met Mr. Kelly downstairs and then I went up to see Mr. Kavney.

Q Who did you meet, Mr. Kelly or Mr. Kavney? A Mr. Kavney. I saw him and told him what my wages were.

Q Was Kelly there, too? A I seen Mr. Kelly before and asked him for a position.

Q You had seen Mr. Kelly before? A Yes, sir, in the early part of the day.

Q What did Kelly say? A Told me to see Mr. Kavney.

Q And what happened after you saw Mr. Kavney, what did he do? A He didn't give me any hopes but I was then retained.

Q Did you see Kelly afterwards? A When I went to work there.

Q Did you get any instruction from Mr. Kelly? A Never did.

Q Never had nothing to do with instructing the men as to what they should do? A No, sir, as far as I was concerned. I never received any instructions.

Q Was he the man to give instructions?

Mr. Fairlie. The witness can testify only of his own knowledge. He says as far as he knows he received no instructions from Mr. Kelly.

Q Did you notice whether or not he gave instructions to other people?

Mr. Lum. I object to this as not cross examination of the direct examination.

The Court. I think it is perfectly competent.

A I never did.

Mr. Lum. It is not within the scope of the direct examination and I object.

The Court. You have gone into it generally.

Plaintiff's counsel objects to ruling of the Court.

Objection noted as ground of appeal.

A I never did hear Mr. Kelly give any instructions.

Q So far as you know, he had nothing to do about giving orders? A As far as I know.

Q You were about the place, were you not? A Only in the shop.

Q Didn't you get in the office at all? A Once in a very great while.

Q When were you discharged? A I was laid off on the 9th of January.

Q You are sure you were laid off? A Positive.

Q Who laid you off? A Mr. Kavney.

Q When did he lay you off? A Told me they were going to cut down expenses and the boards we had been molding and cutting were pretty nearly finished up. That was the excuse that was given to me.

Q What was the real reason; you say that was the excuse? A I can't tell you.

Q Was there a reason for it aside from the one that you give us? A Not that I know of.

Q You called this an excuse. Why did you call it an excuse? A I said that was the reason that was given.

Q "That was the excuse that was given me?" A Yes, sir.

Q What do you mean by excuse? A I didn't mean excuse. I meant the reason. It was given to us in the same way.

Q When was it you were laid off? A 9th of January.

Q 1915? A 1915.

Q You have spoken of having seen, spoken of two excursions when your helper was along with you on one occasion? A On both.

Q When was the first jambarel; what month was that? A As far as I can recollect it was in the latter part of October.

Q What year? A 1914.

Q That was about a month after you started to work for them? A A little over a month.

Q When was the next occasion? A Within two or three weeks after the first.

Q Within two or three weeks after the first of January? A No, after the first occasion. That would make it after January.

Q And that was the only occasions that you know of? A The only occasions I had any instruction to do.

Q The first time where did you say this sign was located? A Elmora, little southwest of the Elmora station, near the Central Railroad of New Jersey or by the Central tracks, south of the tracks.

Q Is that the place where they put up lots of signs? A Yes, sir; a railroad and a road showing.

Q How far do those signs extend? A You mean back from the railroad?

Q No, continuously along. A That was a line of four separate signs.

Q Nor particularly the signs that you saw; I mean other signs, too. How far do they extend? A Why, they run for quite a distance from there, perhaps a mile.

Q Mile on either side? A I saw only on the south side.

Frank B. Ray, cross.

Q I say a mile on either side, they ran on both sides? A No, it is on the south side.

Q We know this is the south side, but I mean the signs, do they run a mile along on both sides of the railroad? A Generally.

Q. In that location? A Yes, sir; there is lots of them through there.

Q That was the first one. Where was the second one? A About a quarter of a mile west of the B. & O. crossing where the B. & O. crosses the main line trolley car near Aldene.

Q Are there a number of signs around there? A No, sir, not very many there.

Q Not so many, but there are quite a few? A No, just a couple of them in the locality. We took this down.

Q Just when was it you were laid off? A On the 9th of January. I remember that date rather distinctly.

By the Court.

Q How did you know what signs to cut down? A I was given instructions by Mr. Kavney what reading matter that was on the signs so I would be sure to get the right ones.

By Mr. Kalisch.

Q Do you remember what the reading on them was? A No, I can't remember all of them, but I think one was at Plaut's, the dry goods store.

By the Court.

Q You don't remember any of the other kind? A They all belonged to the Randolph Advertising Company.

Mr. Kalisch. I ask to strike out that testimony. I don't see that it is competent in view of what he has just testified to.

The Court. I will not strike it now. You may renew your motion later.

Mr. Kalisch. Very well.

CHARLES HERMAN, sworn in behalf of plaintiff.

Direct Examination by Mr. Lum.

Q What is your business? A Advertising.

Q By whom are you employed at this time? A Mr. Scudder.

Q Which Mr. Scudder, E. W. of the Newark News? A Yes, sir.

Q Where are you employed? A At Morristown.

Q In what capacity? A Chauffeur.

Q Were you ever employed by the Newark Sign Company? A Yes, sir.

Q When? A 1914.

Q In what capacity? A Chauffeur.

Q How long were you employed by them? A I was employed twice by them; once about six or seven months and the other, the second time, about two months.

Q While you were employed by them did you ever have occasion to go down on Rahway avenue? A Yes, sir.

Q Who went with you? A It was different men at different times.

Q Did you ever go down there on an occasion when sign boards were removed? A Not removed; no, sir.

Q When they were flopped? A No, sir.

Q What was done with them? A Built signs there.

Q Do you remember going down there on a certain occasion in December, 1914? A Yes, sir.

Q Who instructed you to go down there with them? A Mr. Kavney.

Q Who was he? A My foreman.

Q He was the man from whom you received your orders? A Yes, sir.

Q What did you do on that ocacsion? A Just picked up some lumber.

Q Where? A At St. George's avenue and Jacobs avenue.

Q Then where did you go? A Down to Elizabeth if I remember right.

Q Then after delivering the lumber where did you go? A We picked up some lumber there and went down to Elizabethport and picked up some more lumber there at the station, and from there we went to Newark.

Q You remember proceeding to Rahway? A Yes, sir.

Mr. Kalisch. I object.

Q Where did you stop at all? You are here under subpoena? A Yes, sir.

Mr. Kalisch. You cannot lead him.

Q Where did you stop? A We stopped right at the sign that we built, a little ways below that.

Q Where was that? A On Jacobs avenue side.

Q What road? A Known as Jacobs avenue.

Q About what time? A Some time in the afternoon.

Q What did you do there? A I stayed there. Mr. Kavney walked along the railroad looking for some space.

Q Who was with him? A Mr. Galvin.

Q Did you see them make any stops; what did they do? A They stopped at certain times, yes, sir.

Q What did they do? A They just stood there. I was quite a distance from them. I couldn't see exactly. They just stood there and talked.

Q Where did they meet you? A The next corner.

Q Then where did you go? A After that I think we went down to Elizabethport.

Q What did you do there? A Picked up some lumber.

Q What kind of lumber? A Belonging to the signs that was left over.

Q Whose signs, do you know?

Mr. Kalisch. I object to that unless he knows personally.

Mr. Lum. I asked him if he knew.

A Newark Sign Company.

Q What date in December was this? A I don't remember.

Q The early part or the end? A Pretty near New Year's.

Q How long were Kavney and Galvin gone? A They stayed fifteen or twenty minutes.

Q They were out of your sight? A No, they were not out of my sight.

Q When they stopped? A Yes, sir.

Q What did they do?

Mr. Kalisch. He said they were such a distance away he couldn't hear.

Q What did they do when they stopped? A They looked to me from the distance that they were talking. That is all I was able to see.

Q What did they stop in front of, could you tell? A Well, they were on the railroad bank.

Q What was in front of them? A Several signs.

JAMES H. GALVIN, sworn for the plaintiff.

Direct examination by Mr. Lum.

Q What is your business, Mr. Galvin? A Sign builder.

Q How long have you been in that business? A About fourteen years.

Q Were you ever employed by the Newark Sign Advertising Company? A Yes, sir.

Q In what capacity? A Well, when I went back, I had been working there for the last ten years, pretty near ten years, off and on. Every time I came back and asked for a job I generally got it.

Q In what capacity? A Building signs; helping them and building signs.

Q Do you know Mr. Kavney? A Yes, sir.

Q What was his position? A Superintendent over the construction.

Q Was he your boss? A Yes, sir.

Q Did you know a man named Kelly there? A Yes, sir.

Q What was his position? A General manager.

Q At that time was there a man named Cullen? A Yes, sir.

Q What was his position? A Superintendent over the bill posters.

Q Did you ever receive from Mr. Kavney instruction with reference to felling signs? A Yes, sir.

Q When? A I went to Rahway on the 23d day of December with Mr. Herman, Mr. Kavney and Mr. O'Connell. He is not here. He brought me over and showed me the signs. We had two posts on the automobile truck and then Kavney turned around looking over the

job. This is our own sign, right near St. Jacobs avenue and some road, St. George's road. It is right on the corner of Dawsen's property. He showed me what to do. He told me to take the miters down and then he cut over to the cross lots up on the Pennsylvania track. He whistled the automobile and told him to come around, so Herman drove around. I was up on the automobile and he pointed nine signs out to me. There was two of them O. J. Gude's and the rest of them were all Randolph's. One was on the corner. He says, "That is a job for to-morrow already." I came back with Herman. He said he went up to the City Hall and found out who owned the property and he left us. After we went up to whistle Herman we walked up the track as far as the bridge and came down underneath and Herman turned around and drove up to me and O'Connell called him. He turned around and came down and we came down on the bridge. He said, "There are a lot of Pollocs there. You can sell that lumber." So we went right along and picked up a sign—I can't tell you the name of the bridge or the street—we picked up the sign and brought it into Elizabethport and left it off there. He rode with us all the way into Elizabeth. We got there at six o'clock at night. I know it was very slushy and dark. We could hardly get over the bridge with the automobile truck so we left that down at Elizabethport, so then we came home, I came right home, and went in and didn't see nobody; went right to my own house, so finally, then the next day, I goes down, Mike Cullen—Mr. Cullen, I should say—gave me an ax in the morning and I took some miters. I was to fix one there in the

morning and I had four miters and I didn't finish that so he told me to get down some posts.

By Mr. Kalisch.

Q Who told you this? A Mr. Kavney. So I went down in the morning and got on the train at Market street depot and I had ten cents left over from my carfare and I went down in the morning and cut them all down. Mr. Dawsen helped me. I told Mr. Dawsen.

Mr. Kalisch. I object to what he told Dawsen.

By Mr. Lum.

Q Dawsen helped you? A Yes, sir.

By Mr. Kalisch.

Q What date was this? A 24th of December. A day or two before Christmas.

By Mr. Lum.

Q How big were these signs of the Gude Company that you took down? A I can't just say. I think they were ten by fifty or ten by forty-eight. They might be bigger. I think they are ten by forty-eight.

Q How many did you take down? A Nine.

Q Those were the nine that Kavney pointed out to you? A Yes, sir.

Q Did Kavney ever speak to you about the matter thereafter? A When I came in at night time Mr. Mahan was the bookkeeper and I wanted to get some money and asked him for $5. He said he only had $3 and he gave me the three dollars, and he asked me, "Did anybody see you do that?" I said, "What do you

mean?'' He said, ''Did anybody see you flop them signs?'' I said, ''Certainly. Dawsen saw me.'' I said ''How can I do your job and then go over and do that?'' I don't want to swear what he said. He told me, ''That is too bad.'' He swore—you know what I mean—and Mr. Mahan gave me the $3, and I tried to get $5. I only got $3.

Q How long did you continue in their employ? A Until the 16th of January.

Q What year? A 1915.

Q Were your wages paid up then? A Paid up until Saturday. I got through — he came down to my house. I came in Saturday morning and Kavney told me there was two detectives in the shop looking to see who flopped them signs down to Rahway. He said he didn't care about L. H. Strowbridge but he did care about Gude Company. He told me to stay home, and he would be there at nine o'clock. I stayed there until almost a quarter after eleven. I told the wife what he wanted to do.

Mr. Kalisch. I object to that.

Q Never mind. Go ahead. A So Mike Cullen was in the bill poster shop. I went back to the shop and Mike was there, and I said, ''Mike''—

Mr. Kalisch. I object to that.

Mr. Lum. This is one of the defendants.

Q What did Cullen say? A He just told me, I went up for Kavney and he says he has gone to Union street. I never asked him no more so I walked down and Kanvey came around Elm street. I knew where he was going because he told me to go down. I went down to

the house and he didn't get there. I went in the house and I came out and stood on the stoop and Kavney came around the corner of Elm and Union and as I brought him up and introduced him to Mrs. Zulers. I brought him upstairs. He said, "What are you doing, getting worried?" I said, "Why didn't you bring my money down with you?" He said, "Come back to the shop at two o'clock." I went back at two o'clock and got the week's pay.

Q Was anything said about their—

Mr. Kalisch. I object to that.

Q Tell us what if anything was said about another job? A Yes. Mr. Cullen—he told me —Mr. Cullen was going to get young Van Buren on the long distant telephone in New Haven and they were going to ship me down there to get me out of the way.

Q Did Mr. Kelly speak to you at all? A Yes, sir.

Q What did he say? A Well I went up to the office at night time. He told me to come down at half past five and stay in Brawber's office. I rode up with Messner, went up in the office. Mr. Kavney was there and Mr. Kelly brought me in his private office and gave me $6.

Q What did he say to you? A Told me to go to Boston, I could get a job there. He couldn't get Van Buren on the long distance telephone from New Haven to get me out of the way.

Q What else did he say to you? A Told me to be loyal, be a good Irishman.

Q Do you recall any other occasion when other signs were destroyed? A Yes, sir.

Q When was that? A I can't tell you when it was. I was helping Ray when I first went there.

Q You mean the witness that was just on the stand? A Yes, sir.

Q Where was that? A One was down at Aldene, that was two of them and there was four of them at the Elmora station. I think it is the Elmora station. I would not say for sure.

Q Who gave you those instructions? A Ray got the instructions.

Q You went with him? A Yes, sir.

Q What happened to those signs?

Mr. Kalisch. I object to what Ray got. I ask that that be stricken out.

Mr. Lum. Strike it out.

Q What was done by you? A Helping Ray saw the signs down so they flopped them over.

Q How many? A Six altogether.

Q What time did you leave the shop? A Left the shop at eight o'clock, little after eight.

Q Do you remember returning? A Yes, sir.

Q About what time? A About half past five.

Q Did you see Kavney on your return? A Yes, sir.

Q What did he ask you? A He just said, "All done?" I said, "Yes." He says, "That is rotten stuff."

Q Anything else? A No, that was all.

Q By whom are you employed now? A L. H. Trowbridge.

James H. Galvin, cross.

Q Did you ever receive instructions with reference to putting paint or tar on signs? A Yes, sir.

Q From whom? A From Mr. Kavney and Mr. Kelly, both.

Q Did you do that? A Yes, sir; overtime.

Q How were you paid? A Overtime.

Cross examination by Mr. Kalisch.

Q When was that? A One job was the night before New Years. That was the first one I done, down on Halsey street. It was a Job DeCamp's sign.

Q Were there any O. J. Gude's that you put tar on? A No, sir.

Q Or in any way defaced? A No, sir; only them two.

Q DeCamp's? A No, the L. H. Trowbridge.

Q Where were those two you just mentioned? A One is on Halsey street bridge.

Q They are not O. J. Gude's? A No, sir.

Q Who were the others? A Randolph Sign Company.

Q What were the other signs? There were two trips you made, I believe? A Yes, there were. I went down one day and did a job on the 23d of December with Mr. Herman and O'Connell and Mr. Kavney.

Q Was Mr. Ray along; was that the occasion? A No, sir; 24th of December I tore it down in Rahway.

Q On the 23d you went down? A And Kavney showed me.

Q You didn't do anything on the 23d? A Only just helped the automobile, that is all.

Q On the 24th you went down to take the signs down? A They belonged to the O. J. Gude Company.

Q How many? A Two. There was one, a double decker.

Q There were two of them belonging to Gude that you are sure of? A Yes, sir.

Q How big were those signs? A I should judge ten by fifty, ten by forty-eight.

Q You mean by that ten feet high and fifty feet long? A Yes, sir.

Q Do you know what was painted on them, what advertisement? A One was, it is a cut out on the top of it, it is some kind of a cordial. There was a bottle shape on it, the top of it, cut out.

Q That was one. What was the other? A I can't just tell you?

Q You didn't read what was on that sign? A Yes, I read what was on them. I knew they were Gude signs.

Q What was on there to indicate that, the name? A Yes, sir.

Q On the top? A On the top.

Q There were two of those? A Yes, sir.

Q That is the only two you recall? A Only two I know of.

Q And those are the only instances you remember in reference to Gude? A Only two I know of.

Q In reference to Gude? A I know of other signs.

Q I mean what you personaly participated in? A That is myself.

Q Who was with you on that day, on the 24th? A On the 24th, nobody.

Q You went down alone? A Yes, I was sent alone. I told them it was a hard job to do.

Q What day was it that Ray went with you? A That was the 4th.

Q You haven't mentioned anything about that.

Mr. Lum. Certainly he did.

Q I want to know how many occasions there were when you took down— A I have done more than that trick. One up in South Orange avenue.

Q I am speaking of the one you just mentioned? A That is the O. J. Gude Sign Company?

Q Yes, sir. A And Randolph.

Q And Ray was with you on any one of those occasions? A He wasn't.

Q You went down alone? A Yes, sir.

Q Who helped you take them down? A Mr. Dawson. I couldn't do it alone.

Q Who is Dawson? A He sits there.

Q Does he own the property? A Yes, he owns the property. They own their own sign.

Q Did you sell the sign? A No, sir.

Q Did you get paid by Dawson for it? A No, sir.

Q What did you do with the wood? A Nothing.

Q Did you leave it lay there? A I told Dawson he could get it off from there.

Q Do you know where that wood is now? A No, sir.

Q Do you know whether it is on Dawson's property? A No, sir.

Q Have you been down there since? A No, sir.

Q When was it you left the employ of the Newark Sign Company, when did you leave? A It was the 10th day of January. I didn't

leave. I got $6 to go to Boston. Mr. Kelly gave it to me out of his own pocket. He went upstairs and borrowed it.

Q He discharged you? A No, sir, he paid me for the day and I didn't work.

Q Either you left or you were discharged? A I wasn't either one of the two. They were going to ship me away. Mr. Kavney was in the office at the same time. His wife was outside and his two children.

Q Have you had any dealings at all with the Gude people since you left? A No, sir, only to pay my expenses here.

Q When was that? A Two weeks ago Monday.

Q You haven't seen them since? A I have seen them today.

Q You never saw them before that? A Yes.

Q Where? A Down in the Firemen's Building, Mr. Slocum's office.

Q How did you happen to go down there? A Wanted advice.

Q Who wanted advice? A I did.

Q They didn't send for you? A Who?

Q The Gude people? A No, sir.

Q. You are quite sure about that? A Yes, sir.

Q Did the Gude people ever forward you any money to go over and see them? A No, sir.

Q Did you ever make an affidavit for the Gude people? A Yes, sir.

Q Where? A In Slocum's office in the Firemen's Building.

Q Who asked you to do that? A Nobody. I went to Mr. Kelly and asked Mr. Kelly what I should do.

Q I asked you who asked you to make that affidavit? A Nobody. I did that myself.

Q What made you think of doing that? A Because I didn't want to go to jail for nobody, no firm living.

Q You didn't think of that before you tore these signs down? A I didn't know what I was doing. Mr. Kavney sends you out, and you have a family to take care of, you have to do it in order to hold your job, and it is the custom to do it anyway, and that day there was a man by the name of Collins sent a letter over to the O. J. Gude people telling them I done it, and they were looking for me.

Q Do you remember making this affidavit? Is that your signature? A No, sir. Might be.

Q Is it or isn't it? A Yes, but I was drunk when I did that.

Q You were drunk when you did that? A Yes, sir. I met Mr. Kelly on the street. He gave me his telephone number.

Q Did Mr. Kelly get you drunk? A No, he didn't get me drunk. I got drunk myself. How was he going to get me drunk?

Q How did you happen to meet Mr. Kelly? A Met him on Market street.

Q Did you go out with him? A No, I didn't go out with him. He called me.

Q What time of the day was that? A Around noontime, one o'clock.

Q Do you remember what time of the day it was you made this? A No, sir, I don't remember that, nothing at all. I remember where I woke up.

Q You don't remember ever meeting him down— A Not that I know of. After I was in there, but I don't remember.

Q In where? A In the office.

Q What office? A In the Newark Sign office, this Kelly's office.

Q Do you know who was present? A No, sir.

Q Do you know whether there was a lawyer named Mr. Pomerehne present, master in chancery? A Not that I know of.

Q Do you know him? A No, sir.

Q You don't know whether he was there? A No, sir.

Q Whether anyone else beside Mr. Kelly was there? A I can't remember anything about that. I know where I woke up.

Q Didn't you have a long conversation while you were over there in the Newark Sign Company's office? A I don't remember anything about that.

Q Was Mr. Mahan there? A Might have been. I don't remember anything. I was telephoned about four or five times by Kelly to come up there. They telephoned down to some place on Mulberry street to get me there seven different times. They telephoned to get me up there.

Q Do you know, however, that you stated on that occasion that the O. J. Gude Company requested you, I believe, at their office on February 6, and forwarded you a dollar as expenses for the trip, so that when you got there you produced a statement, they produced a statement for you to sign? A No, sir.

Mr. Lum. I object. I think the paper should be offered in evidence.

The Court. You may show it to him and mark it for identification.

James H. Galvin, cross.

Q Do you remember this conversation taking place in the Newark Sign Company's office in the presence of Mr. Mahan and Mr. Pomerehne and Lieutenant Farrell? Just tell me whether this conversation took place? Do you remember saying this on February 10th: "Now, I came in to see Mr. Mahan and I won't have anything to do with you, Mr. Kelly, so unless I can speak to Mr. Mahan alone I will have to see him some other time." Mr. Kelly said: "Well, if that is the way you feel about it, Mr. Galvin, I have got other work to do and I will step in the other office as long as Mr. Mahan wants to use the private office." Mr. Mahan said: "Well, Galvin, what is the trouble?" and you said "You know what the trouble is." "Mahan—No, I don't. What is it?" whereupon you said: "Well, the Gude Company are after me for tearing down some of their boards around Rahway and I know I did it and they know I did it, but they don't want to get me, they want to get someone else—some bigger people. Mahan—Well, what do you mean by bigger people? Who are they trying to get at? Galvin—Well, they want to get Kavney, Kelly and the Newark Sign Company. Mahan—Well, what do you mean? Do you mean to say that the Gude people are trying to instigate you into making a statement that the people in the company you mention were back of you when you threw these boards down as you say you did? Galvin—Yes, that is it, and I have already made a statement, and so have a couple of other fellows, and this statement is ready for me to sign. Mahan—Well, how did you happen to come to make this statement? Galvin—I got a letter from the Gude people, and they forwarded me a dollar for

expenses to call at their office and make this statement and I did. Before I went to this Gude Company office I called in to see Bruce Campbell in Van Buren Company's office, and Bruce got me up and told me that the Gude people were good people to stick to and to do all I could to put the leeches up against those people. Mahan —Who did he mean, by those people? Galvin— Well, he meant Kelly and Kavney and the Newark Sign Company. Mahan—Well, Mr. Galvin, this is quite an offense on your part, especially in trying to bring the names of individuals and a corporation in generally in your statement to a competitor. Now, I will ask a favor of you since I was kind enough to grant you an audience. I am going to ask you to dictate a statement to me of this whole matter, so I can keep it on record," and then did you after that conversation, which I have just stated, get up and grab Mr. Mahan's hand and state that you would sign a statement for Mr. Mahan but that you would not do a G. D. thing for that fellow Kelly, and did Mr. Mahan then go to the outer office and call in his assistant,. Jones, Mr. Pomerehne? You better answer up to that point? Did that all take place? A Not that I know of.

Q None of it? A Not a bit of it, not to my knowledge. I can't remember that, because I told you I was drinking from two o'clock in the afternoon until five that night.

Q And after that did you go on with the conversation and state: "And remember, Mahan, there is another matter I want to call your attention to, and that is the Trowbridge matter. Mahan—Trowbridge, who is that? Galvin—Oh, you know. That piker on Market street that is trying to open some opposition to this com-

pany. Mahan—That is the Trowbridge Advertising Company in the Ordway Building, I believe you refer to. Galvin—Yes, that is it. Mahan—Well, what is up with those people—what have you done to them? Galvin—Well, I will tell you. I turned off a couple of tricks on those people on account of an old grudge against Trowbridge himself. Mahan—Tricks, what tricks do you refer to? Galvin—Oh, you remember reading it in the paper, smearing over four or five of their boards with a lot of tar and stuff. Well, I did that, and through some G. D. sucker they found out I was the man, but just the same as the Gude Company they found out that I did this while I was working for Kavney, so just the same as the Gude Company they were looking for bigger bait, and one day Mr. Lum met me on the street and invited me up to his office. Mahan—Who was this Mr. Lum, employe of Mr. Trowbridge? Galvin—No, he was a lawyer and he was in with some other people. Mahan—Is that Mr. Lum, of Lum, Tamblyn & Colyer? Galvin—That is it, that is it. Mahan—Well, what about that statement. Galvin—Well, as I said, they were looking for bigger bait, and I admitted doing the job, but I made a statement saying that Kavney gave me the stuff and Kelly told me to do it, and that I did it for the Newark Sign Company. Mahan—Well, did you do it for the Newark Sign Company. Galvin—No, I did it to carry out my grudge against that S. of a B. Trodbridge. Mahan—Did you sign this statement? Galvin—Yes, I did sign that statement. Mahan—Did you know that it wasn't true? Galvin—Yes, I knew it wasn't true. Mahan—What did you sign it for? Galvin—Trowbridge promised me a good job. Mahan—Did money

pass between you and the lawyer and Mr. Trowbridge for the signing of this statement? Galvin—What the H. are you trying to get at? Mahan—Well? Galvin—I know what you mean. If I did get anything it is none of your D. business. Mahan—Well, then you mean to say, Mr. Galvin, you tore down those boards that were the property of the Gude people and you sold the material and received money for them and that you were instigated by the Gude Company and backed up by Bruce Campbell to conspire against the Newark Sign Company, its officers and its employees. Galvin—Now, you listen, Mahan, I don't want Bruce Campbell's name brought into this. Mahan—Well, you visited Mr. Bruce Campbell in his New York office before you visited the Gude Company, and he told you he would back you up in trying to get the hooks on the Newark Sign Company, didn't he? Galvin—Yes, but I don't want his name brought in this. Bruce and I have been good friends for a long while and Bruce is a D. good skate and I want his name left out of this whole G. D. thing." A I must have talked a whole lot if I did that.

Q "Mahan—I believe that Mr. Lum, of Lum, Tamblyn & Colyer, was Mr. Campbell's attorney while he was connected with the New Jersey Sign Advertising Company. Do you know whether he has anything or had anything to do in instigating this deal that you turned over against the Trowbridge Company and tried to blame the Newark Sign Company for your dirty work? Galvin—Now, listen. I am not saying or trying to connect Bruce Campbell's name with the Trowbridge matter. I put my foot in it when I let out that he was in back of me on

the Gude matter, so from now on leave Bruce Campbell's name out of this. He told me to put the leeches to the Newark Sign Company as long as the Gude people were looking out for my expenses, and Bruce Campbell said that they were good people and they would look out for me. Why, that is what I was looking for, to get as much as I could and then beat it. Mahan—Then, you mean to say that you have got as much as you possibly could get out of these people, and that it is now up to you to sign the statement for them. Galvin—You are a H. of a smart fellow, Mahan, but I will be G. D. if I will give you any more information. Mahan—I won't bother you any more, as I promised Mrs. Mahan I would be home early, and it is now 6:15, and I promised Mrs. Mahan I would be home at six o'clock.

Mr. Lum. I object to this method of leading.

The Court. You better ask him—

A Not to my knowledge; it never took place.

Q Did this take place, this conversation: "Now, understand Mahan that you are a D. good fellow and I want to talk to you after I sign this paper." Statement was then sworn to and handed to Mr. Pomerehne, who still remained in the room. That is this affidavit that I showed you? A I don't remember. You must have wrote it out yourself. I don't know nothing about it. I am sure I didn't write it out.

Q. Then did this conversation follow: "Remember, Mahan," this is by you, "unless you come across with $15 I am going to stick in the city tomorrow and the Gude Company will bring me over to their office and it is up to me to sign that statement? A That is wrong.

Q "Well, Mr. Galvin, you are just after signing a statement wherein you stated that the statement you made to the Gude people and Trowbridge Company were not true. Galvin—That statement isn't worth a D. because I didn't swear to it. A That happened on Market street with Mr. Kelly, that statement you are talking about. He asked me on Market street if I signed any statement for the O. J. Gude Company. I told him no, and he gave me his telephone number and I called him that night and he called me a dirty rotten Irishman.

Q Then, did you further say: "Come across now, Mahan, come across. You know my price, $15, and I go to Philadelphia on the midnight train, and then the Gude people can go clean to H?" A Not that I know of. I don't remember nothing about it.

Q You say that conversation never took place? A Not to my knowledge.

Q You would know it? A I would not know it.

Q If you said here what I have read wouldn't you know it? A I know I fell downstairs. They picked me up and took me to headquarters.

Q You would remember a long conversation like that, wouldn't you, if it took place? A It would take me five hours to go and say this what you did there. That would take a long while.

Q Don't you remember Lieutenant Farrell locking you up that day? A I don't remember only giving me a drink in the morning.

Q Don't you remember Lieutenant Farrell locking you up? A All I remember is falling downstairs and waking up in headquarters.

Q You were locked up that day? A That night. The next morning Lieutenant Farrell gave me a drink.

James H. Galvin, cross.

Q Do you remember making this affidavit: "James H. Galvin, of full age, being duly sworn on his oath according to law, deposes and says." I made a statement for the Trowbridge Company in the office of Lum, Tamblyn & Colyer that I was sent out by Mr. Kavney to throw paint on signs of Job DeCamp and Jackie Clarke on Frelinghuysen avenue about three weeks ago, and the statement that I made was not true. They wanted me to swear to the statement. I would not swear to it. I told them they had to show me something to get out of the city, but they wouldn't give me anything and I would not sign it. The O. J. Gude people also accused me of tearing down their signs in Rahway and that Dawson received the material, and they wanted me to sign an affidavit, and I would not do it because it was not true, and I would not make an untrue affidavit unless they came across. The O. J. Gude Company requested me to call over at their office on February 6th and forwarded me one dollar for expenses for a trip, so when I got there they produced a statement for me to sign, on request of O. J. Gude Company to sign their statement. I read it over and found that it was a statement signed by Frank B. Ray and Joe Collins, saying that I done all the flopping of the signs. I didn't sign their statement because there was nothing coming across." Did you make such a statement? A No, sir.

By Mr. Lum.

Q You said you knew where you were when you woke up? A In headquarters in Newark. I was in the cellar. Mr. Farrell gave me a drink.

Q You said you fell downstiars. What stairs were they? A Newark Sign Company.

Q Have you any recollection of saying anything or signing any affidavit? A No, sir.

By the Court.

Q Where did you come from the day that you were in Newark? A I was in Newark all day.

Q Were you living in Newark then? A Yes, sir.

Q Were you out of town and did you come back? A No, I didn't leave the town at all. There was four of us laid off, the whole gang. There was Messner, Lynch, and old Pop Garvin got laid off about the 15th or 20th. I got through on the 16th and they got through a week ahead of me.

Q When did you start on this drunk that you speak of? A That morning.

Q When was it you saw the Gude people? A I guess it was on a Sunday I seen them. They were down looking for me.

Q When did you make the statement? A On a Monday morning.

Q What day was it you talked to these people? A I can't tell you what day I was talking to them.

Q Was that the same day? A No.

Q What day was it? A A long while afterwards that Kelly telephoned seven times down to a saloon.

Q It wasn't the same day? A No, sir. He gave me his telephone number at his house. He told me, "Why don't you come to my house instead of going up." I said, "I don't want to go down near that shop."

Q When he gave you six dollars to go to Boston did you go? A No, sir. He went down and borrowed five dollars from one of the employees.

James H. Galvin, cross.

Q You got the $6 to go to Boston and didn't go? A Yes, sir.

Q Why didn't you go? A Because I didn't want to leave my family.

By Mr. Lum.

Q What time did you start to drink? A I must have started early, around two o'clock, one o'clock, around there. I can't remember.

Q And you drank continuously until you went to the police station? A Stayed two days and then they let me go on my own recognizance.

Q No charge against you? A No charge at all. They went to court and didn't put no charge against me.

By Mr. Kalisch.

Q Where did you go for lunch that day? A What day?

Q On the day you went on this drunk? A I don't remember.

Q You started, you say, about one o'clock on the drunk? A Yes, about one o'clock.

Q Where did you start? A I guess Murray's was the first place I went in.

Q On Market street? A Yes.

Q Where did you go from there? A Down at Smith's.

Q Where is that? A Mulberry street.

Q In Newark? A In Newark.

Q Were you alone? A No, there was a couple of more fellows along with me.

Q Who were they? A One was named Skillman and Johnny Brown I know was the other one.

Q Where did you go from Smith's? A I don't remember. This fellow went with me. All

Joseph Farrell, direct.

I remember was this scheme was to get me over in a saloon near Treat place. I forget the name. I know the name of it.

Q About what time was that? A I don't know what time it was to tell you the truth.

Q Was that late in the afternoon? A It must have been late, it must have been night time.

Q Were these men with you all that time? A One of them was with me.

Q One of them was with you? A Yes.

Q Is that your signature? A No, it don't look like it.

Q Will you swear on your oath it is not? A No, I will not swear.

Q If it doesn't look like it, you know your own signature? A I never make two marks in a J, not this way. That don't look like mine.

Q Will you say it is not? A Yes, sir, I will say it is not. They might have part of it, but I know that H and the J ain't mine.

Marked D. 1 for identification.

Mr. Kalisch. I would like to reserve the right to call this man on cross examination because Mr. Pomerehne who took this affidavit is on his way up.

JOSEPH FARRELL, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your occupation? A Lieutenant of police, police headquarters.

Q And have been such for several years? A Twenty-five years.

Q Do you remember in February being called to the office of the Newark Sign Advertising Company? A I do.

Q What time? A Between six and seven o'clock.

Q How did you come to go there? A I received, Captain Tuite received a telephone call to—

Mr. Kalisch. I object to that and ask that it be stricken out.

Q You were sent up there? A I was sent there.

Q You went up? A I did.

Q What did you do when you got there? A I seen Mr. Kelly.

Q He was the manager? A He is the manager, I believe.

Mr. Kalisch. I object to that.

Mr. Lum. Strike it out.

Q You say you saw Mr. Kelly, had a talk with him? A I did.

Q Where did you remain? A In the office.

Q Did you see Mr. Galvin, who just left the stand? A I did.

Q Where did you first see him? A He was in the inner office.

Q Did you see him go downstairs? A I seen him start to go downstairs but I didn't see him go down.

Q You then took him in charge? A I met him in the street, Treat place.

Q You took him in charge? A Put him under arrest.

Q Took him down to police headquarters? A Yes, sir.

Q Will you tell us whether or not you sent for anything for him? A I didn't then, but a couple of hours after he was hollering for a drink

and to let him out and I went downstairs and got him a little drink of bromide.

Q To quiet him? A Quiet him down.

Q He was decidedly intoxicated? A He looks like a man to me who has been suffering from delirium tremens.

SAMUEL H. DAWSON, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q Where do you live, Mr. Dawson? A St. George's avenue, Rahway.

Q How long have you lived there? A About twenty years.

Q Do you own any property there? A Yes, sir.

Q Do you remember along in December, 1914, any incident? A Yes, sir.

Q Do you know the automobile of the Newark Sign, Poster Advertising Company? A Yes, sir.

Q Tell us whether or not you saw it there at that time. A Yes, sir, I saw it there.

Mr. Kalisch. I shall object to that. I would like to have the opportunity of cross examining him to know the source of his knowledge.

The Court. You may cross examine at this time.

By Mr. Kalisch.

Q Did you ever see that automobile before? A Yes, sir.

Q How often? A Several times.

Q What was the date that you saw this automobile? A On the 23d.

Samuel H. Dawson, direct.

Q 23d of what? A December.

Q What year? A 1915.

Q 1915? A Yes, sir.

By Mr. Lum.

Q Who did you see there on the 23d? A See two gentlemen, one of them was this boy here a few minutes ago and another man. They were loading some posts that were left over from the sign and I seen Mr. Galvin and the man who acquired the right of way come across my yard and over toward the railroad track.

Q And the man who was with Mr. Galvin when he went across your place was the man who hired the place from you? A Yes, sir.

Q Which way did they go? A Right across my place and over toward the railroad track.

Q Then where did they go? A Over on the bank where they were levelling the road.

Q Did you see them do anything? A I see them point. I don't know what they were talking about.

Q What were they pointing at?

Mr. Kalisch. I object to that. It is a conclusion.

The Court. If he saw him point at something it would be competent.

By the Court.

Q What were they pointing at? A Towards some signs, as near as I could see. There is a house back of those signs. They was pointing in the direction of St. George's avenue toward the railroad, toward the west.

Samuel H. Dawson, cross.

By Mr. Lum.

Q The next day did you see anyone there? A Yes, sir.

Q Who? A Mr. Galvin.

Q What did he have with him? A He had, I don't know what to call them chains they put in the corners where they have sign boards.

Q Was there a new sign put up there? A Yes, sir.

Q Whose was that? A The Newark Advertiser Company or Poster Company.

Q What did he do? A Went down and cut these signs down.

Q What was done with the lumber after it was cut down? A I got it.

Q How many signs were cut down? A I think there were seven or eight; I ain't very sure.

Cross examination by Mr. Kalisch.

Q You don't know whose sign posts they were? A Yes, sir.

Q You didn't examine them? A Yes, sir.

Q You did examine them? A Yes, sir.

Q Whose were they? A Two of them Gude Company because the sign was on the top, the Advertising.

Q You knew that they belonged to the Gude Company? A No, sir.

Q How did you know they were Gude signs? A After I seen the name on top.

Q Then you knew they belonged to the Gude Company? A I didn't know who they belonged to.

Q What did you think, "Gude Company" stood for? What did it mean when you saw it on the sign? A What did I think it meant?

Q Yes. A I didn't know what it meant. This man with him, he helped him cut down the signs.

Q Who did you think they belonged to? A He told me the Newark Advertiser Company had bought out the other company and these signs were cut down.

Q Why did you think they were Gude signs? A Because the name was on the top.

Q You bought those signs, didn't you? A No, sir.

Q Didn't you give this man money for them? A No, sir.

Q Didn't you put them up on your property? A No, sir.

Q Are they there now? A No, sir.

Q What became of the wood? A I took the signs back. When they was down I took them and piled the boards up in my place and that gentleman over there, I don't know his name, two of them, came and wanted to know where those boards were and I told them.

Q What became of the boards? A Why, some of them they got back.

Q Who got them back? A Why, the people that own them, the people that own them, the sign people.

Q The Gude people? A Yes, sir.

Q What did they do? A Carted them away, they took them away.

Q Or did they put them up again? A They took them away from my place. I don't know what they done with them after that.

Q Are there signs there now, Gude signs? A Yes, sir.

Q There are? A Yes, sir.

Q In place of the old ones? A Yes, sir.

Edward M. Slocum, direct.

Q Have you seen them there? A The new ones?

Q Yes. A Yes, sir.

Q When did you see them? A I seen them when they put them up there.

Q When did they put them up? A About two months after they took these other ones down.

Q Two months afterwards? A As near as I can recollect it, yes, sir.

Q Were they put up in the same place that the old signs were? A About the same place.

Q Same kind of signs, are they the same kind? A I suppose about the same kind.

Q Just as big as the old ones? A About the same, yes, sir.

By Mr. Lum.

Q What year was this? A 1915.

Q Just last December? A No, a year ago last December.

Q Then you mean 1914? A 1914, yes, sir.

Q You say a few days after a man of the Gude Company came down there and identified the boards? A Yes, sir.

By Mr. Kalisch.

Q Did you use any of that lumber to build chicken coops with on your property? A No, sir.

EDWARD M. SLOCUM, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q Where do you live, Mr. Slocum? A 41 Park avenue, East Orange.

Q How long have you lived there? A Thirteen years.

Q Do you know the Newark Sign Advertiser Company? A Yes, sir.

Q Were you one of the incorporators of it? A Yes, sir.

Q With it at the start, were you? A Yes, sir.

Q As an officer? A Yes, sir.

Q What officer? A Vice president.

Q How long did you remain as an officer? A About eighteen years.

Q When did you cease your connection with the company? A 1911, 1912.

Q Were you also an officer of the other companies that were incorporated? A Yes, sir.

Q When did your interest in all the companies cease? A On that date, that year.

Q What interest did you have in the companies? A Half interest except one share of stock.

Q Were you an officer? A It was held in trust by the third party.

Q Were you an officer? A Yes, sir.

Q What officer? A Vice president.

Q Did you so continue up to the time you severed your connection with the company? A Yes, before I did, if I recollect correctly.

Q Who was the president? A Samuel Pratt.

Q Who acquired your interest in the company when you left? A Mr. Pratt.

Q Did you know Robert F. Brinker? A Yes, sir.

Q How was he employed? A He was employed as solicitor at first and then as general manager.

Q How long did he continue as manager? A Three or four years.

Q Who succeeded him? A Mr. Kelly.

Q Is Mr. Kelly here in court? A Yes, sir.

Q How long did he continue as manager? A I think Mr. Kelly was there about four years.

Q What was he when you left? A General manager.

Q An officer also? A Secretary.

Q While you were there did the companies occupy the same or different offices? A Different offices on Market street and Plane street.

Q You mean they moved? A Oh, yes.

Q Did the companies, themselves, each of them, occupy at all times the same offices? A All the time, yes, sir.

Q And had the same officers? A Yes, sir.

Q Do you know Mr. Saunier and Mr. Campbell? A Yes, sir.

Q Did they leave? A Mr. Saunier has been there about nine years and Mr. Campbell about seven.

Q When they left do you know what business they went in? A New Jersey Sign Advertising Company.

Q Was it a competitor——

Mr. Kalisch. I object to that.

The Court. I think it is objectionable.

Q What business did they go in? A Advertising, sign advertising.

Q That was the same business that the Newark Sign Company was in? A Yes, sir.

Q Do you know Mr. Pratt? A Yes, sir, twenty-eight years.

Q Will you tell us whether or not you heard him make any statement with reference to the

New Jersey Sign Company continuing in business?

Mr. Kalisch. I object to that decidedly. In the first place, the New Jersey Sign Company is not a party to this suit and in the second place whatever statement Mr. Pratt made, if made, would not be binding upon any of these defendants. I object on the ground that the New Jersey Sign Company are not parties to this suit so whatever might have been said would not throw any light upon this particular trouble.

The Court. I will allow the question.

Counsel for defendant objects to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question repeated). A Yes, sir.

Q What statement?

Mr. Kalisch. I want to be understood as to objecting to all this.

The Court. Yes.

A The statement was "To put them out of business in any way that was possible; keep after them, give them a rough house; they haven't got any money, they will go broke."

Q Did he make these statements more than once in your hearing? A Oh, yes, quite often.

Q Will you tell us whether or not Mr. Kelly was ever present when these statements were made? A No, sir; didn't know Mr. Kelly at that time.

Q Did he say anything about how much money the New Jersey people had?

Mr. Kalisch. I object to that.

The Court. I do not think that is competent.

Q What did he say with reference to their continuing in business?

Mr. Kalisch. I object to that. I object to all this business of the New Jersey Sign Company.

The Court. I will allow that question.

Q What did he say with refernce to their continuing in business, their ability to continue? A They would not be able to continue.

Q Did he say why? A They would go broke and he would put them out.

Q Did he say anything about anybody else doing business in this territory?

Mr. Kalisch. I object to that.

The Court. I think that is competent.

A "There is nobody got any business in this territory except you and I, have they, Slocum?" I said: "Yes, sir, they have been there before we were and they are all right as far as I know. All friends of mine."

Q Will you tell us whether or not you ever heard Mr. Pratt say anything about New York thugs in connection with signs? A Yes, that was spoke of.

Mr. Kalisch. I object to that for the same reason. I don't know what they are bringing in, general statement as to New York thugs.

The Court. I do not think that is competent. I sustain the objection.

Mr. Lum. I would state that it is to lay the basis for connecting Mr. Pratt with the work of New York thugs in connection with signs.

The Court. You may have your objection.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q Did he say anything further about methods of putting them out of business? A Putting them out of business, putting competitors out of business? A Putting posters on the front.

Mr. Kalisch. I object to that.

A Covering them with posters.

Q What did he say about that?

Mr. Kalisch. I object to that, same objection.

The Court. The question is proper.

Q What did he say? A That he would get some posters printed, sent over and put them out, covering the signs.

Q Who wrote out the printing for the posters?

Mr. Kalisch. I object to that.

The Court. If you know.

Q If you know. A Mr. Pratt.

Q Did you see him do it? A Yes, sir.

Q What did he write out?

Mr. Kalisch. I object to that.

The Court. You may answer the question. All this line of examination is proper.

A There was two posters that was used. I forget—one of them was "Old Dr. Gude's Plasters," or something like that.

Q After he wrote this out were any such prepared, do you know? A The last one?

Q Yes. A The first ones were not used; very few of them. They were thrown away.

Q What were they?

Mr. Kalisch. I object to that.

The Court. I think that is competent. Anything that was done that would show a

conspiracy to injure these parties I think is competent.

A The last one Mr. Pratt wrote out and handed to Brinker. We were there in the office.

Q Who was Brinker? A He was the manager. "Now," he says, "go get these printed in some Jim Crow house in New York and come over here and use them. Don't get cold feet like Slocum did and the others."

Q What was on these pasters? A That was the last night. I forget what it was. Something like "Old Dr. Gude's Syrup Never Fails." They were both nearly the same.

Q Were any of these brought over to your office? A The last?

Q. Yes. A They were all brought there.

Q Did you see any of them put on other people's signs about the city? A All around; yes, sir.

Q Were they painted, plastered or what? A Posted with paste.

Q Did you see any of these signs, after you saw them, on signboards around? Did you see any of them in the office? A Yes, sir; billing room.

Q Did you go to the manager about them? A Spoke to Mr. Brinker.

Q What did you say?

Mr. Kalisch. I object to that.

(Question withdrawn).

Q After you spoke to him did you see any of them around the office? A No, they were taken away.

Q You remained with the company after Mr. Kelly came? A No, I didn't work there then. I was on the toboggan and I went down sliding.

Q Did you have an office there? A I kept getting moved out into the reception room at the head of the stairs.

Q What office did Mr. Kelly hold while you were out in the reception room? A He was made bookkeeper and then made secretary or manager.

Q Did you ever hear him speak to any people who came in to see about renting sign space? A Oh, yes.

Q Did you ever hear him say anything about competitors? A I don't recollect very well about that. I know a good deal of conversation came up.

Q Will you tell us whether or not you heard Kelly make any statement about any of their competitors being financially good or bad? A Yes, he used to come in quite often and say: "Your friend, Campbell, will be broke pretty quick; he hasn't got any money." Some remarks like that, quite often.

Q Did you ever hear him make any remarks to any people who had places to rent with reference to their ability to pay? A Yes, I heard that twice.

Q What was said? A They were right near my desk at the head of the stairs in the reception hall.

Q What was said? A That the New Jersey Sign Company couldn't pay any rent, they couldn't pay any rent.

Mr. Kalisch. I object to this, any testimony in regard to the New Jersey Sign Company. I don't want to be objecting to every question.

Cross examination by Mr. Kalisch.

Q What business are you in? A I am not in any business now.

Q What business were you in? A When, what time; outdoor advertising.

Q The same as the Newark Sign Company? A Yes, sir.

Q In competition with them? A No, sir; I built the Newark Sign Company, Bill Poster Company, in 1890.

Q How long were you with them; when did you leave; when did you sever your connections with them? A About 1911, I think it was.

Q Did you go into the outdoor advertising business? A Took a plant down at Asbury Park down to August.

Q What kind of a plant? A Bill posting.

Q How long were you in that business? A After August?

Q Yes. A About three years, if I remember right.

Q That is up till 1914? A Yes.

Q What has been your business from 1914 to now? A I started the advertising business, Slocum Advertising Company.

Q Where is that? A That has gone out of business.

Q Where was that business? A 83 Orange street.

Q In Newark? A Yes, sir.

Q Was that the same kind of business that the Newark Sign Company was in? A Yes, sir.

Q Did your company fail? A Yes, sir.

Q In the hands of the receiver? A Yes, sir.

Q When you originally left the Newark Sign Company, under what circumstances was it? Did

you leave there of your own accord, Newark Sign Company; did you leave them of your own accord? A In October, 1908, Mr. Pratt and my salary, cut them both off. He was drawing a salary, so was I.

By the Court.

Q Cut both your salaries? A Yes, sir. I had no other way of getting money, carrying on my home, and I put some stock in the bank, raising money on that.

By Mr. Lum.

Q Is that the occasion when you left them? A That is the occasion I had to leave because that was taken up by Mr. Pratt.

By the Court.

Q You mean the bank called your loan and called your stock? A No, it was taken up to be taken care of by Mr. Pratt, but I had no way of getting money to take care of him. It was taken by him and I lost all the stock which I held.

By Mr. Lum.

Q That let you out? A Let me out.

Q Did the Newark Sign Company interfere with your business during this last year as the Slocum Advertising Company? A I don't think so.

Q Do you know whether they tore down any of your signs, of the Slocum Advertising Company? A Yes, they took down some.

Q Your signs? A Yes, Slocum Advertising Company.

Q Where? A Three chains and eight chains this side of the Lehigh Valley crossing on the Plank Road. They also closed out—

Q Were those signs on property which was afterwards leased by the Newark Sign Company? A Yes.

Q They had leased that property? A They did afterwards.

Q And your lease had expired? A I didn't have any lease there.

Q You didn't have any lease? A I had no lease.

Q They had leased the property for their signs and tore your signs down? A Yes, sir. I had the privilege of putting them there.

Q They had leased that property and then took your signs off the property? A When they leased it, yes.

Q That is the only interference that you know of? A They closed out, covered up the front, two of them over on Branford place just off Washington street.

Q That was property they had leased? A No, I had the privilege from the Newark Sign Company.

Q Did the Newark Sign Company lease that property? A Yes.

Q That is what they took down? A They didn't take that down. They are up there yet.

Q They put their sign in front? A Yes.

Q You had no lease on that property? A No lease.

Q Just privilege? A That is right.

By the Court.

Q Where was it they made the statement you were testifying to? A That occurred quite often when Mr. Pratt used to come over to New York.

Q About what year? A It went over several years.

Q When was the last? A About the last, I remember, was 1907, I think; 1906 or 1907.

Cross examination by Mr. Kalisch.

Q That was the last conversation? A We didn't have many conversations after that.

Q That was the last one that you had? A I can't tell you.

Q Do you know the year? I don't want you to give the month if you know the year. A I think it is in 1907.

Q That is your recollection of it? A Yes.

Q That is the best recollection you have? A Yes, previous to that every year.

Q But previous to that, the last one was 1907? A I think so, might have been 1908.

Q But you are not sure about that? A No.

Q But 1907 or 1908 is the last one? A The last conversation.

Mr. Kalisch. I move to strike out all that testimony as to this conversation that took place a considerable time before the alleged conspiracy.

The Court. I will not strike it out now.

Mr. Kalisch. I didn't know when this had taken place.

Counsel for defendant objects to this ruling of the Court.

Objection noted as ground of appeal.

Cross examination by Mr. Fairlie.

Q Mr. Kelly had nothing to do with any of these matters you speak of? A I didn't hear that.

Q Had Mr. Kelly anything to do with any of these matters you have testified to? A No, sir.

Edward M. Slocum, cross.

Q The Slocum people do business in this neighborhood? A No, sir.

Q Who bought it in? A Mr. Pratt.

Mr. Kalisch. I object to that. I ask that it be stricken out.

Mr. Fairlie. I have no objection to it being stricken out.

By Mr. Lum.

Q Who did buy out your business?

Mr. Kalisch. I object to that.

Q Mr. Slocum, was it possible for you to continue in business? A No, sir.

Q Did the interference of Pratt and the Newark Sign Company have anything to do with your going out of business? A No, I don't think so.

The Court. He said they did not.

Q You remember when Mr. Kelly came with the Newark Sign Company? A Yes.

Q With reference to his coming, when were these talks with Mr. Pratt? Were not they just before? A Previous to that.

Q Just a short time before? A Yes.

Q That is a matter of a few months?

Mr. Kalisch. He has not said so. He said in 1908 was the last conversation, seven or eight.

Q With reference to Mr. Kelly coming there, when was your last talk with Mr. Pratt—a week before or a few months before, or when, the last talk with Pratt about destruction? A No, had no conversation with him while Mr. Kelly was there.

Q How long before Kelly came there did you have your last talk about plastering signs?

Mr. Kalisch. I do not think that is fair.

The Court. Counsel has a right to get at that. That is when Mr. Brinker was there as manager.

Q The question is how long before Kelly came was your last talk with Pratt, if you know? A About any of this pasting sign business?

Q Or destroying other people's signs? A That was the second year Brinker was there.

Q Was that the last talk you had with him? A Yes, whatever year it was. I think he was there in 1907 or 1908.

Q Can you tell by looking at a memorandum or refreshing your recollection? A I can from what I have home, but I have nothing here.

Q Will you do so and be here tomorrow morning?

Adjourned until tomorrow, Tuesday, June 13, 1916, at ten o'clock A. M.

SECOND DAY.

Tuesday, June 13, 1916.

Met pursuant to adjournment.

Present counsel as before stated.

CHARLES HERMAN, recalled for plaintiff.

Direct examination (continued) by Mr. Lum.

Q Mr. Herman, you testified yesterday you knew Mr. Kelly? A Yes, sir.

Q This location down in Union county, did you ever go there in December, 1914, with Mr. Kelly? A Yes, sir.

Q What part of December? A The early part.

Charles Herman, cross.

Q Who was with you the first time? A Himself the first time.

Q Anybody else? A His wife.

Q What day was it? A On a Sunday.

Q Did you go back to this same place later? A Yes, sir.

Q How much later about? A The following Sunday.

Q Who was with you then? A Mr. Kelly and Kavney.

Q As you came near the spot what happened? A They told me to stop.

Q Did you stop? A I did.

Q What was done? A They pointed toward the signs.

Q And what was said?

Mr. Kalisch. What signs?

Mr. Lum. I am examining this witness. I cannot ask all the questions at once.

A They pointed toward the Gude Company signs and I heard Mr. Kelly say they would be dandy locations.

Q What did Mr. Kavney say? A We will have signs there in a short while.

Cross examination by Mr. Kalisch.

Q Where did you go after you left the court house last night? A I bought a pair of shoes.

Q Where? A Went to buy a pair of shoes.

Q Where did you go then? A To Mr. Lum's office.

Q How long were you there? A Five minutes.

Q What did you do there? A I asked him to call up my office and tell him I would not be there tonight.

Q Who else was in the office? A There was girls there.

Q Who else? A Men.

Q What men? A I don't know who they were.

Q Mr. Kelly? A No, sir.

Q Mr. Kaveny? A No, sir.

Q Any of the other men that you see down here today? A No, sir.

Q Was Mr. Fairlie there? A No, sir.

Q Did you talk about the case? A No, sir.

Q How long were you there, five minutes? A Five minutes.

Q And you only went there to telephone? A I asked Mr. Lum to telephone as I was causing kind of a little trouble for my boss so I asked him to telephone and say he needs me for the case.

Q Didn't say anything about the case? A No, sir.

Q Where did you go from the office? A To my mother's.

Q When did you see Mr. Lum about the case? A This morning.

Q Did you talk to him about the case? A No.

Q Didn't talk to him at all? A No, sir.

Q Who reminded you of this conversation? A Myself.

Q How did you know you were to be called this morning? A I spoke to him about it yesterday after leaving the court house.

Q Who? A Mr. Lum. I told him I didn't testify everything. He told me he would call me again tomorrow.

Q He didn't ask you what you were going to testify to? A No, sir.

Q Just simply took a chance of putting you on the stand and asking you these questions that you have testified to this morning? A I didn't know what chance he was taking. He told me to stay here.

Q Didn't you tell Mr. Lum what you were going to testify to? A No, sir.

Q He asked you about a conversation. How did he know about the conversation, do you know? A Well, I spoke to him about it yesterday. I told him that.

Q What did you tell him? A I told him I had a conversation with Mr. Kelly. That is not a conversation.

Q So you did tell him that? A I told him I overheard a conversation.

Q How much more did you tell him? A That is about all that I can remember.

Q What did you tell him about pointing to the signs as you got down to this place? A That I don't think I remember telling him.

Q He asked you this morning about going down to where these signs were and they were pointing to some signs. What did you tell him about that? A I brought the conversation up.

Q That is just what I want to know so tell me what you told him. A I told him Mr. Kelly pointed towards those signs.

Q Where did you tell him this, where was this? A This morning right here and Mr. Kelly pointed toward those signs and he told Kavney it would be dandy locations.

Q You were served with a subpoena, weren't you? A Yes, sir.

Q You were told last night to return here? A Yes, sir.

Q By Mr. Lum? A Yes, sir.

Q You didn't tell him last night about this conversation? A No, not about this.

JOSEPH F. COLLINS, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q Where do you live, Mr. Collins? A 97 Walnut street.

Q What is your business? A Present business is carpenter, construction work.

Q Were you ever employed by the Newark Sign Company, Newark Bill Posting Company, and so forth? A Yes, sir.

Q When? A I think it was four or five months in the year 1914, in the latter part of the year.

Q When did you leave their employ? A I think it was between Christmas and New Year's —well, between 1914 and 1915. I don't know the exact date.

Q At the end of 1914 or the beginning of 1915? A Somewheres around that time.

Q Who was the superintendent of the construction department while you were there? A Kavney.

Q Do you know a man named Galvin? A Yes, sir.

Q Will you tell us whether or not you heard Kavney—

Mr. Kalisch. I object to that way of putting the question. It is very leading.

The Court. Ask the question, then object to the whole question.

Q Did you hear a conversation in December, 1914, between Kavney and Galvin, yes or no? A Yes, sir, I did.

Q About when as near as you can fix it? A I think it was between half-past seven and eight o'clock.

Q What day as near as you can fix it? A I can't tell you the day. I think it was the day before Christmas.

Q What was said? A All I heard was Kavney says, "Come on, Jim, and let us get them boards down."

Cross examination by Mr. Kalisch.

Q Where do you work now? A I am not doing nothing at the present time.

Q You said you were a construction— A Yes, that is my line of work now.

Q When did you work with the Newark Sign Company? A It was the latter part of 1914 I worked for them. Four months, it may have been five.

Q The latter part of 1914? A Yes, sir.

Q How long were you with them? A About four or five months.

Q That brought you to 1915? A I don't know exactly; around Christmas, between Christmas and New Year's I think it was. I was laid off.

Q You were laid off? A Yes, sir.

Q Where did you go after you were laid off? A I guess I loafed for two or three months.

Q After that? A The next job I had was on that Tramner building, I guess.

Q Where were you just before that? A I don't think I was doing anything.

Q That was the first job? A I think it was if I am not mistaken.

Q How long were you on the Tramner building? A I guess about nine or ten months, close to a year.

Q That would bring you down— A No, I started on the Robert Treat Hotel and there was a strike there and that kind of put me off and then I loafed quite awhile again and then I went to the Tramner building.

Q How long is it you haven't worked from now; I mean, how long since? A Since I got finished on the Tramner building.

Q No, how long since is it you haven't worked, how long back, you are not working now? A No, sir.

Q How long is it since you haven't been working? A I should judge about two months.

Q Where have you been during that time? A I have been around my home and around with the boys I know and all like that.

Q Just before those two months where had you been? A Working every day.

Q Are you a married man? A Yes, sir.

Q You haven't been in jail, lately, have you? A No, sir.

Q Sure about that? A No, sir, never seen the inside of a jail.

Q Were you locked up here recently?

Mr. Lum. I object. That is highly improper.

A No, sir.

The Court. You need not answer that. It is not proper.

Q Who was with you when you went down to see these signs? You didn't go down, you heard the conversation? A I just heard the conversation.

Q Was this after office hours? A What do you mean?

Q When you heard this conversation, I mean after business hours? A It was in the morning. He had sent all the men out and I hadn't done any for two or three days and when I came in he didn't send me right over. He wanted to find out what was the matter with me and that is what kept me late.

Q You didn't get any orders that morning concerning those signs from Kavney? A Only to go down, I think it was, to Elizabeth.

Q You didn't get any orders concerning that sign? This conversion was between— A Between Kavney and Galvin.

Q You didn't get any orders? A No, sir, I did not.

Q And that took place in the office of the Newark Sign Company? A In the construction room.

Q That is down on Treat place? A At that time they were in Treat place on the second floor.

THOMAS F. J. KELLY, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q Mr. Kelly, you are one of the defendants in this suit? A Yes, sir.

Q Were you ever employed by the Newark Bill Posting Company, Newark Sign Company, Newark Poster Advertising Company? A Yes, sir.

Q You were one of the officers of that company, it has been said; is that true? A Yes, sir.

Q What officer? A One time secretary and treasurer, but later years, up to February 1st, 1916, treasurer.

Q When did you go with that company? A January 1st, 1910.

Q How long did you stay with them? A Six years and one month.

Q When did you leave? A February 1st, 1916.

Q Where do you reside? A 240 Heddan street, Newark.

Q How long have you lived there? A One and a half years.

Q What is your present business? A Engaged in financing a sales company, putting a spark cap on the market.

Q While you were with these companies did you hold any stock? A Yes, sir.

Q How many shares? A Fifty-nine shares of the holding company, Newark Bill Posting Company—I beg your pardon, fifty-six shares of the holding company, the Newark Bill Posting Company, two shares of the Poster Advertising Company and one share of the Newark Sign Company.

Q Who held the balance of the stock? A Mr. Pratt.

Q Who was president? A Mr. Pratt.

Q What was the position of Kavney in these companies? A He came with us in 1911. He just was over the painters for two years, and we worked him in a space and we thought we saw something in him and we made him superintendent for a year.

Q What was your position? A From February 12 down manager, up to the time I went away on a vacation in November, 1915.

Q Where did Mr. Pratt live? A New York City.

Thomas F. J. Kelly, direct.

Q Do you know a man named Cullen while you were with the company? A Yes, sir.

Q What is his full name? A Michael J.

Q How long had he been with the company? A Since its foundation I believe, or thereabouts within one or two years.

Q What were his duties? A Last fifteen or eighteen years superintendent of the Bill Poster.

Mr. Kalisch. I object to this and ask to have this stricken out. This man here has not been in the employ of this company for the last eighteen years that I know of. Any information he might get concerning the time he was not there would be necessarily hearsay.

Witness. The records will show that.

Mr. Kalisch. I ask to have that stricken out.

The Court. Strike out that question and answer.

By the Court.

Q Only what you know from the time you were connected with the company. A Yes, sir.

By Mr. Lum.

Q What was the position of Cullen with the company while you were there? A Superintendent of the bill posting department.

Q Did you know Mr. Pratt? A Very well indeed, to my regret.

Q Was or was not he interested in the business of competitors in this section? A That is the first and last thought. My bone of contention for six years.

Q Do you know of anything that he ever did with reference to doing away with the signs of

other companies? A Why, yes. Must I answer that?

The Court. Answer the question.

A Why, on his weekly visits to Newark, over the phone, and even by letter, that is his first and last thought.

Mr. Kalisch. I object and ask to have that stricken out.

Q What he said to you personally? A He would pick out.

The Court. Do not answer when there is an objection.

Mr. Kalisch. I ask to have that stricken out, "First and last thought."

The Court. Yes, strike that out.

Q What did Pratt say to you with reference to doing away with the signs of others doing business in this neighborhood? A He would pick out five or six of a Sunday coming over on the railroad.

Mr. Kalisch. I object to that and ask that that be stricken out.

By the Court.

Q. What did Mr. Pratt say to you? A When I started with the company the understanding was to do away with all the competitors in the State of New Jersey.

The Court. It will be stricken out.

Q. (Question repeated.) Confine yourself to what he said to you? A May I start with the connection of the company, Mr. Fairlie?

The Court. You can not answer Mr. Fairlie; just answer the question. If you can not answer, say so.

A Is this on one occasion or all occasions?

Q (Question repeated). A On the first occasion.

Q When did he first speak of it and when was it? A My talk to him in his office at that time in the Metropolitan Building, when I met him in November, 1909, on an introduction to him through my cousin, Joe Flynn.

Q What did he say to you with reference to doing away with the sign?

Mr. Kalisch. I object to that on the same ground that I object to other testimony yesterday as taking place at a time which could not possibly have any bearing upon this case, the foundation being laid in 1910, and this conversation taking place in 1909.

The Court. I will allow the question.

Counsel for defendant prays an exception to the ruling of the Court. Exception noted as grounds for appeal.

Q (Question repeated.) Of competitors? A I can continue.

By the Court.

Q Tell us what he told you in November, 1909? A He was having a very sloppy management over here.

By Mr. Kalisch.

Q You are saying what he said.

The Court. Yes, this is the conversation in New York in 1909? A And made arrangements with him to come over here.

Mr. Kalisch. I object to that.

The Court. You can not give any conclusions. You must state what Mr. Pratt said to you and what you said to him.

Thomas F. J. Kelly, direct.

A This is not conclusions. These are absolute words.

By Mr. Lum.

Q What did Pratt say to you with reference to destroying the signs of other people in this neighborhood?

By the Court.

Q What we want is the conversation and we will let the jury draw the conclusion? A I can give you the conversation word for word.

Q Go on. A He made arrangements with me to come over here.

Mr. Kalisch. I object to that.

By Mr. Lum.

Q What did he say? Made arrangement is not what he said. A I want to give him the benefit of everything he said.

Q Tell me what he said and that is all? A At that time there was very little said, nothing more than to give me the understanding.

Mr. Kalisch. I object to that.

Q What did he say? A Then the later time after I came over here.

Q What did he say the latter time? A That that the competitors in this State in our line of business would absolutely have to be put off the map.

Q When did he say that? A That was along in the middle of 1910 after I got started.

Mr. Kalisch. I want to object to that as being too early a day.

The Court. Question allowed.

Counsel for defendants prays an exception to the ruling of the Court. Exception noted as grounds for appeal.

Q Was anybody else present when he said this? A Mr. Brinker, the manager at that time.

Q Where did this take place? A In the office in our place.

Q Did he have any conversation with you later on the same subject? Yes or no. A Weekly.

Q What was said at these later conversations? A This same subject, destroying other competitors' signs.

Q What did he say?

Mr. Kalisch. I object to that and ask that it be stricken out.

Mr. Lum. Strike it out.

Q What did he say? A Gave me a list of certain locations to have done away with.

Mr. Lum. Strike that out.

Q. What did he say? A I don't quite understand that.

Q I asked you what he said and what you said. He gave you a list of signs. Mr. Kalisch objects to that, so then I asked you what he did. Did he give you a list of signs or not. A Yes.

Q What list did he give you?

Mr. Kalisch. I object to that.

By the Court.

Q Have you got that list? A No.

By Mr. Lum.

Q What did you do with the list? A Filed it in the file they had for that purpose.

Q Out of the records of the Newark Bill Posting Company? A Yes, that is another position.

Mr. Lum. I demand that such list or records be produced?

Mr. Kalisch. There is no such list in existence and Mr. Kelly knows it. Mr. Kelly was manager for years. No such list ever existed.

Mr. Lum. I object to that unless Mr. Kalisch wants to be sworn and subject himself to cross examination.

Mr. Kalisch. You asked the question, and I am telling you there is no such list in existence.

Mr. Lum. The list not being in existence, I am entitled to produce the next best evidence.

Q Mr. Kelly, what locations were included in that list?

The Court. I will allow that question. You say there is no such list and the witness says there is. It is a matter of creditibility for the jury to determine.

Q You understand the question? A No.

Q What locations were included on that list which you said Pratt gave you? A I can't remember the specific locations at this time.

Q Can you remember any of them? A They were general locations along the railroads; further specifically I can't say.

Q Did he make any arrangement as to what specific thing should be done to the signs of competitors?

Mr. Kalisch. Resume.

Q Pratt and you? A Yes.

Q What? A The burning of the braces, knocking off of the braces, having them pasted over with pasters he had made in New York and sent over here.

Q These pasters which he had sent over here, what was on them? A I recall one as Mrs. Gude's heart plasters, some joke on Gude anyway.

Q Something about Gude's heart plasters? A Yes, sir, something of that kind.

Q What was done with those signs, if you know? A A great many of them were put up?

Q Where were they put up? A The balance were burned.

Q On whose signs were they put up? A Indiscriminately.

Q Your own signs or signs of competitors? A Oh, no, not at that time; they wasn't put on our own.

Q Put on signs of competitors? A Yes.

Q Did you ever take any trips in an automobile with Pratt? A Many occasions.

Q On week days as well as Sundays? A More often on a Sunday. Very few times weekdays.

Q Did you ever go with him down in Union County? A Many times.

Q Will you tell us whether or not he ever pointed out to you any signs?

Mr. Kalisch. I object to that. I think that is highly leading.

The Court. Finish the question.

Q Will you tell us whether or not he ever pointed out to you any signs of the O. J. Gude Company?

The Court. I think that is objectionable.

Q What did he do with reference to pointing out signs, if anything? A Why, whenever he would go out with me he would always point out signs, wanted to know what business other people had over here except us.

Q Will you tell us whether or not you were with him in the spring of 1915 down near Rahway on St. George's avenue? A No, I don't think so.

Q Were you ever with him on a trip when the superintendent of the construction department was with you? A I recall a trip like that in 1914.

Q What happened on that occasion? A We were on our way from Perth Amboy and we slowed up on St. George's avenue, at the crossing there, I think it is called Jake's avenue, where there has been for a number of years some twenty or twenty-five competitive signs. Pratt said he wanted those all out of there the next Sunday he came over. That was up to me to get them out of there.

Q Who was this superintendent that was with you? A Hugh J. Kavney.

Q Was any instructions given to you by Pratt as to securing the locasions of competitors by paying higher rental?

Mr. Kalisch. I object to that. That is very leading.

Q What, if anything, was said to you by Pratt with reference to locations of competitors?

Mr. Kalisch. Of course, this question is objectionable in another way, but I think it is a very unfair method to first put the leading question, knowing that it is objectionable, and then after it is objected to to put a general question after giving the witness the idea of what he desires. I object to it on the ground it throws no light on the question because business rivalry is something that goes on every day in the

week and the mere fact that that business rivalry exists as it does with this concern does not show any evidence of any conspiracy.

The Court. I will allow it as a circumstance to go to the jury.

Counsel for the defendant prays an exception to the ruling of the Court. Exception noted as grounds of appeal.

Q (Question repeated.) A Why, on his weekly talks he would talk in any way to get the competitors' locations either by taking them down or higher renting them, go our limit.

Q You recall a sign of Cowperthwait & Van Horn Company on Market street, near Plane; you recall such a sign? A No, only by hearsay.

Q Will you tell us whether or not Mr. Cullen was ever with you and Mr. Pratt? A I can only recall Mr. Cullen being with me and Mr. Pratt on two or three occasions.

Q On any of these occasions what instructions were given with reference to signs, if any, when Cullen was present? A None that I can recall.

Q You have no recollection of signs of Cowperthwait & Van Horn Company on Market street? A Before my time.

Q Was Mr. Slocum in the employ of the company while you were there? A He was there as an officer with no salary.

Q Tell us whether or not a man Ray was in the employ of the company while you were there? A Yes, he was in the employ of the construction department.

Q Was Galvin? A Yes.

Q Collins? A Yes.

Q How many employees at the most did this company ever have? A In all departments?

Q Yes. A As high as eighty-six.

Q At one time? A Yes.

Q Tell us whether or not Herman was in the employ of the company while you were there? A Herman, yes, sir.

Q What capacity? A Chauffeur.

Q Will you tell us whether or not anything was ever said to you by Pratt with reference to hurting other people with reference to signs? A Yes.

Q What? A Along in 1913, as I recall it, Mr. Pratt was very much dissatisfied with the effort that was being put forth to knock over—

The Court. Strike that out.

Q What did he say to you? A He said he would steer the ship from New York.

Q What was done by him in steering the ship from New York? A He engaged an ex-murderer by the name of Sharkey.

The Court. Strike that out.

Q Do you know what he did? A Yes.

Q Of your own knowledge, what did he do? A The knowledge I have in reports from Mr. Pratt.

Q Who did he engage?

Mr. Kalisch. I would like first to cross examine him on that.

The Court. Yes, you can do that.

By Mr. Kalisch.

Q You say you know he engaged some one else? A I do.

Q Where was he engaged from? A New York.

Q Were you in New York? A No, sir.

Q You attended to the business here? A Yes, sir.

Q And Mr. Pratt attended to the business in New York? A Yes, sir.

Q I mean his own business? A Yes.

Q Did you go over there or did he come to Newark? A He came over here oftener than I went there.

Q Were you there on the day the man was engaged? A No, sir.

Q You found him afterwards in the employ of the company? A No, sir.

Q He wasn't employed? A Not on the payroll.

Mr. Kalisch. I object to his testimony.

By Mr. Fairlie.

Q From what source, Mr. Kelly, do you have your knowledge of the engagement?

Mr. Kalisch. One moment. I don't know that he has the privilege of cross examining.

The Court. You ask for the privilege of cross examining the witness?

Mr. Fairlie. Yes.

Q From what source have you your knowledge of the alleged engagement of this man Sharkey? A From Pratt's verbal advice to me.

Mr. Kalisch. I object to that and ask to have that stricken out. It is a conclusion what his advice is. I would like to know what was said.

The Court. You may ask the question.

Thomas F. J. Kelly, re-direct.

By Mr. Kalisch.

Q What do you mean by verbal advice? Who advised it? A Advice, his advice to me.

Q What did he say? A Certainly, I can tell you that.

Q Was it verbal or by letter? A Engaged Tom Sharkey who had taken care of similar things for him in New York when he was in the active management of the Van Buren Company before he was eliminated over there.

By Mr. Lum.

Q Did he say anything about payment for this? A He said it would not be very long. We would have to pay the bill.

Q What arrangements were made? A Mr. Pratt engaged him over there and we were to pay the bill.

Q What did Mr. Pratt say?

Mr. Kalisch. One minute.

The Court. What conversation took place between Mr. Pratt and this witness is perfectly competent. The only trouble is the witness using so much of the time by stating conclusions.

Q I want to know what Mr. Pratt said to you with reference to payments to be made to Sharkey? A He would pay him in New York and we would reimburse him from the Newark Company.

Q Did he say from what fund that would be charged? A The usual fund of that kind for detectives.

Q How much was paid? A Several payments. I gave him around $1,500.

Q Was Mr. Pratt reimbursed for all of that? A Yes, sir.

Q Were any reports made? A Yes. I received a daily report from Mr. Pratt.

Mr. Lum. I ask for the production of that report from Mr. Pratt.

Mr. Kalisch. There are no such reports in existence.

Q What part of 1913 as near as you can fix it? A I fix it the cold weather of 1913. Whether it was the beginning of the cold weather or the end of the year I do not remember. The cold weather was decided upon as the most opportune time.

Q Why was that? A Because the principal work was along the railroad.

Mr. Kalisch. I object to that.

Q What did Mr. Pratt say? A He said the early hours in the morning in cold weather people were not out.

Q Do you know a man named Frank? A Yes, sir.

Q Was he ever employed by these companies? A Off and on.

Q Do you know who employed him? A Mr. Cullen employed him under my management as superintendent.

Q What were his duties? A Why, he had various duties with the company. One time he was caretaker, one time distributor, and one time, a third engagement, as I recall it, he was hired for a special prupose.

Q Who hired him the third time? A I did.

Q Was Mr. Pratt present? A No, sir.

Q Was he ever engaged by Mr. Pratt in your presence? A Not personally, no.

Q For what purpose was he hired on this special occasion? A To get a paste bucket from the bill room. He was given a key for this purpose, furnished with old newspapers and told to go out and get busy.

Q Doing what? A Covering up all signs except the signs of our company. In a few cases to cover a few of ours in order to have it show that we were being abused as well as our competitors.

Q Do you know where Frank is now? A I seen him around here yesterday somewheres.

Q Did the Gude Company have any signs out on the meadows that attracted attention? A Yes, they did.

Q Did Pratt ever speak of those to you? A Yes, he did.

Q Do you know whether those later came down? A A great many of them.

Mr. Kalisch. I suppore that is hearsay. I object to it.

Q Did you see them down? A Yes.

Q Did these reports that you referred to speak of these signs on the meadows? A Full report, detailed report.

Q What did it say with reference to that? A Each specific sign, the number of feet, length and height, whether they were flopped entirely, whether the bases were knocked off or burned, what was done at each location, was mentioned so it could be properly checked up.

Q So you could tell whether you would be paid? A Whether the man was earning his money or not.

Q Where were those reports filed? A Private drawer in the office.

Thomas F. J. Kelly, re-cross.

Q Were they there when you left? A Yes, sir.

By the Court.

Q What was Mr. Pratt's business? A Sign advertising business.

Q Any other sign advertising business besides this one? A Oh, yes, throughout the country, various interests.

Cross examination by Mr. Fairlie.

Q Did Mr. Pratt ever say anything to you about the instructions which you gave to Mr. Frank over here or after you gave the instructions to Frank? A Oh, yes, he wrote them out with me.

Q Answer my question by saying he said, If you cannot answer that way don't answer. What did Mr. Frank say to you? A He wrote the terms.

Q No, Frank said what? A That a new method was to be used, that we hadn't any system, so he came out early in the morning and covered as many signs as possible with old papers or destroyed them.

The Court. Strike that out as not responsive. You may answer the question again.

Q Did he say anything in regard to the instructions you gave Frank before you gave those instructions? A Yes.

Q He said what in that regard? A That we were to hire Frank to come out and cover up these signs and the early hour of the morning was the proper time as he thought.

Q Did Mr. Pratt say anything to you at about the time he employed Mr. Sharkey concerning his

satisfaction or dissatisfaction with your management? A Yes; he did.

Q What did he say, concerning what? A He was very much put out.

Q He said what? A He told me he was dissatisfied with the little pressure I was putting on to drive competitors out of business.

Q Did you or did you not make an effort to follow out these instructions which Mr. Pratt gave you concerning competitors? A In a lukewarm kind of way at times, and other times I put some effort forth.

Q Did Mr. Pratt ever say anything to you as to your job depending upon your following his instructions? A Yes.

Q He said what?

By Mr. Kalisch.

Q When was this? A Annual meeting, if I recall it, in 1914—no; the annual meeting in 1914 after we had taken over and bought the New Jersey Sign Advertising Company.

Mr. Kalisch. I object to this. I ask to have it struck out. I ask that the latter part be stricken out.

The Court. Yes; that latter part is not responsive and will be stricken out.

By Mr. Fairlie.

Q Now, you have fixed the time. He said what? A He said that more effort must be put forth the following year so as to do away with these competitors.

Q Did he say anything about a change in management if more effort was not put forth?

Mr. Kalisch. I object to that; it is leading.

The Court. Yes; it is leading.

Q Did he say anything further at that time in this regard, and, if so, he said what? A Not that I recall. I only recall his manner on that occasion.

Mr. Kalisch. I ask to have that stricken out, about his manner.

The Court. Strike it out.

Q Was there ever any other occasion where Mr. Pratt spoke to you about your job continuing, depending upon the maner in which you carried out his orders? A Yes; the last time I left for an extended vacation in November last.

Q And then he said what? A We were still slipping up on our program that he had laid out with me, to put the pressure on the competitors in any way that was possible.

By Mr. Kalisch.

Q You say you followed out these instructions in a lukewarm way. What do you mean by that? Just what instructions did you follow out and how did you follow them out? A Instead of putting more effort I would put less. On a list of ten signs I would have two removed.

Q That was one occasion? A Yes.

Q What was that occasion? A And that effort would let up and probably would not do anything until he would raise ructions again.

Q How did that, how often would he raise ructions? A Weekly, twice weekly.

Q Beginning when? A After I assumed the active management.

Q When was that? A Early 1912.

Q This happened about twice a week? A Not continuously as often as that. Sometimes not once a month. Mr. Pratt might be away two

or three months at a time. That is the only rest I got.

Q Did you see the orders carried out yourself? A At times.

Q How did you do that? A Through the issuing of the orders to the construction department superintendent.

Q How did you give them, in writing? A Those orders were always verbally.

Q Did you see that they were carried out? A Yes.

Q How often did that happen? A That depended at the time of the year and just what we were working at and just what orders we were following out.

Q How many times did you give orders during the year 1912 to destroy other people's signs or paste them over or in any way injure them during the year 1912? A During that year there was a standing order.

Q From you? A Yes.

Q Did you mention the territory? A All through the nine counties that we operated in.

Q Through all the nine counties that you operated in you gave orders to destroy or paste over, or in some way damage the signs belonging to other people; that is correct? A That is correct; yes, sir.

Q After you gave those orders, did you see that they were carried out as much as you could? A As far as in my power.

Q You didn't go through all the counties? A No.

Q What counties did you go through? A Essex, Union, Middlesex.

Q Essex, Union and Middlesex; any others? A Hudson.

Thomas F. J. Kelly, re-cross.

Q How did you go through, by train or automobile, or how? A At that time train and buggy.

Q Where did you get this buggy? For instance, how did you go from here? A Harrison avenue, Kearny avenue.

Q Tell me what signs were there that you ordered to be destroyed or damaged? A I don't remember that.

Q You don't remember. Do you know how many? A In the particular locality?

Q Yes; that locality? A Hudson County, I can recall on Kearny avenue, near the Court House, a sign of Cowperthwait & Van Horn's, brace knocked off so the weather would knock it over when a storm came along.

Q You gave orders for that? A Yes.

By the Court.

Q What do you mean by that. You say the braces were knocked off? A The idea is that the braces were knocked off in the latter part of the summer. They will stand up, and when the fall will come the elements will throw them over, the winter time.

By Mr. Kalisch.

Q How are those signs braced? A Posts in the ground, a stub and then a brace from the top to the stub.

Q Where would you knock that loose? A At the stub.

Q And let it stand, let the wind blow it over later? A Yes.

Thomas F. J. Kelly, re-cross.

THOMAS F. J. KELLY, sworn in behalf of plaintiff.

Cross examination by Mr. Kalisch.

Q How long after you gave the order to have it done did you go down to see it? A That I can't remember.

Q Was it a week or day or two days? A I knew within twenty-four hours after it was done it was done and, maybe, I didn't see it for a month until I had some official business in that territory.

Q You always wait a month? A Not at all.

Q That is what I want to know. A There was no steady rule on that.

Q As a general rule, as a habit or any time? A If there was something to take me in that vicinity where there was something done I might see it the same day or the next day; I might see it while they were doing it.

Q Some of them you saw, you say, while they were being done? A Yes, sir.

Q Which were they? A When we took down the fifteen signs on St. George's avenue, Rahway.

Q Did you see those taken down? A The greater part of them; yes.

Q When did you give the order for them to be taken down? A If I recall it right, some time in the fall of 1914.

Q No; I mean with reference to the time they were taken down—how long did you see them taken down after the order was given? A A monthly follow-up, from day to day, under pressure, and if there was any pressure Mr. Kavney would have to lay everything aside and have it done to please Mr. Pratt.

Thomas F. J. Kelly, re-cross.

By the Court.

Q Was it done in the daytime? A Yes, sir.

Q Anybody could see you doing it? A Yes, sir.

By Mr. Kalisch.

Q Was this done in the small hours of the morning? A No.

Q Did you think this was a good plan? A Down there we had a good excuse. They were building two of our signs and they were telling people who passed that we rebuilt those.

Q Did you tell them to do that? A Indirectly.

Q You say that was done? A Yes.

Q But where were these signs—when these things were done during the small hours in the morning you didn't see them done? A No; only a report.

Q It was reported to you; you gave the orders and then it was reported that it was done and you never saw it, whether they were pasted over or not? A When they were pasted over?

Q Yes. A The telephone calling to me kept busy.

Q They would tell you it was done? A Until I had to go to the hospital.

Q I am speaking before that. I want to know did you get the word over the wire that it was done — were you kept informed about it? A The advertisers, they kept us informed that was well known.

Q I am speaking about those that you didn't see down when you were not present when they were done. Were you informed by your men that it was done? A Yes, sir.

Thomas F. J. Kelly, re-cross.

Q You didn't go down to verify it? A As I told you before, at times.

Q Some of them you did? A Official business would take me in that vicinity.

Q How long a time did this all take place? I mean, how long did this continue from 1912 until what time? A Up until there was nothing done, as I recal it, after the fall of 1914. That I can recall.

Q After the fall of 1914, then it stopped? A Yes.

Q But from 1912? A I held my hands up.

Q You severed your connection with the company? A No, sir; not at that time.

Q Not at that time, but I mean later. A Yes, sir.

By the Court.

Q What do you mean when you say you held your hands up? A I refused to have anything more to do with it. My religion is thoroughly against those principles and I have taken a new lease on life.

Q You say it was against your principles? A Yes; against my religion.

Q When did you first become conscience stricken? A All through my management I was conscience stricken.

Q You kept on holding the same position, getting paid weekly? A My money was invested there and I had to hold that.

Q You got your money out? A And my real estate interest were in that.

Q Your stock was afterwards sold—you sold to Mr. Pratt, didn't you? Answer that yes or no. A I would like to answer it exactly.

Q Answer it yes or no. A I was forced to sell it.

Thomas F. J. Kelly, re-cross.

Mr. Kalisch. I ask that it be stricken out.

The Court. Strike it out.

Q You sold your stock to Mr. Pratt? A Yes, sir.

Q And then you got out, didn't you? A Yes, sir.

Q How much did you ask for your stock?

Mr. Fairlie. I object.

Mr. Kalisch. This is cross examination and I will connect it up.

Mr. Lum. I object. It is irrelevant and immaterial.

The Court. I will allow it.

A $29,000.

Q You asked $29,000? A Yes.

Q What did you get? A $5,000.

Q Mr. Pratt paid you $5,000? A I wanted $29,000. I could have got it.

Q That is right? A Yes.

By the Court.

Q How many shares of stock did you have? A Fifty-nine.

Q Par value $100 per share? A There is only twenty-five per cent. of the stock in the whole company issued.

Q But did you have fifty-nine shares of stock at $100 a share, par value? A The book value was about $700.

Q Par value? A Par value was $100.

By Mr. Kalisch.

Q Did you ask Mr. Dreyfus to take the stock at $10,000? A No, sir.

Q Never did? A No, sir.

Q Did you, when you left the company, take any records with you? A None that I know of.

Q Quite sure about that? A As far as I know it.

Q You say that upon your oath that you didn't take any? A What records do you refer to?

Q Company records. A I probably have lots of records that I am entitled to, copies of monthly reports.

Q Company records? A That belong to me, yes; not that belong to the company.

Q How many did you have? A Can't tell.

Q What were they? A I think I have the annual report of the company since my connection with it and monthly reports.

Q What else did you take? A Nothing that I recall of.

Q Did you destroy any records of the company? A What do you mean?

Q Company records. You know what I mean. That is plain English. A Did I?

Q Yes; before you left. A You are talking to the wrong man.

Q Did you destroy any records before you left that company's employ? A Didn't have any reason to.

Q Did you do it? A No, sir; I stayed all night long to turn everything over to Mr. Dreyfus.

Q Did you ever see this paper? A I can't say.

Q Did you ever see this paper? A Yes; that is my handwriting. Evidence in the Frank case.

Q Who tore that? A You will have to find out. I don't know.

Q Do you know whether or not—

Mr. Lum. I object.

I withdraw it.

Thomas F. J. Kelly, re-cross.

Q Did you take a lot of these papers and records of the company, of the Newark Sign Company and destroy them or tear them up and take some of them yourself that had been put up in a little closet in the Newark Sign Company's office? A No, sir.

Q Did not? A No, sir.

Q You didn't destroy them, didn't tear them up, either? A No, sir.

Q You say that? A Yes, sir.

Q Did you have any of the company's papers home during the time you were employed there? A Papers for a transaction of business, working out problems of one thing or another; yes.

Q Did you return them all? A Yes, sir.

Q Every one of them? A All that the company was entitled to.

Q You were the judge of whether they were entitled to them? A Yes, sir.

Q Do you know this man Galvin? A Know him as an employee, ex-employee.

Q Do you know the man that he spoke of, the job that he did in Rahway? A Yes, sir.

Q Was that one of the jobs you inspected that was done? A That was one of the jobs I seen while it was being done.

Q What day was that? A As I told you before, I recall it in the fall of 1914, late in the fall.

Q That was in the fall, did you say? A Yes, sir.

By the Court.

Q These reports that you took, annual reports, are they the original reports? A Copies.

Q Where are the originals? A In the office of the company.

Thomas F. J. Kelly, re-cross.

By Mr. Kalisch.

Q Did you hear the testimony of Mr. Dawson? A Who is Mr. Dawson.

Q He was on the stand before. A The owner of the property at Rahway?

Q Yes. A Yes.

Q You heard him testify that Mr. Galvin and he were alone when this sign was taken down? A Yes.

Q That is not so, is it? A Yes; that is so as far as I know. They were alone when I was there. They didn't see me.

Q You went down there to see what work was done, but you didn't want them to know you were shadowing them? A That is the idea.

Q You wanted to see if it was done and done right? A Yes, sir.

Q Now, there was another occasion, I think, down in St. George's avenue, or near there, that you spoke of, wasn't there? A No.

Q Is that the same one? A Same one.

Q Was there any other occasion down along the line of the Pennsylvania? A Along the line of the Central.

Q Where was that—near Elizabeth or Rahway? A Aldene and Elmora.

Q Were you alone, then? A No; I saw this afterwards.

Q You gave the orders for this? A Yes, sir. Anything along that line.

Q Whose signs were they at Rahway? A Rahway, there were several advertisements: O. J. Gude Company, Randolph Advertising Company and Maxwell.

Q Whose were they at Roselle? A I think the Randolph Advertising Company.

Q And Elmora. A I think the Randolph.

Q So there were, to your knowledge, four of the O. J. Gude Company? A I think six. Whatever the record shows.

Q Is it your recollection that there were six? A Yes.

Q And that is all in the time you were manager of the company? A That particular occasion.

Q Were there other Gude signs? A Yes.

Q Where were these six? A The six that are being spoken about now are the Rahway signs, in the fall of 1914.

Q Did you see those and Galvin after he came back from the job? A I don't think I saw him that night.

Q You saw him later? A I think towards the end of the week.

Q Were you present when an affidavit was made by Galvin, denying that those signs were taken? A I was.

Q Did you read the affidavit? A After it was taken; yes.

Q Where did you put it? A I put in in my safe at the right-hand side of my desk.

Q That is under a combination? A Yes.

Q Who had the combination of that safe? A I did and I gave it to Mr. Dryefus.

Q After you left? A No; before I left.

Q How long before? A After we made him secretary of the company, along in January, 1915.

Q How long after you put this in this safe—how long after you put this affidavit in the safe did you give Mr. Dreyfus the combination? A If I remember right, it would be before, but if you tell me the date of that affidavit—I remember after he was made secretary—no; I guess it

would be afterward because our annual meeting wasn't until February of that year.

Q How long after? A It would be about the same month.

Q How long after you put the affidavit there? A I would have to know. It is a few days afterward. If you tell me the date of the affidavit—

Q Don't you know whether you gave it to him before or after? A To put his books away and to act as secretary we gave him the combination of both safes at the time of that meeting in 1915; and if I remember right that was held the 21st of February, but if that affidavit was taken the 25th it was given before and if it was taken on the 15th he didn't have the combination until afterward.

Q Did you get the typewritten sheet? A That sheet there?

Q Yes; was that part of it? A No, sir.

Q Was that in the same? A Why, yes.

Q How do you know it? A It was turned over to me.

Q Who turned it over? A Mr. Mahan.

Q When? A About a week afterwards, after it was taken,

Q After he wrote it out.

Q You were there when the affidavit was taken? A The original affidavit, the only affidavit, yes.

Q This is the one that you have reference to? A Yes, sir.

Q That is the affidavit? A Yes, sir.

Q How long were you in when this was being taken, where was this taken? A In my office.

Q Just tell me how these offices are bounded, just what offices there are there? A On the top floor?

Q No, I mean on the floor that your office is on. A You want a diagram?

Q No, just tell me how many rooms there are, how many offices? A Four all told.

Q Four offices? A Yes.

Q Which one did you occupy? A One of the outside, the one near the stairway, outside office.

Q It was taken in there? A Yes.

Q And is there a long table there? A Yes, that was there then.

Q Who was there present? A Mr. Henry Pomerehne a master in chancery, a lawyer in the city.

Q A Newark lawyer? A Yes, I sent for him.

Q Who sent for him? A I sent for him.

Q How did you get him, over the 'phone? A Yes.

Q He came down and who else did you send for? A Detective Farrell.

Q Who else? A And Mr. Mahan.

Q Who else? A They brought him in and then I think Miss Kane, my stenographer, stayed over.

Q Where was she? A She and detective Farrell was in the outer office standing on a desk with a van light open.

Q Is that a glass partition there? A Yes, they open in the middle.

Q That was open? A Yes.

Q She sat on a desk? A No, she stood on the desk.

Q What did she rest her pad on? A She rested it on her hand, held it in her hand.

Q That was near the top? A That was right up against the partition.

Q She couldn't be seen? A Yes, she could but no remarks passed about her.

Thomas F. J. Kelly, re-cross.

Q No one saw her? A I did.

Q No one saw her except you? A I suppose I saw her because I was conscious that she was there.

Q Did you stay in the room where this affidavit was taken or stay with Miss Kane? A I was in and out talking to her.

Q You heard the conversation? A The greater part of it.

Q Where did you get Detective Farrell from? A I telephoned Chief Tuite, police headquarters.

Q How did you happen to telephone Captain Tuite? A I knew him very well.

Mr. Lum. I object to that.

The Court. No, I do not suppose that is competent.

Q What did you tell Captain Tuite?

Mr. Lum. I object to what he told Captain Tuite.

The Court. No, I do not think that is competent.

Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

Q Did he come over? A He sent Detective Farrell over.

Q Who was present when he same in? A I saw him.

Q What took place then? A Why, I explained to him.

Mr. Lum. I object to what he said.

The Court. What took place is competent.

Mr. Lum. He is starting to tell what he said.

The Court. Your objection is well taken.

Q Never mind what took place, when Detective Farrell came you saw him? A Yes.

Q You were the one. Did he see anyone else or just who? I suppose they were all sitting around? A No, I met him in the outer hall.

Q You greeted him when he came in? A Yes, I was waiting for him.

Q What did you do, take him in your office? A No. Galvin and me was in my office and Mr. Pomerehne, I think, hadn't arrived yet.

Q Who sent for Pomerehne? A I did.

Q Then, what took place then? A You mean with reference to Farrel?

Q Yes. A I took Farrell in the sales office over on the righthand side away from the other two offices.

Q The sales office— A Is the extreme right.

Q That doesn't join any of those offices? A No, sir. I explained to him—

Mr. Lum. Never mind what you explained to him.

The Court. I do not think that is competent. Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

Q You took him to the sales office? Did you have a conversation with him there? A Yes.

Q After your conversation with him what took place, where did he go? A He went into the adjoining office to mine.

Q Who was in that office? A And stood alongside of the stenographer and listened to the affidavit that would be taken inside.

Q That was as a result of your conversation? A Yes.

Q Who saw Galvin first? A He telephoned me first.

Q Who telephoned you? A If I remember right Mr. Mahan, I would not be sure.

Q Did you talk to him over the 'phone? A No, I didn't. I refused to.

Q Did he telephone? A Yes, he telephoned.

Q He came up then to your office after he telephoned? A I told Mr. Mahan to have him come up. I instructed Mr. Mahan to have him come up at 6 to 6:30.

Q Did he show up at that time? A Yes.

Q Did you talk to him, did you see him? A Yes. Oh, I didn't meet him first off. Mr. Mahan met him.

Q Then you saw him after Mr. Mahan met him? A Yes.

Q Where was he when you saw him? A Mr. Mahan brought him into my office.

Q Did you have a talk with him? A Yes.

Q How long did that talk take place without telling us what it was? A I don't think over eight or ten minutes.

Q Who was in the room then? A There was nobody except Mr. Mahan, himself and me.

Q After that conversation where did you go, where did you all go? A Why, Mr. Mahan took him out there to his office and kept him there and I closed my doors and then told Miss Kane to stay over, we would probably need her for some extra work and then telephoned to Mr. Pomerehne first and then to Captain Tuite.

Q When did you leave, what hour was it that you left? A That night?

Thomas F. J. Kelly, re-cross.

Q Yes. A I think about, I arrived home, I think I didn't leave the office until ten o'clock.

Q As late as that? A Yes.

Q This stenographic report of Miss Kane's, where was that transcribed, if you know? A Which report do you refer to?

Q I mean this conversation you said she took. A Affidavit I referred to?

Q I know but I am talking about the conversation that you stationed her to take? A Just about this here affidavit he would make.

Q The affidavit was taken in his presence, wasn't it? A Yes.

Q Well, now, you say— A He didn't know he was making the affidavit.

Q Did you know that he didn't know it? A Yes.

By the Court.

Q What do you mean by that? A The man was drunk, blind drunk.

By Mr. Kalisch.

Q Did you observe he was drunk? A I did.

Q You saw he was blind drunk? A I did.

Q Did you? A I did.

Q When you got that affidavit what did you do with it, was it transcribed that night—yes, must have been. A Yes.

Q And that is the one you put in the safe? A Yes.

Q What was your object in getting the affidavit? A Mr. Pratt's instructions.

Q Was he there then? A No.

Q When was it you last saw him? A Mr. Pratt?

Q Yes. A Oh, I can't remember that. Probably that would be some time.

Q Was Detective Farrell there when this affidavit was taken? A Yes.

Q Was the affidavit signed in Detective Farrell's presence? A No.

Q Do you know whether he knew that it was being taken? A I think he did.

Mr. Lum. I object to that and ask that it be stricken out.

Q What makes you think he knew?

Mr. Lum. I object to that.

The Court. You may strike that answer out.

Q Where was Detective Farrell when it was taken? A In the outer office with Miss Kane standing on the desk.

Q Could you overhear what Galvin said while Farrell was there in this room with Miss Kane? A Yes, I was out there to test it, to see if they could hear on several occasions and you could hear very plainly.

Q How did you test it? You stayed in that room where Miss Kane was? A Yes, and put my ear up against the transom and we could hear very plainly.

Q Was the transom open at the top? A Yes, it was open.

Q How big a space is that? A I should judge 3½ feet.

Q And Farrell was in that room where Miss Kane was? A Yes, sir.

Q Did Farrell see Pomerehne, did they meet at all? A I don't remember and I don't think so, but I don't remember exactly.

Q Were you present when Pomerehne signed the jurat? A Yes, I was.

Q Did you say anything about the affidavit to Detective Farrell at all? A I think I mentioned it to him and he took it with him.

Q Did he read it? A Yes.

Q He read it? A I think so.

Q Had Pomerehne signed it yet? A Oh, yes.

Q Pomerehne had signed it and it was all finished and then after it was all finished in this form? A Yes.

Q Then you handed it to Detective Farrell? A I think he took it with him.

Q And he read it? A Yes, sir.

Q And then he handed it back to you? A No, I think he took it with him; I think so, that is my recollection.

Q And then after that, after he read it, took it with him, he went out and took Galvin with him? A It was arranged to do that, to get out in order to be able to meet him downstairs.

Q You wasn't in their way? A Yes, that was arranged. I think they both went out the same way.

Q What do you mean, it was arranged? How did you do that? A I think that was his suggestion.

Q When was that suggestion made? A That was the talk I had with him in the salesroom.

Q The talk you had with him in the salesroom? A When he first arrived on the premises.

Q That was his suggestion? A I think that was arranged by him.

Q He made the suggestion to arrest him as soon as he came out? A Provided it would

work out the way I explained to Captain Tuite over the 'phone.

Q How did you make it out, that is what I want to know.

Mr. Lum. I object to that.

Q What was this scheme?

Mr. Lum. I object to that. Certainly it is absolutely way beyond any scope of the direct examination.

The Court. I do not think that this is competent at this time and I shall sustain the objection of Mr. Lum, but you can, if it becomes competent later on I will allow you to recall this witness for that.

Counsel for defendant prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

Q You were in the room then with Mr. Farrell and it was there that you went with him before you went in the same room with Miss Kane? A Yes.

Q You were there first? A Yes.

Q You designated that as the salesroom? A Where I interviewed Detective Farrell first.

By the Court.

Q How did you get on the track of Mr. Galvin that day? You said you communicated with him. Did you 'phone him or did he 'phone you? A No, he 'phoned us as I recall around 4:30 or 5 o'clock, said he wanted to get out of town and that he was asked to sign certain affidavits.

Q Never mind what he said.

Thomas F. J. Kelly, re-cross.

By Mr. Kalisch.

Q You said he 'phoned about what time; around 4:30, 5 o'clock? A As near as I can recall it.

Q You didn't talk to him? A No, sir; I didn't talk to him.

Q You didn't talk to him over any other 'phone? A No, I only know what Mr. Mahan told me.

Q Immediately after that 'phone message was when you— A Not immediately after. The time was set for him to come in at six to 6:30.

Q Who set that time? A I did.

Q Did you have any money there at the time for him? A We arranged to have some, yes.

Q Did you give it to him? A Mr. Mahan.

Q Did you see Mr. Mahan give it to him? A Yes.

Q Did you give it to him before you got the affidavit? A Immediately after he signed it.

Q Of course, you knew that what was contained in this affidavit wasn't so? A That it wasn't so?

Q You read the affidavit or at least you heard it read? A Yes.

Q You knew the contents of it were not true, didn't you? A I would have to read it now to see what you referred to.

Q Read it. (Witness reads paper.) A Am I to answer now?

Q Yes. A I knew that the part relating to what he done for us was so and I had no knowledge of whether the other part about Lum, Tamblyn & Colyer was true or not.

Q The part that he did for you? A The work he done for us.

Q Now, this is a part of the affidavit, "I, James H. Galvin, of full age, being duly sworn on his oath according to law deposes and says: 'I made a statement that the Trowbridge Co. in the office of Lum, Tamblyn & Colyer, that I was sent out by Mr. Kavney to throw paint on signs of Job DeCamp and Jackie Clarke on Frelinghuysen avenue about three weeks ago, and the statement that I made was not true.'" Was that statement true? A Statement that he makes there that he done this work for our company is true.

Q If when he says the statement that he made was not true then he says what wasn't so? A Yes.

Q Another part of this affiidavit says, "The O. J. Gude people also accuse me of tearing down their signs in Rahway and that Dawson received the material, and they wanted me to sign an affidavit and I would not do it because it wasn't true and I would not make an untrue affidavit unless they came across." Was it true that he had done that? A Done that for us, yes.

Q So that when he states in the affidavit that it wasn't true he states what isn't so? A Yes.

Q Who gave Mr. Galvin the money after getting this affidavit? A I think Mr. Mahan passed it to him.

Q Were you there? A Yes.

Q Who gave Mr. Mahan the money? A I think he got it from petty cash box.

Q Where is the petty cash box? A In his charge.

Q In the safe? A Yes.

Q The safe that you spoke of? A No, the bookkeeper's safe.

Q Is that the safe you had charge of? A No.

Q Where was this safe over which you had charge? A In my office alongside of the desk.

Q How much money was in the safe? A No money.

Q Did you give orders to Mr. Mahan? A Give orders.

Q Was he under your orders? A Yes.

Q Did you tell him to give this money? A I did.

Q You knew that the money that was being paid over to Galvin was being paid to secure from him an affidavit that was perjury, didn't you? A Yes.

Q You further knew that the destruction of these signs was likewise a violation of the criminal law of this State, didn't you? Oh, yes.

Q So that every time you gave that order you knew that you were guilty of violating a criminal law of this State? A Yes, felt it throughout my whole body.

Q Unfortunately your conscience wasn't in your body. Did you issue construction orders, too? A Yes.

Q Did you O. K. all those orders? A I did.

Q Who paid out the money of the company, all moneys? A Which are they you refer to?

Q All moneys. A All paid out under my direction.

Q Who signed checks? A I did, with one of the other officers.

Q What amounts were these checks that were signed? Were they large checks generally to cover a period of time or small checks? A They ran all the way from $1 or fifty cents up to $36,750.

Thomas F. J. Kelly, re-direct.

Q Did Mr. Pratt sign these small checks? A He left them all signed in my possession.

Q I am speaking of the small checks? A He signed those checks. He signed the checks in blank and left them in my possession.

Q He signed the checks in blank and left them in your possession? A Yes, sir.

By the Court.

Q They were not good until you had signed them? A Yes, sir.

By Mr. Kalisch.

Q And you were to use your own judgment as to what they were to be paid out for? A Yes, sir.

Q That is the way that took place? A Yes, sir.

Mr. Kalisch. I would like to recall him later.

By Mr. Lum.

Q This money that Mr. Kalisch has spoken of that was paid was marked, wasn't it? A I recall they were marked, I think so.

Q Did the Newark Bill Posting Company follow up any charge against Galvin? A There was a charge made through the police headquarters at the First Criminal Court and it was dismissed by Judge Grice.

Q You have spoken of the New Jersey Sign Advertising Company. Were they in business in this section? A Yes, sir.

Q While you were an officer of the Newark Sign Company and the other companies what was done with reference to the acquiring of the New Jersey Sign Company?

Mr. Kalisch. I object to that. It is not re-direct and in the second place even if it is re-direct examination I don't see the materiality of it.

The Court. I will allow the question.

Counsel for defendant prays an exception to the ruling of the Court. Exception noted as ground of appeal.

Q Did the Newark Sign Company acquire the New Jersey Sign Company? A How did it acquire it?

Q Yes.

Mr. Kalisch. I object to that.

The Court. Question allowed.

Counsel for defendant prays an exception to the ruling of the Court. Exception noted as grounds of appeal.

A I consumated the deal in Pitney, Hardin & Skinner's office to pay and take over the damage suit.

Mr. Kalisch. I object to that.

The Court. Objection overruled.

Counsel for defendant prays an exception to the ruling of the Court. Exception noted as grounds of appeal.

A It included the settlement of the damage suit entered in the Supreme Court, which was coming up at the April—within a few months and taking over their good will, whatever it amounted to, and paying the sum of $36,000 and some dollars.

Mr. Kalisch. I object to this.

Q You were an officer of the Newark Sign Company at the time? A Treasurer.

Thomas F. J. Kelly, re-direct.

Q Was Mr. Pratt present at Pitney, Hardin & Skinner's office? A Not at the time consumating the deal.

Q He knew of all this? A He objected to my—

Q On what ground did he object?

Mr. Kalisch. I object to that.

A He thought the price was ridiculous.

Q Are you married? A Yes, sir.

Q You said you were forced to sell your stock that you valued at $29,000 and received $5,000. What did you mean by that? A Why, I was advised of a resolution that was put through to—

Mr. Kalisch. I object to that.

A —to freeze Mr. Slocum out.

Mr. Kalisch. I object to that. I think the best evidence of a resolution is the resolution itself.

Q Did Mr. Pratt say anything to you on the subject of buying your stock? A Yes.

Q What did he say? A He commenced to negotiate with me immediately. He wanted me to turn it over at par value.

Q What was the book value? A Approximately $750 a share.

Q You had how many shares? A Fifty-nine.

Mr. Kalisch. All this is objected to.

By Mr. Kalisch.

Q In what way. You say you were forced to sell? A Why, I had been communicating with several people largely interested in our line of business who were very much interested in buying the stock.

Q Who were they? A Mr. Fulton, of the Van Buren Company.

Q Who else? A Cusack Company.

Q Who did you see from the Cusack Company, who was it that you saw? A By correspondence.

Q To whom? A To the Cusack Company in Chicago.

Q When did you send that letter? A That was sometime in January.

Q You sent a letter to the Cusack Company. Have you got a copy of it? A I think so.

Q Will you produce it? A I think so if I have it.

Q Did you see him personally, Fulton. A Oh, yes.

Q Who was the other man? A The biggest man in the business, his partner, Mr. Link.

Q Who is the other man and the other concern? You have mentioned two. A I referred to Mr. Link. They are together in the one office, have various interests.

Q They were desirious of getting stock in the company? A Yes, anybody in the business would have purchased it.

Q Did you offer it to him, all of your stock? A Yes.

Q Did you fix the price? A Hadn't arrived at the price yet.

Q Did they name a price? A They talked around—

Q Did they make a price? A Yes, they talked around $12,000, $15,000; $10,000, $12,000 and $15,000.

Q What do you mean, they talked around it? Did they make the offer? A I seen them on three or four occasions.

Q Did they make you an offer of that amount for the stock? A Under certain conditions.

Q Which one made the offer? A Mr. Fulton.

Q Did the other two make any offer? A They wanted to see Mr. Pratt.

Q Did they make any offer? A No, no final offer.

Q What were the conditions of this other offer?

Mr. Fairlie. I object to all this.

The Court. I will allow the question.

Q What were the conditions? A That they wanted to acquire the entire company later on, and if it would not make any hard feeling they would take it over.

Q They wanted to acquire the entire company? A Eventually, yes.

Q When was this, can't you say? A He represented about twelve or fifteen companies. I referred to him as he wanted to acquire the entire interest of those companies I was interested in.

Q That is what I am talking about, the man that wanted to acquire the interest in the Newark Sign Company. A He did.

Q Personally wanted to acquire it? A No, for his associates. He is the financial man—

Q Whom did he represent? A The St. Louis Sign Company, the Brooklyn Advertising, Atlantic City Advertising, the Dixie Poster & Advertising Company and various interests in several large companies.

Q Is Mr. Pratt connected with one of those companies? A One of them, yes, sir.

Q This man that made the offer to you was a man who was then connected with the same com-

pany that Mr. Pratt was connected with, one of the companies? A Yes, one of the companies.

Q The condition was that he could get control of the entire business, wasn't that the condition? A No, you misunderstand me; that he would eventually expect to although this would be nothing in the way of doing it he would be very near to acquiring it as a nucleus.

Q What did you tell him? A My advice to him was it would make no difference.

Q What do you mean, make no difference? A I didn't think there would be no objection on the part of Mr. Pratt.

Q Did you tell him you thought it was possible to do it? A I thought it was possible on the advice of my attorney.

Q You told him you thought it would be possible for him to acquire the controlling interest of this company? A Not controlling interest; I didn't say that.

Q What did you say? A Minority interest. My minority interest of that. It would put no stone in his way to eventually controlling the majority.

Mr. Kalisch. I ask to refer to the witness's testimony.

(Answer read. That they wanted to acquire the entire company later on and if it would not make any hard feelings they would take it over.)

Q That they wanted to acquire the entire company. That is what you have testified to. Did you tell them that was possible? A No, I did not.

Q Did you tell him it was not possible? A I didn't think it would make any difference.

Q Did you tell him when he put as a condition to his purchasing your stock that he wanted to acquire the entire company? A He didn't put it as a condition. He put it in a way he would take possession if he found it didn't make any difference.

Q What didn't make any difference? Taking this minority interest over to eventually acquire the majority.

Q Was that one of the ways he told you he would use in order to get the majority interest? A No, not at all.

Q What was the condition? A The condition was that if he found out—they were to meet Mr. Pratt in Chicago the following week—feel him out at the annual meeting there, and if it made no difference, they found out from his conversation, they would eventually take it over.

Q You didn't go out to Chicago at all did you? A I was in Chicago, yes.

Q Did Mr. Fulton make you an offer? A Not a definite offer. That was the condition until after he got back from Chicago, from the annual meeting of the American Postal Service.

Q What was the price offered? A It went up to as high as ten or twelve thousand dollars, but no amount had been settled, but after the statement was to be furnished and it was to be taken over at five times the annual profit. There are three ways these businesses are bought out.

Q The highest offer was ten or twelve thousand dollars? A That was not definite.

Q What do you mean? What was the highest definite offer that he made you? A The

highest amount talked of was around ten or twelve thousand dollars.

Q What was the highest definite offer. A That is the highest amount.

Q What was the definite amount offered? A That was the highest amount that was mentioned.

Q He didn't give you ten or twelve thousand dollars. He gave you one offer? A Call it ten thousand dollars.

Q Did he do that by letter or verbally? A No, this was all verbally.

Q You didn't ask him to step into your lawyer's office to put it in writing? A No, I didn't think that was necessary. This was in his office in New York.

Q You didn't get any kind of writting from him to bind him to his bargain? A No.

Q That was the offer he made? A Nothing binding.

Q Why wasn't it binding? A He knows he would not have to release me. I could dispose of it anywhere throughout the country.

Q By that you mean if you could have gotten more he could not have held you to it? A I do. He knows that stock in our own city could be sold throughout the city. The Feiganspan or any big man would buy it.

Q What would they buy it for? A At a profit.

Q At what price?

Mr. Lum. I think we have gone too far.

The Court. I think that is competent.

Q What was the market value of that stock here. Around here you say it could have been bought or sold? What is the market value?

Q Yes, what could you have gotten for it? A Its being a one man corporation it hasn't got a market value, but it could have been sold for 90 per cent. of its book value.

Q What was that? A Around $750 a share.

Q That would be how much for your stock? A I met Mr. Pratt the following week.

Q What would that amount to? It would be around $42,000.

Q Now, then, did you see any of these people about buying it? Feigenspan or any of those you mentioned? A No, I wanted to give the people in our own line of business that opportunity first.

Q You gave them that opportunity and they offered you $10,000, that was the offer that you got? A If you let me tell the rest.

Q You answer what I ask you. A Up to that point.

Q After that point did you offer it to anyone else in a trade? A On the advice of my attorney—

Q I don't care anything about the advice of your attorney. A It was a physical impossibility to offer it to anybody after that. The very next day—

Q What was the price that you offered it at to Mr. Pratt? A Why—

Q What price did you offer it at? I made no price. He kept making the price. Nobody makes prices for him.

Q Did you offer it to anybody else? I talked to several people about it.

Q Did you offer it to Mr. Dreyfus? A No.

Q Never offered it to him? A No.

Q You say that upon your oath that you never offered it? A I never offered it to Mr. Dreyfus absolutely. He asked me about it.

Q Did you make a price with him? No.

Q He wanted to buy it? A He talked about buying it on the installment plan, $1 a day.

Q Where was this? A In the Downtown Club, early in January.

Q What was the price he offered for it? A His conversation was so ridiculous I left him sitting there.

Q What was the price he offered for it? A Why if I remember he talked around ten thousand dollars or something and paying for it $1 a day.

Q Were you satisfied with that price? A Not at all.

Q Or did you turn it down because of the terms that he insisted on? A He didn't state what the terms were.

Q What did you ask him for it? He offered $10,000 and you said you wouldn't take it? A He invited me there to talk over business matters.

Q He offered to buy it from you for $10,000? A I said, "Nothing doing."

Q Did you tell him what you wanted for it? A I said, "You double that," or something like that.

Q What do you mean, did you say to double it and you would talk to him? A Something like that, yes.

Q You would have sold it then for $20,000? A I don't say I would have.

Q You just said you told him? A I might consider it if he would double it.

Q Didn't you know whether you would take $20,000? A I would not at that time because the annual meeting hadn't taken place. I was still under salary to the company.

Q How long before the annual meetitng was this? A I should judge that happened the middle of—I think I have a letter that he wrote me.

Q When was it, before? How long before the annual meeting? A I can refer to my folder. I can give you the exact date.

Q I don't care about the exact date. Give me the approximate. A About the middle of January.

Q When was the annual meeting? A First of February.

Q You didn't want to put a price on it until the annual meeting? A I wanted to see Mr. Pratt further.

Q You had been trying to sell it before the annual meeting to the other people, hadn't you? A I had been getting ready, yes.

Q What was the last book value? That is made up every year, isn't it? A They kept that away from me, the last one.

Q I don't mean the last, the one that was here last, you have here? A Why, they changed all that.

Q I want to know what the book value was. That was in 1915. A The last financial statement of the company, as I recall it, figured the book value around $650 to $690.

By the Court.

Q When you figure the book value which one of the stocks did you figure on? A Only the holding company. The holding company holds all the stock of the Advertising Company.

Thomas F. J. Kelly, re-cross.

Q Which is the holding company? A Newark Bill Posting Company, of which there was only about—there was only twenty-seven thousand one hundred dollars out of one hundred thousand dollars.

Q When you gave these checks on what account were they drawn? A Our bank account was always kept in the name of the Newark Poster Advertising Company.

Q Were all these employees that you have spoken of employees of the Newark Poster Advertising Company? A Yes.

By Mr. Kalisch.

Q Was there a record kept of this book value? A No, I figured that.

Q Was there a record kept, yes or no? A You can figure on the statement, yes.

Q Of an official record? A You can figure it, yes.

Q You kept it and you were the treasurer of the company? A Yes.

Q You kept it? A The bookkeeper kept it, the private books.

Q Didn't you help make it up? A Oh, yes.

Q You knew, then, what the book value was in 1915? A Yes, indeed.

Q From that book value your stock was worth about $40,000? A In around figures, yes.

By the Court.

Q How many shares of the Newark Bill Posting Company did you have? A Fifty-six.

Thomas F. J. Kelly, re-cross.

By Mr. Kalisch.

Q Then, you offered it, however, for $20,000, you would have considered a figure around $20,000? A Oh, yes.

Q Although you knew that the book value was worth around $40,000? A I have sense. I have to know you can never get the book value. You would make millionaires over night if you could do that.

Q What did you eventually sell the stock for? A $5,000.

Q Are you in business now? A I am interested in a sales company, yes.

Q What kind of a company is that? A Exclusively distributors for a spark cap.

Q How long have you been in that business? A Formed that company about the 9th of February or thereabouts.

Q 1916? A Yes. Arranged for the plans before that. Officially it would be about the 9th of February.

Mr. Kalisch. I object to that.

The Court. I think that would not be competent on cross examination. He was asked only as to what he did with them.

Q Do you know? Did you have anything to do with them? A No, sir.

Q You have spoken of Mr. Kelly's examination of the sign at St. George's avenue. Did Mr. Pratt ever go down there with you? A Yes.

Q Before the signs were destroyed or after? A A month before.

Q What did he say to you. He said what?

Mr. Kalisch. This is cross examination. That is absolutely improper.

The Court. I will allow that question.

Q He said what?

Mr. Kalisch. When was this.

Q When was it? A If I recall it was October, 1914, on our way from Perth Amboy.

The Court. He has testified to that.

Q Mr. Pratt was with you? A Yes.

Q This Galvin affidavit. Did Miss Kane remain in the room all during the time that Galvin was there? A Yes.

Q Did you see her off and on during that period that Galvin was there? A Yes, I was in several times.

By Mr. Farlie.

Q These negotiations for the sale of your stock with prospective purchasers came to a sudden end? A Yes, very sudden.

Q Did Mr. Pratt do anything to bring that to an end? A Yes.

What did he do?

Mr. Kalisch. I object to that.

The Court. I will allow it.

Q What did he do? A He sent a letter like this to all of the directors of the Poster Advertiser Association of the United States and Canada, in which there are about forty-two companies.

Mr. Kalisch. I object to this unless this man has personal knowledge of it.

Mr. Farlie. Strike it out.

Q Did the prospective purchasers with whom you were having negotiations receive copies of this letter? A That is where I first saw it.

Q Did you see it in their possession? A I saw it in their possession, showed it to me.

Marked D. 2 for identification.

Q After that were all negotiations off? A on your advice.

Q I mean with the prospective purchasers? A You advised a separate suit later on. That was the only effect I had.

Q In this settlement of the New Jersey Sign Advertising Company, was Mr. Pratt present at the conference held in that? A You mean the consummation at Pitney, Hardin & Skinner's office.

Q Yes. A I think there were six conferences and I think Mr. Pratt was present at two or three.

Q Was that suit of the same nature of this one? A Along the same lines as I understand the bill of complaint.

Q Do you recall Mr. Pratt saying anything in your presence at one of those conferences?

Mr. Kalisch. I object to this. It is very leading.

The Court. The question is only objectionable as to the form.

Q Did Mr. Pratt say anything during those negotiations about what would have been the situation in regard to that purchase of the New Jersey Sign Advertising Company if you had got the New Jersey people the way he told you to? A He said we would have never been called upon to pay them the ridiculous sum of $36,000.

Q Do you know who destroyed the records that Mr. Kalisch has referred to that are lost, such as checks and reports.

Thomas F. J. Kelly, re-cross.

Q Did she take down the whole of the conversation that went on? A Yes.

Q Took it down stenographically? A Yes.

Q Is what Mr. Kalisch read a transcript of those stenographic notes?

Mr. Lum. I object. The stenographer is the only one that can testify to that.

The Court. Yes, that objection is well taken.

Q You have said that Mr. Kelly gave a standing order to tear down all signs in certain localities. Did Mr. Pratt ever say anything to you about such a standing order? A Oh, yes.

Q What did he say? A That that was to go on continuously, business or no business.

Q Was that before or after you gave the standing order? A Before.

By Mr. Kalisch.

Q When was this, what year? A About 1912, when I took over the entire management.

Q Did you as a stockholder give to the Newark Sign Company the privilege of purchasing your stock before offering it to any one else? A No, sir.

Q Do you know whether or not there was such a resolution? A Yes, sir.

Q That you took down yourself? A Yes, sir.

Q I show you this paper and ask you whether such a resolution was passed and taken down by you? A That was passed and taken down by me.

Marked D. 3 for identification.

David L. Holcombe, direct.

By Mr. Fairlie.

Q In regard to this resolution did you offer the stock to the company pursuant to that resolution?

Mr. Kalisch. I object.

Witness. No; I did not.

Mr. Kalisch. I object and ask that it be stricken out.

The Court. Strike it out.

DAVID L. HOLCOMBE, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q Mr. Holcombe, by whom are you employed? A By the clerk of the Supreme Court.

Q You are familiar with the official records of the Supreme Court at Trenton? A Not particularly. I haven't been there for a long time.

Q Did you produce this morning one of the official records of the Supreme Court? A I did.

Q Do you recognize this? A Yes.

Q The official number is 3135? A Correct.

Q And these papers were produced by you according to our request? A Yes, sir.

Mr. Lum. I offer in evidence the complaint in an action at law of the New Jersey Sign Advertising Company against Samuel Pratt, Newark Sign Company, Newark Bill-posting Company, filed January 22, 1913, the answer, reply and counterclaim; and a rule filed in the same action May 27, 1913, the answer filed April 1, 1913, by petition individually and singly on behalf of the defendants and the discontinuance filed, signed by counsel for the respective parties, dated

April 25, 1914; and I ask to be permitted to substitute copies to the satisfaction of Mr. Kalisch instead of keeping the original files.

The Court. Yes; because the original records ought to be returned.

Mr. Kalisch. I object to the offering of this record upon the ground: first, that it is incompetent, it does not prove anything, and in the second place, it is irrelevant as it has no bearing at all upon the issue which we are now trying, and thirdly, because it is immaterial. It throws no light whatsoever upon the issue that we are now trying.

The Court. I will take it under advisement.

Cross examination by Mr. Kalisch.

Q You are not in the clerk's office now, are you? A Yes, sir.

Q You have charge of these records? A Yes, sir.

Mr. Lum. I offer in evidence the certified copy of the record of a proceeding in the Second District Court of the City of Newark in a suit on behalf of the New Jersey Sign Advertising Company against the Newark Billposting Company, *in tort,* for damages, wherein the summons was issued on the first of February, 1908, being certified to by the clerk.

Mr. Kalisch. That is objected to on the same ground that I objected to the other record.

The Court. I will take that under advisement.

Mr. Lum. I ask for the production of the check which is called for under subpoena

duces tecum, a check of the Bill Posting Company for $281 in settlement—

Mr. Kalisch. I think that is very improper to state the substance of the whole proceeding that he is now offering in evidence before it is put in evidence.

The Court. Yes; I do not think that ought to be allowed.

Mr. Lum. I demand the check.

Mr. Kalisch. Give me the date and the time and if we have it we will produce it.

Mr. Lum. March, 1908.

FRANK FITZSIMMONS, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your business, Mr. Fitzsimmons? A Sign builder.

Q By whom are you employed? A O. J. Gude Company.

Q How long have you been employed by them? A About ten years.

Q In what capacity are you employed? A Constructing department and building of signs.

Q Do you know Mr. Jarvis? A Yes, sir.

Q Who is he? A He is our boss.

Q You receive your instructions from him? A Yes, sir.

Q When you receive instructions what do you do? A Go out and fulfill them.

Q When you go out do you have any cards? A Always as a general thing.

Q Have you such a card? A I have.

Q Are these the usual and regular cards you receive in going out on certain work? A Yes, sir.

Q Referring to this card, No. 1, to what instructions does that refer? A That was a sign that was down, partly down.

Mr. Kalisch. I shall object to it. I object to the use of these cards. I don't know who made those cards, don't know anything about them.

Q Whose handwriting are those numbers on the cards? A Different men that signs their names. Every one is supposed to put their own signature down.

Q Your signature is there, made by you? A Mine is there; yes, sir.

Q What did you make besides your signature? A Why, the date and the material that was used in constructing the sign.

Q Do you recall—

Mr. Kalisch. Don't show them to him.

Mr. Lum. It is his own handwriting.

Q Do you recall doing any work in connection with a sign at Harrison, one mile east of the station north of the Pennsylvania Railroad? A Yes, sir.

Q When did you make a memorandum of that? A I am sure it was done. That is, there was two signs — New York American and a Hockenjos.

Q Did those signs have more than one deck? A Yes, sir.

Q What do you mean by that? A One sign on top of the other.

Q How long do they take to build? A Some take a week or more, two weeks, a month. I go according to the dimensions of them.

Q Did you make on the card a note of when you did it, the work on this job? A I think it is 1911.

Q What time in 1911? A I think that is done, if I am not mistaken, the summer months.

Q What condition did you find those signs when you got there? A I found them; that is, partly down.

Q Describe them to the jury, exactly the condition in which you found them? A Why, in constructing these signs, we generally have double anchors, as we call them; Chestnut posts ten feet in height that we sink in and it is eight feet they are down; they are generally about six to eight inches around them; that is, of course, if we use them double in the meadows, and then we have 3 x 6 braces or 2 x 6 braces coming down double. I found some of them burned and the wires off the signs and some of the braces had been knocked off.

Q You speak of the wires. You understand just how those wires were used, how those wires were fastened? A We generally put them on the front of the sign and on the back.

Q For what purpose? A To hold the sign steady.

Q What size wire? A What we call No. 8 wire.

Q Approximately the size of that pencil? A Not quite.

By the Court.

Q What material, iron, wire, copper or brass? A It is all iron wire.

By Mr. Lum.

Q What was the condition of that wire? A I found it practically off in a number of places.

Q This was in summer? A Summer time.

Q How was the burning done? A General burning.

Q All over the rear or just around certain location? A It looked like local burning. It is very wet in there. There is always water.

Q Was the sign standing or leaning or what? A Part of it was standing.

Q How big was the sign? A 21, I think, by 88.

Q Which was that, the New York American or the Hockenjos sign? A The New York American was 10 feet by 88 and the Hockenjos was 10 by 88, and then there is a foot space in between the two. It is what we call a double-deck sign.

Q How long did you work on repairing this destruction? A I should judge, why, a week or more.

Q Did you use any material? A Yes, sir.

Q Did you make a memorandum of the material you used? A It is all down on the back of the card, everything that I used.

Q In whose handwriting, whose entries are these? A They are mine.

Q When did you make them, at the time? A At the time I used the stuff.

Q Do you recognize this as your card in connection with that job? A Yes, sir.

Q That is the ordinary card used in the ordinary way in the regular course of your business? A Yes, sir.

Q Do you recall any repair work on a sign at Elizabethport? A Yes, sir.

Q About when was that? A Why, I think, the last job I done in Elizabethport was 1913, if I am not mistaken.

Q And whose sign was that? A Why, that was our sign painted for Haig & Haig.

Q How large a sign was it? A The high point was around 40 feet high by about 14 feet high; that is, on the end 40 feet, on both ends, about 280 some odd feet long.

Q What construction, wood or metal? A Wood.

Q In the due course of your construction you received word to go there? A Yes, sir.

Q Did you examine the sign when you got there? A Yes, sir.

Q What condition, what did you find? A Well, I found that it had been pretty well shattered to pieces, part of it standing up.

Q How had it been shattered? A I found wires off. On all of these large signs we wire them and brace them up.

Q Was that necessary to hold that sign? A Yes, sir.

Q Did you do the work on it? A I did.

Q Did you use any material? A Yes, sir.

Q Was a memorandum made of the work and material? A Yes, sir.

Q On the card? A There is a larger card here, the one I done the work on last.

Q I show you two cards relating to this Elizabethport job. Did you go to this job more than once? A Yes, sir.

Q Tell us the first time that you went there to repair that sign. A I think I went there; that was that summer. I went there first off to repair it, only a small job.

Q How did you leave the sign? A I left it in first class condition, which we are supposed to do.

Q How long, in the normal course, from your experience, would that sign be expected to stand?

Mr. Kalisch. I object to that.

New Jersey State Library

The Court. If he knows.

Q If you know? A Why, a sign—

Q No; that sign in that condition? A Why, I should judge a sign ought to stand in that condition the way I left it two or three years.

Q And the sign—did you go back to that sign the second time? A I think it was the following winter.

Q And was it the second time you found this condition as you have told us? A Yes, sir.

Q Did you use material both times? A Yes, sir.

Q Whose handwriting are these material entries in? A That is my handwriting.

Q You made it at the time? A Yes, sir.

Q In the due course of your employment? A Yes, sir.

Q Do you receive cards like those every day? A Yes, sir.

Q Was there any different entry or any different course followed with reference to this particular sign? A Not that I know of.

Q It is the custom, you make the entry in just this way? A Yes, sir.

Q These two, indicated as 2 and 3, both refer to the Haig & Haig sign at Elizabethport? A Yes, sir.

Q How many days were you employed this second time? A The second time, I should judge around three weeks.

Q Continuously? A Well, when the weather permitted, of course.

Q Anybody else employed there on it with you? A Yes; perhaps I had six or seven men, judging the time that I was there.

Q You recall a sign at Elizabethport a half a mile east of the station north of the Central

Railroad, Acker, Merrill & Conduit sign? A Yes, sir.

Q Were you sent to that? A Yes, sir; I was sent.

Q What condition did you find that? A I found it down.

Q Did you discover anything to account for it, why it was down? A No; just noticed the posts on that one had been broke off about 6 or 8 feet from the ground, from the braces.

Q How big a sign was that? A 20 by 50, I think that was.

Q Did you use any material in fixing that? A Yes, sir.

Q Did you make any entry of the material you used on that card? A Yes, sir.

Q Is that your handwriting? A Yes, sir.

Q Made it at the time? A Yes, sir.

Q In the due course of your employment—how many days were you there, approximately? A I wasn't there very long on that job. I handed that over to some of the rest of them. That was done about the same time as the larger one, the Haig & Haig.

By the Court.

Q How long had those signs been standing before you made the repairs? A The large one I had repaired only the summer before.

Q How long had they been standing? A Before then?

Q Yes. A That sign has been there ever since I have been there.

By Mr. Kalisch.

Q How long is that? A Ten years, but there has been work done on them different times.

By the Court.

Q Can you tell whether the matter which had to be repaired by you on these signs is the result of deterioration or not? A No; I cannot, exactly.

By Mr. Lum.

Q Do you recall a sign at the Manhattan Transfer, an eighth of a mile east of the Manhattan Transfer north of the Pennsylvania Railroad? A Yes, sir; there was two there, Palm Beach—

Q And Ryzon? A Ryzon.

Q How big were those signs? A The Palm Beach was 30 by 50, and the Ryzon 21 by 38.

Q When did you go there? A I think about the first of this year.

Q Were those signs old ones or new ones, comparatively? A Been up about four or five years.

Q When you examined them what did you find? A I found braces—some of the anchors had been burned and the wires off.

Q Were the signs standing, or down, or leaning? A There was about 16 feet of the Ryzon, I think it was, was standing.

Q The rest down? A Yes.

Q Could you, from your examination, tell what had caused it to go down? A No; I couldn't. A fire had burned some of the braces and the anchors.

Q How were the wires on that? A The wires were broken off.

Q Was there anything else burned to account for it being down except that? A No; I can't say that there was.

Q In replacing it in the condition in which it had been before, was it necesary for you to do any work and use any material? A Yes; in fact, I had to use all new stuff and had new material.

Q How was the material that had been there if the sign stood all right? A It was all right, most of it.

Q How long did you work on that? A Why, I should judge around three weeks. I am not positive.

Q Did you make a list of the new material you had to use? A I did.

Q Is that your entry on that card? A Most of this is mine; yes.

Q And the material? A Yes.

Q How many people were with you working on that job? A Six or seven.

Q And this card I show you refers to the same job? A Yes; refers to the same job.

Q Is your handwriting on there? A Yes; I think that belongs to the same—

Mr. Lum. I offer these cards in evidence.

Mr. Kalisch. I object to that. They are not evidence. You have been using them as a memorandum.

Mr. Lum. They should be marked for identification, anyway.

Cards marked P. 1 to P. 6, inclusive, for identification.

RECESS.

THOMAS FITZSIMMONS, sworn in behalf of plaintiff.

(Witness requested to leave the stand.)

FRANK FITZSIMMONS, resumes the stand.

Cross examination by Mr. Kalisch.

Q Mr. Fitzsimmons, how long have you been employed by the Gude Company? A Ten years.

Q You started to work for them about 1906? A About that; yes, sir.

Q In what capacity? A Sign builder.

Q Where is their office? A Broadway and Amsterdam avenue.

Q That is where you were employed? A Yes, sir.

Q You were sent out from there? A Yes, sir; Amsterdam and 69th street.

Q Have they other offices in New York? A Their main office—we never frequent that.

Q Do they operate all over the country? A As far as I know; yes, sir.

Q Big concern, isn't it? A Yes, sir.

Q You have been doing repair work for them, as well as constructing signs? A Yes, sir.

Q Were you assigned to any particular territory, or did you go all over? A All over.

Q You didn't do exclusively repair work—you did repair work and construction work? A Yes, sir.

Q Which was there the most of, repair work, for you, or construction work? A Why, both; in fact, there was different times I was sent out to build and other times repair.

Q Was there very much repair work to be done? A Why, some; yes.

Q Well, that is rather indefinite. Was there—how often, on an average, during the week, or was there a month's wait when you were sent out on repair work, or can't you reckon it by the

month? A I can't because a good deal of the time I was sent on the new work.

Q Was there any part of the year in which more repair work was done than in other parts of the year? A Well, mostly around fall, I should judge.

Q Mostly around the fall? A I should judge so.

Q What do you attribute that to?

Mr. Lum. I object. This is not cross examination of this witness. He was specially asked what he did on a specific job. I object to it as irrelevant and immaterial and incompetent.

Mr. Kalisch. I want to show there are other causes.

The Court. You may ask the question.

Q You say around the fall of the year? A I should judge so.

Q Why did you do more repair work around the fall of the year? A That is, on the repair work that I done.

Q You just said you did most of your repair work around the fall of the year and I want to know why. A I know I found so, so much as I told you before. Mine was usually building new boards around the fall of the year, as I was at Elizabethport; that is, taking it from the fall on.

Q What? A Elizabethport, that I am talking about particularly.

Q I am asking you generally why it was you did more repair work around the fall of the year than you did at other parts of the year?

Mr. Lum. I object to this. We are not concerned with this witness as to any other cases than this particular case, of which he

has given the conditions and certainly that cannot be proper to inquire about all other signs.

The Court. I think he is entitled to that.

Counsel for plaintiff objects to this ruling of the Court.

10

Objection noted as ground of appeal.

A As a general thing, in the fall, we would repair them, so as to keep them in first class shape for the winter or any other time.

Q Were there any of them that needed repairing as a result of summer storms?

Mr. Lum. I object to that. It is immaterial, irrelevant and incompetent.

The Court. I will allow the question.

20 A Not very many as I can recollect. We repaired them to keep them in first class shape.

Q I understand that. I am asking you whether any of them, as a result of summer storms, or wind storms accompanying the summer storms that are usually around this section of the country—as a result of that, did you do repair work? A No, sir.

Q These signs are made of wood, not covered 30 with any metal, are they? A Made of wood; yes.

Q Not covered with metal? A No.

Q And they are more or less exposed—they are exposed, you think, on both sides—they are generally put in the fields, you think? A Yes.

Q Did you do any repair work as the result of conditions brought about by the elements, or don't they ever affect your signs? A The way that we put up our signs—I have some that I 40 built in the meadows that have been up for five

or six years without repair, that is in first class shape up to the present time.

Q I am now talking of whether you repaired signs because of conditions brought about by the elements? A No.

Q You don't know what causes these conditions that you found. You have never seen them in any way damaged and you can't tell from looking at them. All you know is that they are broken or part of them are missing.

Mr. Lum. There are four questions. Answer them all.

A The only way I can tell was by the fire I discovered around them and the braces knocked off.

Q Where was this? A Elizabethport.

Q In the meadows? A In the meadows and Harrison.

Q Did you ever see fire in the meadows at all? A Well, no; I can't say that I have.

Q Do you travel very frequently over the meadows? A At times.

Q But you have never seen any fire in meadows? A Not recently.

Q You never have?

The Court. Not recently, he said.

Q Does any of your wood, in the course of time, become rotten? A Well, as a general thing.

Q By being exposed to the elements? A As a general thing, in the meadows a stick of wood won't rot very easily in the water.

Q I am speaking of the part that is out. A It will go for quite a number of years before it will rot.

Q How many years? A Six or seven.

Q Ever go ten years? A Well, yes; some of it will go ten years.

Q Now, this sign that you spoke of in Harrison. You know what month and the year that was that you went down to work on it? A There is two in Harrison, isn't there?

Q I am speaking of the one now— A What is the name of it?

Q The New York American. A What time of year?

Q What month of the year it was? A I should judge around—it was in the summer time. It might have been June, July, or somewhere around that.

Q Have you seen that record before you took the stand? A Any records?

Q Yes. Have you looked over any records? A No, sir; only the cards that I have; my cards.

Q Where did you see those records?

Mr. Lum. You mean since he testified?

Mr. Kalisch. Before he testified this morning?

A I seen them as I done the work on the card.

Q I understand but this was back five years ago. I want to know when you saw those records before going on the stand and after you made them, see them recently? A Well, yes.

Q When did you see them? A Week or so ago.

Q Where? A In my office.

Q What office? A Mr. Lum.

Q Who showed them to you? A I was there to pick out my cards.

Q Who asked you there how you would answer this question? A Our foreman, our office Mr. Jarvis.

Q Who else was there? A Mr. Lum.

Q Who else? A Some of my shop mates.

Q You were asked to pick out the cards? A I had the cards.

Q Where did you get them from? A From Mr. Jarvis.

Q Where did he give them to you? Where were you when you got the cards? A I got them from the office in New York.

Q Who gave them to you over there? A Mr. Jarvis.

Q Did you ask for them? A He gave them to me.

Q Did you ask for them? A No, not really.

Q He didn't just hand them to you, did he? A I told him about working on them jobs and he gave me the cards.

Q How did you happen to tell him about the work on the jobs? A The condition I found the signs in.

Q How did you happen to tell him about these cards?

Mr. Lum. Is this material? I don't understand the materiality of it.

Mr. Kalisch. It will lead up to something.

The Court. Go on, then.

Q You say you asked for your cards? A Yes, sir.

Q You didn't recall the circumstances without those cards, did you? A Well, on some but the 1911.

Q You kept in your mind from 1911 in June details of these things? A I remember it being a very large job, yes.

Q How about the others? A The same way.

Q You kept them in your mind, too? A Yes, sir.

Q All these you have testified to? A The large jobs, certainly.

Q You kept the one in mind in 1913? A Yes.

Q You remember that distinctly, the details of it? A Yes.

Q And you kept in mind, the one, the Acker, Merrill sign? A Yes sir.

Q And the Palm Beach and Ryzon sign, you remember all those, kept them continually in your mind? A Yes.

Q Did you talk with anybody about the case when you got the cards, did you talk with the man that gave you the cards? A Yes, and the condition I found them in.

Q Who was this man, Mr. Jarvis? A Mr. Jarvis.

Q Is he here? A I believe so.

Q Now, then, this sign in 1911, do you recall whether or not there were any storms in the month of 1911? A If I am not mistaken that was in June.

Q I mean June, 1911? A I do not recall of any.

Q You don't remember whether there was or not? A No, sir.

Q In 1913, do you recall whether there were any storms just before doing this work at the Elizabethport job? A Well, I think there was. I am not positive. I cannot say definitely.

Q Just before this work was done, was there a storm? A I can't tell you.

Q Was there a Newark Sign Company sign right down next to it, also, a big one? A In Elizabethport?

Q Yes. A No.

Q Now, how about the time that those Palm Beach and Ryzon signs were repaired? Was there any storm just before that? A Well, really I can't tell you. I can't answer that.

Q Can't you remember that just prior to that time that there was one of the worst storms that ever took place in this vicinity that blew down signs, a number of signs of all the different companies, don't you know that? A Just prior to that, you say.

Q Just around that time, before you made the repairs? A I remember a storm I think around Christmas, if I am not mistaken.

Q When was it that these signs were down, Christmas? A I think it was around the first of the year that I worked on them.

Q And this storm, you say, took place around Christmas? A I think so.

Q That was about a week before? A Week or two.

Q You didn't notice whether there were any signs of the Newark Sign Company down? A I didn't see any down.

Q Did you take any particular notice? A We have them right along in the line there.

Q 100 feet away? A Yes.

Q You say they were not down? A I didn't see them down, no, sir.

Q Did you look? A I would have seen them.

Q Did you notice any other destructions around there of the signs? A No, I didn't

Q Did you notice this Acker-Merrill sign? Where was that located? A Acker-Merrill at Elizabethport opposite Singer's Company.

Q When did you work on that? A The same I worked on the Haig & Haig.

Q When, what year? A 1913, I think.

Q How much was that sign damaged? A Well, enough that I had to build a complete sign.

Q You testified this morning that you were not there so long on that job? A The complete sign had to be built.

Q How long did that take? A I don't think that I stayed on that job over a day. I was on the Haig & Haig, the large one.

Q I am asking about the Acker-Merrill? A I should judge about two weeks.

Q You were two weeks on that every day, continuously? A Of course, it wasn't but about three or four men on that continuously.

Q How many men ordinarily do you put on a job of that size? A Six, I guess five or six.

Q How big a sign was that? A 20 by 50.

Q Did you work on that every day for two weeks? A Well, we have about three-quarters of a mile to carry our lumber and carry it across the tracks. It takes quite a while to get your lumber there.

Q You mean then that the job took two weeks? A I mean the whole thing, carrying the lumber and building the sign.

Q How long were you actually engaged in doing the work? A Probably about a week.

Q One week? A Yes.

Q You didn't work, of course, Saturdays and Sundays? A We worked Saturdays.

Q So six weeks would be a lot? A Six days.

Q In those six days, what did that include, just knocking the boards down or pulling down

the remnants of the old sign? A Pulling down the remnants and building up new.

Q So that you put up an entire new sign? A Yes.

Q What part of the old sign was off? A There was only a few of the posts standing, the main posts. That is about 8 foot high.

Q Where was the facing of the sign? A Laying out in the meadows somewhere in front.

Q Where? A Right in front of the sign.

Q Is this a railroad sign along the railroad? A Yes, sir.

Q How far from the railroad was it, how far back? A I should judge about 400 or 500 feet.

Q Did you get the sign that was lying there? A I seen it lying there, yes.

Q Did you put that one back? A The most of it was smashed up pretty well.

Q How? A Broken.

Q Was it broken you mean in half or how, the wood broken, how was it broken? A Why, the posts had been broke off and pretty well smashed up.

Q Was that lying right near where it had been standing or some distance away? A About where it had been standing.

By the Court.

Q How high is that sign? A Twenty feet.

Q Are those twenty feet uprights put in the ground or spliced? A We generally put them in the meadows about seven or eight feet, one piece, until we get about 31 or 32 feet lengths.

Q What is the size of those uprights? A 4 by 6.

Q What materials? A Spruce.

Q Won't they break in the storm? A Spruce is considered better than hemlock.

Q Won't that break when there comes a storm? A We have them braced about every five feet from the posts.

Q Braced from those uprights to posts in the ground? A To the back braces.

Q That is what holds them in place? A Yes, sir.

By Mr. Kalisch.

Q Do you know how long that sign had been there? A Why, it had been there about four years, I guess.

Q Was it there when you came to Newark for the Gude people, or did you put it up? A It was double decked after I had been there.

Q Was it there as a sign? A Well, might have been ten-foot sign there and rebuilt and made into twenty.

Q I am not asking what might have been. A The 200-foot sign wasn't there when I came there.

Q But there was a sign there; the sign posts were there? The same sign posts, the same posts? A There had been a sign there.

Q And the same posts were left there? A No, sir.

Q Did you go down when the new sign was put up? A No, sir, but I knew—

Q You knew from somebody telling you, I suppose? A I could tell by the way the sign was taken down that the post had been a one-

piece and if the old sign had been there the posts would only have been 10 feet high.

Q You say you go out in the fall of the year to prepare these signs for the winter? A Yes, sir.

Q Why do you do that? A We are supposed to look over all railroad signs.

Q Why do you prepare it for the winter? What is your idea, what is the idea of that? A We want to keep them in good shape.

Q In what way? A See that they are all braced up and everything, nothing taken off of them.

Q Why do you want them braced up, against the elements? A Well, in fact, yes.

Q They are quite destructive, too, at times when you get a severe storm to all these signs? A To some, yes.

By Mr. Lum.

Q The signs that where you found a fire you said it was local this morning, did you not? A Yes, sir.

Q Were the face of these signs burned? A No, just the posts.

Q How high up from the ground were the signs? A Why, about 7 or 8 feet.

Q Raised from the ground? A From the ground.

By Mr. Kalisch.

Q Did it appear as if there had been fire on the posts, that it had caught fire? A Why, the posts had been burned right through in some instances.

Q On both posts or is there only one post? A On both.

Q The fire looked as if it had burned right through? A Yes, sir.

Q Is the board attached to that post? A The board is about 7 or 8 feet high up from the ground.

Q But the portion that was in between the ground and where the facing begins, that was the part that was burned of that post? A Yes.

Q How much of it was burned, very much or just only the surface? A It was burned through.

Q The other end of the sign also, the post, both ends? A Yes, both ends.

Q Well, there was nothing burned in the board itself? A No. I couldn't see anything.

By Mr. Lum.

Q How long were the posts that were burned there? A 4 by 6.

Q And there was no sign of fire elsewhere? A No.

By Mr. Kalisch.

Q How thin are these boards? A About inch boards.

By Mr. Lum.

Q Was there anything besides this burning and knocking off of the supports to account for the boards being down so far as you could judge, anything beside that? A No.

THOMAS FITZSIMMONS, recalled for plaintiff.

Direct examination by Mr. Lum.

Q Mr. Fitzsimmons, by whom are you employed? A The O. J. Gude Company.

Q How long have you been employed by them? A Eighteen years.

Q In what position? A Carpenter sign builder.

Q Did you work both in construction and repair? A Yes, sir.

Q From whom do you receive your instructions?

Mr. Kalisch. The testimony of this last witness I want to reserve the right to make a motion, I don't want to break in now to make a motion to strike all that testimony out on the ground that up to the present time there is absolutely no connection between the facts, between the fact that he has testified to and the defendants in this case; merely that he saw certain things to enjoy and that is all. I want to make that motion so I am not barred out by having remained silent.

The Court. You may make your motion. I deny it with the understanding that if they don't connect it up it will be stricken out.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question repeated.) A Mr. Jarvis.

Q Do you recall doing any work on the repair of a sign at North Elizabeth about three

blocks east of the station south of the Pennsylvania Railroad? A Yes, sir, I do.

Q Did you receive a card in connecttion with that work? A Yes, sir.

Q Did you use any material on that job? A Yes, sir.

Q Did you make a memorandum of the material used? A I did, on the back of the card.

Q In whose handwriting is that? A My handwriting.

Q Is this the card showing your work? A Yes, sir.

Q Have you any independent recollection of this work aside from the card? A Yes, sir, I have.

Q About when did you do the work? A Well, I worked there in November.

Q What year? A 1915.

Q Whose sign was it? A Whose signs were they?

Q Yes. A What they were painted for?

Q No, who owned the signs? A The O. J. Gude Company.

Q What was on the signs? A One sign was painted for Rector.

Q How big was the sign? A 10 by 48.

Q In what condition did you find the sign when you went there? A When I went there in November I found three braces off it and I repaired it up in good standing.

Q Where were the boards, around or gone entirely? A One was laying around and two were gone.

Q What was the condition of it, standing of it, standing or leaning? A It was standing, leaning very badly.

Frank Fitzsimmons, re-direct.

Q What repairs did you have to make? A Had to put on three braces and straighten it up.

Q Was there anything that you could see to account for this condition excepting the removal of these braces? A No, sir, not at that time I couldn't.

Q What was the condition of this sign excepting for the leaning? How was the wood, rotten or sound? A No, sir, the sign was in good shape.

Q Do you know how long that sign has been there? A No, I can't tell you, but I repaired them in June, 1914.

Q What condition did you leave it in when you left it in June, 1914? A I left them in good condition. They ought to have stood for four or five years.

Q How long did you work on them? A In June, I guess, I worked on them about a week or two.

Q You used this material that is indicated on the card? A That is the card that is marked "J," June.

Q Did you do any work?

By the Court.

Q When did you say you prepared that, in November, 1915? A Previous to that, before that.

By Mr. Lum.

Q When did you first? A In June, 1914.

Q Then you left it in what condition? A Left it in this condition.

Q How were the braces? A All bolted on the top and bottom.

Q Describe to the jury how these braces were bolted when you left it in June? A There is a chestnut post down in the ground. We call it an anchor, and there is a brace, 2 by 6, about 18 feet long, which goes from the top of the sign down to the ground and bolted onto the chestnut post I should say about seven or eight inches, some of them nine inches around. They are bolted in.

Q That is the way it was when you left it? A Yes, sir.

Q When did you come back to it again? A In December.

Q Then you say it was leaning? A Leaning very badly.

Q What braces were gone? A One sign was partly down and the anchors were burned off and the braces were burned and severed; posts burned up from the bottom.

Q Was this fire a general fire or local fire? A It looked to me like a local fire.

Q Could you see any signs of other things burned around? A Nowhere, just around those posts.

Q Were other signs in that neighborhood burned? A Only our signs.

Q Did you look around for the other braces, the two braces you said were gone? A I seen them lying there, burned out in the bottom. They were no good to use and they were too short. I had to order all new stuff.

Q Did you do any repairing on a sign at North Elizabeth, west of the station, south of the tracks? A Yes, sir.

Q Did you use any material in connection with it? A Yes, sir, I did.

Q Did you make a memorandum at the time? A On the back of the card.

Q Was there anything peculiar about this memorandum or is this the regular course of business in making these entries this way? A We make our own entries, what we need, on the spot. The first thing we do when we go there is to look the sign over and see what it needs.

Q I want to know if in the ordinary business course this card was filled in reference to this work? A Yes, sir.

Q What was the condition of this North Elizabeth sign? A A couple of braces taken off.

Q Did you repair that? A Yes, sir.

Q What was the condition of the sign? A Left in good condition.

Q Did you see that sign again? A No, sir.

Q I ask you if you recall doing any work on a sign at North Elizabeth, New Jersey, three blocks east of the station, south of the Pennsylvania Railroad, the Hitching sign? A Yes, sir.

Q Did you use certain materials on that? A Yes, sir.

Q What was the matter with the sign? A The sign was leaning.

Q Did you find any reason why it was leaning?

Mr. Kalisch. We don't want any conclusion.

Q What did you find? A Braces loose.

Q Can you tell how they came loose? A No, I can't tell how they came loose.

Q Would they wear loose?

Mr. Kalisch. That is a conclusion.

The Court. If he can tell us, all right.

Q Can you tell whether they would wear loose in the ordinary course? A No, they would not wear loose that way.

Q Did you find them off? A They were off.

Q You use the material shown on this card? A Yes, sir.

Q And perform the labor shown here? A Yes, sir.

Q Do you recall doing any work on repair of sign at North Elizabeth, New Jersey, three blocks east of the station, south to the Pennsylvania Railroad? A I do.

Q What was the condition of that sign? A Well, that other card you have got, this here one is in November and this here one is in December, three weeks back.

Q What condition did you find the signs in in November? A In November I found it wanted a couple of braces, three braces taken off.

Q Did you put them back on? A Yes, sir.

Q What condition did you put the sign in? A In good condition. I worked one day on it.

Q When did you go back to the sign again? A Three weeks afterward.

Q In normal course how long would that sign have stood when you left it? A It would have stood for five or six years.

Q When you went back what condition did you find it in? A That was the time I found the braces and anchors burned and 16 feet of the sign lying on the ground.

Q Did you repair it? A Yes, sir.

Frank Fitzsimmons, re-cross.

Q Did you use the material shown on the back? A That material there.

Q How long were you on it? A About five days.

Q You came to my office for the purpose of preparing this case? A Five days with four men.

Q You came to my office for the purpose of preparation in this case? A Yes, sir.

Q Did you go over these cards with me? A Yes, sir.

Q Answered the questions you have been asked here now? A Yes, sir.

Cross examination by Mr. Kalisch.

Q What were you employed for by the Gude Company? A When I first went there sign painter's helper.

Q Did you remain a sign painter? A I did for about twelve years.

Q And then what was your position? A I had to get out of it and go in the carpenter shop.

Q For the same company? A Yes, sir.

Q What were your duties when you went in the carpenter shop? A Went in as a helper.

Q Helper for what? A As a sign builder's helper.

Q Did you remain a sign builder's helper for any length of time? A Yes, for about two years.

Q And then what did you do? A Went out as a sign builder.

Q You were sent out to do all the repair work? A Repair and building, both.

Q Did you have very much repairing work to do? A Well, about half and half.

Q Did you do other repair work in other places outside of Jersey? A Yes, sir, all over.

Q Whereabouts? A Brooklyn, Long Island, New York.

Q Were they mostly railroad signs along the railroad? A Yes, railroad and automobile signs.

Q You did repair work? What sort of repair work did you do, what was the need of it? A Well, all kinds, wherever there is a sign needed.

Q What did it generally need, the kind of repair work you did? A Well, if I went there and found a section or so of a sign I would put it up; if it wanted a brace on or anything like that I put it up, repair it.

Q And that work was generally, you say, in Brooklyn, Long Island, and where else? A Brooklyn, Long Island, New York, Jersey, Staten Island.

Q Where was most of your repair work done?

Mr. Lum. I object to this. These questions are entirely immaterial.

(Argument.)

Mr. Lum. I object on the ground it is immaterial, irrevelant and incompetent. The questions were as to repairs on particular jobs and the reason for those repairs were given. That is the whole issue on the testimony of this witness and asking about repairs of a kind on Long Island that rotted, or anything of that kind is entirely immaterial.

The Court. I think that is material where it was done.

Q Was there such repair work done in the other sections that you operated as there were in New Jersey? A I can't tell you.

Q Now, the braces, you say you had to replace braces when you did the repair work around Long Island and New York, and so forth?

Mr. Lum. I object to that.

The Court. That is competent.

Q Were those signs built the same way as the signs in Jersey? A Yes, sir.

Q The same construction or same kind of construction, same kind of braces? A I ain't said nothing about any braces.

Q I mean the same posts, the same braces, same kind of boards? A Exactly the same.

Q Now, the ordinary life of one of those boards is how long? A What do you mean, a board or boards?

Q A complete sign, I mean. A A complete sign, some of them are 10 by 48, 10 by 50, 10 by 96.

Q The life of them, how long do they last? A After they are built?

Q Yes, ordinarily? A Well, they ought to stay up about six or seven years.

Q Without supervision—I mean, without looking them over occasionally and repairing them or bracing them up? A Very seldom we go looking them over.

Q You do do it? A Only when we get a report a sign is leaning, or something like that.

Q Do you get those reports occasionally? A I don't know. Mr. Jarvis gets them.

Q Have you ever been sent out for any reason than what you have mentioned? A I had a job to repair a sign and I go look it over.

Q And in making those reports you gave cards showing they were leaning and had to be fixed up? A Yes, sir.

Frank Fitzsimmons, re-cross.

Q Gave cards showing this location in Long Island, Brooklyn and New York as well as in Jersey, is that right? A Yes.

Q You gave cards showing that some are completely down on the ground, have you not, that is, I mean in Long Island, sections other than New Jersey? A Yes.

Q Now, this Rector sign that you spoke of is located where or where was it located? A North Elizabeth, three blocks east of the station north of the track.

Q You had repaired that sign on June 1st? A Yes, sir, every one of them along there.

Q Every one along there, you had repaired? A Yes.

Q When you went there in June what was the matter with the sign? A With it then?

Q In June? A Well, I spliced all the posts out. Nothing would do but having them spliced. They were due for it. They were rotted off.

Q What was rotted off? A The posts at the bottom and I spliced them to put on the new stuff.

Q How near the ground was that rotted back? A Rotted level with the ground on the air line, right where the ground and the air hits it.

By the Court.

Q That is where they always rot? A Yes, sir.

Q That is between the ground and the air? A Yes, sir.

By Mr. Kalisch.

Q That post you took away? A No, sir, I left them in the ground and took some chestnut posts 6 or 8 feet long and dug alongside of them

and put them down in the ground and bolted the chestnuts into the spruce.

Q You didn't take this sign out? A No, sir, just dug a hole alongside the post.

Q Was that on both ends of the sign? A On every post in the sign.

Q How many posts were there? A Some of them only about seven; some have got about 26.

Q How many posts did you find rotting that day? A How many?

Q Yes. A Well, I guess I spliced them all.

Q How many were rotten, about how many? A That I can't tell you.

Q Was there more than a dozen? A Yes, I guess about.

Q How many about? A That I can't tell you.

Q You don't know, but there are quite a good many? A Quite a good many signs.

Q Quite a good many posts that were rotten also at the air line and the surface of the earth? A Yes, sir.

Q Did you take the facing of the board itself, the sign off; you had to do that? A No, sir.

Q Wasn't that attached to the post that was rotten? A The base of the sign is too high; some of them are 3 feet off the ground, 5 feet, 6 feet.

Q Was this sign down, this Rector sign, or leaning? A No, not down.

Q I mean not down? A No, sir.

Q It wasn't down? A No, sir.

Q Just put in this new post and attached that to the old one. Did you attach it also to the brace? A No.

Q Up on top? A No.

Q You came back in November? A No.

Q Where was it you went back there to make the repairs? A After that?

Q Yes. A In November.

Q The same year? A In 1915.

Q This June operation was due in 1914? A 1914.

Q And then the next year, it was 1915 in November, you went back? A Yes, sir.

Q How did you find the braces? A Found a couple of braces off the Rector sign.

Q You found a couple of braces off. What do you mean; were they absolutely flat on the ground or were they partly hanging or what? A They were taken off.

Q Where did you find them, on the ground? A One of them hanging on and two of them—one was missing, I think.

Q Are you sure about this? Are you willing to say they were down or that one was absolutely missing? A Yes, I think one was missing.

Q You are not sure about it, are you sure about it? A Yes.

Q Where was the other one? A One was on the ground and one was attached to the top of the sign, but three of them were taken away from the top of the anchors.

Q Where were they? A Loosened up from the anchor.

Q They were simply loosened but there yet? A No, one was on the sign and one on the ground and one of them was gone away, taken away.

Q The sign, however, wasn't down? A In November, no.

Q That is the last time you saw it? A No, sir, December, three weeks after.

Q What did you do to it when you were there in November? A Just as I am after telling you; fix those three braces on.

Q New braces? A No.

Q Old braces? A Yes, sir.

Q Did you examine the wood at all that these braces had been fixed onto? A Yes, sir.

Q You examined that? A Yes.

Q That was in good condition? A Yes, sir.

Q Was any of the facing of the sign marked up? A No, sir.

Q Then you went back in December. What did you find? A When I went back I found the Rector sign, part of it, down; two posts burned off, three anchors burned off, several braces and another sign down, Feigenspan, and the anchors and braces and one post burned on that.

Q How near to that sign was Feigenspan? A All along the line. They were about every two feet apart.

Q They were two feet apart? A Yes, sir.

Q They covered what distance, the three signs, whatever signs there were there all along? A Feigenspan is about 200 feet long.

Q What about the other signs? A 48 feet.

Q And the other, how many were there? A About seven.

Q And you found that condition on every one of them? A Some of them burned out, some of them—

Q What sort of ground is that there? A Well, it is more clay.

Q Is there any under brush of any kind? A At times.

Q Is the railroad track anywhere near the signs? A About 300 feet from the railroad track.

Q You mean back? A Back.

Q How far were these signs back from the railroad track? A The sign?

Q Yes. A The space of the sign is 116 feet farther out, about 290 feet from the anchors. The face of the sign faces the railroad. The anchors is in back of them.

Q How far would you say this underbrush is; about 200 feet from the railroad? A 200 or 300 feet.

Q How far from the underbrush were the signs? A It was in it, in that field there.

Q And these signs were right where the underbrush was? A No, not exactly.

Q Ten feet? A Not exactly. Where the underbrush is it is all clear.

Q I am asking whether these signs were near this underbrush or right under it or where? A I can't tell you that. There is underbrush all around it there.

Q All around the signs? A Yes.

Q Have you seen any fires down that territory, down that section? A No, not generally.

Q Never have seen any? A I saw a meadow fire.

Q In certain localities, I mean, isolated spots, you have seen meadow fires burning in one section of space and then burning in another section? A I have seen it traveling.

Q But I mean you have seen it in isolated spots, too, haven't you; I mean, where there is a certain fire in one locality and a big space and fire in the other locality? A I never noticed that.

Q Do you know that that place is frequented by tramps? A That, I don't know.

Q You fixed the sign up in December. You know the date? A Yes, around the 17th, 18th of December.

Q Have you heard from it since? A No, sir.

Q Now, here is a sign you speak of, North Elizabeth. Couple of braces off. When was that sign burned? A When was it?

Q Yes, when was that sign repaired by you? A What side of the track is that?

Q I don't know. A couple of braces burned off, North Elizabeth? A West of the station, south of the track.

Q What was that date? A In June.

Q What year? A 1914.

Q 1914, in June, you went down there and you found these two braces off. Was the sign down? A No, sir.

Q Leaning? A Leaning.

Q Very far forward or backward? A Leaning forward.

Q Very far forward? A No, it was leaning bad enough to show, maybe 2 or 3 feet.

Q Was the front of it defaced any or marked? A No, sir.

Q You didn't notice whether there was any burned supports there, you didn't notice that? A No, but the braces were broken off.

Q They were off? A They were off.

Q That was in 1914 You don't recall whether there had been any storm around that time, do you? A No, I do not. That was in June.

Q Then, you speak of a sign three blocks east of the railroad? A That is the one I am after telling you about now.

Q No, North Elizabeth, you told me just now? A Yes, sir, North Elizabeth, west of the station, south of the tracks.

Q That was June, 1914? A June, 1914.

Q That sign was leaning. Then you speak of one, Pennsylvania Railroad station, in November. What year was that? A 1915.

Q What month? A November.

Q You went down there and what did you find there? A As I told you before, that is the one with the pressure braces off.

Q Was the sign down or just leaning forward? A Just leaning.

Q That was in 1915. Now, you fixed that sign? A Yes, sir.

Q And then you went back again how long after? A About three weeks after in November.

Q What did you find again? A That is when I found the braces, anchors and posts off.

Q Any of the sign down? A About 16 feet of it.

Q Do you know whether or not there had been a storm around that time? A No, I don't remember that there had.

Q In November, 1915, you say you don't recollect any heavy storm during that period? A No, sir.

Q Does that stand in the underbrush, too, that sign? A Spots of grass here and there.

Q All these signs stand about the same distance from the railroad, don't they? A Most of them in that locality.

Q And most all of them are certainly all along underbrush? A No, not all of them.

Q Most of them? A Not most of them. Some of them are in wet meadows.

By Mr. Lum.

Q Did it make any difference whether there was any brush around or any wet meadows. Did you find both burned? A Yes, sir.

Frank Fitzsimmons, re-cross.

Q Did you ever find in any wet meadows fire? A No, sir, not in a wet meadow.

Q How far up was the face of the sign from the underbrush? A These here signs?

Q Yes. A The ones that were burned?

Q Yes. A They were, one side, about 3 feet from the ground.

Q Were the face of the signs burned? A No, the face of the signs were not burned.

Q No sign of general fire around there? A No, sir.

Q You say it seemed like a local fire? A Yes, it did. I had to make it my business to find out how that sign—

Mr. Kalisch. I object to that, what he made it his business to do.

Q In order to loosen the braces from the anchor what was necessary? A You would have to have a hack saw.

Q This Feigenspan sign you speak of, whose was that? A Belonged to the O. J. Gude Company.

Cross examination by Mr. Fairlie.

Q In the repair work which you did on Long Island and other places outside of the territory of the Newark Sign Company, did you find these same conditions existing, of posts having been burned and the poles having been hack-sawed off, and so forth, as you discovered in connection with these signs? A No.

Mr. Kalisch. I object to that. I don't see how he can cross examine along those lines.

The Court. The answer will stand.

John Webb, direct.

Q Did you say these signs were 3 feet about from the ground? A The ones that were burned.

Q I am speaking of the ones that were burned. A Yes, sir.

Q Of course, the face of the sign when they were built you always took care to have nothing obstruct the face of the sign, nothing in front of it as far as the underbrush was concerned? A Yes, sir.

Q It didn't make so much difference if the underbrush were around the posts because that didn't obstruct the view of the sign, that is correct? A Yes.

Mr. Lum. I offer these cards for identification.

Marked P. 7 to P. 11 inclusive for identification.

JOHN WEBB, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your business, Mr. Webb? A Sign builder.

Q By whom are you employed? A O. J. Gude Company.

Q How long have you been so employed? A Thirteen years.

Q What work do you do for them? A Build signs along the railroads.

Q Ever do any repair work? A Yes, sir.

Q Did you ever do any work on a sign at Harrison, New Jersey? A Yes, sir.

Q When did you do that? A What sign is it?

Q Did you use material on that job? A Yes, sir.

John Webb, direct.

Q Did you make any entry on the card of the material used? A Yes, sir.

Q In your own handwriting? A Yes, sir.

Q At the time? A Yes, sir.

Q I show you that card. Is that yours? A Yes, sir.

Q When did you first go to that job? A November, 1914.

Q Whose sign was it? A O. J. Gude Company sign, Feigenspan beer.

Q What condition did you find the sign in? A Found the sign, the bottom braces burned.

Q Was there a general fire, had been around there or was it a local fire? A Local fire.

Q How far had it spread away from the post? A Eight feet.

Q Had the face of the sign been burned? A No, sir.

Q Anything else burned around there? A No.

Q Were there other signs around there? A Yes, sir.

Q They were not burned? A Yes, sir.

Q What did you do to that sign? A I repaired the bottom and put new braces there.

Q Did you ever go to that sign again? A No, sir.

Q Did you do any work on a sign at Harrison, two blocks west of the station? A Yes, sir.

Q When did you do that? A December, 1914, a month afterwards.

Q Whose sign was that? A The sign was Ruppert's beer sign, Farmer's clock sign and umbrella sign.

Q Who owed the sign? A O. J. Gude Company.

Q How big were they? A 10 by 48 each one.

Q What condition did you find them in? A Burning fire, just burning.

Q Describe to the jury just what you saw. A Burning, smoking, like old rubbish.

Q Where was the place with reference to your posts? A In between the 10-foot spread of the sign to the back braces.

Q Was the fire around, general, anywheres else? A No, sir.

Q What did you do? A Put out the fire and repaired the signs.

Q Did you use the material? A Yes, sir.

Q Did you make any entry of the materials used? A Yes, sir.

Q Does that card show it? A Yes, sir.

Q Did you ever do any work on a sign in the Hackensack meadows three-quarters of a mile north of the D., L. & W.? A Yes, sir.

Q When was that done? A That was done January, 1915.

Q Whose sign was that? A Blue label sign and a Dunham's chocolate.

Q What size? A 10 by 48, each sign.

Q Owned by whom? A O. J. Gude Company.

Q What condition did you find that sign in? A The face of it burned.

Q How were the signs, the fire round about? A Didn't see no fire around there. All I found was the signs destroyed by fire.

Q Had there been a general fire around there? A I didn't see no general fire.

Q Other signs around there burning? A Yes, sir, ten signs there in the same place.

Q All that size? A Yes, sir.

Q All burned? A Only these two.

Q What did you do? A Repaired the signs, fetched the stuff from the shop.

Q Did you enter on that card material used and labor? A Yes, sir.

Q Is that your handwriting? A Yes, sir.

Q At the time? A Yes, sir.

Q Did you ever do any work on a sign at South Elizabeth station, an eighth of an mile west of the station? A Yes, sir.

Q Whose sign was that? A O. J. Gude.

Q What was on it? A Cigarette sign.

Q When did you go there? A Went out there on the last day of February to see what was needed and they were all taken away.

Q February of what year? A This year.

Q 1916? A 1916.

Q They were all taken away? A Every bit was taken away excepting 52 chestnut posts about 18 inches off the ground and looked as if it was chopped.

Q Did you fix that sign up? A Yes, sir, replaced the whole new sign.

Q And used material? A Yes, sir.

Q That card shows the material? A Yes, sir.

Q That card shows the handwriting? A Yes, sir.

Q Made at the time? A Yes, sir.

Mr. Kalisch. Calling attention to the motion made to the testimony of the other witness. I want to object to this testimony and ask to have it stricken out as there is no connection shown.

Mr. Lum. I offer these cards for identification.

Marked D. 12 to 15 inclusive for identification.

John Webb, cross.

Cross examination by Mr. Kalisch.

Q How old was this Feigenspan sign? A I can't tell you how old because I didn't build it.

Q How long have you been with the company? A Thirteen years.

Q Was it there when you came there? A No, sir.

Q When did you first see it? A About four years ago.

Q Did you ever do any work on it before? A No, sir, worked on signs alongside of it.

Q Where did you do your repair work, just in Jersey? A No, sir, I have done building work, all new work; I have done all new work and repairing both.

Q Did you do any repairing outside of Jersey? A Yes, sir.

Q Where? A Railroad.

Q Went for the Gude Company? A Long Island Railroad.

Q Where else? A Erie Railroad, Central Railroad, every railroad.

Q What kind of repair work did you do? A Repairing signs. Anything knocks them over we rebuild them up again.

Q Were there many of them blown down? A They needed braces, anchors. We braced them with new stuff.

Q Did you have a lot of that work to do? A Yes, sir.

Q Did any of those signs in New York along these other railroads beside the Pennsylvania, were there any of them there burned by fire? A No, sir.

Q Were there any of them in the meadows? A There ain't no meadows there only here in Long Island, yes, over in Flushing meadows.

Q What happened? A They were filling in there and dumping paper on there. That is six years ago but they notified us that the signs was liable to be taken off if we get them out of there.

Q What did you do, take them off? A Yes, sir, and rebuilt them over again.

Q Did you have very much trouble with tramps burning up signs? A No, sir.

Q Have you ever seen the fires along the meadows? A Yes, sir.

Q You have? A Yes, sir.

Q Around where these signs are? A I seen in the Marion meadows.

Q Around where these signs are? A Not where them signs are.

Q How far away did you see them from those signs? A About 50 feet.

Q Was there any underbrush around those signs? A When those signs was burned was in the winter time.

Q When did you go down there? A Down where?

Q To these signs that were burned? A In the winter time.

Q What month? A November, December and January.

Q That is when you went down there? A Yes, sir.

Q You don't know how long they had been in that condition? A One of them was burning.

Q How long? A I can't tell you how long it had been in that condition.

Q Did you notice the Feigenspan sign, whether there was very much underbrush about there? A No underbrush at all. It was filled in ground.

Q You saw a lot of rubbish? A Rubbish and stuff.

Q That had been burned, that rubbish? A Around the sign the rubbish was burned, in between the sign, in between the back of the 10 foot stretch. There was no fire in front of it, didn't see no sign of fire.

Q When you got there you saw all the rubbish? A Only all the burning stuff there, rubbish.

Q That was burning? A That was burning out.

Q What was that, what sort of rubbish was it; wet paper? A Old oilcloth and hot coal.

Q Was the sign defaced any? A The sign was not disfigured in the face of any kind.

Q There was one two blocks west of the station in December, 1914? A One month after.

Q Was that the same sign? A No, sir.

Q That is a different sign? A Different sign.

Q You say there was some burning near there? A Yes, sir.

Q What sign was that? A There was four signs.

Q What were they, do you know? A Yes, sir; one was a Ruppert sign, another one was a Bell & Hall Refrigerators sign, another was a Farmer Clock, another was an umbrella sign.

Q You don't remember that? A No.

Q Were any of those signs defaced? A No, sir, only in the backs.

Q But the front of it remained? A The front of it was perfect.

Q Along the Hackensack meadows in January, 1915, what was the matter with that sign? A Fire underneath 4 feet from the ground.

John Webb, cross.

Q Rubbish, was it underbrush? A Underbrush.

Q Was that near the post? A Right near the post, it was burnt.

Q Was that sign defaced? A Yes, I had to put new boards in it to get painted over again.

Q From what was that? A Fire.

Q Where, on the side of the sign or in the middle? A In the middle.

Q You saw this underbrush, did you or burned underbrush? A Underbrush? Yes.

Q Part of it had burned? A No brush in the back but brush in the front.

Q Had it been burned? A Yes, sir.

Q In South Elizabeth station in 1916, February, that is this year, that is about three or four months ago, you went down there? A Yes, sir.

Q What did you see there? A I see two 2-foot chestnut posts—that is what we call anchors—sticking out of the ground and it looked like it was chopped with a sharp instrument. We couldn't find nothing else. The stick was all gone.

Q No sign lying anywheres in the territory? A No, sir.

Q That was the first sign you went down there for, wasn't it? A I went there on the 28th day of February to find out what stuff we wanted.

Q Why? A To see if there was any of it left there. When I got down there there was none of it left there. I had to replace it with a whole new sign.

Q Do you know what sign had previously been there? Had you seen the sign there before? A Yes, sir.

Q You had? A Yes, sir.

Q When had you been down there before? A I just been that way week before that.

Q How many weeks? A Maybe a month.

Q What kind was there? A That was a Royal Nestor cigarette sign.

Q How often had you been down there between those two times; that is, between the first time you were there and the last time you were there? A The next time I was sent down to rebuild it.

Q Put a complete new sign? A Complete new sign.

Q Who told you to do that? A My card called for it from the office.

Q So that when you went down there you knew the sign had been absolutely taken away? A No, sir, not when I went down, until I went down there the 28th day of February, I was sent down—I was working in Waverly. After I got done in Waverly, to go down there and find out what I needed and get my stuff from the lumber yard.

Q When you were sent down to rebuild it, to put a complete new sign there your card called for it? A Not when I first went there. I had to report the next morning, tell them what I wanted.

Q What did they tell you to do when they sent you out? A Build the whole new face of the sign with the lumber we ordered from the lumber yard.

Q When they sent you out what did they order you to do? A To rebuild the sign.

JOSEPH BROOKS, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your business, Mr. Brooks? A Sign builder.

Q By whom are you employed? A O. J. Gude Company.

Q How long have you been in their employ? A Seven years.

Q In what capacity are you employed? A As a sign builder.

Q Do you do repair work? A Repair work and sign building.

Q Did you ever receive a card with reference to work on the Hackensack meadows three-quarters of a mile west of station north of the D. L. & W.? A Yes, sir.

Q Whose sign was it? A O. J. Gude Company, Haig & Haig sign.

Q About what time did you go to that place? A About June, 1911.

Q Did you use the material on that job? A Yes, sir.

Q Did you make a memorandum on the card of the material you used? A Yes, sir.

Q Did you do that in all cases? A All cases; every job I was ever on.

Q And you did it in this case in the ordinary course of your employement? A Yes, sir.

Q All these entries are in your employement? A Yes, sir.

Q How large was that sign? A About 300 feet long, 45 feet high on the ends, and the centre of it was 14 feet. It is a cut-out circle on each end, running about 70 feet on each end.

Q How had that sign been supported? A It was double-braced with anchors, chestnut posts in

the ground every two feet. It is braced with 2 x 6-foot braces and what we call an A halfway up on the sign.

Q How about wires? A And wires, 15 on one, 15 and 18 wires in the front and the same in the back supported by chestnut posts from the front.

Q This is a new or an old sign? A It wasn't in very bad shape.

Q What conditions did you find it in? A I found part of it down, about 100 feet of it down and quite a lot of the boards missing from the center of the sign. It was badly leaning and the wires of front and back cut.

Q Could you tell how these boards had been removed?

Mr. Kalisch. I object to that. That is a matter for the jury to determine.

By the Court.

Q Could you tell? A Yes; I could. I found four or five of them cut with a saw and hanging in the air.

Mr. Kalisch. I think I have the right to cross examine him.

Cross examination by Mr. Kalisch.

Q You examined this board? A Yes, sir; at the time I went to see what the trouble was with it when I received my orders.

Q Was the board down? A Part of it; yes, sir.

Q What part of the board was down? A The easterly end.

Q Which part did you examine? A I examined the entire sign. The center of the sign was leaning way out and I tackled that first before the

rest of it would go down; also, the westerly end, the braces were gone from it.

Q What was on that sign? Was it just painted right on the sign, Haig & Haig, or was there some covering on there? A Right on the board; yes, sir—board face.

Q You don't know how long it had been in that condition before you got there? A It hadn't been very long, to the best of my knowledge. Of course, that is something I don't know.

By Mr. Lum.

Q You fixed up the sign in good shape? A Yes, sir.

Q Did you go back to that sign again? A I had to go back in December, 1913.

Q How long after the first time was that? A About two years, I imagine.

Q What condition did you find the sign then? A I found it, then, in about the same shape. The wires were cut, also gone, and there had been braces removed.

Q What was it necesary to use in order to remove these braces? A Necesasry to have a crowbar, S wrench and hammer machine.

Q Did you find the braces there? A We found a few of them; yes, sir.

Q Any missing? A They were; yes, sir.

Q What did you do that time? A That time I had to do the same as I did the first time; rebuild it up, replace the brace and the back rail that had been used and all smashed up—that had to be replaced.

Q What about the wires? A The wires—I had to rewire again.

Joseph Brooks, re-cross.

Q What happened to the wires the second time? A Had been cut and left there.

Q Any other job of the same kind? A No; that is all I know of on that one occasion.

Q You have done all repairs of signs that have worn out in the ordinary course? A I have repaired where braces have been off, but I can't recall it.

Cross examination by Mr. Kalisch.

Q Did you repair any signs that had been down as a result of storms? A I can't say I have. While they have come down by storms, but everything seemed to be in pretty solid shape.

Q Never have blown down as a result of the storm? A Well, the storm had helped them all, I suppose, but the storm would not affect them.

Q Why do you think the storm has helped them all? A The way we brace those signs—if those braces were left on there would not be any possible chance for them to go down.

Q You don't think the storm can loosen those bolts or braces? A No; I do not.

Q You have never examined any signs after a storm, have you? A Yes; I have examined signs.

Q You have never seen the signs on the ground absolutely released from their bolts and braces? A Never released from the bolts; no, sir.

Q That doesn't make any difference—whether the signs would be old or new they would stand the elements just as well. A I never handled any old ones.

Q Did you have to repaint this sign—did you have to repaint it? A This sign was repainted.

Q Was the sign defaced any? A By the paint; yes.

Q I mean destroyed there, because it had fallen; was there any marks across it? A No; I can't say.

Q You didn't see that? A No, sir.

Q How many men did you have down with you to fix it? A We started with six, and before I got through I had around eight.

Q How long did it take you? A In about three weeks the first time, and I guess somewhere in around the same amount of time for the second.

Q You first went to look at that sign in 1911? A Yes, sir.

Q What was the matter with it, then? A The end was down, about 70 feet of it, I believe; there were braces missing and I found where some had been sawed and hanging by the support of this A brace. As I explained before, that is a small brace that runs through the center of the sign.

Q The brace itself had been sawed? A The main brace, it was a clean cut, not a break at all.

Q You put a new brace in? A Yes, sir, I had to put several new braces in.

Q That first time, in June, was the sign defaced any? A No, I can't say it was.

Q You went back again in 1913. That was two and a half years after. A Went back in December, 1913, and finished it up around 1914, January some time.

Q Do you know whether or not anybody had inspected the sign before or during those times or whether had been any repairs made during those times? A Not to my knowledge.

Q How near to the railroad is that sign? A About within a quarter to a half mile of the D., L. & W. It is the old Erie, the old Greenwood Lake division.

Q What sort of ground is there around there in the territory, empty land? A Yes, sir, kind of swampy.

Q How do you get there? A We came in from the mosquito division from the Turnpike.

Q How far is it from the Turnpike? A About a mile.

Q Do you have to go in this meadow? We do at times when we want to get a short cut. When we were in there in December it was froze over. We could take a short cut. In the summertime we had to walk from the mosquito division down to the other railroad bridge.

Q Are there many signs around there now other than Gude's? A Not in front where Haig & Haig is.

Q That is pretty well isolated; I mean there are no other signs in the same neighborhood? A There are in the same neighborhood. It is a short way down. On the other side is the pit.

Q It is open, you are sure, the sign is pretty well exposed? A It is exposed to a certain extent.

Q Have you been there since December, 1913? A I have, yes, sir.

Q When? A I can't just say. I have been there around '19—the summer of 1914, I guess.

Q Did you fix it then? A No, sir, didn't need repairing on it then.

Q Was it all right then? A Yes, sir, that I know of. I didn't examine it. I had no orders for it.

Q Since that time have you been down? A No, sir.

Mr. Lum. I offer these cards for identification.

Marked P. 16 and P. 17 for identification.

GEORGE MARTIN, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q Mr. Martin, you are employed by the O. J. Gude Company? A Yes, sir.

Q In what capacity? A Sign builder.

Q How long have you been with them? A Five years.

Q Did you do repair work? A Work in general.

Q Do you recall any work on a sign in Linden, New Jersey, two blocks east of the station, north of the Pennsylvania? A Yes, sir.

Q Did you use any material on that job? A I did.

Q Did you make an entry on the card at the time the material was used? A Yes, sir.

Q Is that the card? A Yes, sir.

Q When was that work done? A That work was done in January, 1913.

Q Who owned the sign? A O. J. Gude Company.

Q What advertisement was on it? A At that time it was Gimbel Brothers.

Q In what condition did you find the sign in? A There was 25 feet of this sign down. The sign was a sign 20 feet high and 96 feet long.

Q Did you examine the sign, the brace, and so forth? A What made it look peculiar to me—

Mr. Kalisch. I object to that.

The Court. Yes, that is objectionable.

Q Tell the jury what you found. A When I got there I found no braces there at all on the 25 feet that was down and the other part was there. The anchors were solid in the ground and the face was whole.

Q Did you find the braces around there at all? A No, there was no braces at all.

Q What would be necessary to remove those braces? A You could pry them off with a crowbar or you could take them off with a wrench and hammer.

Q Did you repair it? A Yes, sir.

Q And used the material mentioned there? A Yes, sir.

Q And the labor shown on that card? A Yes, sir.

Q Did you do any repair work on a sign at Perth Amboy section, three-quarters of a mile west of the Rahway station, north of the Pennsylvania Railroad? A Yes, sir.

Q When did you do that? A I did that on March 1st.

Q What year? A 1915.

Q That was a sign of the Gude Company? A Yes, there was two of them there at the time.

Q Whose advertisements were they? A One was the Cusenier and the other a King George Scotch whiskey.

Q In what condition did you find those signs? A I got orders that morning to go out and rebuild.

Mr. Kalisch. I object to that.

The Court. Strike it out.

Q You went there? A I went there to rebuild those signs.

Q What condition did you find? A All I found was a few signs of posts in the ground.

George Martin, direct.

Q Describe those posts, what they looked like? A I should judge they stuck out of the ground about 4 feet. Appeared to me as if they had been—

Mr. Kalisch. I object to that.

Q Describe it to the jury. A Looked as if they were chopped down with an axe.

By the Court.

Q How did they look? A They looked as if they were chopped down with an axe.

Mr. Kalisch. I object to that.

The Court. Strike the answer out.

Q Describe the posts to the jury, whether they were straight at the top? A No, they were nicked just as though you would cut down a tree.

Mr. Kalisch. I object.

The Court. If he saw anything there you can tell it, but not conclusions.

Q They looked nicked? A They looked nicked to me, yes.

Q What did you do? A Why, do you wish me to tell what orders I got before I left?

Mr. Kalisch. Tell what you did.

A You see these signs are signs that were chopped down by Mr. Galvin.

Q Did you look for the signs? A I looked for the signs and I found them in a nearby yard.

Q Was anybody there? A I can't say.

Q Did you see a man? A No, I did not see him, but afterwards I learned it was Mr. Dawson.

Q You found part of the boards there at his place? A I did.

Q Do you recall those signs? A Yes, sir.

George Martin, cross.

Q And used the material and the labor shown on that card? A Yes, sir.

Q Made the entries at the time? A Yes, sir.

Q Did you do any work of repairing a sign, North Elizabeth, three blocks east of the station, south of the Pennsylvania? A Yes, sir.

Q Used material on that? A Yes, sir.

Q Made the entries on the card at the time? A Yes, sir.

Q When was that? A That was in January, 1913.

Q What condition did you find that sign in? A There was twenty feet of that sign down. It was a ten-foot high sign, forty-eight feet long, braces—at least, braces were missing and posts and the facing of the sign was laying on the ground; braces were detached, anchors were solid.

Cross examination by Mr. Kalisch.

Q How long have you worked for them? A Five years.

Q Do you know how big, a large number of men worked there on repair work? A No, sir.

Q About how many, have you any idea? A In what line? Repairing, just doing the same work as you do? There are a couple of different departments in that company.

Q In your department in construction work and doing repair work and fixing up signs that were down and building signs.

Mr. Lum. I object to this as irrelevant and immaterial and incompetent. It is also, not within the line of the direct examination in any way.

The Court. You may ask the question. Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

A There is nobody as far as I know who only does repair work. We all do repair work and we all build.

Q You know these other witnesses, don't you, Mr. Brooks and Mr. Webb; you know them, don't you? A Yes, sir.

Q How many such men doing work, similar work as they are? A I should judge the average would be about thirty-five. That is on an average.

Q Did you work outside of Jersey territory, too? A Yes, sir.

Q Where else did you work?

Mr. Lum. I object to this further as irrelevant, immaterial and incompetent and not within the scope of the direct examination.

The Court. Answer the question.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

A I work on what is a radius of thirty to forty miles.

Q Along the railroad tracks? A Yes.

Q Building up signs? A Yes, sir.

Q And repairing signs that have burned down or were down on the ground? A Yes, sir.

Q And any repairing? A Yes, anything in general.

Q Are men sent out every day by the Gude Company for that purpose? A Yes, every day the weather permits.

Q I mean by that, is there repair work to do every day? A I can't say that. That is outside of my line.

Q Don't you know whether or not repair work was done every day by the carpenters? A No, I get my orders in the morning and out I go.

Q Do you go alone? A All depends upon what kind of a job I am going on.

Q I mean repairing job? A Well, that all depends. It all depends on how large every repair job is.

Q Didn't they send out a number of men every day to make repairs, don't you know they did? A Not if it is not necessary.

Q Wasn't it necessary almost every day? A Not that I know.

Q How often was it necessary? A I don't know. I can't answer you that question.

Q You know these men would go out on trips together to repair signs, dont you? A I can't say that. They go out and build them. Some may go to repair, some may go to build.

Q This sign at Linden you saw in 1913, in January. What did you say the trouble with that was? A About twenty-five feet of it down.

Q The braces taken off? A The brace was off, the brace was off.

Q Where were they, on the ground? A No, sir.

Q Where were they? A They were not there.

Q Gimbell Brothers ad was on that sign? A At that time.

Q And that was a sign of the Gude Company? A Yes, sir.

George Martin, cross.

Q Had you ever repaired signs that have been blown down by storms? A Well, now and then.

Q How often has that happened from your experience? A Well, in my experience I have repaired about twelve.

Q Where they have been blown down by storms? A That I can't say.

Q Immediately after storms? A Yes.

Q I asked you the question and you said now and then, about twelve of them. You have repaired that have been blown down by storms? A Yes.

Q Were they entirely down on the ground, some of them? A Some were, some half down.

Q Just half down and some leaning? A Yes.

Q Some of them with the braces off and some of them with them on, I suppose? A Yes.

Q And some of them with the braces partly on; that is, hanging? A Yes.

Q In Rahway, about a quarter or three-quarters of a mile from the station were two signs that you testified to that you went to rebuild and you say you saw the entire sign down again with the exception of the posts that were sticking out of the ground? A Yes, sir.

Q You went there when? A First of March.

Q What year? A 1915.

Q Did any one accompany you; did any one go with you? A Yes, sir.

Q How many went with you? A Another man and myself.

George Martin, cross.

By the Court.

Q Who was the other man? A He was my helper.

Q What is his name? A His name is on that card. His name is John Chorus.

By Mr. Kalisch.

Q Is he here? A No, sir, he is not here.

Q You were to go down there to rebuild the sign completely? A Yes, sir.

Q Where did you get those orders from? A From Mr. Jarvis.

Q Jarvis told you to go down and put a complete new sign there? A Yes, sir—no, he didn't tell me to go down and put a complete new sign. Mr. Jarvis gave me the instruction when I was leaving the shop that morning that I would find these signs in a nearby yard and to use such of the stuff as I could to rebuild them and when I got down there I looked over the stuff and it only looked to me it would be fit for firewood. I couldn't use it, so I was compelled to order mostly all new stuff for the job.

Q What was the stuff that you couldn't use? A Why—

Q You mean on Dawson's place? A Yes.

Q Where did you see it on Dawson's place, in the yard? A In his yard.

Q Where, just lying there, or was it used for any purpose? A No, just lying there.

Q In Dawson's yard? A Yes.

Q Did you see Dawson about it? A I didn't see Dawson, no.

Q Just looked at the sign and thought you couldn't use it? A Yes.

Q You left the material there? A Yes.

Q Was that so of both signs? There were two signs there? A Two signs; yes, sir.

Q That is in reference to both signs? A Yes, sir, both of them.

Q Now, North Elizabeth, in January, 1913, you spoke of a sign, 20 feet of which was down. What was the condition of that? A Why, that was just about the same as that Gimbel sign in Linden. The braces was gone and that part of the sign was left to the mercy of the wind.

Q Did you build a new sign there? A No, sir; I just repaired that. I repaired that 20 feet.

Q Was the front of the sign defaced any? A No.

Q What was on there—what sign was that? A It was a carpenter sign at that time.

Q Advertising some carpenter establishment? A I know the name was carpenter on it. I don't really know what they were advertising. I think that was the name of the man advertising for something.

Q That was in good condition? A It was.

Q I mean as far as the front, the advertisement was in perfect condition? A Of course, I had to put new braces on 20 feet of it.

Q Was that torn down? A Yes, sir.

Q But it wasn't defaced? A No.

Mr. Lum. I offer those cards for identification.

Marked P. 18, P. 19 and P. 20 for identication.

James Telford, direct.

JAMES TELFORD, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q Mr. Telford, you are employed by the O. J. Gude Company in construction and repair work? A Yes, sir.

Q Have been so for how long? A Five years.

Q Did you do any work over at Carlstadt? A No, sir, I looked at that sign, just before last Saturday.

Q What condition did you find it in? A Half of it burned and down.

Q Whose sign was it? A O. J. Gude.

Q What was on it? A Feigenspan.

Q You say half of it is down. What part? A The left hand end.

Q How had the sign been supported? A How had it been supported?

Q Yes. A By braces in the usual manner. Had been burned by a meadow fire started by two young fellows.

Q Did you see it started? A No, sir, Mr. Gramwick, a coal man—

Q No, only what you know of your own knowledge. Were you present? A At the fire, no, sir.

Q It was a general fire or local fire? A Local.

Q How far did it burn? A About a block straight through. This was started a block away.

Q And it had burned? A Burned the sign posts and some of the front.

Q Did you do any repair work on a sign on the Hackensack meadows, three miles south of Rutherford? A No, that has not been repaired.

Q Did you examine that sign? A Yes, sir.

Q What condition did you find that? A Found two posts burned, back braces burned and the back posts.

Q When did you examine it? A About the third of the month.

Q Which month? A June, this year.

Mr. Kalisch. I object to that.

Mr. Lum. We can recover damages only for the period claimed. We can show a conspiracy both before or after. I will withdraw it for the present.

Q Did you do any repair work on a sign west of Hackensack river? A Yes, sir.

Q When did you do that? A About the first of April.

Q What year? A This year, between the 1st of March and the 1st of April.

Mr. Lum. This suit was brought the 27th of April so that is within time.

Q What condition did you find that sign in? A Found three posts burned out in front, one back post that supported a cut-out and the bottom of two or three braces.

Q General fire or local fire? A Local.

Q Was anything else burned around there? A Yes; the grass had been burned around in spots and this fire had been in spots.

Q Hadn't been burned straight throughout? A No, sir.

Q Were there other signs around there? A No; that is the only sign there up at that time.

Q Did you do work on repairing it? A Yes, sir.

Q Use the material mentioned there? A Yes, sir.

Q And the labor? A Yes, sir.

James Telford, cross.

Cross examination by Mr. Kalisch.

Q You are employed by the Gude Company? A Yes, sir.

Q How long have you been employed there? A Five years.

Q You only do work over here in Jersey? A No, sir.

Q You do work outside of Jersey? A All over.

Q Repairing signs? A Repairing, building.

Q Does the work that you do outside of Jersey, the same kind of work—I mean, are the signs repaired that are repaired—are they about the same that you find all over in Jersey? A Meaning burned?

Q Yes. A No.

Q You don't get that condition outside of Jersey? A I haven't found them that way.

Q But the braces off? A Braces off scarcely once in a while.

Q What do you attribute that to outside of Jersey; from storms, sometimes. A Sometimes; but when they are, they are broken in half.

Q Depending upon the spirit of the storm? A Exactly.

Q This fire that you noticed down on the Feigenspan sign started a block away, you say? A Yes, sir.

Q From which direction? A Came from the west.

Mr. Lum. I offer this card for identification.

Card marked P. 21 for identification.

Adjourned to Wednesday, June 14, 1916, at ten o'clock A. M.

THIRD DAY.

Wednesday, June 14, 1916.

Met pursuant to adjournment.

Present, counsel as before stated.

JAMES TELFORD, resumes the stand in behalf of plaintiff.

Cross examination (continued) by Mr. Kalisch.

Q Mr. Telford, this Feigenspan sign that you testified to yesterday, half of which you said was down? A Partly down.

Q Half was partly down? A It is probably one-half.

Q Just tell me where that is located. A That is located according to our directions two blocks south of the station at Carlstadt.

Q In Carlstadt? A There are no blocks cut through.

Q You reckon it to be the length of two blocks? A Yes.

Q You spoke of fire there that started about a block away? A About that, yes.

Q From what direction? A From the west. It was coming in an easterly direction.

Q Were there any signs in the near neighborhood of this sign? A In the near neighborhood about a block away, one sign.

Q In the direction of where the fire started? A No, to the north of that probably butting up against a coal yard.

Q What sort of ground is that? A Meadow.

Q Is there any underbrush? A No underbrush.

Q Where the fire started was there underbrush? A No, meadow grass, bullrushes.

Q And that is what burned starting from a block away? A Yes, that is approximately a block away. A car line turns up there, over, and cuts in across.

Q What do you call it? A Bullrushes.

Q What time of the year was this? A I was out there Saturday last.

Q Last Saturday? A Last Saturday.

Q Have you been out there before? A Had I been out there?

Q Yes. A Many times.

Q How many times before? I think you stated you found this condition some time in April? A No, that was in June. That was last Saturday, that one.

Q That was the Feigenspan sign? A That was the Feigenspan sign.

Q Since April 1st how many times have you been out? A Out to this particular place?

Q Yes. A Haven't been out there.

Q What was the time that you were out there before Saturday? A I can't state exactly.

Q You said you were out many times? A Well, in the course of the year, yes.

Q What period of time? A Meaning what, since I have been out?

Q Since you were last out there during the time that you have visited this locality. A I believe a year.

Q How often have you been out there in a year? A In a year?

Q Yes. A I have been there once, possibly, before this time.

Q You said you were out there many times. Now, then, covering what period did you go out there? A During the course of my employment

with this firm I said I have been there many times.

Q In how long a time? A Five years.

Q How many times have you been there in five years? A Say ten.

Q How old is this sign? A I can't say.

Q Did you notice whether the ground around that sign—I don't mean near the sign—the general aspect of the ground, whether that was covered with meadow grass? A Grass—no, too wet for grass.

Q You saw the fire that you say had started a block away, the fire that you say had started a block away? A Yes, sir, that is the end of the meadow there.

Q Did you follow up the trail of the fire? A It is easily seen from the sign.

Q From where the sign was it was easily seen? A Yes, too wet to walk through.

Q But it was easily seen? A Yes, sir.

Q How wide was this fire? A That would be impossible to state, to tell.

Q How far back of the sign? A One block.

Q How far alongside; I mean, how far from either side of the sign? A Well, about a block to the north or possibly a half a block is the back of houses or back of fences—yes, yards, and a coal yard.

Q What direction does the sign face? A The sign faces the east, runs north and south; that is, in that direction.

Q It runs north and south and faces the east, the back of it faces the west? A Exactly.

Q How far north and south did this fire extend, how far north and south from the sign? A It couldn't extend north.

Q Not that it couldn't. Did you notice how far it extended? Can't you give me any opinion about it? A To the north it had burned right up to the back fences, up to the back yard of the fences.

Q From where? A From the sign.

Q To the south how far did it burn? A I can't state that.

Q You say the fire burned from the sign to the back fences? A No, it burned from where it started to the west. It burned up to the back yard fences.

Mr. Lum. I object to this on the ground it is needless repetition. Your Honor will recall that the purpose of this evidence was merely to show that when there was a general conflagration it could be seen very readily.

Mr. Kalisch. I don't think he ought to argue the case to the jury.

The Court. Mr. Lum has a right to be heard.

Mr. Lum. I was proceeding to say the purpose of the question is to show that when there was a general conflagration as distinguished between a local fire it was easily discernable. Mr. Kalisch has gone over the dimensions of this fire seven times and it seems to me this case should be confined. I urge it is objectionable on the ground that it is repetition.

The Court. I will allo wthe question.

Q (Question repeated). And then what was the course of it? A Course of it, followed to the railroad track where the sign is.

Q Now, then, you spoke of a sign west of Hackensack river which you inspected on March 1st? A April 30th and March 1st.

Q What was on that sign? A What was done to it?

Q What sign was on it? A Haig & Haig whiskey.

Q You said three posts were burned out and the large post was burned? A Well, they varied. One was burned up perhaps 6 feet, another was burned up probably 2 feet and another one, probably two, about 3 feet.

Q How high from the ground was the sign? A 9 feet on one end and a little higher on the other; possibly six inches to a foot.

Q How many posts are on this sign? A It is 300 feet long and 39 posts in the front and on the cut outs there should be six more—45 posts.

Q Was any of the board itself burned? A No, sir.

Q Was any of the board defaced? A Not in any manner.

Q Was it leaning at all? A Was the sign leaning?

Q Yes. A Slightly.

Q Any of the braces gone? A Burned.

Q Were there other signs in the vicinity? A That is the only sign in the immediate vicinity or was at that time.

Q How far away were any of the other signs? A The nearest sign, that would be on the other side of the river, Little Snake Hill on the Greenwood Lake division of the Erie, about north. Half a mile away is another sign.

Q How far to the west were there any? A Manhattan transfer.

William McCall, direct.

Q How far was it? A This side of Manhattan transfer a mile, I should judge; that is, all our signs. Since then we put one in, 100 footer.

Q Any Newark Sign Company's sign in that mile? A I can't say, I am not interested in them.

Q How long have you worked for the Gude Company? A Since 1911.

Q What did you say your work was? A Building.

Q Building and repairing? A Repairing, yes, sir.

Mr. Lum. The same as he said yesterday.

Mr. Kalisch. I think I am entitled to go on without being continually interrupted by Mr. Lum. I don't interrupt him unless I object to a question. Such remarks are very improper and it is all done for effect to the jury.

The Court. No, counsel will address the Court. That rule applies to both sides.

WILLIAM McCALL, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q You are employed by the O. J. Gude Company? A Yes, sir.

Q As a sign builder and repairer? A Yes, sir.

Q Have been so how long? A Eight years.

Q Did you do any work on the sign at North Elizabeth, New Jersey, a quarter of a mile west of the station south of the Pennsylvania? A Yes, sir.

William McCall, cross.

Q When? A January 28th, 29th and 31st, 1916.

Q Did you use any material in that work? A Yes, sir.

Q Did you make a memorandum of the material used at the time? A Yes, sir.

Q On the back of the card? A Yes, sir.

Q Is that your usual course in all work? A Yes, sir.

Q Whose sign was it? A O. J. Gude's; two of them.

Q Two signs were they? A Yes, sir.

Q What did they advertise? A One advertised Feigenspan's beer and the other one Philip Gill.

Q What was the size of those signs? A One was 10 by 48, the other was 10 by 50.

Q Did you examine their condition when you went there to repair them? A Yes, sir.

Q Tell the jury minutely the condition in which you found them and what you discovered? A Some of the posts were off, some of them were chopped and also the braces and signs lying flat on the ground, the face of the signs cut up. partly burned.

Q How long did you work in repairing them? A Three days.

Q How many were with you? A The first day and second day I had three men; the third day I had five.

Cross examination by Mr. Kalisch.

Q Did you repair any other signs that day? A No, sir.

Q Did you repair any other signs the next day? A I don't remember.

Q Did you repair any the day before? A I don't remember.

Q Did you repair any during that week? A Not that I remember.

Q Do you recall that there was a heavy storm during that week or not? A No, sir.

Q Or in December? A There was a heavy storm in December.

Q Late in December, was it? A Around Christmas.

Q When did you go out to first investigate, inspect this sign? A January 28th.

Q Had any one gone before you? A Not that I know of.

Q Was this a very severe storm in December? A Considerably.

Q Were there any other signs destroyed or damaged as a result of this? A Not that I know of.

Q You were not out on any other signs? A No, sir.

Q That was the only sign that you repaired during that storm and during the month of January? A Yes, sir.

Q Now, then, you say the sign was down? A Yes, sir.

Q The posts appeared to be sawed off? A Yes, sir.

Q How was it lying, was it just broken off and was lying on the ground, part of it standing? A No, sir, none of it standing. It all laid flat, back.

Q Where was it broken? A One sign was iron, all bent up and doubled up.

Q One sign was iron? A Yes, sir, sheet iron, galvanized iron.

Q How big was that? A 10 by 50.

Q What part of the sign was that on? A The face of it.

Q That didn't cover the entire face of the sign? A Sheet iron covered the entire face of the sign.

Q You don't have many of those signs, do you? A Yes, sir, we have quite a few.

Q And that covered the whole face of the sign? A Yes, sir.

Q Was it taken off, that galvanized iron? A That wasn't taken off. The base of the posts were chopped and the iron was still fast to the base.

Q Was it bent? A Yes, sir, it was all doubled up.

Q The whole sign was doubled up? A Yes, sir.

Q It was lying on the ground? A It was lying on the ground.

Q Were the wires—were there any wires attached to it? A No wires on it.

Q Was any of the rest of it broken, wood part of it? A The wood part of it was sawed up and partly gone.

Q Did you notice any other signs in the vicinity, are there any other? A Yes, sir, there is four signs right in a line.

Q All Gude signs? A Yes, sir.

Q Were they all broken? A No, sir, only those two.

Q The other two remained? A Yes, sir, one on either side.

Q Was the name, "Gude" on those signs? A Yes, sir.

Q There was nothing the matter with them? A Nothing at all.

William McCall, cross.

Q Were they defaced any? A No, sir.

Q They were in good condition? A Yes, sir.

By the Court.

Q When you speak of sheet iron signs, was that on wood or was it just fastened to the base? A No, it is on wood. It is made up in sections.

Q How is it fastened to the wood? A It is nailed with small nails drove into wood. It is made up in sections and then it is put on the base, nailed on the base by nails.

Q It doesn't have a board back? A No, no board back, simply a frame.

By Mr. Kalisch.

Q How do you remove that sheet iron, that galvanized iron, how do you do it when you take a sign down like that? A Take a bar and ply it off.

Q That is nailed from the top to the bottom? A Yes, sir.

Q And across the top? A Yes, sir.

Q What kind of nails, are they big? A Four penny nails.

Q No other way of getting it off, is there? A No, sir.

By Mr. Lum.

Q You say you found the supports and the braces sawed off? A Yes, sir.

Q Did you examine them carefully? A Yes, sir.

Q Did it seem as if they might have been sawed through by the teeth of the wind?

Mr. Kalisch. I object to that.

Mr. Lum. I withdraw the question.

William McCall, cross.

By Mr. Kalisch.

Q These signs, just where were they? A Quarter of a mile west of North Elizabeth station south of Pennsylvania Railroad.

Q Is that the sign these other witnesses have spoken about? A No, sir.

Q Have you been in court? A Yes, sir, for the last two days.

Q This one has not been spoken of? A No, sir.

Q Did you see any other signs in that vicinity, Gude signs? A No, sir, there is none right there.

Q How near are there any Gude signs? A Possibly two blocks away.

Q Was there anything the matter with them? A I didn't inspect them.

Q Did you notice them as you passed by? A I noticed them as I passed by and they were all right.

Q Where are there any other signs in the vicinity of the Gude signs?

Mr. Lum. I object to this. Mr. Kalisch objected to my question as to whether or not it seemed as though the sign had been turned back by the teeth of the wind and in the second place, because it is repetition, and in the third place, because examination as to other signs of the Gude Company which were standing must be immaterial.

Mr. Kalisch. I want to finish my cross examination of the direct examination.

Mr. Lum. I object that it is not within the scope of the direct examination.

The Court. You cannot cross-examine the witness on some matter that has not been gone into on direct testimony.

Q (Question repeated). A There is two or three about two blocks away from there.

Q Are they the ones you have just spoken about or others? A They are others.

Q Did you notice whether there was anything the matter with them? A I told you I didn't inspect them but I seen them.

Q Did you pass by them? A I passed by them on the back road.

Q Did they appear to be damaged? A No, they appeared to be all right.

Q In fact, none of the signs that you passed by of the Gude Company in that vicinity appeared to be damaged except those two that you repaired? A That is all.

Cross examination by Mr. Fairlie.

Q Have you ever seen signs that have been blown down by wind storms? A Yes, sir.

Q Many of them?

Mr. Kalisch. I object to that. That is not the direct examination I know of of Mr. Lum's.

The Court. You may ask that question.

Q Many of them? A Few of them.

Q Can you give me any idea as to how many?

Mr. Lum. I object to this. It seems to me that the witness has testified to that. It seems now the cross examination of both counsel should be confined to the direct questions.

Q (Question repeated).

The Court. You may answer that question.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

A No.

Q Did this sign about which you have testified have the same appearances in the manner of breakage and damage as to signs you have seen blown down by the wind? A No, sir.

By Mr. Kalisch.

Q Have you seen signs blown down by the wind? A Yes, sir.

Q How many of them? A Few of them.

Q Whereabouts? A Different localities.

Q Did you see any after this storm? A No, sir.

Q Did you repair any after this storm? A No, sir.

Q Have not? A Not that were blown down, no.

Q You have never repaired any signs?

The Court. This storm is about what you are asking.

A I have repaired signs which is necessary in order to insure them against storms.

Q Have you repaired any of them blown down by storms? A No, sir.

Q Never inspected any? A No, sir.

Mr. Lum. I offer this card for identification.

Card marked P. 22 for identification.

EARL R. BIRNIE, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your business? A I am the assistant auditor of the O. J. Gude Company.

Q Are you familiar with the books and accounts and the contracts of the Gude Company? A I am.

Q Under your supervision? A Yes, sir.

Q Are the books here? A Yes, sir.

Q And the contract and accounts? A Yes, sir.

Q You heard the evidence as to those signs that were down as testified by the various witnesses? A Yes, sir.

Q When those signs were down did the charge against the customer run? A No, it ceased.

Q For what time? A The period that they were down.

Q Do your contracts show that?

Mr. Kalisch. I object to that.

A They do.

Mr. Kalisch. He is asking what the contracts show. I think we are entitled to see them.

The Court. The contents of these contents are shown by the contracts themselves.

Q Do the contracts show the allowances?

Mr. Kalisch. I object to that question.

The Court. I will allow the question. The contract will have to be offered in evidence.

A They do.

Q Do the contracts show whether allowances were made?

Mr. Lum. The answer was yes.

Mr. Kalisch. I object to the question.

The Court. Question allowed.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q Have you the contracts here? A I have.

Mr. Lum. I offer them in evidence.

Mr. Kalisch. I object to them on the ground they are not relevant and they have not been proven.

Q These contracts are under your supervision? A They are.

Q Have you prepared a digest of them? A I have.

Q I show you a list. Is that a list of the contracts referred to by you? A Yes, sir.

Q Do those figures refer to the allowances made? A They do.

Q Will these contracts, when examined, show the same result as the tabulations? A They do.

Q This tabulation was prepared at my suggestion for the benefit of counsel and the Court in this trial. A Yes, sir.

Q You have yourself compared it with these contracts? A Yes, sir.

Q Referring to those contracts, do you find one of Cusenier.

Mr. Kalisch. I object to that. I object to any reading of those pages.

The Court. He is not reading the pages; he is asking him to refer to the contract.

Q Referring to the Cusenir contract. A I have it here.

Q Where is that sign? A Perth Amboy junction.

Q Whose handwriting made on that?

Mr. Kalisch. I want to object.

The Court. You may cross examine on this contract.

Earl R. Birnie, cross.

Cross examination by Mr. Kalisch.

Q Where did you get these contracts? A They were taken from the books of the company.

Q Are they copies? A Yes, this is the bookkeeping copy.

Q Who made the copies? A They were made in our contract department.

Q Did you make them? A Not personally.

Q They were taken as copies from books and they were handed to you by someone else? A These are the—

Q Can you answer that? Those contracts, one of which you copied off by hand? A I got these from the books myself.

Q Did you copy them all? A No.

Q Someone else copied them? A Yes.

Q Isn't this in someone else's handwriting? A Yes, I didn't write them.

Q Every one of them were copied in that way, by someone else? A Every one was copied.

Q When were they given to you? A I took them from the books.

Mr. Kalisch. I ask that be stricken out.

Q When were these first given to you in the condition they are in, completed? A I can only answer that by saying I took them from the books myself.

Q What books? A The books of the O. J. Gude Company.

Q But you didn't copy them? A No.

Q You said someone else did that? A Let me explain to you that the contract is made up—

Q I don't care about any explanation. You have said you didn't copy them? A No, I didn't copy them.

Earl R. Birnie, cross.

Q They were copied by your stenographer or some typist there? A Yes.

Q And then they were handed to you after that was done? A Yes.

Mr. Lum. I object to that.

Q Who keeps the books? A I do, part.

Q And someone else? A Several other clerks.

Mr. Kalisch. I shall object to the use of those contracts even as a memorandum. A memorandum, as I understand it, must be made by the party who desires to refresh his recollection.

By Mr. Lum.

Q These entries were made under your supervision? A They were.

Q And these were taken from the books by you? A They were.

Q They are a part of the regular records of this company? A Yes, sir.

Q And these are a small fraction of their contents? A Yes, sir.

Q All your business is entered in the same way in the regular course? A Yes, sir.

Q Was there any difference between the entry of these and the others in the regular course of business? A No.

Q Tell us what this shows in regard to allowances made to the Advertiser while a sign was down? A Why, we make up an account—

Mr. Kalisch. I object to any use of these contracts.

The Court. I think if there is an original contract in your possession it must be produced and not a copy made by this man.

Earl R. Birnie, cross.

Cross examination by Mr. Fairlie.

Q When a contract is made is there a carbon copy made at the same time? A Yes.

The Court. You are entitled to an original contract if there is an original contract.

Q Where are the original contracts? A They would be in the office.

The Court. Objection sustained as to the use of these carbon copies.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Mr. Lum. I will be very glad to satisfy your Honor that these copies are being kept as a part of the books. These are a regular part of the books.

The Court. You have not the right and you cannot produce secondary evidence before you have the original in your care.

By Mr. Lum.

Q Will you tell us whether your books show irrespective of any contract that an allowance was made on a Cusenir sign, referring to your books?

Mr. Kalisch. I object to that for two reasons; first, because it is leading, and second, that it is hearsay, telling what appears in a book which they have in their possession.

The Court. I will allow the question.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

A This is a copy of the contract.

Earl R. Birnie, cross.

The Court. That is not answering the question.

Q (Question repeated). Do your books show it? A Yes.

Q Produce the books. A This becomes our book, our sales book.

Q You are producing your sales book? A Yes, that is our sales book.

Q Is that your book of original entry? A Yes, sir.

Q That was made under your supervision? A Yes, sir.

Q What allowance was made on that Cusenier?

The Court. You may cross examine, Mr. Kalisch.

Cross examination by Mr. Kalisch.

Q Let me see that book that you referred to. Is this your handwriting? A Yes, sir.

Q All of this in the book? A All of it.

Q And in all of these books is that in your handwriting, those that you have in your hand? A Yes, sir.

Q All of them? A All of them.

Q Where do you get this information from which you put this down? A As the signs are painted cards are turned in showing them.

Q So you take them direct from the cards or from another book? A No, I take them the cards. The date of the completion of the signs are marked against each one and I charge from that.

Q You charge from cards that are made up by the men? A No, they are first made up in our office.

Q Who makes them up? A They are made in our contract department.

Q By whom? A A woman typist.

Q Where did she get the information from? A From the head of our contract department.

Q Where does she get it from? A From the contracts.

Q Who makes those contracts, who draws them? A They are made in our contract department.

Mr. Kalisch. I shall object to this. This is hearsay testimony five times over, seems to have come from numerous sources and I think we are entitled to the original source in view of the fact that we have been subpoenaed to produce all kinds of original entries. They insist upon our books, our original books.

By Mr. Lum.

Q In your office was this? A Yes.

Q Every entry was contained in what, in a book? A No, on cards.

Q And information on those cards was placed there by whom? A The finished state would be put on by the men who completed the job.

Q No, I mean the cards themselves that you get the information from, that you put here on this paper that you are using, who make that up? A That is made up in the contract department.

Q By whom? A The typist.

Q Where does she get the information from? A From the head of the contract department.

Q Where does he get it from? A When we take a contract there is cards made up to paint these various signs.

Earl R. Birnie, cross.

Q In other words, that information comes from four or five sources before it gets on this page here? A Before I make that up, yes.

Q Four or five different people? A Yes.

Q —have that information and pass it along to the next one until it finally gets in its final shape as it appears on this sheet? A Yes.

By the Court.

Q These entries are all made on the same cards? A No, there is a separate card for each sign we complete.

Q You are speaking of one particular sign. When you enter it on that book where do you get it from? Let's take the one Mr. Lum is asking about; Perth Amboy. Where do you get the information which you enter in your book? A From the card. It is put on there by one of the clerks.

Q What becomes of the cards after you enter it? A It is filed in our records.

Q Then the card is your original entry? A Yes, that would show the finished date.

Q And you use that card as the basis for your entry in that book? A I make my entry from this book.

The Court. The cards are necessary.

By Mr. Lum.

Q These are the cards used? A Yes.

Q I refer you to P. 19 for identification. That is the Cusenier sign? A Yes.

Mr. Lum. I offer the card in evidence.

Mr. Kalisch. I should like to cross examine on it.

Cross examination by Mr. Kalisch.

Q Whose writing appears on this card?

Earl R. Birnie, cross.

Mr. Lum. If you know.

A There is various ones on there. According to the names Mr. Martin, Mr. Jarvis.

By Mr. Lum.

Q Do you know the handwriting yourself? A I just received it. I can't tell.

Mr. Lum. I object to cross examination as to whose handwriting is on it. This card has been identified by the man who made the entry to the using of the material and the time.

The Court. You may cross examine.

By Mr. Kalisch.

Q Do you know the handwriting on this card? A No.

Q You started out to give the various handwritings that were on this card. Why did you do that? A You asked me who did the work.

Q No, I didn't.

(Question and answer read).

Q So there are various handwritings on this card? A Yes.

Q Are you familiar with any of them? A No.

Q Have you ever seen Mr. Jarvis's handwriting before? A I believe I have, yes.

Q Point me out Mr. Jarvis's handwriting. A I take that to be it.

Q That is the last name on the card? A Last name on the card.

Q That is Mr. Jarvis's handwriting. Who else did you say appears to be on there? A Mr. Martin.

Earl R. Birnie, cross.

Q Just point me out Mr. Martin's handwriting? A I never saw it before, but that is his name there.

Q Any other of the names on there whose handwriting you know besides Mr. Jarvis? A No, I don't know the other men.

Q Who gets these cards first after the men turn them in? A The contract clerk.

Q The contract clerk? A Yes, that is a person in the office. They are turned into the foreman, I suppose, at our shop.

Q Who puts these figures on that appear, on the card? A Those figures were put on by a Mr. Darling. That is the cost.

Q You mean the figures that appear under the words "Cost?" A Yes.

Q That was put on by whom? A Mr. Darling.

Q Who is he? A He was formerly in our employ.

Q As what? A As a cost clerk.

Q He put the figures on all these cards? A Yes, he put them on here under cost.

Q Who put the figures that appear in red ink on the cards? A I can't say.

Q Is that Mr. Darling's handwriting? A I would not say that it was.

Q Who put the figures that appear under the letters "F. I. N."? A The men themselves.

Q That is done by the men themselves? A Yes, the time they erect it, 8, 5.

Q Who put the figures under the words "E. F. T."? A They do themselves. That is the extent of going out there.

Q And the date? A They put the date on.

Q Now, then, I noticed some figures that are opposite the word "Material." Who put that on? A Mr. Darling put this on.

Q And also did he put the figures that appear opposite the words, "Labor"? A Yes.

Q Department expense and expenses and total? A The total, yes.

Q Opposite the words "Contract," who put that on? A That is our contract clerk. She did that on that date.

Q Where does she get her information from? A From this card.

Q She puts this on the card? A That is the day she handled it.

Q She put on the day she handled it? A Yes.

Q What about the figure opposite the word "Record." Does that show the index where it is to be found? A No, that is another clerk.

Q And he has put that on? A Yes.

Q The word "Diagram," and the figures opposite that, the word "Diagram." A That is still another clerk.

Q Opposite the word "Labor," who put that on? A Still another.

Q Opposite the word, "Destruction," who put that on? A Still another clerk.

Q Where did they get their information from? A From this card.

Q You mean they put the information on the card? A Yes, they put the information on the card, the date they handled it.

Q Who typewrites what appears on the top of the card, at the top of the card, who typewrites that? A The typist in the contract department.

Q Where does she get the information from? A I suppose she got that from a report of our inspectors.

Q Report of what? A That the sign has been down and needed rebuilding.

Q That inspector gets his information from being on the job or gets it some time from someone else? A Some time from someone else.

Mr. Kalisch. I shall object to the use of it.

Mr. Fairlie. I have some further questions as to his system.

Cross examination by Mr. Fairlie.

Q When you first get notice that a sign is down or damaged is one of these cards made out with this typewritten part at the top? A Yes.

Q Is that card given to one of your workmen? A Yes, it is sent up to our shop and given to the workmen.

Q At that time does it have anything on it opposite that typewritten portion at the top? A No, it just has the typewritten portion at the top.

Q That is the location and the name and a brief description of the sign as a rule? A Yes.

Q And the workman takes this card with him to the job? A To the job.

Q And he is supposed as he furnishes the material and does the work to make entries on here, is that so? A That is right.

Q He is supposed to do that at the time? A At the time, yes.

Q And then he takes the card back with no values on the material but the date? A The date, yes.

Q And then the card goes through the various departments in your office, where the laborman or expert or the one who is familiar with

the rate at which these laborers are paid makes the entries as to the charge for the labor as shown by the date on the card? A That is right.

Q And likewise for the material by another man? A That is right.

Q And the man who puts down the material charges what the material shown on the back is worth? A Yes.

Q That is his expert business? A That is his business.

Q And so all these other figures are filled out from the date which appears on the card and it comes back to the office? A Yes.

Mr. Kalisch. Do you consent that they should be used as evidence.

Mr. Fairlie. I am waiting for the Court's ruling.

Mr. Lum. I think that there must be some limit to the examination and cross examination in this case.

Mr. Kalisch. I object to the reading of the law in the presence of the jury.

By the Court.

Q Can you point to that card and show me where the allowance is on that card or how you get at the allowance? A No, not from that card.

Q How do you get at the allowance made up on your book? A I would get a memorandum from the contract department that a sign was down on a certain date and to cease charging until it was replaced.

Q Where do you get the date from which you say it was replaced, the date it was re-

placed? A From the contract department again.

Q And then from your information which you get from the contract department, you note it on the book? A I note it on the book.

Q How do you get the amount that you note on your book? You get your time from the two statements? A Yes, I get the time from the two statements.

Q How do you get the amount that you allow? A I have the cost of the sign per month and I figure up the lost time on it. I know the cost per month from this contract becomes a part of our books.

Q You mean to say, if I understand you, that if you were getting $10 a month for a sign and the sign was down for half a month you would make an allowance of $5? A $5.

Q And that you get from information that you obtain from your contract department? A Yes, sir.

Q And it has not any reference to that card? A Show you when the sign was finished.

Q Does it appear on there the date it was finished? A This says it was finished on March 2d.

Q Does it say when it was down? A No.

Q Then that card only shows the date of the finishing of the work? A The date that the sign was rebuilt. This does not show that it was painted—in fact, it says that the sign was not repainted. It was allowed to stand blank.

By Mr. Kalisch.

Q You say that the information is obtained from the contract department? A Yes.

Q Is that a large department? A Half a dozen or more in it.

Q All of it clerical work for keeping the records? A They keep the records, yes.

Q Their records are made up from information that they obtain from where? Where do they get their information to make up those records—that is, these half a dozen clerks? A These clerks, for instance, to make up a card of that kind, they would get it from any person who had noticed that the sign was down, any person in our employ.

Q He would get the notice that the sign was down? A Yes.

Q So it is more or less uncertain. If he saw that the sign was down then he would report it? A He would report it down.

Q If he didn't happen to make any inspection in that vicinity why he would not report it? A No.

Q Simply have to wait until notice came? A Until it was noticed that it was down.

By the Court.

Q Does the claim department have a book in which they keep their records or do they report to you? A The two departments?

Q The two departments. A It is all done on memorandums.

Q You take and note it on your book yourself, is that right? A Yes, myself.

By Mr. Lum.

Q Your allowance starts from the time it is reported to you and not from the time it may actually have been knocked down, but when it is reported to you is when your allowance starts? A Yes.

Earl R. Birnie, cross.

By Mr. Kalisch.

Q These records, just what are the permanent records that you have in the contract department? A These cards.

Q You keep no books? A Each card is entered in a book and shows when it is finished.

Q You mean the contents of the card? A The name of the advertiser.

Q And the information that appears on those cards is entered into a book, is that the idea? A Yes.

Q Is that so? Tell me whether it is so or not? A This information is accounted for in a book.

Q By that you mean is put in a book? A Yes.

Q In a contract department? A Yes.

Q Then, where does that card go? A Then it goes to the accounting department, where the cost is put on by the timekeeper.

Q So that the timekeeper, when he gets hold of the card, he puts on the cost? A Yes.

Q When he gets the card that does not appear on there and he puts on that the time. How many departments are there that help make what is on that card, the information? A There is the contract department.

Q How many departments are there? A I should say there were three departments.

Q The first department that starts on that card is what, which department? A The contract department on this.

Q They get their information from the man who goes out on the job? A They get the information that the sign was down from somebody who has seen it down.

Q That is the way they are supposed to get their information? A Yes.

Q There isn't any special man who makes this report? A Some man does it.

Q Sometimes another, sometimes an outsider? A Yes.

Mr. Kalisch. I object to it.

The Court. I will allow the book and the card to go in evidence.

Mr. Kalisch. What is allowed in?

The Court. I am allowing him to use the card, P. 19.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

The Court. And the book, which he offered, the loose sheet.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

The Court. Subject to the fact that this is one of the signs that has been shown that some of the defendants injured.

Mr. Kalisch. I move that all the testimony that has been offered covering acts which do not appear to have been ordered to be done by any of the defendants be stricken out.

The Court. I refuse it at this time.

Mr. Kalisch. Or by any servant's order, to be done by any servant of the defendant.

The Court. Motion refused. You may make your motion later on.

Earl R. Birnie, cross.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

By Mr. Lum.

Q Referring to the Haig & Haig signs on the Hackensack meadows, cards P. 16 and P. 17, your books show those? A Yes.

Q Any allowance made while those signs were down? A Yes, sir.

Q How much?

By the Court.

Q How long were they down and how much was allowed? A One was down for twenty-seven days, for which we allowed $90.

Q And the other? A Was down for two months and eight days.

Mr. Kalisch. Which one was that?

Mr. Lum. The Haig & Haig sign.

A These are both on the Hackensack meadows; they were allowed $226.66.

Mr. Lum. I offer the evidence the cards referring to that and the books.

P. 16 and P. 17 for identification admitted in evidence as Ex. P. 16 and P. 17.

Q The Cusenier referred to before is the Cusenier at Perth Amboy. Referring to the sign of King George and the Cusenier, as testified having been cut down, what allowances were made on those and how long were they down? A Cusenier was down for six months and five days. We allowed $37 for that.

Q What is the other one? A King George was down for three months and twenty-seven days, for which we allowed $18.66.

Earl R. Birnie, cross.

Q Now, the Gimbel one that was rebuilt. How long was that down and what was the allowance made? A I have that, eleven days, $8.25. That is at Linden, New Jersey.

Q Now, the one at Elizabethport, the big Haig & Haig there. That was partly down. What allowance was made for that? A Four months and six days, $420.

Q And the Ryzon and the Palm Beach? A The Ryzon twenty-nine days, allowance $23.20.

Q And the other? A The Palm Beach, one month and twenty-three days, $31.80.

And the Haig & Haig, on the Hackensack meadows, was what? A Haig & Haig, we made two allowances on that; one of twenty-seven days, $90.

Q You gave that? A Yes.

Mr. Lum. I don't recollect that there are any others that are connected up according to your Honor's ruling.

Cross Examination by Mr. Kalisch.

Q This one here at Palm Beach. Will you refer to that. Have you got that sign? A Yes.

Q On this Palm Beach or on these signs that you testified to appears reports as to what caused the sign to be down or damaged; for instance, referring to P. 19, that is the Cusenier sign, the top of the card, "These signs were cut down. Mr. Jarvis has located lumber." A Yes.

Q A report of that kind as to the sign being damaged or down appears on the card. That is the general system which you had to report the cause of the damage? A Usually, yes.

Q Here is one that I referred to, P. 4, that has these words: "Sign is down." A "Sign is partly down."

Q On most of all of these the general custom was to put down what caused the sign to be damaged or down, if it was possible to find out. A No, not necessarily.

Q That appears? A Yes, that one.

Q And this other one I show you, the sign, marked P. 2 for identification, known as the Ryzon, Palm Beach sign. On the top of that card appears, "These signs are blown down." Who put that down there?

Mr. Lum. If you know of your own knowledge.

A I don't know positively. I can't say.

Q It was on there, probably put on there by your stenographer or typist? A Probably put on by the typist.

Q From information that she obtained. That is the usual course of your business? A Yes.

Mr. Kalisch. I don't object to this going in evidence. I withdraw any objection that I made.

P. 2 for identification admitted in evidence as Ex. P. 2.

Q Take that Palm Beach sign. Have you the contract, the original lease?

The Court. He did not produce any of the original leases. He said they did not have any.

Q Have you got a form of a lease that you use? A No. I haven't any form. I think I have none with me.

Q Have you got them handy, the lease that was signed by the owner of the property? A No, I haven't got one of them.

Q You have one of the Gude Company's office? A Yes.

Q I mean the lease that is made with your company by the men in possession of the premises where you put your advertising sign? A We have such lease in our office, yes.

Q Every time you lease one of these places you have a written lease with them? No verbal leases, are there?

Mr. Lum. I object. It is irrelevant, incompetent and immaterial, and certainly not within the scope of the direct examination, the relationship between this company and the property owner.

(Argument.)

Mr. Lum. Objection withdrawn.

Q You have such lease in the office? A No doubt we have. I haven't charge of them.

The Court. He is speaking of a lease, referring to a lease of the sign.

Q I want to refer to the contract, the contract with the people or whom you were advertising; have you got the originals of them in the office? A Yes.

Q And those are the copies? A Yes, it is a carbon copy of the original contract.

Q Now, I refer you to one— A That is the Ryzon.

Q That Ryzon sign I see is dated June 10, 1915? A That is the date of the contract.

Q And it ends September 1, 1916. That is the term of the contract? A Yes, the term of the contract.

Q When does it show that you did the repair work on that? A It shows that the sign—

Q When did you do the repair work? A June 25.

Q Of what year? A 1916.

Q And on that one you allowed how much, how many days? A One month and twenty-three days—no, the Ryzon twenty-nine days.

Q That is the Palm Beach?

The Court. Ryzon, twenty-nine days.

Q I am speaking of the one I have here. A That is the Ryzon sign.

Q And that you allowed what? A Twenty-nine days.

Q Will you show in the contract here the terms.

Mr. Lum. If that contract is referred to it must go in evidence.

Q Without referring to the contract, were there any terms mentioned in your contracts with these people who advertise which regulated the amount that you were to allow, the allowance that you were to make in case of signs being down any length of time?

Mr. Lum. I object. The contract is the best evidence.

The Court. It is the identical question which I allowed you to ask.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question repeated.)

The Court. Answer that yes or no.

A Yes.

Q What were the terms that were included in the contract?

The Court. That is not competent. You must either put your contract in or not. You objected to their going in.

Mr. Kalisch. Because they were not the original contract.

(Argument.)

Mr. Kalisch. I am not going to offer in evidence the contract, because there are things in that contract that have no bearing on my defense. I am only cross examining on the question that Mr. Lum brought out. That is all I want.

Q (Question repeated.) What were the terms included in the contract that you made with the people that advertised with you which required you to make this allowance to them for any time that the signs may have been down and not visible? A There is a clause in it that says they are to receive pro rata credit for any time that the sign might not be showing.

Q Does that term have any reference to the time the sign was down and while the contract is in force, or does it have reference to the time the contract was discontinued and before it had run out by its own terms? A I should say that it refers to the time the contract was in force. If we lose it for any reason during the time the contract was in force they were to receive pro rata credit.

Q Do you say now on your oath there is such a term in any of these contracts, that you have been testifying to, which requires you to make a pro rata allowance showing the continuance of the contract?

Mr. Lum. I object to this on the ground it would make, even if it were not in the

contract, it would make no difference because the evidence is that they did make the allowance, and if they did make that allowance because the sign was down, whether they agreed to or not, there was every reason why they should.

The Court. Proper form of cross examination.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question repeated.) A I should answer that yes, that there is.

Q That is your recollection? A Yes.

Q You are not confusing it with the contract which required you to make a pro rata allowance for the time the sign is down? A For any reason.

Q For any reason? A I consider that covers it.

Q Does that state the term that you refer to; just state how much it allowed? A They are to receive pro rata credit for the time the sign is not showing.

Q Did you assign different regular inspectors to look after these signs of the company?

Mr. Lum. I object. It is not within the scope of the direct examination.

The Court. You may ask the question. These particular signs.

A I can't answer that. I have nothing to do with that.

Q You don't know about that? A No, I don't know about that.

Q Who had charge of that? A Of sending out inspectors?

Q Yes. A I imagine that would come in our lease department or territory department.

Q Did your company employ a man to make periodical inspections of these signs? A I can't say as to that.

Q You don't know? A No, I don't know.

Cross Examination by Mr. Fairlie.

Q As I understand it, these memorandum which are typewritten at the top of the card, such as "Sign blown down," and so forth, are put on there before the cards go out with the builder? A Generally, yes.

Q How does that information come into your office which is noted there?

Mr. Kalisch. I object to it. I don't see where the relevancy of it is.

The Court. You may ask it.

Q That is as to these notes at the top? A Yes, this one, for instance, is not marked. Any of our employees who see a sign damaged or down are supposed to send a memorandum to the contract department notifying them that such is the case.

Q Is this the memorandum, a statement of fact or a statement of the report that came into the office?

Mr. Lum. I object to that.

The Court. You may answer the question.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question repeated.) A I should say that was a statement taken from the report that came in the office.

Q Some of these contracts with customers include many signs? A Yes, sir.

Q How many? A In some cases a hundred or more; a hundred and fifty, two hundred.

Q So long as you make these allowances that you have testified to it does not injure your standing with your customers at all if these signs are standing, being down for one reason or another?

Mr. Lum. I object..

The Court. Objection sustained.

THOMAS F. J. KELLY, recalled on behalf of plaintiff.

Direct Examination by Mr. Lum.

Q You testified that reports were made into the office of the Newark Sign Company while you were there with reference to signs that were taken down yesterday, sometimes by Pratt and sometimes by others, did you not? A Yes, sir.

Q The Rector sign at North Elizabeth, three blocks east of the station, do you recall whether that was covered in any report? A I don't recollect that sign.

Q You heard the testimony of the witnesses yesterday as to signs cut, and so forth, repairers of the Gude people, were any of those signs which were testified to by those men mentioned in the reports?

Mr. Kalisch. I object to that, what was mentioned in the reports.

The Court. You may ask that question.

Q (Question repeated.) A The signs the witness testified to.

Q Yes. A Any of those signs mentioned in reports to the best of my recollection?

Q Yes. A I particularly recall the two Haig & Haig signs, but the others I don't seem to recollect, any of the others that have been named and the advertisement on them.

Q Is it not a fact that a report was made in to your concern showing the destruction of the sign of the Gude Company at North Elizabeth, three blocks east of the station on the south side of the Pennsylvania station.

Mr. Kalisch. He has already testified he does not recollect, and this is his own witness.

Q (Question repeated.)

Mr. Kalisch. I object to it because it is cross examination of his own witness, and he has already testified he knows of no other except the Haig & Haig sign.

The Court. If that is the only objection I will allow it.

Q What is the answer? A Why, I remember a tip in that vicinity in 1913.

Q In the vicinity of Elizabeth and Elizabethport? A In that vicinity, Union County, Pennsylavnia Railroad, Central Railroad.

Q Is it not a fact that in the early part of 1913 reports were made of the destruction of an Acker, Merrill & Condit sign at Elizabethport?

Mr. Kalisch. I object to that. It is leading.

The Court. Objection sustained.

Q What is your best remembrance as to reports of a sign of Acker, Merrill & Condit Company, Elizabethport? A My recollection

of that name, that advertisement, but not being at that place.

Q Where did the report locate it?

Mr. Kalisch. I object to that.

A I don't recollect.

Q Did you report the destruction of an Acker, Merrill & Condit sign?

The Court. That is leading.

Mr. Kalisch. I move to strike it out.

The Court. Strike it out.

Q You said you recall Acker, Merrill & Condit's name in a report? A The name has made an impression upon me, and I remember it that way, but where the sign was and when I don't just remember.

Q How many Gude signs were covered on these reports?

Mr. Kalisch. I object to that.

The Court. If the witness knows.

A That would be hard for me to answer.

Q How many to your best recollection? A Which reports do you refer to?

Q Of your knowledge during the time you were working with the New Jersey Sign Advertising Company in any capacity, both from report and from knowledge gained in any other way, how many signs of the Gude Company were destroyed in New Jersey?

Mr. Kalisch. I object to that.

A I was never with the New Jersey Sign Advertising Company.

Q The Newark Sign Advertising Company?

Mr. Kalisch. I object to that. There is no time mentioned.

Mr. Lum. The time he was with them.

Q Beginning 1910?

Mr. Kalisch. I object to it.

The Court. If he knows of his own personal knowledge.

A How many signs, those reports contained.

Q (Question repeated.)

Mr. Kalisch. I object to that question.

The Court. Cut out the word "reports" and I will allow it.

Mr. Kalisch. I object to it.

Mr. Lum. Question withdrawn.

Q From the year 1910 until you left the employ of this company, either from your own knowledge or from reports received in the course of your destruction, the destruction of signs of this plaintiff, the destruction of what signs of this plaintiff was brought to your attention?

Mr. Kalisch. I object to that. The reports in the first place are hearsay, and in the second place there is no time given to connect them. He would have to show that there was some connection between the destruction of these signs and these defendants.

The Court. I shall allow the question in its present form.

Counsel for defendant prays an exception to the ruling of the Court. Exception noted as grounds for appeal.

The Court. That is limited to the report of the president.

Mr. Lum. The report of the president or any of the officers of the company.

Thomas F. J. Kelly, cross.

Q Take in 1910, how many? A I don't remember.

Q 1911? A I don't remember.

Q 1912? A Why, probably, to the best of my recollection twenty or twenty-five.

Q 1913? A From twenty-five to thirty.

Q 1914? A Eighteen to twenty.

Q 1915? A I was very sick the greater part of that year. My recollection is not clear.

Cross Examination by Mr. Kalisch.

Q You say there were reports made to you of Gude signs that were destroyed or damaged during the years 1912, 1913 and 1914? A Yes, sir.

Q These reports were made by various means, various people? A No, superintendent in charge of that department.

Q And he always reported to you, made these reports to you? A Yes, sir.

By the Court.

Q Who made the reports? A Superintendent of the department.

Q What was his name? A Changed three times.

Q The one that made the report, or did all three? A Yes, all three.

Q Give me the names of them? A 1912?

Q 1912, which one in 1912? What's his name? A Mr. Kavney and Mr. Cullen part of 1913, probably for nine months Mr. W. B. Blair and for the balance of 1913 and early part of 1914, to the best of my recollection, Mr. James Reilly.

Q Balance of 1914? A Mr. Kavney.

Thomas F. J. Kelly, cross.

Q Were these reports in writing? A Yes, sir.

Q The one in 1914, was that in writing? A Yes, sir.

Q Those in 1913? A Yes, sir.

Q And 1912? A Yes, sir.

By the Court.

Q What became of those reports? A They were in my safe, the right hand side of the desk, one of those office desks for private papers.

Q Did you leave them there when you left? A Yes, sir.

Q When you were on the stand yesterday you didn't refer to those reports. You referred to the report of the president? A No, they were in the contemplated reports.

Mr. Lum. They were both referred to yesterday. The evidence will show they were referred to and the others, where they were left.

By Mr. Kalisch.

Q How long after this condition was found by these various men was the report made to you? A It was supposed, according to the rule, supposed to be recorded that day or the following day, but it might have been—I can't tell that.

Q What rule do you refer to? A Our rule for construction work is to report every evening for the work done, not later than the following morning, and any work in the department would come under the same rule.

Thomas F. J. Kelly, cross.

Q How long did you say you were with the Newark Sign Company? A Six years and one month.

Q What did you start as there? A Accountant in charge of the office.

Q How long were you an accountant? A I think 1910 and the greater part of 1911.

Q Then you were promoted to what? A I was acting manager for about six months, I think 1911 and early part of 1912.

Q Then, what position did you have with them? A General manager and secretary.

Q When did you leave the company, when did you sever your connections?

Mr. Lum. I object to this, it has been answered yesterday. After the annual meeting was the answer.

Mr. Kalisch. I reserve the right to recall him.

By the Court.

Q Was the date before 1916? A Yes. I severed my connection officially on that date but the active manaement on Thanksgiving night, three o'clock in the morning.

Q That is the last time you were in the office, on Thanksgiving night? A Yes, sir, in charge.

Q Had you been paid your salary?

Mr. Lum. I object to that. It certainly is not within the scope of the direct examination.

The Court. I do not think it makes any difference whether he was paid his salary or not. He was regularly employed up to December, 1915.

Q Were you paid periodically your salary? A Monthly.

Q Did you leave at the end of one of those periods or did you leave during the period itself, in the middle? A I would like—

Q No, you answer that question? A With the right to make an explanation—I see what Mr. Kalisch is geetin at.

The Court. Answer the question and explain it after.

Q Did you leave during the middle of one of those periods or at the end? A Officially on February 1st, 1916.

Q You left February 1st, you said Thanksgiving. A On a vacation to go south for my health, broken down in health.

Q How many times were you in the office from Thanksgiving to February 1st?

Mr. Lum. I object to this because to witness said with reference to this period he was sick and did not recall. Consequently this cross examination can have no materiality.

The Court. You may answer the question.

Counsel for plaintiff prays an exception to the ruling of the Court. Exception noted as ground of appeal.

A I recall three visits.

Q Three instances? A Yes.

Q Will you give me the time? A I came home for Christmas and went to the office to confer with Mr. Dreyfus.

Q I want the time? A On December 23d, day or two before Christmas.

Q What time of the day was that? A From about two to five—no, in the morning eleven to two. I got home to lunch—or ten to two probably more exactly, I guess.

Q Did you take any papers while you were there?

Mr. Lum. I object to this, it was all gone over yesterday.

The Court. The witness answered that question yesterday.

Mr. Lum. I object to it on the ground it certainly is not within the scope of my direct examination.

The Court. He says the reports are not here and he left them there and I think you may ask him anything along that line.

Mr. Lum. I have no objection if it is for that purpose.

A No, sir.

Q When was the next time you were in the office? A Why, it seems to me not until sometime after the middle of January.

Q You know what time of the day it was? A Yes, I think it was in the morning around from about nine thirty to ten, for about a half an hour.

Q Who did you see then? A Mr. Dreyfus.

Q Did you take any papers on that day? A No, sir.

Q When was the next time you were there? A Probably within a week that week or ten days.

Q What time of the day? A I think that was in the afternoon between four and five.

Q Who did you see? A Mr. Dreyfus.

Q Was that the last time? A Annual meeting, next time.

Q What took place on February 10th? A February 1st.

Q You made the statement yesterday that you gave this affidavit, which was taken by Mr. Pomerehne, which we referred to, to detective Farrell. Do you recall that? A Yes, sir.

Q You remember that time? A Yes, sir.

Q Did you ever have it after that? A Yes, sir.

Q Where did you get it from? A I got it from Mr. Farrell.

Q You have answered it. You got it from Mr. Farrell? A You mean Detective Farrell?

Q Yes. A No, Mr. Fairlie.

Q Did you give it to Mr. Fairlie? A Yes, sir.

Q And you got it from Detective Farrell? A No, I gave it to Mr. Fairlie and got it from him.

Q How did Mr. Fairlie get it; did you give it to him? A Yes, sir.

Q Where did you get it from to give to him? A I had it for some time from Detective Farrell.

Q That is what I want to know. You got it from Detective Farrell after this incident took place and then you turned it over to Mr. Fairlie? A A long time afterwards.

Q Just when was it that you turned it over to Mr. Fairlie? A To use as evidence—

Q I don't care for what? A —in the conspiracy case.

Q I don't care for what. When did you turn it over to him? A It would seem to me some time in the spring of 1914 to '15. I don't recall;

whenever that suit was brought that is now on the list here.

Q This incident that is mentioned in the affidavit didn't take place until 1915 in the fall, around that, the date— A No, the affidavit?

Q Yes, when was the affidavit taken? A Early part of 1915, February.

Q Did you get it back after you got it from Mr. Fairlie? A I got it from Mr. Fairlie.

Q Did you have it in Orange all the time? A I had it in my possession from about early in November.

Q What year? A 1915 until I turned it over to Mr. Dreyfus some time in the latter part of January or the early part of February of this year.

Q Did you make a copy of it? A No, sir.

Q Did Mr. Fairlie, do you know, make a copy of it? A Not to my knowledge.

Q Did you see Mr. Galvin after he left, after he severed his connections with the companies or left their employ? A. I met him around June many times, yes.

Q Where did you meet him? A Why, I can recall one day.

Q Where and when? A Lafayette street.

Mr. Lum. I object on the ground that I don't think this is within the scope of my direct examination.

The Court. This is a continuation of your cross examination.

Mr. Kalisch. Yes.

Mr. Lum. I object on the ground it is not within the scope of anything I touched on yesterday.

Objection noted as ground of appeal.

A Lafayette street near Mulberry.

Thomas F. J. Kelly, cross.

Q On the street? A I was on the bill poster wagon with the driver.

Q Did you talk with him? A He came up in the wagon and wanted to hit me.

Q Did you talk to him? A Told me to get down.

Q Was he on the wagon? A No, he wanted to hit me on the wagon.

Q He wanted to get you? A Yes, sir.

Q When did you meet him next? A Broad and Market. I seen him I think twice, two different occasions.

Q Where was the first time? A I don't recall. I remember seeing him two occasions, Broad and Market one time, and I was over to Holzhauer's.

Q Did you talk with him? A No, sir.

Q Did he make an effort to talk to you? A Made an effort to do something.

Q But you didn't pay any attention to him? A I was advised not to.

Q When was the next time that you saw him and where? A I don't think I have seen Mr. Galvin until I seen him here in the court on Monday.

Q You saw him twice? A Those three times I have spoken of until I saw him in court here on Monday.

Q You didn't talk to him on any of those occasions? A No, sir.

By Mr. Fairlie.

Q You remember when the Galvin affidavit was brought to my office who was with you when it was first brought up? A Mr. Pratt.

Q Mr. Pratt came with you to my office and you two had a conversation with me there then? A Yes, sir.

Q Did you have anything with you? A We had the bill of complaint of the L. H. Strowbridge.

Q Conspiracy suit against the Newark Sign Company? A Yes, sir.

Q Who took that affidavit out of the folder, you or Mr. Pratt? A That is from the Newark office?

Q No, in my presence who produced it? A I handed it to you.

Q In Mr. Pratt's presence? A Yes, sir.

Q Did Mr. Pratt discuss it with me in your presence? A Yes, he thought it was very valuable.

Q Between the time that Mr. Galvin 'phoned you on the day the affidavit was taken and the time that the affidavit was signed did you have any conversation with Mr. Pratt? A Yes, sir.

Q What did he say—he said what in that conversation?

Mr. Kalisch. I object to that. I don't see where there is any direct examination of that.

The Court. I do not think it is competent cross examination.

Q Have you a letter there from Mr. Pratt relative to your severance with the company? A Accepting my resignation?

Q Yes, anything referring to it? A Yes, I have it.

Q Did you receive that letter from Mr. Pratt? A Personally, yes, sir.

Q Signed by Mr. Pratt? A Yes, sir.

Marked D. 4 for identification.

Thomas F. J. Kelly, cross.

By Mr. Kalisch.

Q Did you ask Mr. Pratt to sign that letter? A No, sir, he handed it to me in his office.

Q That didn't go through the mail? A No, sir.

Q Were you there when it was written in the company's office? A Yes, sir.

By the Court.

Q You told me yesterday in answer to a question that the Newark Bill Posting Company was a holding company, the Newark Poster Advertising Company was the directing business company. What does the Newark Sign Company represent? A The Newark Sign Company is the only company for all sign bulletins and commercial sign advertising, the idea being to separate bill posting from sign work.

By Mr. Kalisch.

Q When you drew checks in which companies name did you keep the account? A Name of Poster Advertising Company. We advanced the Newark Sign Company—

Q What did they do, did they carry accounts themselves or— A Everything was purchased and bought and paid in the name of the Poster Advertising Company. In other words the Newark Sign Company was merely for the benefit of the advertiser who thought he was doing business with a company on its own foundation, whereas he was actually doing business with the Poster Advertising Company.

Q That was the company that really did all the business? A General business of the company and the books were kept separate to show how much business was done, but at the end of

the year it was thrown in the Poster Advertising Company.

Q If Mr. Jones came to you and wanted a sign erected why you entered into a contract in the name of the Newark Sign Company? A Yes, sir.

Q And he paid you $50 a month for that rental, when that check came in what would become of the check? A It would be credited and deposited in the account of the Poster Advertising Company and on the books of the Newark Sign Company.

By Mr. Kalisch.

Q Were you paid by check? A Yes, sir.

Q Of what company? A Newark Poster Advertising Company.

Q How did the other employees and Mr. Galvin, how were they paid? A Paid in cash.

Q Where was that cash taken from, petty cash account? A No, sir, weekly salary check on the Union National Bank in the name of the Poster Advertising Company.

Q The same as yours? A Not the same account; the same company. We had two accounts, special account for the officers' salaries.

Q What I want to know is whether the funds that were used to pay the employees including yours were funds belonging to the Newark Sign Company or the Newark Bill Posting Company? A They were the funds of the Newark Poster Advertising Company.

Q And the account of the work which was done by these employees was kept by whom? A By the office bookkeeper and his clerks.

Q By whom was he employed, from whom did he get his pay? A Newark Poster Company.

Q Newark Poster Advertising Company? A Yes, sir.

Q Did these other two companies have funds in the bank? A No, sir.

Q Did these other two companies have funds in the bank? A No.

Q They did not? A No, sir.

Q And the only company that had a bank account was the Newark Poster Advertising Company? A Yes, sir.

Q And the other two companies did not deal directly with the public, did they? A Newark Sign Company did, with the advertisers.

WILLIAM G. BROWN, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q What is your business, Mr. Brown? A Purchasing agent.

Mr. Kalisch. I want to move to strike out the testimony of Mr. Kelly as to the disposition of signs other than those seven that are mentioned in this report which Mr. Kelly just testified to, the reports given to him, as not being in any way connected with the defendants in this suit.

The Court. Motion denied.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q For whom? A O. J. Gude Company.

Q How long have you been with them? A Six years.

Q Does any part of your duties necessitate your being familiar with bills for material? A Yes, sir.

Q To what extent? A Purchase all the material that is used in the New York shop.

Q Are you familiar with the regular price of material used in your signs? A Yes, sir.

Q I show you Exhibit P. 2 and ask you to refer to the entries of material made in reference to those cards of Fitzsimmons and tell us whether the amount charged is a fair and reasonable charge for the material provided.

Mr. Kalisch. Is that one of the seven included?

Mr. Lum. And it is one of those you put in evidence.

A Yes, sir.

Q What would you say as to whether the price charged there is fair and reasonable? A I would say the prices are fair.

Q The total for the material is $445.27? A Yes, sir.

The Court. What is that?

Mr. Lum. P. 2, Palm Beach and Ryzon.

Q I refer you now to the Haig & Haig sign, mentioned by Brooks, and ask you to refer to the prices there for material charged and ask whether that is fair and reasonable? A Yes, sir.

Q And that total is $92.17? A Yes, sir.

Q I ask you the same in regard to the Gimbel sign and ask you whether the material given there is fair and reasonable? A Yes, sir.

Q And the amount is $16.94? A Yes, sir.

Q I refer you to another part of the Haig & Haig and ask you the same as to that? A Yes, sir.

Q Haig & Haig, is that reasonable as to the material? A Yes, sir.

Q And that? A Yes, sir.

Q Referring to this Haig & Haig. A Hardware seems to be O. K. This here looks fair, I can't say off-hand whether it is or not, it is all in bulk, one figure.

Q And that amounts to $92.17. You can't say? A I can't say.

Q As to the rest you can say? A Yes, to the hardware.

Q The charge for $225.23 seems reasonable with the exception of $92, you can't say? A Yes, sir.

Q And these other Haig & Haig you refer to were $86.02, $3.78 and $16.08? A Yes, sir.

Q And King George, the other sign, P. 19, is that fair and reasonable? A Fair and reasonable.

Q The amount is $63.71? A Yes, sir.

Cross examination by Mr. Kalisch.

Q Do these reports show the size of the signs? A They do as a rule.

Q Where? A Generally shows here on the corner—no, this doesn't state it, that doesn't state it.

Mr. Lum. I object to this because this witness is not bound by this. They may be all wrong, on the dimensions. He is simply saying the material shown on here is a fair and reasonable price. I object to anything beyond that and I think I am entitled to have it confined to that scope.

The Court. This witness is only testifying as to the value of the material and that is all. You can cross examine him as far as this witness is concerned—he practically is an expert on material.

Q How long have you bought and sold material? A I haven't sold, I bought it for five years.

Q Who did you buy it from? A Different concerns.

Q Did the price vary at times? A Yes, sir, the price varies.

Q How much of a margin, for instance, would you allow for the variance? A In what particular line?

Q What you have testified to? A There is both hardware and lumber. The lumber will vary $5 a thousand feet; that is, in different localities and different times.

Q So the difference in locality is what changes the value? A Yes, sir.

Q Where are you employed in New York? A In New York City.

Q Do you buy lumber, all the lumber that the company uses to construct signs? A No, sir, I do not.

Q How much of it do you buy? A All that is used in New York City and surrounding territory.

Q What do you mean by surrounding territory? A Down in Long Island as far as Jamacia and the Bronx.

Q You buy from dealers up there through that territory? A From dealers and we buy direct from people in New York City.

Q Does the price of this lumber, is it affected at all by—depending upon the time of the year it is bought? A No, sir.

Q Does the price of the lumber, is it different in Jersey than it is in New York? A They run pretty near alike.

Q They don't run alike exactly? A No, sometimes they vary. It depends upon the location.

Q And the lumber that is used in Jersey, where is it gotten from, do you know where it is gotten from? You don't buy it? A No, I don't buy it.

Q You don't know where it is gotten from except from hearsay? A No, from checking the bills.

Q Where does it come from? A It depends. Signs built on the meadows, carpenters.

Q Where are they? A Jersey City.

Q Who else? A Mulford.

Q You don't keep posted on the price of lumber in Jersey. You only keep informed about the price of lumber in the territory in which you work? A I set the price for the material purchased, any lumber in Jersey in regard to the firms and the price.

Q You check it up? A Yes, sir.

Q Do you keep informed as to the price of lumber in Jersey City? A We use the City of New York as a comparison.

Q They are not the same prices? A Very nearly so.

Q The iron that you use, you know nothing about that? A Which iron is that?

Q Whatever you use? A Hardware, that is bought in New York, the bolts and nails and wire.

Q Do you buy that? A I buy that.

Q None of this is bought in Jersey? A Once in a great while we might buy a pound of nails, which amounts to five cents, or something of that sort.

Joseph H. Jarvis, direct.

Q How long have you been employed with the Gude Company? A Six years.

Q The same position? A No, one year I was cost and time clerk.

Q What was the next position you held? A Then I started to purchase.

Q You have been purchasing for five years? A For five years.

JOSEPH H. JARVIS, sworn in behalf of plaintiff.

Direct examination by Mr. Lum.

Q By whom are you employed? A O. J. Gude Company.

Q In what capacity? A Construction foreman.

Q You are the man referred to by the various employees yesterday as having sent them out? A Yes, sir.

Q I refer you to the cards of these seven particular signs. Were you familiar with the labor charges on those jobs? A Yes, sir.

Q Those laborers were under your supervision? A Yes, sir.

Q You are familiar with these cards as to the labor items? A Yes, sir.

Q And the labor items as shown on those various cards are the right amounts? A Yes, sir.

Q You have checked them over yourself? A Yes.

Q The various items are $123.40, $6.87, $9.84? A That is not done by me.

Q Were you familiar with those? A No, I didn't see that. That is done in the office.

Joseph H. Jarvis, direct.

Q I understand that you didn't make that note of $123.40, but you are familiar with this card? A Yes, sir.

Q And you are familiar with the men whose names appear there? A And the wages they got.

Q And the wages they got? A Yes, sir.

Q And is that a proper item? I understand you didn't make it, but is that a proper charge, irrespective of those figures there, the total of those hours would make a proper item of $123.40? A Yes, sir.

By the Court.

Q What did you allow for labor? A Why, they are rated different.

By Mr. Lum.

Q Give the proportions. A Some of those twenty-five cents an hour, some thirty-one, some thirty-four and some thirty-seven and a half.

By the Court.

Q They are carried on those cards at the various prices you allow? A Yes, sir.

By Mr. Lum.

Q You didn't put down the figures? A Yes, sir.

Q But you are familiar with the propriety of the charge? A The charges they got.

Q You have familiarized yourself with these tables? A Yes.

Q And checked them? A Yes.

Q The total on this Ryzon and so forth for the labor was $237.51 and on this Haig & Haig, No. 3, $231.62? A Yes.

Joseph H. Jarvis, cross.

Q And on this King George $24.77? A That is right.

Q And on this Haig & Haig $121.27? A Yes.

Q And on these Haig & Haig, the latter item, $6.87, $9.84 and $11? A Yes, sir.

Cross examination by Mr. Kalisch.

Q Are you familiar with the price of labor, this labor you have been testifying to? A Yes, sir.

Q Do you employ men directly? A Yes, sir.

Q Or through other people? A I hire them myself.

Q Does your position require you to do that? A Yes, sir.

Q You say the price varies? A Yes, sir.

Q Depending upon the kind of men you get? A Exactly.

Q Do you keep an account yourself of the labor that is employed outside of those cards? A No.

Q Did you see these cards before today, are they brought to you in the regular course of business? A That is the way they are.

Q The cards that have been submitted to you just now? A No, once they leave me I don't see them no more.

Q When they leave you have they got these different items on? A Have the men's names on and beside that they have the hours that they work.

Q In the same condition that they are now when they are given to you? A No, there is no price opposite. Their wages is opposite that.

Q Why isn't the price on it? A It is done down in the office. I have nothing to do with the card.

Q You mean just the clerical work of it is done in the office? A Yes, sir.

At this point the court takes a recess of one hour.

AFTER RECESS.

EDWARD M. SLOCUM, recalled in behalf of plaintiff.

Direct examination by Mr. Lum.

Q When you were with the Newark Sign Company were reports made by Pratt and others? A Yes, sir.

Q Will you tell us whether or not those reports ever showed destructions of the signs of other people—

Mr. Kalisch. I object. The best evidence is the report itself.

Mr. Lum. We were told it was destroyed.

The Court. How long ago was that?

Q When did you start with the company? You went with the company at the start? A At the start, yes, sir.

Q When did you leave? A Well, about, I left there 1911, some time in 1911, but I was practically through there in 1909.

Q Who kept these reports while you were there, where were they kept? A They were kept by a lady bookkeeper in the files.

Q What was her name? A Annie Conlon.

Mr. Lum. I ask for the production of those reports.

Mr. Kalisch. There are no such reports.

Q Will you tell us whether or not those reports showed the destruction of other people's signs?

Edward M. Slocum, cross.

Mr. Kalisch. I would like to cross examine this witness before he gets the evidence before the jury.

The Court. Proceed.

Cross examination by Mr. Kalisch.

Q What was your connection with the company? A I was general manager and vice president.

Q Up to what time were you general manager? A 1908 I think it was—I am not sure about that, 1907 anyway.

Q And after 1908 or 1907, whichever time it was, what position did you occupy or did you sever your connections? A No, I was vice president.

Q Of the Newark Sign Company? A Newark Bill Poster and Sign Company.

Q All of them? A All of them. They are all practically one.

Q Did you occupy any position in the office? A No, sir.

Q And you attended the directors' meetings? A Yes.

Q How often did they take place?

Mr. Lum. I object to this. It is not cross examination, how often the meetings took place.

Mr. Kalisch. I want to see where the familiarity with these reports comes in.

The Court. It does not appear that the directors ever saw the reports.

By Mr. Lum.

Q What duty did you have to perform which brought you in contact with these reports? A

I was driving over the territory in an automobile all the time.

Q The reports, the written reports, did you have them in your possession? A No, they were brought in and given to the bookkeepers.

Q The bookkeepers in the office? A Yes, and filed.

Q The office files were in charge of whom? A Miss Annie Conlon.

Q And she had the office file, all of them, in her custody? A Yes, she had charge of all the other girls.

Q After you went out, after you became vice president and ceased to become the manager who became manager? A Mr. Brinker.

Q And Mr. Brinker had charge of these reports? A Yes, sir.

Mr. Kalisch. I shall object to his testimony as to what these reports contain.

The Court. Find out what the witness saw, what he knows himself.

Q Will you tell us whether or not the reports which you saw yourself they contained any report in reference to the destruction of signs of other people in this territory? A No, there was never any reports made as to the destruction of signs.

Q What was on these reports?

Mr. Kalisch. I object to that.

Mr. Lum. I have asked for the production of them.

The Court. That does not make any difference. You cannot go into what the report shows unless it has something to do with this case.

Q Did they mention the signs of competitors?

Mr. Kalisch. I shall object to that. I don't see where that is competent.

The Court. I will allow that question. Only what you remember yourself.

A I remember what the reports told. The reports said whatever lumber was used or whatever location it was used in.

Q Yes.

By Mr. Kalisch.

Q Reports said whatever location or whatever lumber was used— A In this location or if it was a painted bulletin or poster.

By Mr. Lum.

Q Did it show where the material came from? A Yes.

Q And if it came from a competitor's sign would it show that?

The Court. That is not proper.

FRANKLIN M. JONES, recalled on behalf of plaintiff.

Direct examination by Mr. Lum.

Q Mr. Jones, you told us of the average number of signs your company had in this section? A Yes, sir.

Q What were the dimensions of your signs? A It is all according to class.

Q Railroad and bulletin signs? A The railroad signs for the most part measure 10 by 50 or 12 by 50 or 10 by 48 or 12 by 48. We had others that measured 12 by 96. We had others that were 300 feet long; sometimes 40 feet high; all according to the design and also to the customer's copy.

Franklin M. Jones, cross.

Q What would be the average dimension of your signs in this neighborhood? A It would be very hard to give it correct but none less than 10 by 48 or 10 by 50 feet. If you take the average I would have to take into consideration the large signs. That might increase the average. It might go to 10 by 75. If I had all the dimensions I would have to get it by the minimum size which is 10 by 48 and the maximum size which would be 40 by 300.

Cross examination by Mr. Kalisch.

Q Have you in mind how many signs you have, say, in the County of Essex? A Excepting what I have testified to the other day, I don't think you asked me the exact number, but I am only approximating it now because I haven't any records with me; possibly 150, it may run to 200.

Q You don't happen to remember how many there are in the other counties where you operate? A Well, we never list them that way. I can tell you approximately but I don't care to be held to the figure.

Q Approximately? A Why, more in Hudson and we have more in Union than we have in Essex and when you say "Signs," of course, your question can either include a railroad bulletin sign or a wall sign and they are totally distinct classes.

Q I am just speaking of the railroad signs. A If you say railroad signs we might have 75 or 100 in Essex county and included with walls we might have 150 to 200 locations, total, as against that in Union we have more—probably, we have, I am sure and we have more in Hudson.

Q Has that always been the case since you have been operating? A I can't say. My answer would not give any information except they usually go along the more important lines of travel. The county line never come in as against the general forced travel that goes over the road.

Q You distribute the territory different than counties? A According to railroad, if it is a railroad, and according to town if it is a wall.

Mr. Lum. I renew my motion to prove the specific items of damage sustained by the signs testified to by Fitzsimmons, both Frank and Thomas, by Moore, by Webb, by Brooks, Martin, Telford and McCall even though in certain of these cases there is no direct evidence excepting the threats to do the injury and the nature of the injury done which connect them with these defendants.

The Court. I shall refuse your motion.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Mr. Lum. I offer in evidence each of the cards referred to and relating to these specific injuries.

The Court. Offer refused.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Mr. Kalisch. Your Honor has not disposed of this other question, about the State of New Jersey—

The Court. No, the records in the Supreme Court case were admitted. The rec-

ord in the District Court being previous to the time and so uncertain as to what it is, whether it is an action of controversion and not referring to anything in this case, I shall refuse.

Mr. Kalisch. I want to object to the allowance of the record of the Supreme Court case, that it is not relevant and it is incompetent.

Objection noted as ground of appeal.

Mr. Lum. I object to the refusal to admit in evidence a certified copy of the record of the District Court on the property covered in that suit.

Objection noted as ground of appeal.

Mr. Kalisch. In the Supreme Court record there is no judgment in that. That would be incompetent. Any settlement is competent as against, and it is against public policy to offer as evidence and I want to object to it on that ground, that it is incompetent to prove in view of this case.

The Court. Objection overruled.

Mr. Kalisch. I object to this ruling of of the Court.

Objection noted as ground of appeal.

Mr. Kalisch. There are these other witnesses who testified concerning certain damage which was done to some of these signs which your Honor just refused to take in evidence; that is, signs that are not included in this seven. Now, I believe I made a motion yesterday to strike from the record the testimony concerning those signs other than these and I believe your Honor said you would wait and see if they con-

nected it up. I will ask to have the testimony of all these witnesses that are not part of these seven mentioned in these seven cards stricken from the record.

The Court. I shall not strike it out.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

EARL R. BIRNIE, recalled in behalf of plaintiff.

Direct examination by Mr. Lum.

Q The contracts which were inserted in your book you said this morning were carbons? A Yes.

Q The original from which those carbons were made, which you have before you, these are the originals of the Palm Beach and the Cusenier and the Ryzon, Haig & Haig, Gimbel Brothers, King George the 4th? A Yes.

The Court. They may be admitted.

Mr. Lum. I offer these in evidence with the books referred to this morning, the original entries referred to by this witness.

P. 23 to P. 28 for identification admitted in evidence as Ex. P. 26 to P. 28, inclusive.

Cross examination by Mr. Kalisch.

Q Will you pick out the one of the Ryzon sign, marked Exhibit P. 23; tell me from inspecting that what was the amount that was paid per month? A For six signs?

Q For those signs, yes. A $384.

Q Per month? A Per month.

Q How large a sign was that; how big a sign was it? A 21 by 88.

Q And that was located where? A Manhattan Transfer.

Q Let me have the contract for the sign located just west of the Hackensack river and also the Pennsylvania Railroad, Haig & Haig. Referring to the contract marked Exhibit P. 26, tell me how much was paid for that sign per month? A This one particular sign $100 per month.

Q Did you pick out the Gimbel sign? That contract is marked Exhibit P. 25. Tell me how much was paid for that sign per month? A Linden, New Jersey, you want that particular sign? This one is Linden, New Jersey, east of the station, north of the Pennsylvania Railroad; $22.50 per month.

Q Let me have the Haig & Haig contract, Hackensack meadows. A That is the same sign.

Q Let me have the Haig & Haig, Hackensack meadows, three-quarters of a mile west of station. A That is still the same.

Q Is there more than one sign in that location? A This refers to the same sign.

Q And that figure you gave covered all those signs? A Yes.

Q That is one sign? A Hackensack meadows I said was $100 per month and the Elizabethport sign, which is on the same contract, is also $100 per month.

Q Give me the Haig & Haig, west of the Hackensack river? A That is still on the same.

Q Palm Beach? A That is this one.

Q Manhattan transfer? A Manhattan transfer.

William T. Brown, direct.

Q How much was that a month? A $18 per month.

Q And the Cusenier, how much was that? A Perth Amboy, $6 per month.

Q The Elizabethport, opposite Singer's? A That is Haig & Haig, this same sign.

Q And the others? A King George the 4th.

Q How much was that? A $5 a month.

Q Were all of these signs for a year? A Some were for three years.

Q Were any of those for three years? A Yes, sir.

Q How many of them? A Two of them for three years, one of them for two years and the others were for one year.

Q Did the contract run concurrently with the lease on the places? A Oh, no; I should say no to that.

Q The contracts were not made longer than the leases? A I can't say as to that. I don't handle the leases at all.

By Mr. Lum.

Q Would you have to pay on your lease whether or not it had a sign up or not? A Yes, sir.

By Mr. Kalisch.

Q Did you pay on any of them? A I can't say as to that.

Q You don't know that? A No.

WILLIAM G. BROWN, recalled on behalf of plaintiff.

Direct examination by Mr. Lum.

Q In your duties have you had occasion to figure the cost of erecting signs? A Yes, sir.

William T. Brown, cross.

Q Tell us what items are included. A Railroad boards, those figures are filed, giving the average cost per lineal foot for the various size boards; that is, 10 by 50, railroad boards on the figure for the metropolitan district. Everything within fifty miles of New York City is filed and an average rate per lineal foot is taken. I cannot give the figures correctly, but I can give them approximately, about $1.75 a foot; that is, a sign 10 foot high by 50 feet long.

Q What is the increasing size? A A sign 20 feet long—that is, 50 feet long and 20 feet high, the price of that would be about $8 per lineal foot.

Q Why is the very large increase of expense, for the added height? A Because of the additional lumber which is used in the bracing of the upper part. They also build sizes 20 by 96, 20 by 100, and classifying them in one class they run about $7 and some odd cents per lineal foot.

Cross examination by Mr. Kalisch.

Q Do these prices vary? A You mean on the individual cards?

Q Yes. A Yes, sir.

Q Depending upon what? A On the distance from New York, condition of the ground.

Q What distance, for instance, changes the price? The city of Newark or Essex County was a great enough distance away from New York to vary the price? A Yes, it will come because the time is lost to travel from the office to the job and back again, getting to and from the work and carrying material. Where they have a long distance to carry material that changes the cost and increases it.

Q Do you know the distance—is that material that is bought for Essex County bought in New York? A You mean here in Newark?

Q Yes, I mean for any work that is done in Essex County? A No, sir.

Q Where is that bought? A That is bought right here in the locality as near as to the job as they can get to it.

Q Where is the material bought for the work in Rahway? A That would be bought near the job in Rahway.

Q In Rahway? A Yes, as near to the job as you can get to it.

Q The price, therefore, would vary? A The prices would vary.

Q Quite considerably, wouldn't it, the Rahway prices and New York prices? A Sometimes it does and sometimes it don't. There is a difference between $3 and $5 per thousand feet. That is the way I found it.

Q How about the labor? Does that vary, the price of the labor? A The labor will vary.

Q It would not? A It will vary.

Q Is the variance as much as the material, as in the material? A No, there is quite a difference. There is quite a big variation because it is in the labor.

Q How much of a variation is there between the labor from New York and the labor from Rahway or the vicinity of Rahway? A I can't cite a special case like that. As I say, take certain localities where the conditions are hard and it is harder to put them up. The cost of labor will increase. As I said before, if you have any long carries to get the lumber when it can only be bought at a certain distance and

has to be carried in and there is a great deal of digging, that increases the cost of labor.

Q Do you get your labor from the vicinity where the work is done? A No, the labor is all sent out from the New York job.

Q Does the labor vary in price depending upon the time of the year? A No, sir.

Mr. Lum. With the right to fill out the evidence as to that District Court suit—I don't want to take the stand myself—and reserving the right to cover that, I rest.

The Court. Proceed with the defense with that right reserved.

Mr. Kalisch. I think in view of the evidence, so far as the defendant, the Newark Sign Company, is concerned, there has been absolutely no evidence that I can see to connect them with any conspiracy.

The Court. I will leave it to the jury. They are the same parties, same officers and I shall leave it to the jury to say. Of course, the burden of proof is on the plaintiff to establish it.

Mr. Kalisch. And I want to further make a motion in regard to the Newark Bill Posting Company. There is no evidence to connect them as to any damage sustained by the plaintiff, nor the Newark Poster Advertiser Company.

The Court. Motion refused.

Mr. Kalisch. I object to these rulings of the Court.

Objections noted as ground of appeal.

Papers admitted in evidence as Exhibits P. 28 to P. 32, inclusive.

William Hefferman, direct.

WILLIAM HEFFERMAN, sworn in behalf of defendant.

Direct examination by Mr. Kalisch.

Q What is your business, Mr. Hefferman? A I am with the Newark Factory Sites Company.

Q What are your duties with that company? A I have general supervision of the property.

Q What business are they engaged in? A They are improving land for factory sites and disposing of it.

Q In any particular locality? A Yes, between the Hackensack and Passaic rivers and it runs as far as the Harrison line up in Kearny.

Q Meadow property? A Meadow property, yes.

Q Working for them now? A I have had charge of that property for about thirty years.

Q In the same capacity? A Not for the same people, in the same capacity.

Q In the course of your experience while working for this company have you ever observed the condition of affairs in this meadow property that you were employed in? A Generally.

Q Generally in reference to fires, meadow fires? A They go on fire, yes, when the grass is dry enough.

Q In the spring and fall? A It doesn't burn up in the fall; it is generally burning up in the springtime.

Q What causes that? A It comes from various causes, generally from sparks from locomotives or somebody carelessly throwing a match in the grass or sometimes intentionally, just to see the grass burn.

Q Does that occur very often? A Just as I said before, in the spring or fall, if it is not burned off in the fall it is burned off in the spring or some other time in between, any time it happens to catch fire from one cause or another.

Q That happens pretty nearly every year? A Every year, several times during the year.

Q Have you after such fires ever observed whether or not signs were burned?

Mr. Lum. I object unless it is admitted to specific signs.

The Court. You may ask the question. Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question repeated.) A Oh, yes, very often.

Q Do you know of any Gude signs that are located in the meadows? A Yes.

Q On the side of the railroad tracks? A Yes, along the railroad.

Q Which railroad? A Well, the Lackawanna, Pennsylvania, Erie; those especially.

Q I ask you to look at this card, marked Exhibit P. 4, and say whether you are familiar with the location mentioned on that card, which says, "Elizabethport, New Jersey, half a mile east of the station, north of the Central Railroad of New Jersey, opposite Singer Sewing Machine?" A No, we don't extend there at all.

Q Are you familiar with any signs near Elizabethport? A No, none west of Harrison.

Q Hackensack? A Hackensack river and Passaic, west line of Kearny adjoining Har-

rison and east by the Hackensack river. That is the extent of our property.

Q What about the Hackensack meadows, three-quarters of a mile west of the station north of the D., L. & W. Railroad? A Which depot is that, which station? A Three-quarters of a mile west of station north of the Delaware, Lackawanna & Western Railroad? A We have nothing in that location.

Q Do you know the location? A No, not from that description there. That may be down in Jersey City or out in Newark or Elizabeth or anywhere else.

Q Do you know any in the Hackensack meadows, Delaware & Lackawanna? A Yes.

Q I ask you whether in the Hackensack meadows along in the line of the Delaware, Lackawanna & Western Railroad, you have ever seen any of those fires? A It is a common thing.

Q Have you ever seen signs burning as a result of those fires? A Very often, yes.

Q Have you in your general supervision of property ever seen signs blown down? A Oh, that is a common thing, by a wind storm, of course.

Q Does that happen very often? A Well, of course, maybe some time two or three times during a year.

Q Have you ever examined any of these signs after they have been blown down? A I haven't in particular, but I know it is a general thing when signs go down that there is no exception to the rule, they all go down. It don't really matter who they belong to; that is, the different owners.

Q Depending upon where they were located?

Mr. Lum. I object to that. It is very leading.

The Court. Yes, that is leading.

Q Is that so?

Mr. Lum. I objected to it and the Court sustained the objection.

Q Where did you see signs that had blown down as a result of storms? A Only on our property that I have referred to, not outside of it.

Q You better give us just where that property is? A It is bounded east by the Hackensack river and west by the Kearny line where she joins Harrison and on the south by the Passaic river, on the north by the Bergen County line. It is located at the foot of Arlington.

Q Some of these signs are more exposed than others? A No, they are all in the same position as far as that is concerned. There is none of them any better protected from storms than others.

Q These signs are not all facing the same direction, are they? A They are all parallel with the railroads.

Q They don't all face the same direction? A No, the railroads are generally running west from New York City and the sign boards—

Q Are the same direction? A Yes.

Q If the railroad turns where a sign faces in a different direction? A Exactly.

Q Do you recall December, 1915, a storm, very severe storm that took place? A Not particularly. There is so many of those things that have occurred that I haven't kept any particular track.

Q You have no recollection of one occurring in December, 1915? A If I remember right, in that time, that was a very destructive storm of the sign boards because, whether it is 1915

I won't be positive, but I know at that time that a great number of boards went down, the greatest number that ever was down at one time during the storm.

Q The greatest number that you ever saw go down? A Yes, I think if I remember right I counted forty-five boards down in that storm.

Q Were there any of them standing, any other signs around? A Yes.

Q There were some that stood? A Oh, yes.

Cross examination by Mr. Lum.

Q You are employed by whom? A Newark Factory Sites Company.

Q Do they do business with the Newark Sign Company, Newark Poster Advertiser Company? A They have boards on the property, yes.

Q Do business with them? A Yes.

Q You spoke of fire burning over the meadows. I suppose when the meadows catch fire they burn over a broad area? A Yes.

Q And burn signs of the Newark Sign Company as well as the signs of other companies? A Generally most of them cut the grass round their signboards in order to protect them from fire.

Q That is the usual custom? A Not usually.

Q It is a fact, isn't it, that the Gude Company has the grass cut under and around those signs? A Yes, that is right.

Q And you say that sometimes signs go down in wind storms, don't you? A Yes, sir.

Q You have simply seen them from a distance lying down? A I have been on the ground. I can't see any nearer. Probably sometimes I walk over them when they are down.

Oliver Lee Mahan, direct.

Q When you saw them down did you ever examine the braces and posts? A No, sir.

Q Never paid any attention to that to know whether they went down because they were sawed through or not? A No.

Q Never paid any attention to it? A No.

OLIVER LEE MAHAN, sworn in behalf of defendant.

Direct examination by Mr. Kalisch.

Q Mr. Mahan, where do you live? A Springfield, Mass.

Q Where are you employed? A Metals Production Equipment Company.

Q How long have you been employed there? A About two months.

Q Has that company any connection with the Newark Sign Company? A None, whatsoever.

Q Or the Bill Poster Company or any of the defendants in this case? A Has no connection with any defendants in the outdoor advertising line.

Q What is the nature of their business? A Iron foundries and brass, wrought metals.

Q How long have you worked there? A About two months.

Q Were you ever in the employ of the Newark Sign Company? A I was.

Q What was your position with them? A Office manager.

Q How long were you employed there? A Approximately three years.

Q What years were they? A November, 1912, to October 15, 1915.

Q Do you know Mr. Pratt? A I do.

Q Do you know Mr. Kelly? A I do.

Q Was Mr. Kelly employed there when you were there? A He was.

Q What was his position? A General manager and treasurer.

Q Who was the man that you took your orders from? A The general manager, Mr. Kelly.

Q Just what were your duties? A The full details of the office and the taking care of all the accounting and all the records and details and the giving of orders to the operative departments, which came from the general manager.

Q Mr. Kelly? A Mr. Kelly.

Q Did you ever see Mr. Pratt? A Yes.

Q In the office? A Yes.

Q Of the company? A Yes.

Q How often during the time that you were in their employ did you see Mr. Pratt in the company's offices? A Approximately about on an average of a dozen times a year.

Q Were you in the office every day? A Every day, sometimes on Sundays, too, quite often.

Q Did you see Mr. Pratt when he came into the office on business? A Yes.

Q What office did you occupy? A You mean the situation?

Q I mean the location, yes. A Before the fire we were on the second floor of No. 27 Treat place and there was just one main room and all the offices were in that one main room and there was one private room over in the corner and that was the only inclosed room. This room was more of a reception room. The rest of the offices were divided by a sort of a railing. After the fire the

building was reconstructed and we were upstairs on the third floor and my office then was located directly adjacent to the general manager, Mr. Kelly's office.

Q Were you present upon the occasions of Mr. Pratt's visits to the company's offices always? A Oh, yes, I generally was, every one that came in the office because I was there all the time. Unless I was out for lunch if any one came in the office, I would see them.

Q How long did Mr. Pratt stay when he made those visits? A These visits were anywhere from fifteen minutes to an hour and then it is quite often or not quite often, but occasionally he would come, if he came of an evening it would be near leaving time and, of course, I would generally leave before he did.

Q During the time, during any of those visits were any orders given by him concerning any detail of the business? A No, sir, not to me or I have never heard him giving any orders for details.

Q Did Mr. Pratt exercise any supervision over the details of the business during the time that you were connected with it? A Not that I know of, not during my connection, not to me.

Q Would you know of any orders that were issued by Mr. Pratt? A Yes, they would subsequently come to me if there were any orders given directly to the operative department or any one in the employ.

Q They would come to you eventually? A Yes, eventually.

Q In what way? A If it was orders for work the time would show on the men's time sheet and all the time had to be spread out to some cost

of the job and there was an order issued for everything.

Q There was an order issued for everything? A Yes.

Q In writing? A In writing.

Q Who issued those orders? A The construction orders were issued—the fact is that all orders were issued in my office, but they came from the general manager.

Q In what way were they set in motion? A Mostly in a typewritten memorandum, sometimes verbal, but very seldom.

Q A typewritten memorandum of an order given by whom? A By the general manager.

Q That is the order would read that Mr. Kelly, the general manager? A Mr. Kelly, the general manager.

Q And that was generally taken down?

Mr. Fairlie. I object. There is no testimony that the order read that Mr. Kelly—he puts the words in the witness's mouth.

The Court. Yes, the question is very leading.

Q Where did these orders read from?

Mr. Fairlie. If you know.

A From Mr. Kelly.

Mr. Fairlie. May I cross examine the witness on that?

The Court. No, not now.

Q In what form did they come to you? A In typewritten form.

Q Who gave them to you? A I generally got them from a basket located by Mr. Kelly's desk where he placed all memorandums for distribution for different executives throughout the plant.

Q Were those orders copied and made a part of the record of the company? A Yes, the duplicates were maintained by Mr. Kelly and the originals was turned out to me and I made out the order and the original was considered a sort of memorandum and I filed them occasionally as I issued the order.

Q I show you a batch of papers here and ask you what they are? A These are Mr. Kelly's copies of orders issued to me for instruction in the various performances of my duty.

Q By whom? A By Mr. Kelly.

Q During what period of time? A These covered from June 2, 1914, to October 31, 1914.

Q And was that the form of the orders issued by Mr. Kelly? A That was his usual way of issuing orders. Occasionally they would be verbal, but very seldom. He would generally confirm them. That was his method of business.

Q Those orders, after they were distributed to the various departments, were there copies kept of them? A Copies were kept.

Q Or were they returned? A The letters were issued in the office, the original going directly to Mr. Kelly, the copy being retained in the office. The original would be retained by Mr. Kelly until he distributed them to the foreman or the various operative heads and each evening the various superintendents would come into his office for instructions for the next day and as he showed the work done these orders were given out. When the orders were completed they were turned into me and I in turn turned them directly into Mr. Kelly, who looked them over and then turned to me for the cost of the job. They were then filed away.

Papers marked D. 5 for identification.

Q Now, then, what orders concerning the details of the business were issued, you say, by Mr. Kelly in a form similar to this which I show you, marked D. 5?

Mr. Lum. I object to this. In the first place he has already said some reports were verbal.

Mr. Kalisch. I will offer these in evidence.

The Court. I do not think they have any bearing.

Mr. Kalisch. You Honor rules them out?

The Court. Yes.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q How are you paid, by check or cash?

Mr. Lum. I object to this. It is irrelevant, immaterial and incompetent how this employee was paid.

Mr. Kalisch. I will withdraw it.

Q Did you do the financial end of the business, take care of it; I mean by that, did you take care of accounts, the clerical work? A Yes, I did.

Q Were you familiar with the way in which the checks were made out by the company? A Yes.

Q They passed through your hands? A Yes.

Q Did you see any checks signed by Mr. Pratt? A Well, Mr. Pratt always signed the checks in bulk, a dozen at a time. I would send a book over to him and he would sign a dozen at a time and he would send it over to me.

Q Blank checks? A Blank checks.

Q And then those checks were filled out by whom? A One of my clerks, my bookkeeper.

Q Under your instructions? A It would depend upon the circumstances. Of course, they would originate under some circumstances from the general manager, his order to pay bills or pay himself or his orders to pay salary check.

Q It was left to either you or Mr. Kelly to fill out these checks, depending upon what they were for? A Yes.

Q And always for some business or other, some obligation in connection with the company's business? A Yes.

Q Did you know a Mr. Galvin that worked for the company? A Yes.

Q How long did he work for the company? A That I can't figure in days, but approximately, I should say, approximately half a dozen months, something like that.

Q Was he there before you came there? A No, he wasn't employed at the time I came there.

Q He was employed after? A Employed after.

Q Who employed him? A That I can't say

Q You didn't employ him? A Oh, no.

Q What was he employed to do? A Perform duties in the construction department.

Q And those were the duties assigned to him? A Yes, he was in the construction department, on the construction payroll.

Q Did you see him very often while you were there? A Yes, I saw him occasionally; every night when he returned from his jobs and occasionally when he would come to the office.

Q Was he still connected with the company when you left? A No, he wasn't.

Q Do you know the circumstances under which his connection with the company ended? A That, of course, I have heard some rumors.

Q No, I don't want any rumors. A No, I do not.

Q You don't know of your own personal knowledge? A Not of my own personal knowledge.

Q Were you in the office on a day that an affidavit was taken from Mr. Galvin? A I was.

Q How did Mr. Galvin happen to be in the office, do you know? A It was about four P. M. on the day of February 10, 1915. I was at my part of the office performing my usual duties when I received a telephone call.

Q From whom? A Picked up the receiver and there was Mr. Galvin on the other end of the wire. He said—

Q You know Mr. Galvin's voice? A Oh. yes.

Q What kind of a voice has he got? A Gruff, heavy, loose voice.

Q Go ahead. A He made a request for money. I asked him why he should ask me for money. He said he wanted to get out of town. I said, "Why speak to me about getting out of town?" I said, "I haven't any personal reason why I should give you any money." I said "I haven't it." He said, "Why can't you get it there?" I said, "I can't give you any money for the company unless I have authority from Mr. Kelly, so I said, "You talk to Mr. Kelly." He said he wouldn't talk to Mr. Kelly, he wanted to speak to me so I asked him to hold the wire a minute while I consulted Mr. Kelly, so I went in and asked Mr. Kelly if he wanted me to continue the conversation with Galvin on the wire,"

Galvin was on the wire, Galvin was on the wire. He thought awhile. He said, "Yes, see what he has to say first," and so I asked him why he wanted money. He said he wanted to get out of town, that the Gude Company and Trowbridge were after him and he didn't want to talk to Kelly because he had had conversation with him previous to his calling me and he had been insulted three or four times by Mr. Kelly so he said he had used the hooks on Kelly and he wanted $15 or he would make an affidavit or statement that was to be drawn up the next day by the Gude Company. Not being personally interested in it and knowing it would be some information that Mr. Kelly would need I related the whole conversation to Mr. Kelly and Mr. Kelly says, "Well, extend an invitation to have him come up here about half-past five." I went to the receiver and I picked it up and I said, "Galvin, if you want that money come up about 5:30 and see me in the office and I will see what I can do for you."

Q At 5:30 he came up? A At 5:30 he came up.

Q Were you there when he came up? A I was.

Q Was Mr. Kelly there? A He was.

Q Who greeted him, who saw him first? A I did. He came to my window then. I took him into Mr. Kelly. I asked him into Mr. Kelly's office. I says, "Here is Mr. Kelly. If you want any money from the company or any of Mr. Kelly's money."

Q Did you go out? A No, I stayed there.

Q Were you in the salesroom? A No, in Mr. Kelly's private office.

Q What did Mr. Kelly say? A Well, he says, "Galvin, what do you want." "Well," he said, he would not speak to Mr. Kelly, he wanted to talk to me alone, that he was through with Kelly, that Kelly had spoken to him three or four times very unmanly and he would not have any further connections with him so then Mr. Kelly left the room and went to the outer office.

Q Kelly left the office? A Yes.

Q Then what happened? A It had been previously—

The Court. No, not what happened previously.

A I stayed in the office and conversed with Mr. Galvin in reference to his demand for money and I can't repeat word for word the conversation, but it was bearing on some contracts to tell on us—his own terms—that he had turned against the Gude Company and the Trowbridge Company, which he said, according to his own statement, that they were instigated by Mr. Kelly, and the conversation went on and, of course, I knew that this conversation was taken down in the outer office.

Q That is what I want to know. Who was taking that down? A Miss Kane, Mr. Kelly's secretary.

Q Where was she? A She was stationed kneeling on her desk with her notebook on top of a vertical file which was up against the partition and the fan light of the office, which is a light about 4 or 5 feet, which was open and the top of this cabinet was approximately a foot and a half from this fan light.

Q Who made this arrangement, Mr. Kelly? A Yes.

Q Who arranged this with Miss Kane? A Miss Kane, and he also had Detective Farrell there. He called Captain Tuite on the 'phone and Detective Farrell came over.

Q Where was he stationed, Farrell? A Farrell was stationed rigth beside Miss Kane, immediately beside the door.

Q Was the door closed or open? A The door was closed.

Q Did you remain in the room? A I remained in the room with Galvin. Mr. Kelly had also called Mr. Pomerehne on the wire and Mr. Farrell had arrived at the office at that time.

Q Mr. Pomerehne, the lawyer? A Mr. Pomerehne, the lawyer.

Q What room did he occupy? A The office right beside of Mr. Kelly's private office.

Q Was he in the same office that you were? A No, he wasn't in there at that time.

Q Well, then, who was in that office with Mr. Galvin? A I was alone.

Q Did you have a conversation then with Mr. Galvin during that time? A Yes, I did.

Q Was Mr. Kelly there with you, then? A No, Mr. Kelly was outside in the outer office.

Q Do you mean where Detective— A Detective Farrell, Miss Kane and Mr. Pomerehne were stationed.

Q You had this conversation with Mr. Galvin? A I did.

Mr. Kalisch. It will save time if I hand him this.

Mr. Lum. The stenographer who took her original notes is the best evidence.

Mr. Kalisch. I am going to ask him whether such and such a conversation took place.

Mr. Lum. I think that is highly improper.

The Court. I think that is improper. You can give the conversation.

(Argument.)

The Court. You may ask the witness what conversation took place and he may give it.

Q Mr. Mahan, did Mr. Galvin say to you when he came in, when you saw him on that day and were in the room with him, "Now, I came in to see Mr. Mahan and I won't have anything to do with you, Mr. Kelly, so, unless I can speak to Mr. Mahan alone I will have to see him some other time." Do you recall Mr. Galvin saying that?

The Court. The question is objectionable. You can ask this witness what was said and that is all you may ask him. You cannot ask him on direct examination anything of that kind. If you want to get it get your stenographer, but you cannot ask him this.

Q What was the conversation? A Of course, it was a rather lengthy—

Mr. Kalisch. I want to object to your Honor's ruling.

Objection noted as ground of appeal.

A It was a rather lengthy conversation, spread over about, I should say approximately three-quarters of an hour and it was relative to Mr. Kelly's connection with Galvin on certain—

Mr. Lum. I object. State the conversation, not your conclusions.

Q What was the substance of the conversation?

Mr. Lum. I object to the substance.

The Court. As near as he can. He cannot give it word for word. The substance of the conversation was the effect.

Q Not the effect, the substance of it. Give us the substance of the conversation.

By the Court.

Q What you said to Mr. Galvin and what Mr. Galvin said to you? A It was relative to Galvin's connections with Mr. Kelly and various orders he had received from Mr. Kelly and the Gude Company and the Trowbridge Company requesting statements and affidavits from Galvin relative to his connections or various deeds that he claimed that he or rather he was supposed to have done against property of the Gude and Trowbridge Company and I believe he brought in the name—

Q Not what you believed, what you recollect. A I recollect he brought in the name of Bruce Campbell, saying he had made certain trips to New York to Bruce Campbell's office and also to the Gude Company's office and I recollect also that he made various trips to Mr. Lum's office and that there was some representative of the Gude Company and the Trowbridge Company continually acting as his companion for the past, for a period, he claimed, of the past few months.

Q Whose companion? A As Galvin's companion and he said he had been sick and tired of having this hanging fire on him for the previous few months and also that he wanted to get out of town and then I asked him if the statements he made were true.

Q What statements? A The statements he said he had made or claimed to have made to Mr. Lum and the Trowbridge Company.

Q Did you tell him what statements they were? A Did I tell him?

Q What did he tell you, what statements, that he had made any statements? A Yes, he said—I can't recollect whether he said he had made them or was going to make them, I can't recollect that.

Q I want the conversation. A It was either that he had made them or was going to make them.

Q What statements did he say? A Relative to, I think he said daubing over a few of Trowbridge Company's signs and tearing down a couple of Gude signs and selling the lumber or material that he took down in Rahway, to the best I can recollect, and then I brought the subject up, the conversation got very interesting and I brought up the subject of a statement.

Q You said something about asking him whether what he said was true. What did you refer to, did you tell him? A I asked him if he had made a statement or if he was going to make a statement, what he had embodied in those statements were true and he said they were not.

Q Go ahead. A The conversation was rather lengthy and what I have already said about the course of the conversation and then the subject of a statement was drawn up. I brought it up to Mr. Galvin and he said that he would sign a statement for me, so then I says, "Well I will call in my man, Jones." That happened to be Mr. Pomerehne. It had been previously arranged Mr. Pomerehne was to be "my man, Jones." Mr. Pomerehne then came into the office and sat down at Mr. Kelly's desk.

Q You referred to a statement? A Yes.

Oliver Lee Mahan, direct.

Q Did you have the statement with you or did you show him the statement? A Yes.

Q How long after he mentioned the fact of the statement did you show it to him? A Just as long as it took the typewriter, which was a few minutes.

Q Will you look at this paper, which is marked Exhibit D. 1, and tell me whether that was the statement that you showed to him? A Yes; that is the statement.

Q What was said concerning that statement by him or by you to him? A He signed the statement and he then asked for $15. I walked out to my office and got, I think, about $8 in quarters, I think, and a $5 bill and two $1 bills, which I gave him, handed him the money.

Q One moment, was there anything said at the time as to whether the statement which he made there was true or false? A No; there was not.

Q Was Mr. Pomerehne there when Mr. Galvin signed that statement? A Yes.

Q Did you see Mr. Galvin sign it? A I did.

By the Court.

Q Did he swear to Mr. Galvin at that time—did he take his oath? A Yes; Mr. Pomerehne swore in Mr. Galvin.

Q Bible or uplifted hand? A Uplifted hand.

By Mr. Kalisch.

Q You were going on to say what took place? A Then I gave Galvin the money and he said he was going to get out of town and I am not sure whether Mr. Kelly came in to bid him goodbye or not, but he went out the private door entrance and I walked with him to the front

stairs to hold him back a second or two, so as to give Lieutenant Farrell a few minutes longer, and then Galvin walked down the stairs and that ended it as far as I was concerned.

Q Where did you get the money from? A From my office safe; that is, part of it, and I think I borrowed a $5 bill from someone else in the office, I am not quite sure.

Q Who instructed you to do that? A Lieutenant Farrell.

Q Was Farrell there all the time that this conversation took place? A He was there. He came in about twenty minutes previous to Mr. Galvin.

Q Lieutenant Farrell is the officer who was on the stand the day before yesterday? A He is.

Q Did Lieutenant Farrell go out before Galvin went out? A He did.

Q You say he told you to give him the money? A He did.

Q Was Mr. Kelly present when he told you that? A No; I don't believe he was standing right beside me, but he was within a short distance; that is, within a few feet.

Q Who arranged this programme, do you know? A Mr. Kelly.

Q And your instructions in regard to the matter you got from him? A Oh, yes.

Q Was Mr. Galvin drunk when he signed this?

Mr. Lum. I object. That is leading and it is also calling for a conclusion.

Q Then, what was his condition—just tell us what condition Mr. Galvin was in? A He was in his usual condition, with plenty of breath, and walked as straight as he generally does. He has a rather swaggering walk and a loose build and he carries himself very loosely and that is just

the condition he was in, just as I have seen him. Mostly every time he came to my window he always had plenty of breath.

Q Was he in any different condition as to his sobriety on this occasion than he was when he was on the stand here the day before yesterday? A Not in his general walk. I don't know much about the breath. I didn't get close to him.

Q In your conversation with him did he give intelligent answers? A He did.

Q Did he appear to understand the remarks that you made to him?

Mr. Lum. I object. It is purely a conclusion.

Q Did he seem to know what he was talking about.

Mr. Lum. I object to it as leading.

The Court. Yes; I think that is not only leading, but a conclusion.

Q What impression did you get as to his mental condition?

Mr. Lum. I object to that as leading and a conclusion.

The Court. Yes; that is a conclusion.

Q What was his appearance as to whether or not he understood what you were saying to him and what he was saying to you? A He answered every question that I put to him very intelligently and when I gave him the money I think there were seven or eight dollars in quarters, and he counted every one of them to make sure he had $15.

Q You saw him do that, did you? A Yes; I did.

Q Did you see him walk down the steps? A The first landing, you see, there is a bend in the

landing and you can just see right down the first flight, which is about fifteen steps.

Q Did you have to assist him or did anyone assist him? A No one assisted him in or out.

Q Did you see him after he got out into the street from the window? A Yes; I saw him from the window. I looked out to see how Lieutenant Farrell was making out and he just touched him on the shoulder and they walked down the street and walked to police headquarters; that is, I didn't see him walk to police headquarters. They walked in the direction of police headquarters.

Q Where did you see him walk? A Walked down Treat place to the corner of William street, and then he turned.

Q Did he walk, unassisted, or did Detective Farrell have to assist him? A No; Detective Farrell had just the usual grip on the sleeves; that is all.

Q Did he walk straight or give indications of being drunk in his walk? A He did not stagger.

Q Walked about the same way you saw him walk here in the court room? A Yes.

Q Did you go down to the police station afterwards or at any time, say, within the next day or two? A Within the next—I believe the next morning the case was called in the First District Court on Washington street.

Q Court and Washington? A Yes; I saw him there. He was brought up at that time.

Q Who made the charge?

Mr. Lum. I object. There is no evidence that there was any charge made.

Q Was there a charge made?

Mr. Lum. The charge is the best evidence.

Oliver Lee Mahan, cross.

The Court. The charge is the best evidence.

Q Did you make a written complaint? A No; I did not.

By the Court.

Q Was a written complaint made? A That I do not know.

By Mr. Kalisch.

Q Did you wait to find out what became of Mr. Galvin? A Yes; I waited outside the court for — until — for about — well, I believe about twenty or twenty-five minutes after court convened.

Q Did he come out or did you see him afterwards? A Yes; he came out.

Q Alone? A Alone; yes.

Q Did you see where he went? A He walked out, I believe, with Mr. Trowbridge on one side and Mr. Lum on the other side.

Q Mr. Ralph Lum, Mr. Ernest Lum? A Mr. Ernest Lum.

Cross examination by Mr. Lum.

Q Who are you working for now? A Metal Production Equipment Company, of Springfield, Massachusetts.

Q How long have you been working with them? A Two months.

Q When did you leave the Newark Sign Company? A October 15, 1915.

Q Who did you work for after that? A The Baumhodges Company, of Springfield, Massachusetts.

Q When did you go with them? A October 17, 1915.

Q When did you leave them? A April 27, 1916.

Q Who did you go with then? A The Thomas Fell Company, April 29, 1916.

Q How long did you stay with them? A Until May 1, 1916.

Q Who did you go with then? A Metal Production Equipment Company.

Q Still with them? A Still with them; yes, sir.

Q When did you come down to Jersey? A Monday morning, June 12th.

Q Who sent for you? A Mr. Dreyfus, by telegram, on Sunday.

Q You were not subpoenaed? A Absolutely not.

Q What arrangement for compensation was made? A None whatever.

Q You mean you are giving up your time? A Yes.

Q Voluntarily giving to these defendants? A Voluntarily giving to the Newark Bill Posting Company.

Q Without any kind of compensation? A Without any kind of compensation.

Q Were you ever at the plant of the Newark Sign Company or these other companies on Sunday? A No, sir.

Q Do you know how many times Pratt came over on Sunday? A You mean last Sunday? Will you put that other question to me again?

Q (Question repeated.) Were you ever there on Sunday? A During my connection I was there on a number of Sundays.

Q How many Sundays in a month on an average? A Perhaps two, sometimes three.

Q How long would you be there on Sunday? A Generally, there about ten in the morning

until about four in the afternoon sometimes, or one in the afternoon until ten o'clock at night; all depends on the work I had to do.

Q Were you paid for your work on Sunday? A I wasn't.

Q That was also a work of love? A That was a work of love; yes, sir.

Q Did you ever see Pratt over there on Sunday? A Never.

Q Never. Did you ever see Kelly there on Sunday? A Yes; I have often.

Q Do you know who Pratt's chauffeur was at that time? A What time?

Q The time you were there? A No; I wasn't personally acquainted with any of Mr. Pratt's chauffeurs.

Q You never saw a chauffeur of Mr. Pratt come over on Sunday? A On Sunday I never saw Mr. Pratt.

Q You are quite sure? A I am quite sure.

Q What time did you arrive at the office usually in the daytime? A Between eight and eight-thirty.

Q How long were you there? A Sometimes from eight o'clock in the morning until two or three the next morning, and sometimes from eight A. M. to five P. M., and sometimes I have been in the office thirty-six hours straight without leaving.

Q Your duties didn't take you out of the office? A No; they did not, only to lunch when I had time.

Q You saw Pratt come over there at times? A At times; yes.

Q What did he come over for?

Mr. Kalisch. I object to that. There is no proof that he knows.

The Court. If he knows he can state.

A He just walked in and walked out.

Q The president of this company, the majority of stockholders, just walked in and walked out, is that it? A Yes.

Q And used to sign up the checks by the dozen and send them over in blank? A Yes; he did.

Q Those checks were no good until Kelly signed them? A Until Kelly signed them.

Q And sometimes Kelly gave orders to fill them out and sometimes you did? A I had no authority to have checks filled out until I had an order from Mr. Kelly.

Q You don't know at all what Pratt came over there for at all any time he came? A No.

Q Whatever he came over for he didn't inform you? A No; he did not.

Q This affidavit of Galvin's—there was also something written out in longhand?

Mr. Kalisch. By whom?

Q By anybody.

Mr. Kalisch. I object to it.

The Court. Mr. Lum is perfectly proper in his line of cross examination.

Q (Question read.) A Yes; Mr. Pomerehne, not being a typist, took the statement down in longhand and then dictated it to Miss Kane, who wrote it on her machine. It was brought in and reread to Mr. Galvin, and he signed it and swore to it.

Q Signed the one that was written out first? A No; that was just Mr. Pomerehne's memorandum. He took the statement down in longhand.

Mr. Lum. I ask for the production of the statement taken down in longhand.

Oliver Lee Mahan, cross.

By the Court.

Q What became of that statement in longhand? A I saw it attached to the affidavit yesterday.

Mr. Kalisch. We will produce that. I haven't got it now.

By Mr. Lum.

Q What time did Galvin arrive upon this day in February? A The date of the statement?

Q What is that? A You mean, February 10, 1915? A Yes. A About 5:30.

Q What time did you first hear from him that day? A About 4:30.

Q When he called you up his voice was perfectly steady? A Yes; usually gruff voice.

Q Sounded sober? A The best I could find out, sure; just his usual voice.

Q Just as I do now? A His usual gruff voice.

Q He seemed steady and sober when he spoke? A Oh, yes. His talk was quite explosive.

Q Do you remember some of this money being marked? A No; the money was not marked that Detective Farrell took.

Q No; I asked you if part of the money was marked? A Part of the money was not marked.

Q Some of it was fixed so it could be identified? A The money was not touched in any way; that is, with any pencil marks or any marks of identification.

Q After this thing was set to music, no one that you know of made any grumble, complained against Galvin, to your knowledge? A No; not that I know of.

Q You know he was released without bail the next morning, don't you? A I do not.

Q You never heard of any charge made against him by any one connected with your office, did you? Yes or no. A I heard of a charge going to be made.

Q You never heard of any charge having been made, did you? A Not that I know of.

Q What time did Farrell get there? A That, I should judge about fifteen minutes before Galvin, which would be about 5:15 P. M.

Q You think he got there about 5:15? A Yes.

Q What time did he leave? A The performance was over about—well, between 6:30 and 6:45.

Q Did you have any dress rehearsal for this performance? A No; we did not; no dress rehearsal.

Q You say you saw him go down the stairs to the first landing? A Yes; I did.

Q You couldn't see him after he got there? A No.

Q You don't know whether he fell the rest of the way or not? A I could have heard him.

Q You didn't see him after he turned that landing? A No.

Q He walked out of there at his usual gait, entirely sober? A Just his usual gait.

Q Signed his name, as you saw him, in the usual way? A Yes; in the usual way.

Q Seemed entirely competent to do business, steady, reliable and in good shape? A Just as usual.

Oliver Lee Mahan, re-direct.

By Mr. Kalisch.

Q Did you go to the police court after he was taken there? A On the night he was taken there?

Q The night or the day after? A The day after I walked around to see him brought to trial. That would be the next morning.

Q Did you attend the proceedings at all or didn't you remain? A I remained in the court room for about fifteen minutes or twenty minutes and it was rather stuffy and it was a warm, muggy day and I went out in the lobby and I stood out there until the performance was over.

Q Did you see him in the court room? A I did.

Q Was his case called? A Why, I don't know. I went out before that.

Q You waited there for him to come out? A Yes.

Q After you went out? A Yes.

Q Now, then, you say you would have heard him if he had fallen down from the first landing downstairs? A Yes, sir.

Q What kind of stairs are they? A They are wooden stairs, and it is—

Q Enclosed? A Enclosed and highly tiled around and every footstep on the stairs makes an echo.

Q You stood where when he was going down? A At the head of the stairs.

Q You could have heard—can you hear people coming up from the street, up the first flight of stairs? A Yes; when you stand at the head of the stairs, you can.

Q You would have heard him? Did you hear him go down the stairs? A Walk down.

Oliver Lee Mahan, re-direct.

Q You saw him walk down the first flight—I am not speaking of the second—walk down in the regular way? A Yes.

Q Sounded— A As though he walked clean to the door and when he got downstairs to the last step there was a lapse of about a few seconds before he put his hand on the knob of the door; that is, before I heard the door move and then I ran to the front window to see how the lieutenant was making out.

Q And then you saw him come out? A Walk out the front door.

Q Where did Detective Farrell see him or get him? A Detective Farrell was waiting down at the front door for him.

Q Right in front of your building there? A Right in front of our building.

Q Did you talk with Galvin when he telephoned? A Yes.

Q You answered the 'phone? A I answered the 'phone.

Q Did he inquire who it was or what did he say?

Mr. Lum. I object to this repetition.

The Court. Yes; we have been all through it once.

Q I want to know what Galvin said as to who it was answering the 'phone? A Yes; he answered this: "Is this Mahan?" I said, "Yes." The fact is, he asked for Mr. Mahan. We have a switchboard and the call first comes in to the operator and the operator switched it on my office because he called for Mr. Mahan.

Q What was the first thing said? A "Is this you, Mr. Mahan?"

Q What did you say? A "Yes." I asked who it was. He said it was Galvin.

Oliver Lee Mahan, re-cross.

By Mr. Lum.

Q Did you all speak to Galvin that morning at the police court? A Never said a word to Mr. Galvin in the police court that morning.

Q Did he come out to you? A Not out to me.

Q Did he go out to you and say to you, "Do you know there will be no charge made against me?" A Never said a word to Mr. Lum that morning.

Cross examination by Mr. Fairlie.

Q Did Mr. Kelly discharge you? A He did not.

Q Did you leave voluntarily? A I did.

Q Did you ever hear Mr. Kelly give any orders for the destruction of other people's signs? A I did not.

Q Never heard any such orders? A Never heard any such orders.

Q Did Mr. Pratt—I understood you to say Mr. Pratt came over late in the afternoon as a rule? A I didn't lay down any rule. I said Mr. Pratt was liable to come in, when he made a visit, at any time.

Q You did say he often came late in the afternoon? A I did say.

Q Was his principal business in New York City?

Mr. Kalisch. I object to that.

The Court. I think he can answer that question if he knows.

A I do not know.

Q Was his principal business outside of this Newark office? A I do not know.

Q So far as you know, did he come to this Newark office principally at times outside of

regular business hours, between, say, eight in the morning and five in the afternoon—is that so? A I don't quite get that, those principal business hours.

Q As a rule, did he come to the Newark office at any hours other than between eight in the morning and four in the afternoon? A I don't quite get that question.

Q (Question read.) A That, I don't know.

Q Monday night last past you were at the Newark Sign Company's office with Mr. Dreyfus and Mr. Pratt? A I was.

Q And you went from there to the Hotel Treat? A I did.

Q With Mr. Pratt? A Yes.

Q And you went from there back to the Newark Company's office? A I did.

Q Did Mr. Pratt or Mr. Dreyfus, or either of them, say, in your presence, that they wanted to unload this whole thing on Kelly? A Absolutely not.

Q Nothing to that effect? A Nothing to that effect.

Q You swear to that? A I will.

Q Did Mr. Kelly have any records at all that you didn't see—did he ever tell you that he had records that you never saw anything of? A You mean personal records or records pertaining to the business?

Q Records pertaining to the business. A He never told me.

Q That you know of? A I don't know anything about it.

Q Did he have a check book that wasn't opened to you—a company check book? A No; he did not.

Q You will swear to that? A I will swear to it; that is, a company check book that I know of.

Q None that you know of? A None that I know of.

Q Now, Mr. Kelly left the room, you say; Mr. Galvin was there; you didn't hear, then, Mr. Kelly telephoned to Mr. Pratt, did you, while Galvin was there? A While Galvin was there; no.

Q You didn't hear that? A No; I did not.

Q Isn't it a fact that this Miss Kane, who was supposed to have taken down this conversation, refused to take it down and left it there unfinished? A Absolutely not.

Q Isn't it a fact that she left the employ of the company the next day or very shortly thereafter on account of this incident? A Absolutely not.

Q Isn't it a fact that you dictated this memorandum two or three days or so after Mr. Galvin had left the office? A Absolutely not.

Q You deny that? A I will.

Q You deny it all? A I will.

Q Mr. Kelly was there a great deal at night, you say? A Yes.

Q Had dinner frequently with Mr. Pratt, didn't he? A I do not know; not to my knowledge.

Q You don't know? A No; I don't know.

The Court. I don't want Mr. Kalisch to understand that you cannot produce this testimony that you offer, but you have to produce it through the stenographer.

Mr. Kalisch. I understand.

Adjourned until Thursday, June 15, 1916.

FOURTH DAY.

THURSDAY, JUNE 15, 1916.

Met pursuant to adjournment.

Present, counsel as before stated.

The Court. I want to say that if there was any question that you asked Mr. Galvin that he denied you may ask him that direct question, whether he said it, but I don't understand from my notes there was any question in that conversation.

Mr. Kalisch. I merely asked Mr. Galvin whether a certain conversation took place at a certain time and certain place and I put the specific question to him and asked him, "Did you say this and did you say that?" and he denied this, and I endeavored to prove by Mr. Mahan that he said it.

The Court. If any question is denied you can ask him that particular question.

LEONARD DREYFUS, recalled in behalf of the defendants.

Direct examination by Mr. Kalisch.

Q Mr. Dreyfus, where do you live? A In Newark.

Q Are you connected with the Newark Sign Company? A I am.

Q In what capacity? A General manager and vice president of the company.

Q How long have you been general manager? A February 1st.

Q What year? A 1916.

Q When did you first become identified with the company? A November 1, 1914.

Q In what capacity? A Sales manager.

Q You know, of course, Mr. Pratt? A I do.

Q How long have you known him? A October, 1914.

Q It was through Mr. Pratt that you became connected with this company? A Yes.

Q When you first entered the employ of the company who was the manager? A Mr. Kelly.

Q One of the defendants? A Yes.

Q Did he remain the manager as long as he continued with the company? A Until I became manager.

Q You have a construction department in your company, have you not? A We have.

Q Who issued the orders to the construction department?

Mr. Lum. I object unless the time is fixed.

Q While you were manager.

Mr. Lum. I object.

The Court. Up to the time of the beginning of this suit?

Mr. Kalisch. Yes.

Q Who issued the orders to the construction department from the time that you became connected with the company up to April, 1916? A The construction orders issued from Mr. Kelly.

The Court. He does not mean that. You better qualify them.

Mr. Kalisch. I meant to put in the question up to the time Mr. Kelly left.

A Up to the time I became general manager the construction orders issued by Mr. Kelly. I meant to answer that way.

Q What position did Mr. Pratt occupy with the company? A President of the company.

Q During the time that you were connected with the company and up to the beginning of this suit, up to the time of the beginning of this suit what were Mr. Pratt's activities in the company's affairs so far as you know? A Why, Mr. Pratt never had any connection at all with the detail of the business, but he visited us occasionally for a short period.

Q Did he come to Newark at times to visit the plant? A Yes.

Q Did you see him when he came to Newark? A I always saw him.

Q When he came to Newark how long would he usually stay at the plant? A Oh, about an hour or a half an hour.

Q Did he issue any orders as to the details of the company's business? A He never did.

Q In whose hands was that left entirely up to the time that Mr. Kelly left the company? A Mr. Kelly.

Q Now, who were the directors of the Newark Sign Company when you became connected with it? A The directors from February 1, 1915, were Mr. Pratt and Mr. Kelly and myself; on February 19th to be exact.

Q Did you know of any signs of the O. J. Gude Company being destroyed? A I did not.

Q Do you know whether or not there was any animosity on the part of the O. J. Gude Company against the Newark Sign Company? A Well, there was in the latter part of 1915, if I might explain that.

Q Yes. A The Newark Sign Company, the Newark Sign Company's activity extended from Newark and up as far as Nutley and down to and including Perth Amboy with a very minor business down to Asbury Park and we had never extended any farther north in Jersey than Nutley. In my former experience which I have always paid quite some importance to Paterson and Passaic.

Mr. Lum. I object to that and ask to have it stricken out.

The Court. That last part is stricken out.

A In 1915 we extended our activity into Paterson and Passaic and Mr. Gude is the president of the bill posting company in this section.

By Mr. Lum.

Q Who is? A Mr. Gude is or was to the best of my knowledge at that time.

By Mr. Kalisch.

Q Connected with that company?

Mr. Lum. If you know of your own knowledge.

Q Do you know whether Mr. Gude was connected with that company? A The treasurer of that company made that statement in February last.

Mr. Lum. I ask to have that stricken out.

The Court. Yes, strike that out.

Q Do you know whether the Gude Company did any business in Passaic? A They do.

Q Paterson? A They do.

Q Go on, what were you telling us? A Why, we extended our activity to Paterson and Passaic and the surrounding country and painted in 1915 something like 40,000 square feet of advertising signs in this section.

Q You did that? A Yes.

Q The Newark Sign Company? A Yes.

Q You had never been in that territory before? A No.

Q Were there any other sign companies in that territory beside the Gude people before you came there or did they have the field to themselves? A They practically had the field to themselves.

Q Now, then, you assign that as the cause of their animosity towards the Newark Sign Company?

Mr. Lum. I object.

The Court. Yes, the question is objectionable.

Q What was the feeling between the Newark Sign Company and the Gude Company on the part of the Gude Company?

Mr. Lum. I object. How could this man personally know the feeling of the Gude Company towards anybody else?

Q (Question repeated.)

The Court. Does he know?

Q Do you know? A Yes.

Q What was it?

Mr. Lum. I object.

The Court. How do you know?

Q How do you know? A I should have to go into an explanation.

Q What we want is how do you know? A The Newark Sign Company is a member of the

Outdoor Advertisers' Association, which is a combination of the Outdoor Advertising Companies in America, and the Gude Company is not a member of that association and the Gude Company is the only company that I know of which is not a member in America. He is not a member and there is naturally animosity between any one who is not a member of our association and the allied members, and that is an admitted fact in our business.

Q During the month of January, 1916, did you have a conversation with Mr. Kelly at the Downtown Club? A I did.

Q He has testified concerning the conversation at which the sale of his stock was talked about at the Downtown Club. Will you give us the substance of that conversation, just what it was? A I telephoned Mr. Kelly that morning and asking him if he could tell me where any of our records were and I could find an affidavit that had been made by Mr. Galvin that I understood was part of the company's records.

Q What company's records? A The Newark Sign Company's records. Mr. Kelly told me where I ought to find that particular paper and I made an investigation and could not find it.

Q He had told you this previously where to find it? A When I asked for it—I subsequently phoned him again, telling him I could not find it.

Mr. Lum. I object. This conversation between these defendants not in our presence is absolutely inadmissible. I object to it on the ground that no one on the part of the plaintiff being present this cannot have any force. Mr. Fairlie brought out on

cross examination that fact with reference to the conversation at the Downtown Club.

The Court. You may go into the question of what took place at the Downtown Club.

Mr. Lum. I object on the ground that nothing with reference to the Downtown Club was presented in the direct examination of the witness Kelly and that any reference to it was brought out on the cross examination of his own counsel and refers to a matter of which we have no knowledge and in which we have no interest and it is irrelevant, incompetent and immaterial and prejudicial to the plaintiff.

The Court. You may ask the question of what took place at the Downtown Club.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q What took place at the Downtown Club?

The Court. With reference to this stock.

Q What was said, the entire conversation?

The Court. He only went into the conversation of what took place about the stock.

Q What was said at the Downtown Club in reference to the stock? A I cannot say anything in reference to the affidavit?

Q If it had reference to the stock. A Mr. Kelly said at the Downtown Club, "Here is the affidavit signed by Mr. Galvin and for which I wish a receipt." That was the first conversa- we had at the Downtown Club.

Mr. Lum. I ask to have that stricken out as irrelevant, incompetent and imma-

terial and not having taken place in the presence of the plaintiff.

A I have a statement in Mr. Kelly's handwriting which he asked me to—

The Court. I think that is not competent, with reference to the affidavit. You can strike that out. The question is now what was said.

Q Did that have any reference to the stock, did that have any bearing upon the purchase of this stock? A It did in this sense, that it brought Mr. Kelly and I together.

The Court. That may be stricken out.

Q Was there anything said with reference to the affidavit made by Galvin which had any reference to the stick? A No.

Q Was there anything said at that conversation with reference to the purchasing of that stock in which Mr. Kelly said that he would get square on Mr. Pratt for not purchasing the stock at his price?

Mr. Lum. I object.

The Court. You may answer that.

A Yes.

Q What was it? A Mr. Kelly offered me his stock. We went into negotiations there.

Q No. A Mr. Kelly offered me his stock for $10,000. I, in turn, offered him $5,000 for it, eventually offered him that. Mr. Kelly agreed to sell it for $7,500. I said that was an exorbitant price and that in view of the situation he wasn't entitled to even $5,000, but that we were willing to pay that in the interest of peace. Mr. Kelly said that if he didn't get what he was asking for his stock it would

cost the company and Mr. Pratt many thousands of dollars.

Q Is that all he said in reference to that or was there anything else? Just confine yourself to this conversation in reference to the stock? A There was a lengthy conversation, but I can't repeat it.

Q Did it have any bearing on the stock or the company matters? A I have given you the substance of it.

Q The Galvin affidavit, was that brought up in connection with the conversation about this stock?

The Court. You have asked that and he said no.

Q Can you fix the time of that conversation? A January 17th, I think.

By the Court.

Q This year? A Yes.

By Mr. Kalisch.

Q Did Mr. Kelly remain in the company's employ after you became manager? A No. Mr. Kelly left the company on the night of November 26, 1915.

Q Did he ever visit the company? A As manager, I must add to that.

Q Did you ever see him around the company's office after that? A He made, as he stated, I think, three visits for a few moments' each time and saw me when he came into the office.

Q Those were the three visits that he has mentioned in his examination? A Yes, sir.

Q He saw you each time? A Yes.

Q Did you remain until he went out, or did he ever remain after you went out? Did you

ever leave him there? A No, he left. I was there during the entire time he was.

Q As manager of this company, have you, has your experience been that sign boards of your company and other companies have been blown down in the neighborhood of Rahway and Elizabethport and Aldene and Elmora?

Mr. Lum. I object. It is irrelevant, incompetent and immaterial whether signs have blown down. Houses have been blown down in this city in the last few years and it can't throw any light at all on this matter. We can't hold, we are not seeking to hold these defandants or any of them liable for any injury because of any signs blown down. We have given evidence of braces cut and burned and the specific destruction in most of the instances and talking about the wind is nothing but one effort to cloud the issue. This testimony is not relevant or competent to the issue as to whether they destroyed our signs, whether some of their own signs were blown down. We would have to inquire how they were put up, where they were put up, we would have to go into all that.

The Court. I shall allow the question.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question read.) A They certainly have.

Q Was that a frequent occurrence? A Usually after a heavy storm, and it is a condition that is not easily remedied. Ground conditions vary; the same method may be employed

in the building of a sign in one locality that will remain standing in stormy conditions for ten or twelve years, whereas a sign built in exactly the same manner in another locality, because of the softness of the ground, will blow over in a minor storm, out in the meadows, for instance, it is necessary to brace a sign that would stand forever at Elmora, but out in the meadows will blow down in an eighty-mile gale and we have had gales, the storm in December.

Q What year? A 1915.

Q The one that has been testified to? A Yes, the wind blew over ninety miles an hour and in that storm we had forty-nine signs blown down and we noted in our reports that innumerable signs of other companies were down and we know that because we take note of each storm to see whether a majority of ours or competitors' signs go down to see whether our construction is as well as theirs is or faultier than theirs.

Q What about the fire conditions in those localities? A We constantly meet with fire conditions. Tramps will—

Mr. Lum. I object to all this. May I cross examine on it?

The Court. Yes, you may.

Mr. Kalisch. Before the cross examination I want to say I am the only one, I think, that has a right to object.

Mr. Lum. I withdraw my objection.

A We constantly meet with the condition of tramps building fires to cook their meals along the signs. They build them along signs for two reasons. It is very evident to any one in the sign business. One is they are not easily seen

and the other because they are in one direction out of the wind and they build them up close to the sign so as to protect the fire and themselves from the wind.

Q Is that a condition that you have tried to meet at all? A We have discovered tramps many, many times and we have complained about it, the chief of police at Harrison, for instance.

Mr. Lum. I object.

The Court. Did you make an effort to provide against those conditions?

A As nearly as it is possible to do so.

Q What did you do generally without warning any person?

Mr. Lum. I object.

The Court. I do not think that is competent.

Q Did you make an effort to notify the Gude people as to the condition of their own signs?

Mr. Lum. I object.

The Court. I will allow that.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

A We have on occasions notified the Gude Company.

Q I show you some letters or copies of letters. I show you those letters and ask you whether you have seen those letters?

Mr. Lum. I object to the question as it stands.

The Court. I think that is not proper as it stands.

Mr. Kalisch. I will ask you to produce those letters.

Mr. Lum. We cannot produce them now. It must be perfectly apparent, the childishness of the situation? I know nothing about them. You may use those as though they were originals and as though they were sent. I know nothing about them.

Q Weren't letters of which these are copies sent to the Gude Company? A They were.

Q Who sent them? A Mr. Johnson, under my direction, sent one, and Mr. Wolff, under my directions, sent that one.

Mr. Kalisch. I offer these letters in evidence.

Mr. Lum. No objection.

Marked Ex. D. 6 and D. 7.

Ex. D. 6 and D. 7 read to the jury.

Cross examination by Mr. Lum.

Q These are the only ones of a similar kind that were sent to the Gude Company? A The only ones that I know of. I took them out of the file. I didn't know of any more and I took these out.

Q In searching for them you looked through the files? A No.

Q Will you please do so and advise me as to others going to the Gude Company, sent to the Gude Company down so far as your files show? A I will attempt to.

Q These were written on the 4th of January, 1916, and 11th of January, 1916? A Yes.

Q And the first I believe was issued in this suit on the 4th of January, 1916, was it not?

A I don't think so. I think the 7th and 8th the summons was delivered.

Q How many signs did you say were down in this large wind storm? A We lost forty-nine. I have a list of them right here in court.

Q Where were those forty-nine? A All over our territory, a great many on the meadows.

Q Down at Elmora, how many were down of your own knowledge? A That must be answered this way.

Q Of your own knowledge. A That is the only way to answer. I must answer this way.

Q How many signs of yours at Elmore were down in this windstorm? A None.

Q Did you ever see a tramp build a fire behind a sign? A I certainly did.

Q Did you speak to him about it? A I certainly did. I spoke to him, not very gently.

Q Did he make a fire around each post as he went along? A No, tramps are not very particular which place they pick out.

Q So when you find a fire around each post you know a tramp didn't put that fire there, don't you? A You don't really know, when in between the posts there is grass your fire spreads very rapidly.

Q If the grass was cut from in under to protect the signs why then the fire would not spread from post to post? A It is almost impossible.

Mr. Kalisch. I object to the question. It asked for a conclusion and it is argumentative.

The Court. Unless the witness had some experience it would not be competent.

Q When the grass was cut underneath the sign then the fire would not spread from post to post, would it?

Mr. Kalisch. I object to that question.

A If the grass is cut right down to the ground.

The Court. I think that question is objectionable.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q When tramps build fires behind signs they usually burn the signs off?

Mr. Kalisch. I object.

The Court. You may answer that.

Q (Question read.)

Mr. Kalisch. That is objected to.

The Court. I will allow it.

A There can't be any rule to that, but I am giving this explanation, that the usual railroad sign is 3 feet off the ground and a post may burn and char down at the bottom where the tramp is building a fire and not touch the face of it and usually it is that way, without burning the face of the sign; in all my experience, and it has been quite some both in the purchasing and building of signs, I have never, never seen a face of a sign burning.

Q How old are you? A Twenty-nine.

Q In all those years you have never seen one like that? A In the last nine years I have been very much interested in signs and have traveled very extensively.

Q What business were you in before you started in the sign business? A I was in the

soda water business, sales manager of Hires Root Beer Company.

Q How long were you in that? A Five years.

Q And all the rest of your long life has been spent in the sign business? A Nine years, I said.

Q Has most of that time been watching tramps behind sign boards? A No.

Q That has not been all your experiences in the sign business? A No.

Q I understand from you that the Gude Company is the only big company in a big city out of the trust?

Mr. Kalisch. I object to that question. It is a wilfull misstatement of the facts. There was no mention made of a trust.

Mr. Lum. Strike it out.

Q The Newark Sign Company and the allied companies were members of an association, bill posting association, indoor and outdoor advertising? A The Newark Sign Company is not a member of the Bill Posting Association.

Q The Newark Poster Advertising Company— A Is a member of the association, advertising association.

Q I asked you that in the first question. It won't do you any good to equivocate that way.

Mr. Kalisch. I object to those remarks.

Q They are a member of this Outdoor Advertising Association? A The Newark Sign Company is.

Q And either of the other companies? A No, the Newark Sign Company is a member of the Outdoor Advertising Association.

Q Are the other companies members of any of the associations? A The Newark Poster

Advertiser Company is a member of the Poster Advertiser Association.

Q That association is quite an extensive one, isn't it? A Yes.

Q The United States Government took proceedings against it as a trust, didn't it?

Mr. Kalisch. I object to that question and it is a very improper question and it was put to him on purpose.

The Court. It will be ruled out.

Mr. Lum. I object to it being stricken out and ask if I may be heard.

(Argument.)

The Court. You may ask the question of whether it was.

Q The association to which you referred has been dissolved, has it not? A This refers to the other question?

Mr. Kalisch. I object to that.

Mr. Lum. I withdraw all that line.

Q Who were the members of the Gude Company?

Mr. Kalisch. I object to that question.

Mr. Lum. He described them. I certainly must be permitted to test his knowledge.

The Court. Officers of the company, that is all.

A I know that Mr. O. J. Gude is the president of the company, Mr. Wines is the vice president and general manager, Mr. Jones is the secretary, Mr. Gans is one of the officers of the company, I think the vice president or a vice president.

Q You know all those men? A I have met Mr. Wines. I believe that is the only officer of the Gude Company I have actually met.

Q Did he express any animosity towards your company? A Yes, he did.

Q What did he say? A Now, let's see. I was in the Gude Company's office in April of last year.

Q April, 1915? A I had received a letter from an advertiser saying—

Q Never mind. What did Wines say to you? A I asked Mr. Wines to purchase certain signs of ours in Newark.

Q What did Wines say to you? A Mr. Wines said he could not because the relations between his company and ours were not friendly enough for him to consider doing business with us. I expressed very great surprise at that and he said we had damaged his property and I said I was very much astounded by that and asked him why he did not bring an action against us and he said they were going to do that and I said, "By all means do it," and I said, "If we have ever damaged your property do it and clear the atmosphere, because we are too near each other to have such a feeling exist."

Q Dreyfus, you made the statement in this court house within a week, did you not, that this muss was a rotten condition that you inherited when you became manager of that company and you wished to God you were out of it? A I did not.

Q Did you not say anything to that effect?

Mr. Kalisch. To whom?

Mr. Lum. Wait a minute. He is having a little trouble.

Q Did you say it to anyone?

Mr. Kalisch. I object to that.

The Court. You may ask the question.

Leonard Dreyfus, cross.

A I remember some such statement about the various individuals who made up the trial. I deny it as you put it.

Q These forty-nine signs that you testified to, how many did you personally see down? A Fifteen.

Q Where were they? A Various places, Elizabethport, out on the meadows all the way to New York from the Newark end of Broad street in Elizabeth.

Q Did you make allowances at the time these signs were down to the advertisers? A Yes.

Q It was done in your books? A Yes.

Q Will you produce your books showing these allowances. Your account shows the repair bills on those signs? A They do.

Q Will you produce those also? A I think I have that here.

Q Dreyfus, this conversation that took place with Wines was this, wasn't it? Didn't Wines say to you, "Don't come to ask us favors when you have got unclean hands?" A He did not.

Q Said nothing to that effect? A He did not. We asked no favors.

Q Did he accuse you of having destroyed their property? A Yes.

Q When did you become manager of this company? A Became practically manager on the 26th of November, 1915.

Q When did you become actually manager? A I became vice president of the company on February 1, 1916.

Q When did you become actually manager? A Became active manager on the 26th of November, 1916.

By Mr. Kalisch.

Q In 1916? A In 1915.

Leonard Dreyfus, cross.

By Mr. Lum.

Q When did you first go with the company? A November 1, 1914.

Q You are a stockholder of the companies and interested in their welfare? A I am.

Cross examination by Mr. Fairlie.

Q What was the date of your conversation with Mr. Kelly at the Downtown Club? A January 17, 1916.

Q At that time you didn't know that any attorney was representing Mr. Kelly, did you? A I don't recall whether I did or not.

Q Do you remember that after that conversation at the Downtown Club, as I was coming out of Bamberger's restaurant, you ran after me and called me back to your table to talk with you? A Yes.

Q And we talked together for about half an hour? A I don't think at was a half an hour.

Q Nearly? A I don't think so.

Q And you did most of the talking? A That probably would be characteristic of me if I did.

Q You told me how clever you were in the management of this business, among other things. A No, I didn't tell you that.

Q Do you remember in that conversation you discussed the condition of affairs that you found in the company when you took charge? A No, I do not recall that.

Q You did discuss with me, though, in that conversation the conditions which you found existing when you took charge? A I don't think so.

Q You deny that you did? A I don't recall the conversation quick enough to make a positive statement on that.

Q Either one way or the other? A No.

Q Do you remember telling me in that conversation that you were going to clean things up and put them on a fine, clean basis? A I may have said that.

Q Or words to that effect? A I may have said that.

Q And prior to that statement had there been nothing said about the unclean conditions which you were going to clean up? A I don't think there were.

Q You just jumped at it out of a clear sky? A No, you are inferring, you are inferring a different meaning to what I said.

Q What did you say? A I said that things were not run economically, but that the various methods of operating the business could be materially improved upon and they have been.

Q Did I talk to you, say anything to you about the operating conditions? A I don't recall that you did.

Q Are you trying to recall? A I am trying very much to recall.

Q Are you trying to tell the truth? A Absolutely.

Mr. Kalisch. Which is more than Mr. Kelly did.

The Court. That is not fair. The jury will have to say whether the witnesses are contradictory or telling the truth or not telling the truth.

Q In that conversation didn't we mention that all the difficulties which had been had with the New Jersey Sign Advertising Company? A I don't think we did.

Q Did we mention the difficulties which had been had with any other competitors of the Newark Sign Company? A I don't think we did.

Q Do you know that we did? A I am not quite sure of the situation.

Q You won't say one way or the other? A I do not think that we did.

Q But you won't deny it? A I have answered that.

Q Answer it again.

Mr. Kalisch. I object to that he said, "I don't think we did."

A My recollection is not clear enough to say that we did.

Q I ask you, do you deny it? A My recollection is not clear enough on the matter to either confirm or deny it.

Q Do you remember telling me in that conversation, do you remember my saying to you after you had told me how you were going to clear things up that I was glad that you were starting out in that frame of mind. Do you remember my saying that or words to that effect? A You may have said that. It was a casual conversation, not by appointment. I can't recall the conversation entirely.

Q You don't remember that I said anything to that effect? A No, I can't recall.

Q Do you remember my saying that I hoped you would keep up that frame of mind, after being under Mr. Pratt's orders for a year or more? A No, I can't recall that.

Q You don't remember anything to that effect? A I recall that there was a conversation.

Q No, do you remember anything to that effect? A No, I do not.

Q And then, do you remember your telling me that you had gone all over the situation with Mr. Pratt and that you had it definitely understood that you, that if you took charge he wasn't to expect any of this dirty business from you?

Mr. Kalisch. I object to that.

The Court. He may answer the question.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

A I know absolutely that I never would make any such statement at any time.

Q You don't remember anything that we said during that half hour conversation or nearly half hour, do you? A I certainly do. I remember that, what you are inferring, there was a general conversation between you—

Q Tell us all that you can remember in the conversation, if anything? A There was a casual meeting of you and I in Bamberger's restaurant.

Q Didn't you chase me up to the cashier's counter to pull me back? A Yes, I think I did.

Mr. Kalisch. I think he ought not to put any improper meaning on this witness's testimony.

The Court. He asked him if he did not go after him. Go on, tell us what was said.

A I recall a general conversation and the thing that you said, you hoped—

Mr. Fairlie. That is all.

Mr. Kalisch. One moment.

The Court. He is entitled to answer and state what he said.

A Mr. Muller of the Bamberger Company was there with me and Mr. Muller expressed his opinion that he was glad—

Q Never mind what Mr. Muller said.

The Court. What you said.

A Mr. Fairlie hoped that I would succeed in the business and I told him that I thought that I would and hoped that the new methods of the company were more economical than before and that we continue this, putting more efficiency into the business and that we were doing that.

Q You told me you were making a complete reorganization over there. A I may have said that.

Q You remember that you said that? A I don't remember exactly saying it.

Q Don't you remember you went so far as to rearrange the office not because it was any more efficient but merely to change the atmosphere? A I didn't say we did that.

Q You say Mr. Muller was there. Don't you remember that you and I were there for some time and Mr. Muller came down the aisle and you called him over and Mr. Muller went to see what he was called over for and you said, "I called you over to meet Mr. Fairlie." Do you remember that? A I do.

Q And Mr. Muller looked embarrassed. Do you remember that? A No, he never does.

Q Not embarrassed, I should say rather puzzled. A Very self-possessed man.

Q And there was an embarrassing pause and you said, "I want you to tell Mr. Fairlee what a good fellow I am." A No.

Q And Mr. Muller wouldn't do it? A No.

Q You have forgotten; that made no impression upon you? A Mr. Fairlie, you are infer-

ring something that wasn't said. I do recall asking Mr. Muller to tell you what his relations with Mr. Kelly were. Do you remember that?

Q No, I do not. A You don't recall that?

Q Mr. Dreyfus, you remember your saying to Mr. Muller that you were cleaning things up and asked Mr. Muller to tell me that that was so? A I would not have to tell that to Mr. Muller. He knows it.

Q You remember saying that? A I may have said that.

Q Before you became manager how did you have such intimate knowledge that orders were given, how did that happen to come under your observation, orders to the construction department? A I had no intimate knowledge of orders given to the construction department before I became manager.

Q You didn't know anything about it? None of your business? A Practically not.

Q You have given us a lot of testimony about what orders were given. A I was particularly interested in the building of signs and in the business, but not specific orders.

Q You say Mr. Pratt had no concern with the details of the business. Did you mean that? A Absolutely.

Q Did you ever hear Mr. Pratt mention any details of the business? A No.

Q Mr. Pratt never paid much attention to you anyway until Mr. Kelly got out? A Yes, he did.

Q Did you have a part in the management of the business before Mr. Kelly got out? A Very large part.

Q You had a big voice in the conduct of the business before Mr. Kelly got out? A Cer-

tainly, on the sales end, for instance. I managed the sales end.

Q Did you ever hear of any signs of competitors being destroyed by anybody connected with your company? A I did not.

Q You knew nothing about it? A Absolutely not.

Q Never heard of anything of the kind? A I did not.

Q Did you ever hear of any O. J. Gude heart plasters? A I never did.

Q Or posters to that effect? A Never heard it until Mr. Kelly spoke of it in court.

Q You never heard about an old Dr. Tumble plaster? A I never heard of any such thing.

Q Did you have anything to do with the settlement that was made with the New Jersey Sign Advertising Company?

Mr. Kalisch. I object to that.

Mr. Fairlie. I will withdraw it.

The Court. Strike it out.

Q You say Mr. Pratt never gave orders. Didn't he ever tell you to do anything about the place? A No.

Q He never gave you any directions? A Except in a general way.

Q You didn't tell me a minute ago you had a big voice in the business, the conduct of it? A Yes.

Mr. Kalisch. When he became manager.

Q Before you became manager? A Before I became manager, the sales end of the business.

By the Court.

Q What do you mean, the sales end? Selling signs? A Yes. We have two heads; one man

who handles the building and construction end and the other man who handles the sales end.

By Mr. Fairlie.

Q Before you became manager you and Mr. Kelly were the king pins around there?

Mr. Kalisch. I object to that question.

Q You and Mr. Kelly ran the business without supervision; is that so? A Yes; Mr. Kelly was the king pin; I was a sort of second king pin.

Q Who would you say was the chief superior knight?

Mr. Kalisch. I object to that question.

Mr. Fairlie. It is quite apparent he is.

Mr. Kalisch. I object to that.

The Court. That question is improper.

Objection sustained.

Q Do you remember having a conversation with me; I think it was either that Bamberger conversation or on the street, in which you spoke of this O. J. Gude suit to me? A I remember one conversation—I can't recall where it was—whether I asked you whether you had any papers in the matter.

Q In that conversation we didn't speak of the suit? A We might have. We probably did. If I asked you for the papers, I spoke of the suit.

Q You remember that you told me in that conversation that the Newark Sign Company and the affiliated companies and you and Mr. Pratt would have no difficulty in putting this whole thing up to Mr. Kelly? A I never made any such statement.

Q Did you say anything to like effect? A I did not.

Q Did you speak at all of Mr. Kelly's being a party to the suit? A Not that I recall.

Q Didn't you think, up until the time that I filed a separate answer from Mr. Kelly, that you were taking care of Mr. Kelly along with the other defendants?

Mr. Kalisch. I object to that.

The Court. Yes; that is objectionable.

Q Didn't you actually go so far as to file an answer which included Mr. Kelly among the defendants represented by Mr. Kalisch? I think the transfer will show that.

The Court. The record will show.

Q Didn't you 'phone me when you found that Mr. Kelly was being represented by separate counsel? A I can't recall 'phoning you.

By Mr. Lum.

Q You say Pratt consulted with you as much as he did with Kelly? A During the period I was connected with the company; yes.

Q How often did he consult with you? A Oh, we saw Mr. Pratt in Newark in the course of a year probably a dozen or fifteen times.

Q When did you come with this company? A November 1, 1914.

Q In a year you saw him here only a dozen or fifteen times? A Yes.

Q That is all you saw him here in Newark. How many times of that did he consult with you? A Probably the dozen or fifteen times.

Q What did he consult with you about? A Why, Mr. Pratt was interested in the general welfare of the business.

Q I am not asking you that. A You asked me what he consulted me about.

Q I am asking what he consulted you about. A He consulted me about how various matters were going, as regards large contracts or matters of that kind and the general welfare of the business.

Q He didn't bother with particulars; he was concerned with general matters? A Absolutely.

By Mr. Kalisch.

Q Did Mr. Fairlie represent the Newark Sign Company when this suit was first brought, do you remember? A I don't believe he ever represented it in this suit, but he at one time represented the Newark Sign Company.

Q He doesn't represent them now? A He does not.

By Mr. Fairlie.

Q Mr. Dreyfus, I represented the Newark Sign Company only while Mr. Kelly was there, so far as you know? A I can't answer for that. You represented him while Mr. Kelly was there?

Q Yes. A As far as I know.

Q You know when my relations with the company ceased? A Well, I am not speaking of the time after Mr. Kelly left. He did not represent the company after Mr. Kelly left.

Q So far as you know, all my relations were with Mr. Kelly? A Yes.

OLIVER LEE MAHAN, recalled in behalf of defendant.

Direct examination by Mr. Kalisch.

Q On the day that Mr. Galvin was in your office, on February 10th, which you have testified to, did this conversation take place in which Mr. Galvin said as follows: "Now, I came in to see

Mr. Mahan and I won't have anything to do with you, Mr. Kelly, so, unless I can speak to Mr. Mahan alone, I will have to see him some other time." Mr. Kelly answered saying—

Mr. Lum. He didn't deny that.

Mr. Kalisch. It is equivalent to a denial. I want to put the question.

Mr. Lum. I object to the question. Put the question on the record, page so and so, that identifies it.

Q Mr. Kelly saying, "Well, if that is the way you feel about it, Mr. Galvin, I have got other work to do and I will step in the other office as long as Mr. Mahan wants to use the private office."

Mr. Kalisch. I withdraw that because that was the conversation with Mr. Kelly.

Q I direct your attention to this conversation, in which you said, "Well, Galvin, what is the trouble," and Galvin said, "You know what the trouble is," and you said, "No; I don't; what is it?"

Mr. Lum. I object. It is the question which your Honor has ruled is not proper because the witness said he didn't remember, and it is simply an attempt to get it in.

The Court. "Not that I know of." I think that is a contradiction.

Mr. Lum. Then I register a further objection on the ground it was improperly admitted by Mr. Galvin on the ground that the stenographer's notes were the best evidence, and I further object on the ground that yesterday this whole thing was covered by this witness.

The Court. I will allow that question.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q I will read you who is doing the talking and you can tell me whether this conversation took place: "Mahan—No; I don't. What is it? Galvin—Well, the Gude Company are after me for tearing down some of their boards around Rahway, and I know I did it and they know I did it, but they don't want to get me; they want to get someone else—some bigger people. Mahan —Well, what do you mean by bigger people? Who are they trying to get at? Galvin—Well, they want to get Kavney, Kelly and the Newark Sign Company. Mahan—What do you mean? Do you mean to say that the Gude Company are trying to instigate you into making a statement that the people in the company you mentioned were back of you when you threw these boards down, as you say you did? Galvin—Yes; that is it, and I have already made a statement and so have a couple of other fellows and this statement is ready for me to sign. Mahan—Well, how did you happen to come to make this statement? Galvin—I got a letter from the Gude people and they forwarded me a dollar for expenses to call at their office and make this statement and I did. Before I went to this Gude Company office I went in to see Bruce Campbell in Van Buren Company's office and Bruce backed me up and told me that the Gude people were good people to stick to and to do all I could to put the leaches up against those people. Mahan—Who did he mean by those people? Galvin—Well, he meant Kelly and Kavney and the Newark Sign Company. Mahan—Well, Mr. Galvin, this is quite an offense on your part, especially in trying to bring

the names of individuals and a corporation in general in your statement to a competitor. Now, I will ask a favor of you since I was kind enough to grant you an audience. I am going to ask you to dictate a statement to me of this whole matter, so I can keep it on record." Did that conversation take place? A Well, I cannot repeat that conversation, word for word. That is the conversation that took place. That is the purport of the conversation that took place.

Q Did this conversation take place: "And remember, Mahan"—this by Galvin—"there is another matter—"

Mr. Lum. Let me see the answer. There is no denial there.

Mr. Kalisch. I would like to offer this and get it on the record.

The Court. I have allowed you to give the whole conversation. This witness has given the whole conversation.

Q Was that the whole conversation or was there more? A There was more of it.

The Court. Mr. Kalisch may ask that question and the witness need not answer, then I will rule on it.

Mr. Lum. I note an objection on the ground that it is improper to read into the record evidence which your Honor has already indicated in your mind is improper and which you have indicated you will rule out.

Q Did this conversation take place at that same time in which you said, "Well, what is up with those people? What have you done to them? Galvin—Well, I will tell you, I turned off a couple of tricks on these people on ac-

count of an old grudge against Trowbridge himself. Mahan—Tricks, what tricks, do you refer to? Galvin—Oh, you remember reading it in the paper, smearing over four or five of their boards with a lot of tar and stuff. Well, I did that and through some G. D. sucker they found out I was the man, but just the same as the Gude Company they found out that I did this while I was working for Kavney, so just the same as the Gude people they were looking for bigger bait and one day Mr. Lum met me on the street and invited me up to his office. Mahan—Who was this, Mr. Lum, an employee of Mr. Trowbridge? Galvin—No, he was a lawyer and he was in with some other people. Mahan—Is that Mr. Lum, of Lum, Tanblyn & Colyer? Mr. Galvin—That is it, that is it. Mahan—Well, what about that statement? Galvin—Well, as I said they were looking for bigger bait and I admitted doing the job, but I made a statement that Kavney gave me the stuff and Kelly told me to do it and that I did it for the Newark Sign Company. Mahan—Well, did you do it for the Newark Sign Company? Galvin—No, I did it to carry out my grudge against that S. of a B. Trowbridge. Mahan—Did you sign this statement? Galvin—Yes, I did sign that statement. Mahan—Did you know that it wasn't true? Galvin—Yes, I knew it wasn't true. Mahan—What did you sign it for? Galvin—Trowbridge promised me a job. Mahan—Did money pass between you and the lawyer and Mr. Trowbridge for the signing of this statement? Galvin—What the H. are you trying to get at? Mahan—Well! Galvin—I know what you mean. If I did get anything it is none of your d. business.

Mahan—Well, then, you mean to say, Mr. Galvin, you tore down those boards that were the property of the Gude Company and you sold the material and received money for them and that you were instigated by the Gude Company and backed up by Bruce Campbell to conspire against the Newark Sign Company, its officers and its employees? Galvin—Now, you listen, Mahan. I don't want Bruce Campbell's name brought into this. Mahan—Well, you visited Mr. Bruce Campbell in his New York office before you visited the Gude Company and he told you he would back you up in trying to get the hooks on the Newark Sign Company, didn't he? Galvin—Yes, but I don't want his name brought in this. Bruce and I have been good friends for a long while and Bruce is a D. good skate and I want his name left out of this whole thing." That is all of the conversation.

Mr. Lum. I object. It is not a denial.

The Court. Question overruled.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q Here is some more of that conversation and I asked you whether it took place on that occasion?

Mr. Lum. I object.

Mr. Kalisch. The answer that Mr. Galvin gave when I asked him yesterday or the other day whether the conversation took place was, "Not to my knowledge, it never took place."

Q Here is the conversation. Tell me whether this took place.

Mr. Lum. I object on the ground it is not a denial and also an improper method of cross examination.

Q "Mahan—I believe that Mr. Lum, of Lum, Tamblyn & Colyer, was Mr. Campbell's attorney while he was connected with the New Jersey Sign Advertising Company. Do you know whether he has anything or had anything to do in instigating this deal which you turned over against the Trowbridge Company and tried to blame the Newark Sign Company for your dirty work? Galvin—Now, listen, I am not saying or trying to connect Bruce Campbell's name with the Trowbridge matter. I put my foot in it when I let out that he was back of me on the Gude matter, so from now on leave Bruce Campbell's name out of this. He told me to put the leaches to the Newark Sign Company as long as the Gude Company were looking out for my expenses and Bruce Campbell said that they were good people and they would look out for me. Why, that is what I was looking for, to get as much as I could and then beat it. Mahan—Then, you mean to say that you have got as much as you possibly could get out of these people and that it is now up to you to sign the statement for them? Galvin—You are an H. of a smart fellow, Mahan, but I will be G. D. if I will give you any more information. Mahan—I won't bother you any more as I promised Mrs. Mahan I would be home early and it is now 6:15 and I promised Mrs. Mahan I would be home at 6 o'clock." Did that conversation take place? A I can't remember it word for word. It seems to be the conversation that took place.

Q I just want to know whether that was the substance of the conversation that took place? A That was the substance exactly of the conversation that took place.

Q Then, I ask you whether on the same occasion the following conversation took place between you and Galvin?

Mr. Lum. I object to the last and ask to have it stricken out.

Mr. Kalisch. The answer is, "That is wrong."

The Court. Yes, that is equivalent to a denial.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q "Unless you come across with $15 I am going to stick in the city tomorrow and the Gude Company will bring me over to their office and it is up to me to sign that statement." Do you remember that conversation on that occasion with Galvin? A I do, very well.

Q I ask you whether the following conversation took place on that same occasion: "Mahan—Well, Mr. Galvin, you are just after signing a statement wherein you stated that the statements you made to the Gude people and Trowbridge Company were not true. Galvin—That statement is not worth a D. because I didn't swear to it." Did that take place? A Yes.

Q Did that conversation take place? A That conversation took place.

Q No, this one at the time you had your conversation with Mr. Galvin? A Yes, that was part of the conversation of February 10,

1915, in the office of the Newark Sign Company, Mr. Kelly's private office.

Q Then, did Galvin say further on that same occasion, "Come across now, Mahan, come across. You know my price, $15; and I go to Philadelphia on the midnight train and then the Gude Company can go clean to hell." Did Mr. Galvin on that occasion say that to you? A He did.

Cross examination by Mr. Lum.

Q Didn't you know as a fact that Galvin had signed affidavits for the Gude Company many days before that? A Did I?

Q Yes. A No, I did not.

Q You had no knowledge of that? A Absolutely none.

Q You read over these typewritten statements before you came in court yesterday? A I did not.

Q Were they read to you? A No, they were not.

Q When were they last read to you? A The last time that I read those was on the morning of February 11, 1915, and I have never read them since.

Q When did the girl write them out? A About between the hours of 8:30 A. M. and 9 A. M. on the morning of February 11, 1915.

Q How long did that girl stay in your employ after those statements? A Approximately a month. I am not quite sure as to the date.

Q Did the matter of those statements have anything to do with her leaving? A Absolutely not.

Q You are quite sure of that? A Absolutely so.

Anna Kate, direct.

By Mr. Kalisch.

Q What was her reason? A More lucrative position and a position with more future and opportunities for advancement.

Q What company did she go with? A The Oxweld Acetylene Company.

Q And that was the reason she left? A Absolutely so.

Q Was any mention made of this affidavit when she left? A Absolutely not.

Q Was that assigned as a cause? A No, sir.

ANNA KANE, sworn in behalf of defendants.

Direct examination by Mr. Kalisch.

Q Where are you employed, Miss Kane? A The Oxweld Acetylene Company.

Q Were you ever in the employ of the Newark Sign Company? A I was.

Q How long were you employed there? A Twelve years and a half.

Q How did you come to leave their employ? A Because I had an offer of a better position with shorter hours and better money and better advancement.

Q Do you remember just when you got that position? A I applied for the position about the 8th or 9th of February on the first appointment and I had a second appointment on the 10th and I accepted the position on the 20th. I accepted the position on the 10th and went in the 20th of February, 1915.

Q Do you remember being present when a conversation took place between Mr. Mahan and Mr. Galvin in the office of the Newark Sign Company? A I do.

Anna Kate, direct.

Q Did you have the offer of the position which you now occupy prior to that conversation or after? A Prior to that conversation I had the offer of a position.

Q How long prior to that conversation did you have the offer of this position? A I should say possibly three or four days and I accepted the position on that night.

Q You accepted that position on that night? A I accepted that position on that night.

Q Where were you located when this conversation took place? A Right outside of Mr. Kelly's private office, out in the general office.

Q Where were you sitting? Where were you sitting when this was taking place? A No, I wasn't sitting. I was kneeling on the desk with my book on top of the filing cabinet.

Q Who asked you to go there, who asked you to take your position there? A On the top of the desk, you mean?

Q Yes. A Why, so that I could hear better. I couldn't hear standing down below and the detective who was standing at my desk told me to get up there and I could hear better.

Q Do you know what detective it was? A No, I don't know his name.

Q Can you describe—

Mr. Lum. It was Farrell, wasn't it? You don't dispute it was Farrell?

Mr. Kalisch. No.

Q How many detectives came in the place that night, do you know? A No, I don't know how many came in. There was just one in the general office.

Q And he told you to take your place there? A He told me to take my place on the desk.

Q He was in the room with you when this conversation was taking place? A As I remember now, nobody but this detective and myself.

Q What time did this conversation take place? A Anywhere between six and half-past six.

Q Was that on your regular hours? A After my regular hours.

Q Who asked you to remain after your regular hours? A I remained at Mr. Kelly's request.

Q What did he tell you to do? Why did he tell you to remain? A Asked me if I would stay to take some testimony or evidence. I don't just recall his words now.

Q The substance of it? A Just to take evidence, if I would stay a few minutes after half-past five.

Q What did you say? A I said I would.

Q Where was Mr. Kelly while this conversation was going on, if you know? A He was either in Mr. Dreyfus's office at that time, the sales manager's office, or out in the office where the salesmen stay on the other side of the hall.

Q I mean to say, was he in the same room where the conversation was going on? A No, he wasn't.

Q Was the door open between the room that you were in and the room where the conversation was taking place? A Not that I recall. It may have been partly open, but it wasn't entirely open.

Q Was there a transom in the door? A There was a transom in the door.

Q Was that open? A That transom was open.

Q Could you hear distinctly what was being said? A I could hear distinctly what was being said.

Q Able to hear? A Able to hear.

Q Did you see Mr. Galvin at any time? A Just as he walked in the door, just as he came up from the hall and through Mr. Kelly's office.

Q That is into the office where the conversation took place? A That is in the office where the conversation took place.

Q Did you see him again after that? A I did not.

Q Did he walk in alone when you saw him walk in? A He walked in alone as far as I could see.

Q Where were you located? A At the desk outside, in the general office at my desk.

Q Was there an unobstructed view, was there an unobstructed view of the room that he walked into, could you see into that room? A Not unless I walked to the side of the desk.

Q Were you in a position where you could see when he walked in? A I was in a position where I could see when he walked in the door.

Q Did he walk unsteady? A Did he walk unsteady?

Q Did he appear to be intoxicated from his walk? A From his walk he appeared to be perfectly sober.

Q You didn't see him after that? A I didn't see him after that.

Q Now, then, you heard this conversation, you say? A I heard this conversation.

Q Did Mr. Galvin answer directly or hesitatingly—I mean, did he answer as if he under-

stood what was being said? A He answered intelligently.

Q Now, then, this conversation that took place, what did you do towards recording it? Did you take it down stenographically, or how did you take it down? A I took it down stenographically.

Q Did you transcribe it?

Mr. Lum. I object, it is leading.

Q What did you do with it after that? A I put it in my desk for the night and transcribed it the next morning.

Q I show you a paper and ask you what it is? Have you ever seen it before? You can read it over. A I have seen that before.

Q Where? A When I wrote it on February 11th from my notes.

Q You wrote this from your notes? A I wrote that from my notes.

Q Is that a correct transcription of the stenographic notes that you took?

Mr. Lum. I object. I am entitled to the notes and I am entitled to cross examine.

The Court. Certainly.

By Mr. Lum.

Q Where are your notes? A They are destroyed now. All my books have been destroyed.

Q When were they destroyed? A I kept them for maybe—I kept them until I had ten or twelve books and then I would clean out my desk and tear them up.

Q When did you clean out your desk? A I don't recall. I left shortly after this.

Q Where were your books when you left? A When I left I had torn up all my books.

Anna Kate, direct.

Q You say you left shortly after this? A Very shortly after.

Q How shortly after? A I left on February 20th.

By Mr. Kalisch.

Q Did you ever preserve your books after a certain period of time? A I didn't preserve them after a certain period of time. I tore them up.

Q Why did you do that? A For no reason; just in my desk and I destroyed them.

Q Is that the general practice with stenographers?

Mr. Lum. I object to that. She can't testify to the general practice.

Q Are stenographers' notes kept perpetually, are they kept in commercial houses perpetually?

Mr. Lum. I object. This person has no qualification to answer that.

The Court. She may answer if she knows.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q Do you know? A No.

Q You have never worked in a lawyer's office? A I have never worked in a lawyer's office.

Q And that you say, is a correct transcription of that conversation? A That is what I took from my notes.

Q And in reading over this conversation, this report here, does that refresh your memory as to what took place? A It does.

Anna Kate, cross.

Q Looking at these notes, will you tell us what took place. I don't want you to read it, but by referring to it in order to refresh your memory as to what took place, give us the conversation. A It is about Galvin tearing and destroying signs.

Mr. Kalisch. Will you let it go into evidence?

Mr. Lum. If you will let me cross examine.

Cross examination by Mr. Lum.

Q Miss Kane, when did you first know on this day, February 10th, that you were to remain late? A Some time in the afternoon. I don't know just what time.

Q About how early in the afternoon? A I should say somewhere around 3 or 4 o'clock, possibly later than that, somewhere around there. I don't just recall the time.

Q There were other stenographers in the employ of the company at that time? A There were other stenographers present.

Q In what department were they? A I did Mr. Kelly's work.

Q Did you know whether any other stenographer was asked to do this before you.

Mr. Kalisch. I object to that.

Q If you know.

The Court. You may answer that.

A Not that I know of.

Q Where were you last evening? A I was up at the Newark Sign Company's offices.

Q What time did you get there? A Shortly after six.

Anna Kate, cross.

Q How long did you remain? A Until about half-past six, twenty minutes to seven.

Q Mr. Dreyfus there all that time? A Mr. Dreyfus was there.

Q Was Mr. Kelly there? A Mr. Kelly was there.

Q Nobody else? A Mr. Mahan.

Q Nobody else? A Mr. Pratt was there part of the time, just came in before I went out.

Q You were spoken to about this case? A I was asked if I knew or recollected or remembered a recollection of this case, if I could recall it.

Q What took place was discussed? A If I recall a recollection of what took place on that evening, if I took it.

Q What else took place? A That is all.

Q What time did you say you arrived? A Shortly after six, I should say it was.

Q And stayed until twenty minutes to seven? A Yes.

Q And you mean to tell us that is all that took place during those forty minutes? A That is all.

Q As a matter of fact, Miss Kane, you were shown this paper last night while you were there? A I was.

Q And read it over from first to last? A I did not read it.

Q It was read to you? A It wasn't.

Q I asked you why it was shown to you? A They asked me if I recalled.

Q And it was shown to you and you were asked if you recalled it? A Yes.

Q And you did nothing with it? A I didn't read it, not all of it. I read the first few lines of it, but I didn't read it all.

Q Did you read enough of it to say you did recall it? A I do.

Q Won't you please tell us this morning if you had read over every word? A I didn't read it all last night.

Q But you read last night, you were sure that you remembered after reading a little, but this morning in court you wanted to read it, every word of it?

Mr. Kalisch. She is under oath.

The Court. Let the witness answer.

Q Miss Kane, you can't say that you transcribed this paper the next day, can you? A I did.

Q As a matter of fact it wasn't transcribed for three or four days, was it? A It was transcribed the following morning when I came in.

Q Is this the identical one that was transcribed? A From my type, I used small type at that time.

Q Just look at it again and say whether that was it and say whether that is the identical one that was transcribed on the next morning? A I can't say this is the identical one I transcribed, but it was on paper of this color and in type of this size.

Q Do you recall that the subject of this statement was a matter of considerable discussion in the office for two or three or more days after it was taken?

Mr. Kalisch. I object to this. It is cross examination and it is not for the purpose of going over the entire substance.

The Court. It is perfectly proper.

Q (Question read.) A I wrote it the following morning.

Q You just answer my question. A And that was all. I had nothing more to do with it. I wrote it the following morning.

Q (Question read.)

The Court. If you cannot answer that, say so.

A I can't answer it. It was not between me.

Q You heard it? A I heard this conversation.

Q And you heard the discussion with reference to the statement? A I did not.

Q You are quite positive of that? A I am.

Q Is it not a fact that you were asked to change your statement from some things that appear on your notes? A It is not.

Q You are quite sure of that? A I am quite sure of it.

Q You can't tell us whether this statement was the one that you transcribed the next day or not?

Mr. Kalisch. She has. I object to it as a misstatement of the evidence. She has testified that was the statement she took and by reading it over she knew it was the statement that she transcribed the next morning.

Q (Question read.)

The Court. You may answer that.

A It was the statement.

Q You can't tell whether this one is the one or not, can you? A I can't swear that was the one or not. It is the same conversation.

Q What time did you arrive last night? A About ten minutes of six.

Q And stayed until what time? A About half past six or twenty minutes of seven.

Q And you have given us all the conversation that took place this night that you can recall? A That was between me.

Q What else took place?

Mr. Kalisch. I object to that.

Q Give me all the conversation that took place with reference to this statement.

Mr. Kalisch. I object to any statement that took place unless she took part in it.

The Court. I do not see how that question is competent.

Mr. Lum. All the conversation with reference to this statement that was said in her presence certainly is admissible.

The Court. In her presence about this particular statement.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question read.) A There was no other conversation took place with reference to the statement except what I have given that I can recall.

Q You were there all that time for that statement. Did you leave alone last night? A I did.

Q I want your best recollection as to the exact time. A Well, as far as I can remember it was between half past six and twenty minutes to seven.

Q And no one was with you? A No one was with me.

Q You left alone? A I left alone.

Anna Kate, cross.

By the Court.

Q Did you make any copy of that? Did you ever make any copy of this statement? A That is the only one I ever made.

Q That is the only original you ever made? A That is the only one I ever made. I just made one copy.

Mr. Lum. We consent to its going in.

Marked Ex. D. 8.

Cross examination by Mr. Fairlie.

Q How long did it take to complete this Galvin conversation on February 10th; that is, how long did the conversation last? A I can't recall now just what time it was.

Q Was it an hour, as much as an hour? A Very near it, an hour or around an hour.

Q And Detective Farrell stood by your side all the time? A Some detective stood by my desk.

Q The only detective you saw? A The only one I saw.

Q Didn't you protest at all about taking down such a conversation as this? A I did not.

Q Didn't say anything about it? A I did not. I said I would stay.

Q You stayed through the whole period? A I stayed through it all.

Q Until Mr. Galvin went out? A Until Mr. Galvin went out.

Q You never said anything after that conversation about that being one of the reasons why you wanted to leave this place? A They never asked me again. That wasn't one of the reasons why I left.

Anna Kate, cross.

Q And you never mentioned it? A I never mentioned it.

Q There has been no suggestion of compensation to you for this testimony, has there? A For this testimony or this one I took?

Q No, now.

Mr. Kalisch. What you are giving here on the stand. He wants to know whether you are being paid.

Q I said, has there been any suggestion of it? A No, only when I was subpoenaed.

Q Nothing aside from the witness fee? A Nothing.

Q You are sure Detective Farrell wasn't there only fifteen minutes as he testified he was? A I won't say. I wouldn't know how long he was there because I didn't pay any attention to the time.

By the Court.

Q Was anything said that you didn't take down in that conversation by either one of the parties in this conversation, that you didn't take down? A No, I took it as the conversation went on.

Q Was anything said about an affidavit there? A Yes, as I recall it, there was something about an affidavit.

Q Why doesn't it appear in this transcript, the notes? A The affidavit?

Q Yes. A It appears as though there is an affidavit.

Q Did you hear an affidavit dictated, to the best of your knowledge? A I don't recall now.

Q Your notes didn't show any affidavit? A My notes in that conversation didn't show any.

Q I mean, did your notes show, was there anything that you didn't transcribe? A No, I transcribed all my notes.

Q Do you know if any affidavit that was taken in addition to this conversation? A It didn't take any.

By Mr. Lum.

Q You were there all the time Galvin was in the room? A I was.

Q And took down all the conversation that took place the entire time Galvin was in the room? A I did.

Q And you heard nothing about any affidavit except what shows in your transcript? A Why, I knew nothing about any affidavit.

Q And there was nothing said about an affidavit being written out in longhand? A No.

Q And you didn't know of any affidavit being written out in longhand while Mr. Galvin was in there? A I don't recall.

Q Was any affidavit dictated to you later? A No affidavit.

Q And you didn't typewrite any affidavit? A I didn't typewrite any affidavit.

Q When were you subpoenaed? A Yesterday morning.

Q How did you come to go to the office last night?

Mr. Kalisch. I object.

(Argument.)

The Court. I will ask counsel on both sides to please defer from holding conversation with each other.

Q Have you your subpoena? A Not here.

Q Where is it? A Home.

Q What was given to you? A Fifty cents.

Q That is all? A That is all.

Q Nothing else said about it? A Nothing else said about it.

Q Anything said about compensating you for your loss of time? A Nothing.

Q Did you put down anything in this statement which you actually didn't hear yourself? A I did not.

Q And you heard all the conversation? A I heard all the conversation.

Q Could you see anything in that room? A I could see nothing.

HUGH J. KAVNEY, sworn in behalf of defendants.

Direct examination by Mr. Kalisch.

Q Mr. Kavney, where are you employed? A At the Newark Sign Company.

Q How long have you been in their employ? A Since August, 1910.

Q What did you start there as? A Securing locations for wall contracts.

Q Did you remain in the position with that company up till now? A Till about a year and a half.

Q And then what was your position? A Then, I assisted in the construction department.

Q Did you issue orders to the construction men? A I did.

Q Was that part of your duty? A Yes, sir.

Q Who gave you orders? A The first time?

Q In the first position you got. A They were issued by Mr. Kelly.

Q Up to the time that Kelly remained with the Newark Sign Company did he continue to issue orders to you? A Yes, sir.

Q Did you ever give any orders to take down any signs belonging to the O. J. Gude Company?

Mr. Lum. I object to that. It is very leading.

Q Did you ever give any orders in reference to signs located at Rahway owned by the O. J. Gude Company? A I positively did not.

Q Did you ever give any orders to take down signs for the O. J. Gude Company at Elmora? A No, sir.

Q Or at Aldene? A No, sir.

Q Or did you ever give any orders to take down signs of the O. J. Gude Company on the Hackensack meadows? A Never.

Q Or at Elizabethport? A Never.

Q Did you ever give any orders to deface or in any way damage any of those signs? A No, sir.

Q Or did you ever destroy, damage or deface or take down or burn any of the signs of the O. J. Gude Company at those places? A No, sir.

Q Did you ever give any orders to burn any signs of the O. J. Gude Company at those places that I mentioned? A No, sir.

Q Or any other competitor of the Newark Sign Company? A Positively not.

Q Now, do you know Galvin? A Yes, sir.

Q Were you with him on the 23d day of December, 1915? A I was.

Q Where? A At Elizabeth and through that section on to Rahway and then back to Newark.

Q What did you go down there for? A To Elizabeth to inspect the jobs that had just been completed and to Rahway on the same mission.

Hugh J. Kavney, direct.

Q Did you go down there again? A Afterward.

Q To those places that you were on the 23d of December? A Some time afterwards, yes, sir.

Q About how long after? A About a week.

Q Did you ever receive any complaint from the O. J. Gude Company concerning the destruction or damage to their signs located in Rahway or Aldene? A Yes, sir, at Rahway only.

Q But was that in reference to the time you were first down there, I mean with reference to December 23d, was that before or after? A Yes, sir.

Q How long after? A I should judge inside of a week, I believe.

Q What was the complaint about those signs that the O. J. Gude Company made? A They complained that this man Galvin—they had investigated down there since, been investigating and found a man answering the description of Galvin. They also got his name and asked Mr. Kelly and I both in his office if we sanctioned this.

Q What did you say?

Mr. Lum. I object. Who was it asked this, who asked this?

Witness. Mr. Guertin of the Gude Company.

By Mr. Lum.

Q How do you know he is a representative of the O. J. Gude Company? A He represented himself as being so.

Q That is the only way you knew? A Yes, sir, and also the construction superintendent that testified here yesterday was with him.

Hugh J. Kavney, direct.

By Mr. Kalisch.

Q What construction superintendent? A That was here yesterday.

By the Court.

Q What was his name? A Mr. Jarvis.

By Mr. Kalisch.

Q After that complaint was made what did you do? A Why I verified it by going down there.

Q When did you go down? A About a week afterwards.

Q And that was the time you have just spoken of as being the time you went down? A Yes, sir, and then I called Galvin's attention to it.

Q Did you call Galvin's attention to it before you went down to investigate; did you ask him about it? A Yes, I did.

Q What did Galvin say?

Mr. Lum. I object.

The Court. You may ask him whether Galvin admitted it but going into the conversation is not proper.

Q Did Galvin admit this had been done? A He did.

Q What did you say to him? A I told him we would not stand for any such proceedings.

Mr. Lum. I object to what he said to him.

The Court. I will allow what he said to him in reference to it after Galvin admitted it.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q What did you say? A Galvin admitted it and I told him that I would not stand for any such proceedings under my management and that if it was thoroughly verified, if I found it to be a fact I would let him go, which I eventually did.

Q Did you verify it? A I did.

Q By going down there as you stated? A Yes, sir.

Q That was a week after your first visit of the 23d of December? A Approximately a week.

Q When you verified it, after you verified it, did you then see Galvin again? A I saw him on the 16th, I believe.

Q Of what month? A Of January.

Q What did you say to him then? A I told him he would have to get through.

Q What did he say? A He said he didn't give a dam or something to that effect.

Q Did he go on that day, did you discharge him on that day? A Yes, sir.

Q Do you remember what day of the week that was? A Saturday, I believe.

Q Was he paid up to the day or a week's wages or don't you know? A I don't remember that.

Q But you discharged him on that day? A Yes, sir.

Q And that is the reason you discharged him and told him that—

Mr. Lum. I object, that is leading.

The Court. Objection sustained.

Mr. Lum. I ask to have it stricken out.

Q Was that the only reason that you discharged him?

Mr. Lum. I object to that as leading.

Q Was there any other reason for discharging him excepting that? A One.

Q What was that? A That is stealing lumber at Elizabethport and selling it for whiskey.

Q Did you investigate that, too? A Yes, sir.

Cross examination by Mr. Lum.

Q When was this lumber stolen at Elizabethport? A Why, about the middle part of January. I can look up the record and show the exact date.

Q What year? A 1914.

Q When did you know of it? A Why, second day one of the men reported it to me.

Q Quite sure it was 1914? A Positive.

Q Quite sure that this man was in your employ at that time? A Yes, sir.

Q How long did he stay in your employ? A Why, pardon me. It was December, 1914, instead of January.

Q What was it, in the last thirty seconds that caused you to change that date? A Well, because I made a mistake in the year.

Q What reminded you of the fact that you made a mistake in the year? A Because the second offense occurred at Rahway.

Q What is there in the second offense occurring at Rahway to remind you that you made a mistake of the year? A Because of the fact I only had two grievances against the man. The first incident around at Elizabeth—

Q Excepting these two grievances he was O. K.? A Yes.

Q Sober? A Positively not sober, but he worked.

Q There was no objection to one of your employees if you thought he was constantly drinking, to his doing so? A There was.

Q You just told me you only had two causes for dismissing him, one for the stealing of lumber and destroying the signs? A He wasn't drunk. He was always under the influence of liquor.

Q Always under the influence of liquor, but never drunk? A It didn't seem to interfere with his work.

Q What you wanted him for that condition was rather an asset. A What is that?

Q For what you wanted him that condition was rather an asset? A No, it was principaly for himself and his family.

Q You kept him drunk for himself and his family? A No, he got himself drunk. I didn't say he was drunk, but he always had a smell of liquor on him, not enough to prevent his working.

Q When was this lumber stolen down at Elizabethport? A About the middle part or latter part of December.

Q What part was it? A Well, about that, I can look up the records for you.

Q You have told us it was the 15th of January and you have told us it was the 15th of December, and you have said it was the latter part of December. Which is the truth? A About the middle or latter part of December.

Q Which is true, the middle or latter part? A I don't know. I can't remember.

Q What year? A 1914.

Q When was he discharged? A He was discharged on the 16th of January, 1915.

Q Why did you tell me the first time I asked you that he stole the lumber on the 15th of January? A Because it was an error in judgment. I got the year mixed.

Q You just testified according to judgment? A No, I collected it.

Q You are sure it was December, 1914? A Quite positive, yes, sir.

Q Did you discharge Galvin? A Yes, sir.

Q You had no more interest in him after you discharged him? A Positively not.

Q Were you not concerned with what he did? No, sir.

Q Nor where he went? A Didn't care.

Q And you paid him off? A Paid him the following week.

Q Did you pay him yourself?

Mr. Kalisch. He has already testified.

Mr. Lum. I object to your Honor. Mr. Kalisch is testifying.

Mr. Kalisch. I have a right to make my objection. I object. It is a misstatement of the evidence. He has testified that the man was paid and he didn't pay him.

Q (Question read.) A I don't just recollect. I paid so many men up there I don't recollect whether I did or not.

Q What did you say about it on direct examination?

Mr. Kalisch. I object to that question.

Mr. Lum. I have a right to test this witness's recollection.

Mr. Kalisch. I object to that question. He is not bound to say what he said on direct examination.

The Court. You may ask him whether he said that on his direct examination.

Q Did you say on your direct examination that you paid Galvin yourself? A I may have said so, but I don't recollect exactly.

Q You mean you can't recollect what you testified to under oath ten minutes ago? A I am trying to assist you all I can, but I can't swear to it.

Q You can't recall what you testified to fifteen minutes ago? A Yes, I recollect that I did. I said that.

Q Said what? A That I paid him myself.

Q Now, you say you don't know whether you paid him or not? A I would not be positive of it.

Q Why wasn't he paid when he was discharged? A That I don't know.

Q Did you have anything to do with it? A With what?

Q With his discharge. A Positively yes, sir, I discharged him.

Q Did he say anything about his pay when you discharged him? A No.

Q That subject wasn't broached? A Not that I remember.

Q You weren't interested in the money end of it?

Mr. Kalisch. I object to it.

Mr. Lum. I withdraw it.

Q When did you see him after you discharged him? A I don't remember just exactly when.

Q What is the matter with your memory, is it bad? A I have a fair memory.

Q Let us see, after you discharged him when did you next see him? A I saw him several times.

Q Where? A In front of the Ordway building and Murray's saloon with Mr. Guertin, and I see him with Mr. Trowbridge in front of the Ordway building and he was in front of our office one night looking for me.

Q Did you speak to him on any of those occasions in front of the Ordway building? A No, sir.

Q In front of Murray's saloon? A No, sir.

Q When did you speak to him; that is, after leaving your employ? A I think out in the hallway.

Q You think. Are you positive about that? A I am positive about it, yesterday.

Q That is the first time you spoke to him when he left your employ? A Yes, sir.

Q Where did Galvin live at the time you discharged him? A I don't know.

Q What? A I don't know.

Q Never been to his house? A Yes, I have been to his residence on Union street. I don't know whether he lived there when we discharged him.

Q When did you go to his residence on Union street? A I was there once.

Q When was that? A That was about January.

Q What date of January? A I don't remember quite.

Q Bad memory again? A Why, as far as that is concerned, yes, sir. I can't recall the date.

Q About what date? A About the 1st of January. I will tell you, just about the latter part of January.

Q Where was he living then? A On Union street.

Q 142 Union street? A I forget the number.

Q About it? A I don't know.

Q Why did you go to his house? A He was standing in front of the door.

Q What did you go there for? A To ask him when he was going to return to work.

Q Won't you tell me why you went in the latter end of January to ask him when he was going to return to work? A The latter part I went down to see him. I happened to be expecting a Feigenspan location at Elm street. We have a bill at No. 107 Elm street and I happened to be walking up there and see Galvin. I asked him when he was going—

Q Why did you tell us a moment ago that you never spoke to him from the time he was discharged until now? A That was before he was discharged.

Q When was he discharged? A The latter part of January.

Q You are sure of that? A No; I am wrong; in the latter part of December.

Q He was discharged the latter part of December, was he? A No; he was discharged along the 10th, but it was the latter part of December. I got those dates mixed.

Q Isn't that too bad!

Mr. Kalisch. Must this witness's testimony be commented upon by Mr. Lum? They are very improper.

The Court. Yes; do not comment on the testimony. You have the opportunity to do that when you sum up.

Q You went to Galvin's house in the latter end of January, didn't you? A Latter end of December.

Q The latter end of December? A Yes, sir.

Q What date of December? A I don't know. I think it was after the 15th. I know it was close on to December 1st—I mean January 1st.

Q Why did you go there? A Why, as I was expecting some boards in that vicinity. I didn't go purposely to see Galvin. I saw him in front of his house.

Q You didn't go there especially to see him? A No, sir.

Q When you saw him in front of his house what did you say to him? A I saluted him and asked him whether he was coming back to work.

Q What did he say? A He said he would not go back with me. He was feeling bad, but he would come back the next day.

Q Did he come back the next day? A I believe he did; yes, sir.

Q Do you know Galvin's wife? A No, sir.

Q Never saw her? A I don't think so.

Q Do you know a woman named Ellen Gilleece? A Not that I recollect.

Q Never heard of her? A Not that I remember.

Q Did Jim own his own house or was he boarding at 142?

Mr. Kalisch. I object to that. I don't know how he can testify.

The Court. If he knows he can answer it.

Mr. Kalisch. And I don't see where it is relevant.

The Court. This witness has been there and made some statement and Mr. Lum has a right to find out what he knows about it.

A I don't know.

Q You don't know whether he boarded or not? A I don't know whether he boarded there or owned the house.

Q Will you swear that on the 15th day of January, 1915, between the hours of eleven and twelve, you were not introduced to a woman named Ellen Gilleece by Mr. James H. Galvin at 142 Union street, Newark, New Jersey? A On the 16th day of January?

Q Yes. A I will swear I wasn't.

Q When were you introduced to her? A I don't recollect the woman, don't know as I ever saw the woman.

Q Do you ever remember being introduced to anybody at 142 Union street?

Mr. Kalisch. I object to that.

Q At Galvin's house.

The Court. Make it some time.

Q In January, 1916.

Mr. Kalisch. I object.

A I do not.

Q In December, 1916?

Mr. Kalisch. I object to this.

The Court. He says he was there only once.

Mr. Kalisch. It must be on a material matter.

Q January, 1916, at any time, were you introduced to her at Galvin's house? A I don't think so. I don't remember.

Q Don't remember? A No, sir.

Q Were you ever up in Galvin's rooms? A Yes, I went up for a few minutes.

Q You just happened to casually speak to him there? A Yes.

Q You didn't go up to his rooms? A Yes, sir, he invited me up to his rooms.

Q How long were you in his rooms? A Five or ten minutes.

Q Sure it wasn't a half an hour? A Positive.

Q Have anything to drink? A No.

Q What? A I said, "No, sir."

Q What were you up in his rooms for? A He invited me up to see his rooms.

Q You went up to see him? A Yes, sir.

Q What was the date of this? A The latter part of December as near as I can recollect.

Q How do you fix that date? A Because I remember I spoke to him that morning about getting out his contract and I told him that we had construction work that would last us until up about February 1st. In other words, there was about another month's work ahead and about a month and a half's work and I told him if he would get onto himself on account of his wife that I would hold him on, so he said he would try. I recollect it was before the first of the year.

Q Do you remember with relation to this visit at Galvin's house whether you ever met his wife? A No, sir.

Q Never met his wife in your life? A Yes, I did.

Q Where did you meet her? A In front of the office.

Q When? A I can't recall the date. She was there looking for Galvin's cash.

Q About what date? A I don't remember.

Q With reference to his discharge? A I didn't get that question.

Q With reference to his discharge? A She was there concerning his money one night, not his discharge.

Q Just answer the question. When did you have this talk with Mrs. Galvin with reference to Galvin's discharge?

Mr. Kalisch. I object to that. It misstates the evidence.

Mr. Lum. Strike that out.

Q You had a talk, you say, with Mrs. Galvin? A In front of the office.

Q What took place at this talk, what was said? A She simply asked me where Mr. Galvin was and I said I thought he had gone. She said she was sorry, she wanted the money.

Q Was this before he was discharged or after? A Before.

Q How long before? A I don't remember the date. She was there on one occasion.

Q Was there a special man there at your place?

Q Do you remember sending him up the street in the early part of 1915 to call back Mrs. Kavney? A Mrs. who?

Q Mrs. Galvin. A No, sir.

Q You don't. Would you say that never took place or you don't recall it? A I don't recall it.

Q You would not say it didn't take place? A I don't recall it.

Q Did you not on the 16th of January, 1915, meet Mrs. Galvin about 5 o'clock in front of the office of the Newark Sign Company? A On the 16th?

Q Yes. A That may have been the night, yes.

Q May have been the night. Did she not ask you where her husband was? A I think that was part of the conversation.

Q Did you not tell her that her husband had been there at 2 o'clock? A At 2 o'clock?

Q Yes, did you tell her that? A That may have been part of the conversation.

Q Did she not say to you then, "He is going to New Haven?"

Mr. Kalisch. I object to that.

The Court. You may ask that.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

A I don't recollect that.

Q You won't say she didn't say it? A I don't recollect it, I can't say.

Q Did you not say to her, "Yes, it will be only three or four weeks' work, but I thought it was better than having him laid off." A What is that again?

Q "Yes, but it will be only three or four weeks' work, but I thought it was better than having him laid off?" A I never said that.

Q Did you not say the substance of that? A Positively not.

Q Nothing like that? A No, sir.

Q Did she not reply to you, "Yes, but a half a loaf is better than none?" A No, sir.

Q You recall that the matter of Galvin going with the Buchanan Sign Company after he left you people was spoken of? A Buchanan?

Q The Van Buren Company? A Never knew he was with him.

Q (Question read.) A Yes.

Q Several times? A Yes, I recollect.

Q And you knew that Mr. Pratt was a director of the Van Buren Sign Company? A I do not, sir, don't know it yet.

Q When Mr. Dreyfus and Mr. Guertin had this talk with you which I have spoken of, what did they say to you? A Say to me?

Q Yes. A He spoke to Mr. Kelly first. I was out at my desk. Mr. Kelly called me in. He says, "These Gude men here claim that their signs have been taken down. What do you know about it?" I says, "I didn't know nothing at all about it and they described Mr. Galvin. They said they investigated and found that Galvin had taken the signs down and wanted to know if such a man was in our employ."

Q What did you say? A I said we had a man named Galvin.

Q Quite sure that was the conversation? A As near as I can remember.

Q Won't you just tell us why it is you can recall that conversation with such clearness and can't remember anything about the conversation you had with Mr. Galvin or with Galvin? A Because the thing was impressed upon my mind. It was such a serious proposition.

Q As a matter of fact, didn't Kelly say Mr. Jarvis—

Mr. Kalisch. I object to that.

The Court. You brought it out that there was such a conversation.

Mr. Kalisch. That took place in his absence?

The Court. In your presence, of course. Only what took place in your presence.

Anything that took place in that conversation which this witness heard is competent.

Q Now, Kelly was there during all the conversation and called you in? A The first part of the conversation.

Q When you came in you and Kelly were there together until these people went? A Yes, sir.

Q While you were there is it not a fact that Manager Kelly says that this matter, the sign destruction, would have to be stopped? Did Kelly say that? A Not that I remember of.

Q And did he not say that he and the Newark Sign Company would be willing to co-operate in the running down of the common offenders? A Not that I remember of.

Q And did he not say further they would keep the Gude people in touch with any information they might receive regarding the culprits? A I think he said that.

Q Mr. Kelly did say that? A I think he said he would make a report as soon as he got it as to the one that done it.

Q And help them run down whoever had burned the signs? A He said he would send a report just as soon as he found out.

Q Didn't say anything about helping running down whoever destroyed the signs? A It was to that effect. I can't swear to the exact words.

Q Did he say this matter of destroying signs would have to be stopped? A Not that I remember of. The last statement he made, he said he would inform the Gude Company of the investigation.

Q And willing to help run down the culprits? A Willing to notify them, they would be taken care of, or words to that effect.

Q You knew Ray? A Yes, sir.

Q Do you remember a fence, location of a fence, about a quarter of a mile east of the Roselle station, facing the Central Railroad track, and in the rear of a residence facing the street one block south of the track. Do you remember that? A East of Roselle station?

Q Yes, facing the Central and in the rear of the residence? A One-quarter of a mile east of Roselle station?

Q Yes. A I don't think we have a sign right there, one-quarter of a mile east.

Q That may be true, but it is not responsive to what I asked you.

The Court. He asked whether there was any house there.

Q A fence. The house was on First avenue, Roselle; do you remember a fence there? A No, sir.

Q You do not. Just refresh your recollection, a house about a quarter of a mile east of the Roselle station, and there was a fence in the rear of this house. The fence was facing the Central Railroad station and the fence was a protection against people going on through there, stealing food, and so forth. Do you remember that? A No, I do not.

Q Did you not give instructions to Ray to remove part of a fence about a quarter of a mile east of the Roselle station, facing the Central Railroad track, in the rear of the residence? A I did not.

Q And to leave the boards on the railroad embankment? A Positively not.

Q And that if any one said anything to tell them that you were repairing and building the fence? A No, sir.

Q Did you not tell him that or the order was that they were to scrap the material? A Positively not.

Q And did not Mr. Ray report to you that these people who owned the property would not permit anybody to touch the fence unless they had permission? A He never made any such report.

Q And did you not then tell Mr. Ray to tell these people that the Newark Sign Company had a lease on the fence and could do what they wanted to? A No, sir.

Q And did you not then give Mr. Ray instructions to go there anyway again and remove some of the boards and place them so as to make the advertisement unreadable? A Positively not.

Q You swear no such thing ever took place? A I swear that it didn't.

At this point the Court takes a recess of one hour.

AFTER RECESS.

HUGH J. KAVNEY, resumes the stand.

Cross examination (continued) by Mr. Lum.

Q This conversation with Guertin and Jarvis, you remember that some yellow slips were referred to by you and Kelly?

Mr. Kalisch. When was this?

Mr. Lum. 15th of December, 1914.

Q There was only one conversation that you ever had with Guertin and Jarvis at your office? A With Guertin and Jarvis; yes. I had two with Mr. Guertin.

Q Two with Guertin at your office? A No; one at my home.

Q But at the office, when Kelly was present, there was only one conversation? A Yes.

Q That was about the middle of December, 1914? A No; that was in January, if I remember.

Q Didn't you tell us this morning it was December? A Not the conversation.

Q You are sure of that? A Quite positive.

Q What time did you think you said it was? A I don't rceall that I said any date. It was after the complaint about Galvin which happened on the 24th of December.

Q When did you first hear of the complaint against Galvin? A That was when they came to the office about a week after that; Mr. Guertin called at our office.

Q That was the first you had heard of it? A Yes, sir.

Q And at this conversation that took place there was some yellow slips that were referred to? A Yellow slips?

Q Yes; your yellow slips. Some of your files in your office were refered to.

Mr. Kalisch. I object. There has been no identification made.

The Court. Ask him what they were.

A I don't remember of any yellow slips.

Q Do you remember, in your presence, Kelly looking up your record and saying that you had no men at Rahway?

Mr. Kalisch. I object.

The Court. Ask the question and then make the objection.

Q (Question read.) Q Since the 15th of December, 1914? A I don't remember that.

Hugh J. Kavney, cross.

Q Will you swear, in your presence and before Guertin that Kelly did not say that your company had no men at Rahway? A As far as my knowledge goes I would swear.

Q No recollection of any such conversation? A No, sir.

By Mr. Fairlie.

Q You spoke of a trip to Rahway with Mr. Galvin, I believe, the first or second and third. With reference to the first trip did Mr. Galvin start with you from the Newark Sign Company's office or did he meet you down there? A On the 1st?

Q Yes. A The only recollection I have of a trip with Galvin was on the 23d of December.

Q Is that the first one or only one? A As near as I can remember—I may have been out there with him before.

Q That is the only one? A That I recollect, yes, sir.

Q What was your errand in going there? A Only looking up the finished jobs, building jobs and were gathering in the surplus material with the truck and I rode out on the truck.

Q And took Galvin along to help gather up the surplus material? A Yes, sir.

Q Since this suit was started or before this suit was started did you have any conversation with the officers of the defendant company concerning the possibility of your leaving the employ of the defendant company? A No, sir.

Q Had none whatever? A None.

Q Since this suit was commenced has your salary been increased? A Yes, sir.

Q Was that a condition of your remaining in the employ of the company? A No, as I un-

derstand it it was because they value my ability.

Q They valued your services after this suit was started? A Ability.

By Mr. Lum.

Q You were formerly employed by the Gude Company, weren't you? A Yes, sir.

Q And you were let go by them, yes or no. A I got through on my own accord.

Q You got through on your own accord? A Positively so.

Q You were dismissed for inefficiency? A I got through on my own account. Mr. Jones will verify it.

By Mr. Kalisch.

Q You were not discharged by the Gude Company? A Positively not.

Q How long did you work for them? A About a year and a half.

By Mr. Lum.

Q When did you come to the Newark Sign Company? A October 10th.

Q Do you remember Dr. Gude's heart plaster being spoken of in your office? A Never saw them. First I heard of them was around the court.

Q Never heard of them mentioned around your office? A No.

Q Never heard of a suit against your company by the New Jersey Sign Advertising Company?

Mr. Kalisch. I object to that, not proper cross examination.

Mr. Lum. I want to connect it up.

The Court. Question allowed.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question read.) A Never heard that.

Q Did you have any knowledge about that suit? A No.

Q Didn't know anything at all about it? A None.

Q You didn't hear the name of Dr. Gude's heart plasters spoken of in connection with that suit? A Only here in the court.

Q Will you swear that was never mentioned in your hearing in the office?

Mr. Kalisch. I object to that.

The Court. You may answer.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

A I swear I never heard of them plasters.

ELLIS E. ERICKSON, sworn in behalf of defendants.

Direct examination by Mr. Kalisch.

Q Where are you employed, Mr. Erickson? A Newark Sign Company.

Q How long have you been in their employ? A Three years and ten months.

Q What position do you occupy? A Construction foreman.

Q Have you always held that position? A No.

Q What position did you first hold? A Sign builder.

Q You were promoted from that to the present position? A Yes, sir.

Q From whom did you get your orders, from whom did you get your orders in your present position? A The present position I got my orders from Mr. Dreyfus.

Q Were you holding your present position before Mr. Dreyfus became connected with the company or not? A I got my position after Mr. Dreyfus got connected with the present company, the present position.

Q You had been with the company how long before that? A Three years.

Q Did you ever get any orders from Mr. Kelly? A I did.

Q Do you know Mr. Pratt? A I do.

Q Did you ever see Mr. Pratt in that plant? A Occasionally.

Q In the place of business? A Occasionally.

Q About how often have you seen him during any of the years that you were connected with the Newark Sign Company? A Why, about twelve or fifteen times a year. I can't state for sure.

Q When he came over did you see him all the time that he was over there or was he around the plant, in different parts of the plant? A While working there as a workman I saw him passing through the stairway going upstairs, that is all.

Q Did you ever hear him give any orders concerning the details of the business? A Never did.

Q Did you ever get any orders from him as to your work? A Never did.

Q Do you travel over the territory where your signs of the Newark Sign Company are located? Have you travelled over that territory? A I have.

Q Have you been over the territory in and around Rahway, New Jersey? A I have.

Q And Aldene? A I have.

Q And the Hackensack meadows? A I have.

Q Do you know of meadow fires that took place in the Hackensack meadows? A I do.

Q Is it or is it not a common occurrence? A It is a common occurrence in fall and spring.

Q Do you know of your own knowledge whether during these meadow fires signs have been destroyed, signs of the O. J. Gude Company and the Newark Sign Company? A I don't know anything of the O. J. Gude Company, but I do know of our company.

Q Were they destroyed by fire that you know of? A Yes, and I have often noted certain sign braces burned off by fire that I have to repair.

Q Do you know of any signs near Rahway that have been burned as a result of meadow fires? A I do not.

Q Do you know of any signs that have been blown down as a result of a storm in this locality? A Yes, many.

Q In the Hackensack meadows? A Yes.

Q Around Rahway? A Yes.

Q Aldene? A Yes.

Q Elmora? A Well, Aldene or Elmora is practically the same thing.

Q Do you know of any signs of the O. J. Gude Company that were blown down after storms? A I do.

Q Do you know of any signs of the Newark Sign Company that were also blown down? A Yes, many.

Q Where were those signs located in reference to the railroad? A They were located along the Central Railroad, Pennsylvania Railroad, D., L. & W. Railroad and Erie Railroad.

Q Do you know Mr. Galvin? A I do.

Q Do you know when he was discharged? A I have a recollection of it, yes.

Q How do you fix that in your mind? Do you know the time, about the time? A Why, I know about in January, 1915.

Q How do you fix that in your mind? A I remember I came down one morning while working in the carpenter shop and they told me that Mr. Kavney was just firing him.

Q Where was that he told you he had been fired? A On the second floor, where we had at that time our carpenter shop.

Q What time was that, what time of the day? A I should say about half-past nine in the morning, approximately. I would not be so positive about it.

Not cross examined.

MICHAEL J. CULLEN, sworn in behalf of plaintiff.

Direct examination by Mr. Kalisch.

Q Mr. Cullen, where are you employed? A Palisades Park, Belleville, New Jersey.

Q Were you ever in the employ of the Newark Sign Company? A Yes.

Q When? A I went with them the last time on December 1, 1912.

Q How long did you remain there? A Until April 22d, I believe, of this year.

Q April 22d of this year? A Yes, sir.

Q You are one of the defendants of this suit? A Yes, sir.

Q Had you ever worked with the Newark Sign Company before that? A Yes, sir.

Q How long? A From 1895 till about October, 1910, covering a period—

Q Fifteen years? A Fifteen years.

Q Was that the Newark Sign Company or the— A The Newark Poster Advertiser Company. It was the Newark Billposting Company at that time. In fact, I have always been for the Bill Posting Company.

Q What was your position with the sign company? A Charge of the billposting department.

Q Did you ever give any orders to tear down or deface or damage the signs of the O. J. Gude Company? A No, sir.

Q Did you yourself ever damage or deface in any way any signs of the O. J. Gude Company? A No, sir.

Q From whom did you receive your orders? A Well, under Mr. Slocum's management I received them from Mr. Slocum. Mr. Brinker succeeded him. I received them from Mr. Brinker. Mr. Kelly succeeded him and I received them from him, and from the time Mr. Dreyfus took the management I received them from Mr. Dreyfus. Everything came to the office.

Q You resigned your position, did you, with that company? A Yes, sir, some six weeks ago Saturday.

New Jersey State Library

Louis Frank, direct.

Cross examination by Mr. Fairlie.

Q You are secretary of the Bill Poster's Union? A No, sir.

Q Officer of it? A No, sir. I am secretary of the Theatrical Mechanics' Association. A theatrical organization. Has nothing whatever to do with the Union.

LOUIS FRANK, sworn in behalf of defendants.

Direct examination by Mr. Kalisch.

Q Where do you live, Mr. Frank? A 506 Springfield avenue.

Q Were you ever connected with the Newark Sign Company? A Yes, sir.

Q In what capacity? A Well, I used to do all their extra work as having cards distributed. Any time there was any extra work like that I used to do their work.

Q How long were you employed there? A Why, it wasn't a regular steady position.

Q Off and on? A Off and on.

Q Do you know Mr. Kelly? A Yes, sir.

Q Was he connected with the company when you worked for them? A Yes, sir.

Q While you were in their employ did you ever deface or paste over any signs of the Gude Company? A No, sir.

Q Did you ever get any orders from Mr. Kelly to do that? A No, sir.

Q Or of any other company? A No, sir.

Q Were you subpoenaed to come here? A Yes, sir.

Q By whom? A I don't know.

Q Have you got the subpoena here? A Yes, sir.

Q Let me see it.

Louis Frank, cross.

Mr. Kalisch. Subpoenaed by the O. J. Gude Company through Lum, Tamblyn & Colyer.

Q That is the subpoena that was given to you? A Yes, sir.

Cross examination by Mr. Lum.

Q You were employed by the Newark Sign Company at different times on and off? A Yes, sir.

Q Never in their employ regularly? A No, sir.

Q Just for special jobs? A Just for having cards distributed. If a big job came in while we had a job, Post Toasties or Owl cigar signs and tacking cards, and so forth, why, they never use the regular men on those jobs.

Q Did you ever see the signs of others, posters over the signs of others? A No.

Q Never saw that in your life? A No, sir.

Q Never saw any Dr. Gude heart signs on any bill or anywhere in the city, did you? A No, sir.

Q Frank, did you ever have newspapers among the signs that you were to post? A I never done any posting.

Q Never post anything in your life? A No, sir, I never done no posting.

Q Did you ever do any posting after yours, late in your life? A No, sir.

Q Never remember posting newspapers on the faces of others? A No, sir.

Q You never put anything on signs? A No, sir.

Q Never did that business at all? A No, sir.

Q You are quite sure? A Yes, sir.

Louis Frank, cross.

By Mr. Kalisch.

Q Who subpoenaed you to come here, do you know the man who handed you the subpoena? A Why, no, when I came from Hartford—I haven't been here only two weeks—I have a daughter in Hartford and I came down here and I met Mr. Kelly and I asked things with him and he says, "What are you doing," and I told him I had just been here for the summer and he said I should come up to his office, so I told him, "All right," but I never went. I never go up. That was one morning there was a man come from Hartford wanted to see me and I was over in New York and my wife said, "Frank?" she said, "there was a man here from Hartford."

Mr. Lum. I object to that.

The Court. Yes.

Q What took place? Your wife told you something and then what took place? A The next morning there was a man ring the bell and I just got up and says that man is downstairs, wants to see you, so I says "Tell the gentleman to come upstairs," so when the gentleman comes upstairs I didn't know him and he says "Is your name Louis Frank?" I said, "Yes, sir." He asked me if I ever was connected with the Newark Bill Posting Company and I told him yes and he asked me did I know about any boards down in Rahway. I told him I didn't know what he was talking about, so he says, "Well," he pulled out a piece of paper and fifty cents and handed it to me. I said, "What is that?" He says, "Well, that is a subpoena," so he says, "You don't know nothing about them," and I said, "No, I don't." So I took the subpoena and fifty cents and laid it on the table, so I read it over

and I came down. I see that was money and I asked Mr. Kelly what it was all about. He says—

Mr. Lum. I object to what he says to Mr. Kelly.

The Court. No.

Q Did you see Mr. Kelly again? A Then Mr. Kelly came around standing outside.

Mr. Lum. I object to what he and Mr. Kelly had to say.

The Court. I do not see that it is competent.

Mr. Kalisch. The conversation that took place between him and Mr. Kelly is very important.

Mr. Lum. I object to it.

The Court. No.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q Did you talk with anybody from the Gude Company that you know of? A No one than what I have spoken now.

Q What did he say? A He asked me did I know anything about any pasting over any signs and stuff and I said no, so he asked me if I did know of anything and if I was put on the stand would I tell the truth and I told him yes. He says, "Suppose you didn't know," so I told him I would tell if something had happened and I didn't know nothing about it, I told him I didn't know what it was all about.

Q Who was the gentleman that said that to you? A I think it was this gentleman.

Q Mr. Ernest Lum. Was there any more of that conversation? So then Mr. Kelly spoke to you?

Louis Frank, cross.

Mr. Lum. I object to what Mr. Kelly said.

The Court. If it has anything to do with this case I will admit it.

Q Just in reference to the case.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

A He asked me did O. J. Gude see Mr. Spiegel and has Mr. Spiegel spoke to me and I told him no.

Q What else? Who was Mr. Spiegel? A I worked for Mr. Spiegel. That is the Spiegel enterprises. They have a lot of shows on the road and houses that we are connected with.

Q You work for him now? A Yes, sir. That is all. He asked O. J. Gude, they are great friends, that is what they say. He said O. J. Gude is a great friend of Mr. Spiegel's and as Mr. Spiegel speak to me I go.

Q What did you say to that?

Mr. Lum. I object to this.

The Court. What this witness said is material.

Mr. Kalisch. In reference to the case. I don't want anything else.

The Court. What he said about seeing Mr. Spiegel cannot have any reference.

Q Is that all they said to you? A That is all.

Q Did you ever talk to me? A No, sir.

Cross examination by Mr. Fairlie.

Q Have you been to the Newark Sign Company's office within the past two weeks? A I have only been here two weeks.

Louis Frank, cross.

Q Have you been to the Newark Sign Company's office? A No, sir.

Q Have you talked with anybody connected with the Newark Sign Company? A Just for friendship, shake hands and say hello and "When did you get back?"

Q Did you talk to Mr. Dreyfus? A Outside I shake hands with him.

Q See him anywhere else than in the court house? A No, sir.

Q Did you talk to Mr. Pratt? A Only this morning I shook hands with him and he asked me what I was doing in Newark.

Q Are you a member of the Billposter's Union? A I was.

Q Are you now? A No, sir.

Q Did you resign?

Mr. Kalisch. I object to that. I don't see how it is material.

The Court. That is not material.

Q Isn't it a fact that it is one of the rules of the Billposters' Union—

Mr. Kalisch. I object to any rule of the Billposters' Union whatever it may be.

The Court. Finish your question.

Q Is it not a fact that it is one of the rules of the Billposters' Union that any member of the Union who divulges such doings as are claimed to have been done here will be either expelled from the Union or if he is not a member he cannot be admitted?

Mr. Kalisch. I object to it. I don't care what the rules are.

The Court. No, I do not think that is competent.

Daniel F. Taylor, direct.

By Mr. Lum.

Q You have spoken to none of the employees of the Newark Sign Company since you have been back? A No, sir.

Q You don't know how Mr. Kalisch got the information that enabled him to ask the questions of you he just asked? A No, sir.

DANIEL F. TAYLOR, sworn in behalf of defendants.

Direct examination by Mr. Kalisch.

Q Where are you employed, Mr. Taylor? A Newark Sign Company.

Q How long have you been in their employ? A Three years and a half.

Q What position? A Sign builder.

Q Are you in that position now? A Yes, sir.

Q Do you know Mr. Kelly? A Yes, sir.

Q Do you know Mr. Galvin? A Yes, sir.

Q Who gave you your orders while you were in their employ? A Different foremen, Mr. Kavney, Mr. Erickson and Mr. Reilly.

Q What did your duties require you to do? A Build signs, remove them, repair them.

Q Were your duties restricted, that is in so far as the territory in which you were to work is concerned? A No, it wasn't restricted.

Q What territory did you work in? A Generally work in the plant.

Q Yes, I know but we want to know was your work located in what part of the state? A In the City of Newark, Oranges and meadows.

Q How about around Rahway? Did you ever go down there? A I was there once or twice, I guess.

Q How about Aldene? A I don't believe I was down there.

Q You have never been there? A No.

Q How about the Hackensack meadows? A I have done considerable work there.

Q Are you familiar with the conditions down there? A Yes, sir.

Q Can you tell us whether or not in the time that you have been working there if there have been meadow fires in the Hackensack meadows? A Why, I never saw any but I saw where our signs had been burned.

Q Have you repaired any signs of the Newark Sign Company that had been burned? A Yes, sir.

Q On the Hackensack meadows? A Yes, sir.

Q And have you repaired any signs that have been blown down? A Yes, sir.

Q Are there to your knowledge or have there been to your knowledge any storms that resulted in these signs of the Newark Sign Company being blown down? A Why, twice to my knowledge.

Q And whereabouts that you know of personally? A Were there signs blown down?

Q Yes. A Along the D., L. & W. Railroad between the Hackensack river and Belleville pike.

Q Is that the Hackensack meadows? A Why, I believe it is part of the Kearny meadows, I don't know.

Q Part of it? A Yes, I believe it is Kearny meadows.

Q Have you got a regular staff of men that are employed for the purpose of repairing signs that are blown down or signs that are burned? A Why, no, I haven't.

Q The men that do the general repairing attend to that? A Yes, sir.

Q Were there any during the time that you have been in the employ of the company, has there ever been any orders given to you by Mr. Kelly to destroy or damage or deface any signs of the O. J. Gude Company, located by Mr. Kelly?

Mr. Lum. I object to this.

Q Any signs of the O. J. Gude Company?

Mr. Lum. I object to this. I don't think it is a proper, competent question. There is no evidence that this witness ever destroyed any signs. It is a statement not taking place in our presence.

The Court. I think your allegation is by one of your witnesses, Mr. Kelly, who said that reports of 125 signs in one year being damaged or destroyed.

Mr. Lum. No, the evidence was there was eighteen to twenty in one year, twenty to twenty-five in another, twenty-five to thirty in another, a total of seventy-five in three years.

The Court. I will allow the question.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q Did you ever receive any orders to destroy, damage or deface or burn any of the O. J. Gude Company signs? A No, sir, I did not.

Q Did you ever destroy or damage or deface any of the O. J. Gude Company signs? A No.

Q Or any other signs? A No, sir.

Hugh J. Kavney, cross.

Q Did you ever know of any of the O. J. Gude signs to be destroyed or damaged or defaced or burned by any employee of the Newark Sign Company? A No, sir, I did not.

Q Do you know Mr. Pratt? A Why, just by his sight, that is all.

Q Did you see him very often while you have been employed in the company? A No, sir.

Q During the three years that you have been in the employ of the company how often have you seen him over to the plant? A I should say five or six times.

HUGH J. KAVNEY, recalled.

Further cross examination by Mr. Lum.

Q You are one of the defendants in this suit? A Yes, sir.

Q You are still with these defendant companies? A Yes, sir.

Q Represented here by Mr. Kalisch? A Yes, sir.

Q And you have yourself individually retained Mr. Kalisch?

Mr. Kalisch. I object to that.

Mr. Lum. In a conspiracy we can show the relationship of all the parties.

Mr. Kalisch. I think it is decidedly an improper question.

The record speaks for itself. I have been retained by Mr. Kavney to represent him, and the terms or how my services are to be paid for is a matter that is entirely improper for investigation. I object to it, first, it is not a matter open for investigation to pry into my affairs, and secondly

that it took place after the suit was brought, and any matters that took place after the suit is brought are not competent proof.

The Court. Question overruled.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Q You did not personally pay Mr. Kalisch anything for a retainer for his services in connection with this case?

Mr. Kalisch. Same objection.

The Court. Same ruling.

Counsel for plaintiff objects to this ruling of the Court.

Objection noted as ground of appeal.

Mr. Kalisch. Before I go on with the next witness, this affidavit, I don't know whether I offered it or not. It is marked D. 1 for identification. I want to offer it now.

Mr. Lum. I object until I have the written copy of it, until the written copy which came before is shown.

Mr. Kalisch. I offer this affidavit and ask your Honor to rule on it, marked D. 1 for identification. It is competent because it is an affidavit and one of the witnesses produced on the part of the plaintiff affecting his credibility.

The Court. As an affidavit I rule it out.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

FRANKLIN M. JONES, recalled in behalf of defendant.

Direct examination by Mr. Kalisch.

Q Are you familiar with the amount of repairs that was done in Jersey in 1911? A I am not.

Q Have you any records showing it? A I brought all the records that you subpoenaed yesterday.

Q Have you any knowledge concerning the repairs in 1912? A I have not.

Q Or 1913? A I have not.

Q Or 1914? A I have not.

Q Or 1915? A I have not.

Q Have you got those records here? A They are all there.

Q Will you get them? A They are available to you.

Q Will you produce the record of repairs that were made in Jersey, 1911? A I have produced them. They are there.

Q Will you get up and show them on the stand? A You have subpoenaed all. I have brought everything. I have never seen them personally.

By the Court.

Q Have you any records of the repairs in New Jersey? A Yes, sir, I have.

Q You must have somebody who knows about the repairs about New Jersey. Now, that is the very question you are trying, repairs which were made in New Jersey owing to what you claim were damages done by these defendants. Now, it is very competent and right that they should ask what repairs were made in that year. If you have the records they ought to be produced.

Mr. Lum. We have produced all of them, and from those we have selected those where the damage was done in such a way that it was apparently out of the ordinary, and where we were still able to locate the men in our employ who had done the work and who could identify those cards, but that in itself was a matter of many, many days of preparation, and to do it for all the repairs in New Jersey it could not humanely be done inside of three months. If they had asked for a bill of particulars we might have provided it, although the total amount of repairs has nothing to do with this suit. We are not asking for the total amount of repairs, but the cards are here.

The Court. They have produced them and they cannot give you the information.

By Mr. Kalisch.

Q Don't you keep records of the amounts of your repairs? A I don't personally. Of my own knowledge I don't know. I am interested possibly in gross amounts or something of that sort. It never comes under my personal supervision.

Q Have you any such records in gross amounts; are they here? A So far as I know. I don't really know, because I am not in the accounting department. I don't have supervision over that.

Q What supervision do you hold? A I am secretary of the company.

JAMES H. GALVIN, recalled in behalf of defendants.

Direct examination by Mr. Kalisch.

Q Mr. Galvin, do you remember when it was that you were taken by Detective Farrell around to the police station? A I went about the time—I can't say just now. It has gone out of my memory.

Q Do you recall whether or not it was on the same day that you were up in the Newark Sign Company's office when this conversation took place? A The only thing I can remember—

Q The time is what I want now. A No, I don't.

Q You don't know whether it was on the same day or not? I mean by that, do you remember after leaving the Newark Sign Company's office whether that was the day that you went with Detective Farrell to the police station after you went downstairs from the sign company's office? A You mean the same day?

Q Yes. I want to know whether it was the same day? A No, it wasn't the same day.

Q What day was it, the next day? A Yes, what do you mean?

Q I merely want to know whether you remember whether after leaving the Newark Sign Company's office after having a conversation with Mr. Mahan, whether on that day after going downstairs into the street you went with Detective Farrell to the police station, on the corner of Court and Washington streets, whether it was on the same day you were taken there? A I know it was morning. That is all I know.

Q You don't know whether it was upon the same day or whether it was right after being at the Newark Sign Company's office? A It must have been the night before. I would not say for sure.

Q That is your recollection? A It must be the night before, because I recollect walking over with him in the morning to the First Precinct station. That is all I can remember.

Q You were released, weren't you? A Yes, sir.

Q Did you see Mr. Lum over there, this man here, Mr. Ernest Lum? A That morning?

Q Either that morning or the night before? A No, sir.

Q Any time? A I seen him a few days after when I went to court again.

Q You mean the police court? A Yes, sir.

Q Did he represent you over there, those three or four days afterward? A Not on the first day.

Q I don't mean the first day. I mean the time you saw him over there? A Well, I don't know. He didn't say anything. I don't know whether he represented me or not. I know that Judge Grice said to me, "You are released." I know Mr. Mahan called me outside—

Q No, I don't want anything about any conversation excepting what you had with Mr. Ernest Lum? A I didn't have no conversation with him.

Q Did Mr. Lum appear for you at that time? A Not the first time, no, sir.

Q The second time? A He was there the second time. Didn't have nothing to say.

Q Did he appear for you? A No, sir.

Q That you know of? A No, sir.

Q Did you have anybody from Lum's office appear for you? A I don't know who he is.

Q Anybody? A There was some man there said there was a conspiracy case. That was the first day, the day I was let go. That was the day after Lincoln's birthday in 1914.

Q Did anyone go over to the police station from Mr. Lum's office for you? A For me?

Q Or represent you there when the matter came up in the police court? A I can't tell you that. Some man there with light hair represented me.

Q From Mr. Lum's office? A I can't tell you that.

Q You don't know who he is? A I don't know who he is, no, sir.

Q Were you in Mr. Lum's office? A Previous to that?

Q Yes. A Yes, sir.

Q How long previous? A Oh, the time that Mr. Kelly gave me the telephone number for his house.

Q You went over there. How long were you over there in Mr. Lum's office? A About five or ten minutes.

By Mr. Lum.

Q You spoke of Mr. Mahan having said something to you. What was it he said?

Mr. Kalisch. I object. I asked nothing about Mr. Mahan's conversation.

The Court. No, not on cross examination.

SAMUEL PRATT, sworn in behalf of defendants.

Direct examination by Mr. Kalisch.

Q Where do you live? A West Forty-fifth street, New York.

Q How old are you? A Sixty years old.

Q How long have you lived in New York? A Thirty odd years—oh, yes, more than that, forty odd years.

Q Have you ever been in business in New York? A Yes, sir.

Q What business were you in? A I was in on my own account as a partner in the billposting business, A. Van Buren Company.

Q Are you with them yet? A Yes, sir; it is a stock company now.

Q You were the president of the Newark Sign Company? A Yes.

Q You were also connected with the Newark Billposting Company? A Yes, sir.

Q And the Newark Poster Advertiser Company? A Yes, sir.

Q Do you take any personal—do you take personal charge of any of those three companies? A No, sir.

Q You know Mr. Kelly? A Yes, sir.

Q How long has he been with the company? A Three or four years.

Q Did you ever give any orders to Mr. Kelly concerning the details for the business of those three companies? A No, sir.

Q Did Mr. Kelly have charge of the detail work of the business? A Yes, sir.

Q Did you ever tell Mr. Kelly to damage or destroy or to deface or burn signs owned by the O. J. Gude Company? A No, sir.

Q Or any other company? A No, sir.

Q Did you visit the plant in Newark during the time that Mr. Kelly was connected with it? A Yes, sir.

Q How often? A I had no fixed schedule of duties or time that I visited Newark. Sometimes I might visit every day for a week, and I might not visit again in two months or three months, something like that.

Q How did you come over—what means of transportation? A Lately I have been coming over with a motor-car.

Q At times you used to come over on the railroad? A Yes, sir.

Q When Mr. Kelly first started with the company what position did he hold? A He was bookkeeper and cashier and office manager.

Q Then his position changed to what? A To general manager.

Q And he took charge of all the office work as well as the outside work of the business? A After he became manager he had another man take his place.

Q Who were the board of directors, who were the members of the board when Mr. Kelly became manager? A Mr. Kelly, I think, or Mr. McIntyre and myself. I won't be sure about Mr. McIntyre.

Q Did the board remain that way with its members or were they changed or was there a change made? A I don't recall any change.

Q Mr. McIntyre is not now a member, is he? A No, sir.

Q Who took his place? A Mr. Dreyfus.

Q So that the board is now made up of yourself, Mr. Dreyfus and Mr. Johnson? A Yes, sir.

Q How long has Johnson been a member of the board? A Since around the first of the year or the last of last year.

Q Who did he succeed? A He succeeded, he must have succeeded Mr. McIntyre, I fancy.

Q That only accounts for two. You have three members of the board of directors, haven't you? A Yes, he succeeded Mr. Kelly.

Q Mr. Kelly was one of the directors, wasn't he? A Yes.

Q Mr. Kelly has testified as follows: This question was asked him: "Did he," referring to you, "make any arrangement as to what specific thing should be done to the signs of competitors?" and the answer was: "The burning of the braces, knocking off of the braces, having them pasted over with posters he had made in New York and sent over here." Did you make any such arrangement with Kelly? A No, sir.

Q I will ask you again—did you ever make any arrangement with Mr. Kelly for the burning of braces or the knocking off of braces or having them posted over with pasters that you had made in New York and sent over here? A No, sir.

Q Did you take any trips down to Union County with Mr. Kelly? A Union County, whereabouts?

Q Well, he has testified on several Sundays you took trips with him down to Union County, that is down toward Elizabeth? A I don't recall any Sunday trips.

Q And that on one of those occasions that you pointed out signs of the O. J. Gude Company. Did you do that? A No, sir.

Q And that on one of those occasions you said you wanted to know what business other

people had over there except you. Did you? A I don't get the meaning of that.

Q On one of the occasions, when you pointed out the Gude signs to Mr. Kelly on a trip down in Union County you asked Mr. Kelly what business "they have over here except us." Did you say that to him? A No.

Cross examination by Mr. Fairlie.

Q When was Mr. Mahan discharged?

Mr. Kalisch. I object to that.

A I never knew that Mr. Mahan was discharged.

Q How often did you go over to the Newark Sign Company's office? A I had no regular fixed duties.

Q What was an average? A It would depend upon the ability of the management.

Q During Mr. Kelly's management the ability wasn't any good, was it? A At times it appeared to be.

Q At most of the time it wasn't so much? A I would not say that, no.

Q Would you say it was good? A I said that there were times that it seemed to be good.

Q How many times did it seem to be good? A I can't say.

Q Were those the times that you found that your orders were best carried out? A Never gave Mr. Kelly any orders.

Q Never gave any orders at all? A No, sir.

Q Did he have a free rein there? A Yes, sir.

Q To do absolutely as he pleased? A Yes, sir.

Q No difference to you what he did? A It depended on the results, of course.

Q Were the results satisfactory? A They have never been definitely satisfactory.

Q Will you give us any idea as to how many times you went there a week on an average? A I have never kept any record of that.

Q Did you ever go there six times a week? A Yes, sir.

Q Did you ever go there six months in succession six times a week? A I believe from the month of September I tried to be there some time during the day every day.

Q Prior to that didn't you get over at least three times a week? A No, prior to that, from June until that date I think I was there once, possibly twice.

Q Would you go over after your duties were over and go to the Newark Sign Company at about five or somewhere in that neighborhood in the afternoon? A I had no regular fixed hours.

Q Didn't you go very frequently at that time? A I have just told you, from September until it was about the last of September, I think, to the 1st of January I tried to be there every day some time during the day, every day except Sundays.

Q Prior to that period didn't you go very frequently at the time in the afternoon I have mentioned? A No, sir.

Q Didn't you very frequently have dinner with Mr. Kelly in Newark? A In the evening?

Q Yes. A I don't know how often that happened. I suppose it might have happened once a month, it might have happened once in two months.

Q You think not oftener than that? A I can't say.

Q Doesn't it seem oftener than that now? A I might have been here twice a week although as a rule I didn't stay here for dinner.

Q As a rule, would you say you had dinner with Mr. Kelly on an average of two or three times a week? A No, sir.

Q And didn't you often stay at dinner until late at night in the dining room? A No, sir.

Q Didn't you very frequently go to restaurants after lengthy night sessions in the office with Mr. Kelly? A No, sir.

Q Never did that? A Don't remember having any lengthy night sessions with Mr. Kelly.

Q Don't you remember going to a restaurant, that is after ten o'clock with Mr. Kelly? A No.

Q Or being in a restaurant with Mr. Kelly at night? A It may have happened, but I don't recall any particular instance.

Q Do you recall staying as much as two hours at a stretch in the restaurant with Mr. Kelly? A No, sir.

Q Do you deny that you did? A I have no recollection of it. I don't know of anything that would keep me two hours at the table with Mr. Kelly.

Q Didn't you frequently come over here in an automobile and drive around this territory looking for the locations of your competitors? A No, sir.

Q You never did that? A Yes, sir, I did try to cover this territory twice a year, but didn't always succeed.

Q Didn't you make memorandums as you drove around either for that particuler purpose or as you went around for the purpose of getting

the locations of your competitors? A No, sir.

Q Were not you in the habit of going back to Mr. Kelly and saying that such and such a location of so and so's and give him instructions about it? A To do what?

Q Didn't you frequently go back to Mr. Kelly and mention some particular location of a sign which did not belong to you and give Mr. Kelly instructions concerning it? A I don't recall any such conference.

Q Don't you recall ever having done it in a single case? A Yes, we may have had a competitor that had a location that looked exceedingly attractive and I might have said, "You better run that down and see if you can get it."

Q Once? A Possibly.

Q More than twice? A I would not say. It is impossible to remember those.

Q Can you remember that in the course of four or five years it happened more than twice? A I can't say.

Q You would not say? A I don't know, you understand, that it ever happened.

Q You would not deny it happened a hundred times? A I would not deny or I would not affirm. I don't know anything about it.

Q In connection with the settlement of the New Jersey Sign Advertising Company suit don't you recall saying in Mr. Kelly's presence than in my presence that you would not tolerate any competition around here, R. G. D. and so forth? A You are getting off your trolley.

Q Do you remember? A No, to you or anybody else.

Q Do you deny it? A Absolutely.

Q Do you deny that you ever said anything about competition during those negotiations? A We have always had competition.

Q Do you deny that you said anything about it during those negotiations? A I don't recall any conference with you or anybody else with regard to competition.

Q You won't deny it? A I don't understand exactly what you are driving at. Give me the idea what you are driving at, I will tell you.

Q Did you say in effect during any of those negotiations that this business of yours would not stand competition in this territory? A No, sir, it has always had it. It has always had competition.

Q Did you say you would determine that it would not have? A No, sir.

Q Or anything to that effect? A Never.

Q Didn't you say that it was the rule of this line of business that two offices could not succeed in the same territory? A No, sir, they have always succeeded here.

Q Here? A To my knowledge.

Q Is that your knowledge of business generally? A Yes, sir, I don't know of a city in the United States where there is not competitive business in the sign business, plenty of it.

Q Has a resolution been adopted every year by the directors of these three companies ratifying all the acts of the directors during the preceding year? A Yes, sir.

Mr. Kalisch. I object to this and ask that the answer be stricken out. I will produce the record if you want it.

(Argument).

Mr. Kalisch. I move to strike out the answer of Mr. Pratt and the question because the base of the evidence is this resolution. I ask to have it stricken from the record.

The Court. Yes, strike it out.

Samuel Pratt, cross.

Q Did you ever look at the minutes of the company? A You have answered the question.

Q You did look at the minutes? A They were always read and approved.

Q You heard them read? A Yes, sir.

Q Do you remember whether that one was read? A What is that?

Q I will let you turn over the page so you can see it. A "Resolved that the board of directors approve all actions of the directors and officers of this corporation for the last year, on motion of Mr. Kelly. Seconded by Mr. Dreyfus. The meeting adjourned."

By Mr. Kalisch.

Q Whose signature is to that? A My signature.

Q Who else? A Mr. Kelly, T. F. J. Kelly.

By the Court.

Q Which company is that? A That is the Newark Billposting Company.

By Mr. Fairlie.

Q Was similar resolutions adopted in the other two companies?

The Court. The resolutions will speak for themselves.

Mr. Kalisch. It is admitted that the same resolutions were passed for each of the other companies of that year.

Q Were the same resolutions passed for each of the companies in the next year? A As far as I know, yes.

Mr. Fairlie. Do you admit that or shall I look them up?

Mr. Kalisch. What?

Mr. Fairlie. That the same resolution was adopted for each of the companies on the next year.

Mr. Kalisch. That is what, 1914?

Mr. Fairlie. 1914.

Mr. Kalisch. Yes.

Q Was the same resolution adopted in 1915? A As far as I remember.

Q For each of the companies? A Yes, sir.

Q When did you first meet Mr. Jim Turk?

Mr. Kalisch. I object to that question.

The Court. How is that competent?

Q Don't you recall at least one conversation which you had in Mr. Kelly's presence in which with a great deal of profanity you said you would not tolerate any competition over here and that you would get out if Kelly would not do it and do it yourself and see that it was done?

Mr. Kalisch. We object to that. We have gone over that.

The Court. You can ask that.

A No, sir.

Q You don't recall any such conversation? A No, sir.

Q Did you ever have a conversation in my presence? A Nothing of that character.

Q Did you take Miss Kane in your automobile last night when she left the Newark Sign Company's office? A No, sir.

Q What automobile did she go in? A I don't know.

Q You were not with her? A No.

Mr. Kalisch. She didn't go in an automobile. I do not think it is fair to jump something that doesn't interest us. She came over of her own accord, walked over.

Samuel Pratt, cross.

Q Didn't you tell Mr. Kelly that if he could not accomplish the destruction of competitor's signs from this end that you would do it from the New York end? A No, sir.

Q Did you ever receive a check from the Newark companies or any one of them which you signed over from New York and which was charged to detective services? A I believe I have had such a remittance from Newark.

Q About when was that? A I can't tell you.

Q Did you get any during 1913? A I don't know.

Q You can't say? A No, sir.

Q Have the checks, all the checks during 1913 been burned up? A Not to my knowledge.

Q They haven't been burned? A Not to my knowledge.

Q Have the check stubs been burned? A Not to my knowledge.

Q Can you produce them? A As far as I know of.

Mr. Kalisch. They are all here.

Q You did get checks charged to detective services, did you? A Yes, sir.

Q You got $15 worth of them during 1913, didn't you? A I don't know.

Q You can't deny it? A I am not denying anything.

Cross examination by Mr. Lum.

Q You used to sign up checks by the book and send them over to Kelly? A I signed a book at a time.

Q A dozen at a time? A Yes, sir.

Q You retained him as your manager throughout several years? A Two or three years, I don't know just how long.

Q As a matter of fact, it was four? A I don't know, sir.

Q You don't even know how long he was retained as your manager? A No, sir.

Q You were the majority stockholder of the company? A Yes, sir.

Q And its president? A Yes, sir.

Q While he was in your employ the suit of the New Jersey Sign Advertising Company was brought against your companies and yourself? A Yes, sir.

Q For a very large sum of damages? A I don't remember the amount.

Q It was $50,000, was it not? A I don't remember.

Q You remember that was for a very large sum of money? A I don't recall the amount.

Q Did you never see the complaint? A I believe I saw the original complaint.

Q And you were a party to that suit, were you not? A Yes, sir.

Q Don't you remember it was over $25,000 damages? A No, I do not.

Q You do remember it was for a substantial sum? A Yes, sir, it seemed like a large sum of money to me.

Q And Mr. Kelly was at that time your manager? A Yes, sir.

Q And you knew that you and your companies were at that time charged with conspiracy to destroy the business of the New Jersey Sign Advertising Company? A Yes, sir.

Q That suit was settled by your then counsel, Pitney, Hardin & Skinner? A Yes, sir.

Q And you were present at Mr. Wherry's office at conferences with reference to that settlement? A Yes, sir.

Q And that suit was settled?

Mr. Kalisch. All this is objected to. I don't want to object every minute. Anything in reference to the New Jersey Sign Advertising Company is objected to, any information in regard to the suit, any information in regard to the settlement is objected to and the answers that have been given I would like to have stricken out.

The Court. It is too late.

Mr. Kalisch. I ask now to strike out that testimony.

Q (Question repeated.)

Mr. Kalisch. I object to the question.

The Court. To the form of the question?

Mr. Kalisch. No, I object to it as being irrelevant and incompetent.

The Court. I will allow it.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q That suit was settled, yes or no? A Yes, sir.

Q Afterwards, the New Jersey Sign Advertising Company was out of business, wasn't it? A No, it is not. It is a growing concern.

Q Owned by the New Jersey Sign Advertising Company? A I am not sure of the ownership of it.

Q You are not sure of the ownership of it? A No, sir.

Q As a matter of fact, at that settlement you took over that company, didn't you? A The holding company for all our affairs.

Mr. Kalisch. I object to this question on the same ground that it is incompetent, irrelevant to go into the terms of any settlement that was made.

The Court. No, I think on the question of conspiracy you may go into that.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question read.) A Yes, sir.

Q And paid them $34,000 and some odd hundred dollars?

Mr. Kalisch. I object to that on the same ground that it is incompetent, irrelevant to go into the terms of the settlement.

The Court. You may proceed with this evidence.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question read.) A Yes, sir.

Q And after that you continued Mr. Kelly in your employ? A Yes, sir.

Q And at the next meeting, annual meeting, I understand you ratified all the acts of all the directors? A Yes, sir.

Mr. Kalisch. I object to that upon the ground that the books are the best evidence of the resolution and on the further ground it is improper to go into the subject of this settlement.

The Court. Take your exception.

Objection noted as ground of appeal.

Q You are one of the directors of the Van Buren Company, you told us? A Yes, sir.

Q And other sign companies? A It is not a sign company.

Q Other advertising companies? A Yes, sir.

Q The Van Buren Company have a place at Hartford? A No, sir.

Q No place at Hartford—Boston? A No, sir.

Q Where is their branch beside in New York?

Mr. Kalisch. I object to that.

A I have no branches that I know of.

Mr. Kalisch. I object to it.

Mr. Lum. I withdraw it.

Q I understand you occasionally made Sunday trips around the country with Mr. Kelly, is that correct? A I don't recall any Sunday trips; it may have happened.

Q You have no recollection of any Sunday trips with Mr. Kelly? A I don't recall any.

Q Do you remember going with Mr. Kelly down on St. George's avenue below Elizabeth, down in Union county?

Mr. Kalisch. When?

Q At any time. A I don't recall any particular time, no, sir.

Q You don't recall any particular time? A No, sir.

Q What time do you recall?

Mr. Kalisch. He has not said he went down there.

Q Will you swear you never went down to St. George's avenue in an automobile with Manager Kelly, yes or no? A I presume I have

been to that avenue with Mr. Kelly. It is a thoroughfare to the shore, the only way I know of going there.

Q And you have been over that thoroughfare with Mr. Kelly? A Yes, sir.

Q Several times? A Yes, sir.

Q It is a very good display territory, is it not? A Fairly good.

Q There are some locations there considered particularly attractive? A Not that I recall.

Q You don't recall any particularly attractive locations? A No particular one, no.

Q No particular location, but there were several locations that were very fair? A Why, it is a long stretch of a drive, Lincoln highway drive.

Q And along the Pennsylvania Railroad track? A Along there are farms and part of it through villages.

Q Goes by which railroad? A Goes under the tracks of the Pennsylvania.

Q And that is considered an attractive display location, is it not? A Not that I know of. I don't know that there is anything particularly attractive about it.

Q Do you recall coming over one Sunday when your chauffeur wasn't able to take you out and being driven with Mr. Kelly by Herman, the local chauffeur? A I don't know anybody by that name.

Q Do you recall ever being driven with Mr. Kelly by the local chauffeur of your Newark Company? A I presume I have. I don't recall any particular time.

Q You recall another suit previous to this one before referred to brought by the New Jersey Sign Company to get your company, do you not?

Mr. Kalisch. Don't answer that. You don't remember anyhow?

Mr. Lum. If he doesn't remember it now I will withdraw the question.

Q In the year 1915 how many times were you at the Newark office as near as you can recollect it? A From September to January I was there, middle of last September, about the 21st of September I got back from the Pacific coast and I believe I was there every day for business up until the end of the year.

Q What time did you go to the Pacific coast? A I went to the Pacific coast from Chicago.

Q And from the first of January, 1915, to August, 1915, how many times were you there? A I was on a motor car trip to the New England States and Chicago.

Q From the 1st of January, 1915, and 1st of August, 1915, how many times were you at the Newark office? A In 1915?

Q Yes. A I wasn't there at all in August.

Q I can stand it all day. I will repeat the question again.

The Court. The question is from January, 1915, to August, 1915.

Q From January, 1915, to August, 1915?

Q Yes. A I don't really know.

Q About how many? A I don't remember anything that brought me here oftener than once a week, might have been cases that brought me here twice.

Q Once or twice a week? A Yes.

Q And in 1914 it would be about the same? A It seemed so.

Q That would be fifty-two weeks, between fifty and a hundred times a year? A That is the way it figures up.

Samuel Pratt, cross.

Q In 1913? A About the same. I don't recall. My mind is not fixed on those because I didn't keep any record of it.

Q But your memory is that it is? A It is one of the interests I have to look after and take care of.

Q You are quite sure you are never much interested in competition in territory where your companies are engaged? A I couldn't possibly. I never had anything else in my life.

Q Never had anything else but competition? A Never.

Q You were not interested in your competitors? A Not any particular reason, never.

Q Any reason why they should be interested in you? A Not in me.

Q You enjoy the competition of others? A I rather like it. It is quite enjoyable.

Q Only it cannot help your business? A No, not as a rule; sometimes it does and sometimes it doesn't.

Q In this territory you thought it proved profitable to have competitors? A We always had them.

Q And that is why among other things you valued the New Jersey Sign Company at $34,000?

Mr. Kalisch. I object to that.

A That was Kelly's proceeding.

Q You ratified Kelly's proceeding?

Mr. Kalisch. I object.

Witness. I would like to answer the question.

By Mr. Kalisch.

Q At any of these meetings of the board of directors was there any information brought to

your attention or the attention of any of the other members of the board of any signs that had been destroyed, damaged or defaced in any way of the Gude Company?

Mr. Lum. I object. The minutes of the company, of course, will be the best evidence as to what took place outside of the proceedings as far as the conversation we have nothing to say and the minutes whatever they were were ratified.

The Court. Acts of the officers of the company in due course of business; you may ask that question.

Mr. Lum. I object on the ground it is hearsay evidence, that no one representing the plaintiff was present and further on the ground that the minutes of the meeting must be the best evidence.

Objection noted as ground of appeal.

Q (Question read). A No, sir.

Q At any of the meetings of the board of directors from 1913, from 1910 to 1916 was information brought to the attention of any member of the board at these board of directors meetings? A No, sir.

Q Of any damage or burning of signs, damage to or burning signs belonging to the Gude Company? A No, sir.

Q Did you know at any time before this suit was brought of any damage or defacing, damage to or defacing of signs belonging to the Gude Company? A No, sir.

By Mr. Fairlie.

Q Did you ever get any information of complaints made against your companies for alleged injuries to other signs? A No, sir.

Samuel Pratt, cross.

Q Never heard of any complaints? A No, sir.

Q You never heard any complaints from the New Jersey Sign Advertising Company? A I don't remember of any such complaints, never came to me.

Q Never heard of a complaint from L. H. Trowbridge? A No, sir.

Q Never heard of a complaint from Mr. Slocum, Slocum Advertising Company? A No, sir.

Q Never heard of a complaint from O. J. Gude until this case was brought? A No, sir.

Q Never defended any District Court suits in which complaints were made of specific signs? A Not to my knowledge.

Q Never knew of any suits being defended? A No, sir.

Q Never knew of any upper court cases being brought on specific instances of damage? A No, sir, no complaints ever reached me of that character.

Q Did you ever hear of those things existing? A Mr. Kelly told me the Trowbridge people had a suit against the company.

Q Is that the only thing Mr. Kelly ever told you? A Mr. Kelly has told me a lot of things.

Q About the sign business? A Told me a lot of things about the sign business. He knows more about the sign business than I do.

By Mr. Lum.

Q Will you say, in the presence of Mr. Wherry when this New Jersey Sign settlement was being considered, you did not say to Kelly, "If you had followed out my instructions and put these fellows out of business at the start we

would never have been buying this junk''? A No, sir.

Q Or anything of that kind? A No, sir.

By Mr. Kalisch.

Q Was Mr. Fairlie the attorney for the Newark Sign Company? A He had charge of the Trowbridge case, I believe.

Q For the Newark Sign Company? A Yes, sir.

Q Did he at one time have charge of this case? A Not to my knowledge.

Q In this Trowbridge case did you have some conference with Mr. Fairlie? A I believe I had one.

Q Did he ever have charge of any other cases for the Newark Sign Company that you know of? A No, sir.

By Mr. Fairlie.

Q Mr. Fairlie's connection with the company was very brief? A Yes, sir.

Q All his dealings were with Mr. Kelly? A I believe so, yes.

By Mr. Kalisch.

Q The Newark Sign Company paid Mr. Fairlie, not Mr. Kelly, isn't that so? A Yes, sir.

Mr. Kalisch. In view of what has come out this afternoon in regard to these directors' meetings one of the directors, Mr. McIntyre, is not here today. I didn't expect I would need him because I didn't know what this evidence would be but it is very material, showing that none of these directors had any knowledge of any of these alleged damages.

The Court. Are you going to put in your affidavit?

Mr. Kalisch. And Mr. Pomerene also will get here tomorrow.

Mr. Lum. It is distinctly understood the defendant's case is closed except for the testimony of this other director and Mr. Pomerehne.

NELLIE GILLEECE, sworn in behalf of plaintiff in rebuttal.

Direct examination by Mr. Lum.

Q Where do you live, Mrs. Gilleece? A I live at 1181 Broad street.

Q In 1915 where did you live? A I lived at 142 Union street.

Q Did you ever know Mr. and Mrs. James H. Galvin? A Yes, sir.

Q Will you tell us whether or not you ever met Mr. Kavney? A Yes, sir, I met him on a Saturday between eleven and twelve.

Q Where? A At my home, 142 Union street.

Q How did you come to meet him? A Well, I was outside. I was looking for a paperman to sell the paper and I was standing outside looking for him, and Mr. Galvin brought Mr. Kavney upon the front stoop, and he says: "This is my boss, Mr. Kavney."

Q Introduced him to you? A Introduced him to me, and he said: "I am pleased to meet you."

Q What was this date? A It was on the 15th, I think.

Q Of what month? A Of January.

Q What year? A 1915, I think.

Q Do you know how long they were there? A I heard talking upstairs very close onto a half an hour.

Cross examination by Mr. Kalisch.

Q Where did you say you lived? A I live at 1181 Broad street, but I did live at 142 Union street at the time.

Q How long have you known Mr. and Mrs. Galvin? A About a year.

Q Did you see Mr. Galvin today when you came up here, you saw him? A I see him as I came in, yes, sir.

Q Were you speaking to him here? A Yes, sir.

Q Have you got a subpoena? A I guess I left it down to the house.

Q When did you get the subpoena? A I just got it. I didn't expect it at all.

Q Who brought it down to you? A I don't know.

Q You don't know the man that gave it to you? A No, I don't understand court. I can make mistakes.

Mr. Lum. It was Mr. Whitlock from our office.

Q When you came up here you saw Mr. Galvin in the hall, didn't you? A Yes, sir.

Q And you talked with Mr. Galvin? A "How do you do?"

Q Do you remember Mr. Galvin telling you that this introduction was made on the 16th of January? A Oh, I remember it at the time because I knew there was going to be trouble.

Q What made you remember the date? A The date—why, we have known—I have known this was going to come up, this case.

Q How do you remember that it was on the 16th day of January, 1915, when you were introduced to Mr. Galvin? A Well, that is the night before I ever met the gentleman.

Q How do you know it was that date? Who told you it was that date? A I knew from the time I got the introduction, but I didn't remember the dates, but when the trouble came I knew this was coming up, I had to remember days.

Q But you didn't remember the date? A Mr. Galvin didn't tell me the date. If he mentioned it it just went out of my head.

Q Didn't he mention it to you out in the hall? A He may have, but it passed through my head.

Q Didn't you say you have a poor memory for faces? A Yes, I have. I have a poor memory. I can't remember people from year to year.

Q And you can't remember dates, can you? A Sometimes I can and sometimes I can't.

Q And you would not have remembered this date if it had not been mentioned outside? A I might make a mistake.

Q You would not remember January 16th unless it had been mentioned outside to you by Mr. Galvin, isn't that so? A I tell you—

Q Answer that question. It is a simple question. A I suppose it is so.

Q What have you got to say about it. You will not remember January 16th if Mr. Galvin had not mentioned it to you out in the hall, isn't that so? A I know I remember that Saturday well because I am never used to going to court.

Q You are used to going? A I am not used to going, and I knew if I came I would have to remember dates.

Ellen Gilleece, cross.

Q And you got that date from Mr. Galvin, didn't you, out in the hall? That is correct, isn't it? Isn't that so? A I suppose it is so.

Q How long did you talk with Mr. Galvin out in the hall? A I had no date made to come out and speak to him. It is the first time I have seen him in quite a while.

Q He met you as you came in? A He came out. I don't believe he knew I was there.

Q He didn't know? A Or I didn't know he was here.

Q You just met him casually and then you started and you talked. What did he say to you? A He didn't say nothing. I only asked him how his wife was and I came in.

Q Didn't he ask you what you were here for? A I guess he knew.

Q Did you talk about the case, about this? A I forgot about this case, thought it was all off with.

Q Thought that it was all off? A Forgot all about it until today.

Adjourned to Friday, June 23, 1916, at ten o'clock A. M.

FIFTH DAY.

Friday, June 23, 1916.

Met pursuant to adjournment.
Present, counsel as before stated.

ELLEN GILLEECE, resumes the stand.

Cross examination (continued) by Mr. Kalisch.

Q You left the court room last night right after the trial? A Yes, sir.

Q Where did you go? A I walked down home with Mr. and Mrs. Galvin.

Q Were you walking all the way home? A No, sir, I just walked towards Broad street and Market.

Q And took a car? A No, I walked home.

Q You walked all the way? A I walked all the way home.

Q Did Mr. and Mrs. Galvin go with you? A No, sir.

Q They walked just down to Broad street? A Since they wanted to go home I walked home.

Q At Broad and Market— A Around Broad and Market.

Q —that is where you separated? A That is where we separated.

Q Did you talk about the case? A Nothing only about the date as your question yesterday.

Q What was said? A What was said? There was nothing to be said, only the truth.

Q You talked about the date, did you? A Well, only about the date.

Q I am asking you, did you talk about the date? A Yes, I did. I thought the Court granted such privileges in case to refresh the memory.

Q By whom did you refresh your memory? A By—

Q From Mr. Galvin—

Mr. Lum. I object.

A No, not by Mr. Galvin at all.

Q Who told you about refreshing your memory? A It came to me after.

Q You had a talk before you went on the stand, the one that you were speaking about yesterday? A I had a talk.

Q With Mr. Galvin? A I didn't speak to Mr. Galvin about it this morning.

Q I am asking you yesterday. You testified yesterday about the date with Mr. Galvin out in the hall? A Yes, I did.

Q Do you recall that? A Yes, I did.

Q Do you remember saying to Mr. Galvin that you had a poor memory for faces? A Yes, a person that I only see once and not seeing them again and going on two years—

Q Did Mr. Galvin describe this man to you? A No, Mr. Galvin didn't, no.

Q Who did? A I haven't really seen the man yet, face to face that I see it is him. I haven't seen him yet. I haven't seen him face to face. I have seen him in the court.

Q Who pointed him out? A He wasn't exactly pointed out to me. He said he was in the room, the man.

Q Who said that? A That gentleman says he is in the court there.

Q Which gentleman, this gentleman here? A Yes, he said he was in the court.

Q Mr. Ernest Lum. Did he point him out for you? A No, he didn't point him out. You said he was in the court room.

Q Did he indicate where he was? A He told me about where he thought he was.

Q Your memory wasn't good enough for you to recall him distinctly yourself after not seeing him in those two years? A It is not quite two years and I have never seen the gentleman once. I can easily be deceived in him.

Q Did you say you didn't remember whether the man had a mustache or not? A Yes, I said that. I didn't remember that part.

Ellen Gilleece, cross.

Q Who told you he did not have a mustache? A Some one passed the remark.

By Mr. Lum.

Q Mrs. Gillecce, you made an affidavit in this matter? A I made an affidavit ten days after what happened.

Q You read over that affidavit before this trial? A Yes, sir, I did.

Q And refreshed your recollection from that? A Yes, sir.

By Mr. Kalisch.

Q Was there anything said in the affidavit about a moustache? A No.

Q What was said in the affidavit? A Just according as I told you yesterday I read it all off yesterday to you.

Q Who showed you that affidavit? A I guess this gentleman here.

Q You don't remember anything about this? A Yes, I did remember all about this. I remember the case.

Q You didn't remember this man until you read that affidavit? A I said—

Q One moment. Wait until I ask the question. You didn't remember this man until you were shown the affidavit, and until Mr. Lum told you where the man was? A He didn't exactly tell me. He said I could pick him out.

Q Did he indicate where you could find him? A Yes.

MARY G. GALVIN, sworn in behalf of plaintiff in rebuttal.

Direct examination by Mr. Lum.

Q Mrs. Galvin, you are the wife of James H. Galvin? A Yes, sir.

Q In the early part of 1915 where did you live? A At 142 Union street.

Q With whom? A In Mrs. Killeece's house.

Q Have you any family? A Yes, sir, two children.

Q Do you know whether anything happened with reference to any change of employment of your husband about that time? A Nothing happened then. He was working for the Newark Sign Company.

Q Did a time come when he stopped working for them? A No.

Q He is not working for them now, is he? A He is not now.

Q When did he stop working for them? A He stopped in January.

Q About what time in January? A I don't just exactly remember the date but I know it was on a Saturday, because it was pay day, I remember.

Q Do you know Mr. Kavney? A I met the gentleman once. I think I could recognize him.

Q Where did you meet him? A I met him outside the entrance of the company's office over on Treat place.

Q About when? A About four o'clock on a Saturday afternoon.

Q What day? A Saturday.

Q With reference to when your husband left their employ, the Saturday before or the Satur-

day after or the same Saturday? A The same Saturday.

Q Did you have any talk with Kavney that day? A Yes, sir.

Q What talk took place? A Why, I was waiting for my husband to come home and he was to be home at noon and he didn't come home. It was payday and I was waiting for him to come home with his pay and I went over to see where he was and I met Mr. Kavney. My husband had come in in the morning.

Q What did Kavney say to you?

Mr. Kalisch. Where was this?

Mr. Lum. She said at the entrance of Treat place.

Q What time? A About four o'clock.

By Mr. Kalisch.

Q What time of the day was it? A It was on a Saturday afternoon.

Q Do you know what month? A January, but I don't know what date.

Q Last year was it? A A year back, January.

Q A year from last January? A Yes.

Q That was January, 1916, wasn't it? A A year back.

Q I mean the date, January 16th? A I didn't keep record of the date.

Mr. Lum. He identifies the time as the day her husband left their employ.

By Mr. Lum.

Q Did you have a talk with Kavney? A Yes, sir.

Q What did he say?

Mr. Kalisch. I object to that.

Q Did you meet Kavney at the entrance? A Yes, sir.

Q Did Mr. Kavney say that your husband had been there at two o'clock and that he had paid your husband, he had paid him? A Yes, sir.

Q Did you say to him, to Kavney then, "He is going to New Haven?" A Did I say it to him?

Q Yes. A My husband came home and told me he was going.

Mr. Kalisch. I ask that that be stricken out.

The Court. Yes.

A I said, "Is he going to New Haven?"

Q What did Kavney say? A Mr. Kavney said, "Yes, he was going."

Q Did he say to you, "Yes, but it will be only three or four weeks' work, but I thought it was better than having him laid off"? A I don't just remember that.

Q What did you say? A I asked him—

Mr. Kalisch. I object to that. The direct question has been put.

The Court. Yes.

Q Then what did Kavney say to you? A I asked Mr. Kavney what was in New Haven, why Mr. Galvin was going to New Haven and he said they had a plant there.

Q What else did he say about New Haven? A Why, Mr. Galvin was going to get off—

Mr. Kalisch. I object to that and ask that it be stricken out.

Mr. Lum. Strike it out.

Q What did you ask him? A Asked him if Mr. Galvin was going to be laid off and he said

no, he was going to send him to his plant in New Haven.

Q Did you say, "Yes, a half a loaf is better than none?" A Yes, so it is.

Q You made an affidavit?

Mr. Kalisch. I object to that.

Q And have you read over—

Mr. Kalisch. I object to that.

Cross examination by Mr. Kalisch.

Q Did your husband go to New Haven? A He did not.

Q Did he work for the Newark Sign Company in their plant in New Haven? A Not to my knowledge, no.

FRANK D. RAY, recalled in rebuttal on behalf of plaintiff.

Direct examination by Mr. Lum.

Q Mr. Ray, you say you knew Mr. Kavney when he was employed by the Newark Sign Company? A Yes, sir.

Q You got some orders from him? A Yes, sir.

Q Did he speak to you with reference to the location of a fence about a quarter of a mile east of the Roselle station facing the Central Railroad Company? A Yes, sir.

Q About what time? A I would imagine in the latter part of October or the early part of November. I can't remember clearly what time it was.

By the Court.

Q What year? A 1914.

Frank D. Ray, cross.

By Mr. Lum.

Q What instruction did he give you with reference to that fence?

Mr. Kalisch. I object to that. You are on rebuttal now.

The Court. Kavney was asked in reference to a fence and you may ask him in reference to that.

A I was told to remove the boards from a fence there.

Q Did you speak to Mr. Kavney about it? Who told you? A Mr. Kavney.

Q Did you speak to him about that order? A After I came back?

Q Yes. A Yes, sir.

Q What did you say to him? A Told him we had made inquiries from the house and the lady in the house would not allow us to touch the fence until we had seen her husband.

Q What did Kavney say? A He got rather up in the air and said they held a lease on that fence or that space and they could build or repair anything that they pleased.

Q What instructions did he give you then in reference to changing the sign? A We were to go back there again and take some of the boards off the fence and replace them so the advertisement that was then on couldn't be read from the words, nobody would know what it meant.

Cross examination by Mr. Kalisch.

Q Did you do it? A No, I didn't go back the second time.

Q Whose signs were they? Were they Gude signs? A No, sir.

Q Whose signs were they? A Randolph Advertising Company.

Mr. Kalisch. I move that that be stricken out.

Mr. Lum. It is a direct contradiction. Kavney said he never gave any orders to destroy anybody's signs.

The Court. I refuse to strike it out, because it appears from the evidence of this witness they claimed to have a lease on the property. The witness says that Mr. Kavney said they had a lease on that property and had a right to touch it.

By Mr. Kalisch.

Q Mr. Kavney said that to you? A He said he would produce the lease and give it to me.

By Mr. Lum.

Q Did he produce the lease? A No, sir.

Q Ever show it to you? A No, sir.

By Mr. Kalisch.

Q Do you know whether he had it? A No, sir.

HERMAN A. ROEDHLER, sworn in behalf of defendant, Thomas J. F. Kelly.

Direct examination by Mr. Fairlie.

Q Mr. Roedhler, what is your business? A Waiter.

Q Where are you employed now? A I am employed in the Holland House.

Q Before that where were you employed? A In Stetter's.

Q Achtel-Stetter's? A Achtel-Stetter's.

Q Where is that? A Broad street and Central depot.

Q How long were you in that position? A Six years.

Q From what time to what time? A 1906 to 1912.

Q Are you acquainted with Mr. Samuel Pratt? A Not acquainted. I served him many times.

Q Do you know him by name? A Only by the second name, not the first name.

Q Do you know Mr. Kelly? A Yes, sir.

Q Did you ever see Mr. Pratt and Mr. Kelly together at Achtel-Stetter's?

Mr. Kalisch. I object to that. Mr. Fairlie is calling a witness to bolster up the case of this other defendant. It is not an issue of the plaintiff. This is not concerning an issue between Mr. Fairlie and the plaintiff, but he is trying to support the plaintiff's case. The issue between Mr. Fairlie and the plaintiff is a denial of all that the complaint has charged against Mr. Kelly and he is now producing a witness to show not the denial which is the issue but to help support the plaintiff's case. Where is it relevant so far as the defendant is concerned?

The Court. I do not think I can limit him to that.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

Q (Question read). A Yes, sir.

Q During the period when you were employed there? A Yes, sir.

Q How often? A Three, four, five times a week.

Q Did they stay there long at a time? A In the evening they start in after eight o'clock, nine or ten, sometimes to the last train.

Q Until when? A It is half-past ten, sometimes eleven.

Q What did you see them doing? A They were discussing. I didn't overhear. I was a waiter. I couldn't go near.

Q Was that so throughout the entire period while you were at Achtel-Stetter's? A What is that?

Q Can you remember, how far back can you remember seeing Mr. Pratt come to Achtel-Stetter's? A It was 1912 that I remember, 1911 and 1912. I was there at that time employed.

Cross examination by Mr. Kalisch.

Q What did you say your name was? A Herman Roedhler.

Q How long did you work for Achtel-Stetter's? A Six years.

Q Do you know when you started? A 1906.

Q And you worked there until 1912? A 1912.

Q Do you remember the year after Mr. Pratt first came there for his meals? A I can't remember. I only remember when I last was there, 1911 and 1912.

Q Did you see him before that? A I don't know. It is only 1912, because I went away 1913.

Q 1913? A No, not in 1913.

Q You went away in 1913; what part of 1913? A I went to Europe.

Q What part of the year? A May.

Q Did you see him there in the first part of 1913? A Probably I did. I am positive I saw him in 1912.

Q Do you remember whether you saw him there? A Yes, sir.

Q In the first part of 1913? A 1913, it was before I left.

Q Do you remember that? A Yes, sir.

Q Did you work in the night time? A Yes, sir.

Q When did you go on, generally? A At half-past five.

Q And remained there how long? A Until eleven o'clock, half-past eleven, even have to wait until they get out.

Q You were subpoenaed to come here? A Yes, sir.

Q Have you got the subpoena with you? A I guess I have.

Q Who gave you this subpoena? A Mr. Kelly.

Q When did he give it to you?

Mr. Lum. I object to this.

The Court. You may ask it.

A Wednesday.

Q Does Mr. Kelly eat in your restaurant? A Very seldom.

Q You see them there occasionally? A Not lately.

Q You see him there occasionally, don't you? A Not lately.

Q Did you have a talk with him when he gave you this? A He asked me a question, if I remember that, that same question.

Q What else did he ask you? A That is about all.

Q How long were you with him? A Less than five minutes.

Q Did he take a drink there with you? A No, I never drink; never drink during business hours.

Q Did he take a drink? A No, sir.

Q Buy a cigar? A No, sir.

Q How long was he there? A I told you first, five or ten minutes. That is all I had to spare.

Q Did he talk about this case? A No, sir.

Q How long did you say he was there? A About five or ten minutes, less than five minutes.

Q Did he talk about the case? A No, sir.

Q Didn't say a word about it? A He only told me if I remember he was standing there with Mr. Pratt in Stetter's, if I remember yet.

Q Did he speak of the times that Pratt was there? A No, sir.

Q Did he ask you whether you saw him in 1911? A Well, he remembered when I left Stetter's. He asked me when I left Stetter's.

Q Did he ask you whether you saw him there in 1908? A He only asked me how long I was there, how long it is until I left Stetter's.

Q Did he ask you whether you saw him with Mr. Pratt in Stetter's restaurant? A He asked me if I can remember.

Q And did he ask you whether you saw him there in 1911? A He didn't ask me that. He only said when I left Stetter's, that was 1912.

Q Did he ask you whether you saw him and Mr. Pratt there in 1912? A He asked me that.

Q What about 1909? A I can't remember as far as that, I told you.

Q I ask you whether he asked you this when he gave you this subpoena? A He only asked me a couple of questions about in 1912.

Q What were the questions? A I told you that is all it was, only five minutes. I had a conversation with Mr. Kelly.

Q Did you ever see Mr. Pratt and Mr. Kelly there in 1909? A I told you twice or three times I only remember 1912.

Q How about 1911? A That might be 1911, too.

Q Do you remember it or don't you? A I remember exactly when I served him.

Q You know Mr. Pratt, what sort of a looking gentleman he is? A Yes, sir.

Q Where did they eat their meals? A In the cafe.

Q Where were you, in the cafe? You were behind the bar? A No, sir, I served on the tables.

Q You were a waiter? A Yes, sir.

Q You don't remember whether he was there in 1911? A That might be 1911 or 1912. After 1912 I am not positive.

Q Might be 1911 or 1912, one or the other? A 1912.

Q Not both? A Well, it may be both. I can't say exactly.

Q Your recollection is not very clear about it? A I am positive I served him.

Q But you don't remember when it was? A 1911, 1912, remember that year.

Q Part of 1911 and part of 1912, is that right? A Yes, sir.

THOMAS F. J. KELLY, recalled in his own behalf.

Direct examination by Mr. Fairlie.

Q Mr. Kelly, Mr. Dreyfus testified concerning a conversation which he says you had with him at the Downtown Club. In the conversation did you say that if Mr. Pratt did not pay more for your stock it would cost him thousands of dollars, or words to that effect? A No, sir.

Q There is a letter from Mr. Dreyfus. From whom did you receive this letter? A From the Newark Sign Company.

Q Signed by? A Mr. Dreyfus.

Q It is his signature? A I recognize it as such.

Mr. Fairlie. I offer this letter in evidence.

Admitted in evidence and marked D. K. 1.

Letter read to the jury.

Q Produce the resolution.

Mr. Fairlie. I offer this resolution which has been marked D. 3 for identification.

Admitted in evidence and marked Ex. D. K. 2.

Ex. D. K. 2 read to the jury.

Q At the time that resolution was effected how many shares of stock did you have? A One of each company, one of the billposter company, one of the sign company. The sign advertising company wasn't formed at that time.

Q This stock that you had, who had it before you, at the time you left?

Mr. Kalisch. I object to that.

The Court. What difference does it make where the stock came from? It makes no difference where the stock came from.

Q While you were manager of the defendant companies were there ever any signs of those companies burned down?

Mr. Kalisch. I object to that.

The Court. If counsel says it is immaterial I shall allow it.

Q Were there signs of the defendant company burned down during the management? A The only one I recall is the one that the boys of the Morristown High School burned down on Speedwell avenue in Morristown which collected damages from the principal of the school. Outside of that I don't recall any.

Q Referring to this time when Mr. Galvin was at your office, after Mr. Galvin arrived there did you discuss the matter with anybody? A Before Mr. Galvin arrived—after Mr. Galvin was talking to Mr. Mahan and Mr. Mahan had informed me he was on the wire and I informed Mr. Mahan what to say to him making the appointment I then telephoned Mr. Pratt, getting his opinion on the matter.

Q What did Mr. Pratt tell you?

Mr. Kalisch. I object to that. Nothing was said to Mr. Pratt about what was said over the wire. No foundation was laid.

The Court. If you think it is irrelevant you may ask him whether he notified Mr. Pratt.

Q What was that conversation? A I couldn't get Mr. Pratt at his New York office so I got him at the hotel, where he lived for a number of years and told him the circumstances. He was familiar with the case in question. There had been considerable complaint about it before that.

The Court. That part may be stricken out.

Q Just what he said. A He said, "I think you have done right. Give him anything he wants but get him in writing."

Q Produce the acceptance of resignation.

Mr. Fairlie. This has been marked for identification before. I offer it in evidence.

Admitted in evidence and marked Ex. D. K. 3.

Ex. D. K. 3 read to the jury.

Q Produce the letter, which I think was marked for identification, relative to the company.

Mr. Fairlie. This has been marked D. 1 for identification. I offer it in evidence.

Admitted in evidence and marked Ex. D. K. 4.

Ex. D. K. 4 read to the jury.

Cross examination by Mr. Kalisch.

Q Mr. Kelly, was there ever any resolution passed revoking this resolution or in any way changing it, this one here?

Mr. Lum. I object to that. The resolution would be the best evidence.

The Court. If he knows.

Mr. Lum. I note an objection. That record would be the best evidence.

Objection noted as ground of appeal.

Q After this resolution was passed you acquired more stock? A. Yes, sir.

Q But no change was made officially? A Under a contract.

Q But no change was made after you acquired your stock, no resolution was passed

changing this one? A None that I know of, none officially.

Q You say that you telephoned to Mr. Pratt after Mr. Galvin had telephoned you? A Yes.

Q Do you mean to say that you telephoned Mr. Pratt while Mr. Galvin was in the office? A No, sir, before he came.

Q Had you seen Galvin that day before he came there? A No, sir.

Q When had you seen him before that? A Why, the night I sent him to Boston.

Q I mean, how long before had you seen him? A I would place it at some time after Christmas, around the New Year time.

Q Did you talk with Galvin over the wire when he telephoned or did Mahan do the talking?

Mr. Fairlie. I object to this. It has been gone into.

The Court. That is proper.

Q Did you talk with Galvin? A No.

Q Mr. Mahan did? A Yes, sir.

Q And you prompted Mahan what to say? A Yes, sir.

Q Did you tell Mr. Pratt Galvin was drunk? A I would not be able to do that. I couldn't say Mr. Galvin was drunk.

Q So you didn't tell him Galvin was drunk? A No.

Q So you didn't tell him Galvin was drunk and you were going to get an affidavit from him? A No, sir.

O When was it that you sold the stock to whomever you sold it to? To whom did you sell the stock? A Mr. Samuel Pratt.

Q When was that, have you got any idea? A Why, I can give you the exact date, March 3d and closed on April 1, 1916.

Q March 3d? A Yes.

Q Have you got any record of it there? A Yes, sir.

The Court. How does that throw any light on this suit.

Mr. Kalisch. It was gone into. I don't see myself where it throws any light.

Q Now then, you had made an arrangement to sell this before this was signed, had you? This was a memorandum of an agreement? A The night before.

Q You had had negotiations of some kind with Mr. Pratt for the sale of it? A No, sir.

Q You had not? A Not for the sale of it; negotiations to appoint a board of arbitration.

Q To adjust the question of the stock? A Another arrangement to have it left to the opinion of Mr. John R. Hardin.

Q When was that? A Telegram from Mr. Pratt.

Q What is the date of that? A On Washington's birthday. "Can't arrange meeting as promised today account holiday," following it by several 'phone calls and it got lukewarm and then he said, "I know the value of the stock better than Hardin."

Q Do you remember when the meeting of the directors was, don't you? A No, sir, I only attended the meeting of the stockholders.

Q You attended it? A No, sir.

Q Didn't you attend the directors' meeting in February, 1916, this year? A It wasn't so called. It was called the stockholders' meeting.

Q I mean stockholders' meeting? A Yes, sir.

Q When did you get paid for this stock, when did Mr. Pratt pay you?

Mr. Kalisch. I object to this. I don't see what it has to do with this suit.

The Court.. You may ask him when it was closed.

Q When did you get paid for it? A On the signing of that letter in his New York office a thousand dollars, the balance April 1st.

Q That was when you got the balance? A Yes, sir.

Q April 1, 1916? A Yes, sir.

Cross examination by Mr. Lum.

Q Mr. Kelly, was any other resolution passed regarding the purchase of stock excepting this one of February 1, 1912? That is the only resolution? A That is the only one.

By Mr. Fairlie.

Q There is in this D. K. 4 notice of the existence of the alleged option between the date of February 9, 1916, and the date of your sale of your stock to Mr. Pratt. What had happened in regard to your negotiations for the sale of the stock?

Mr. Kalisch. I object to that.

The Court. He was asked about that clearly on the direct examination.

Mr. Fairlie. Question withdrawn.

Q Prior to the time or subsequent to the time of the sending out of this notice, Exhibit D. K. 4, had you offered to sell your stock to Mr. Dreyfus and the companies at par with the division of profits as called for in that resolution?

Thomas F. J. Kelly, cross.

Mr. Kalisch. I object to that. It is gonig to open up some more inquiries and it is not re-direct.

The Court. You may ask him.

Mr. Kalisch. I object to the ruling of the Court.

Objection noted as ground of appeal.

A Before or after?

Q Either before or after? A Three days after.

By the Court.

Q After what? A After that was sent out to the directors, that notice of the alleged option of the stock.

By Mr. Fairlie.

Q Was your offer to sell the stock at par with division of profits accepted or refused? A At that time he suggested—

Mr. Kalisch. I object.

By the Court.

Q Was it accepted or refused? A Not refused and not accepted, left to Mr. Hardin.

By Mr. Fairlie.

Q Was the matter ever taken up with Mr. Hardin?

Mr. Kalisch. I object to that.

Mr. Fairlie. Question withdrawn.

Mr. Fairlie. I have one witness who is on his way down from West Orange.

The Court. Mr. Kalisch, you reserved the right to prove your affidavit?

Mr. Kalisch. Mr. Pomerehne, who was the attorney who took this affidavit, was here the first day, and since he has been engaged in the trial of a case. He said he would be here eleven o'clock.

FRANKLIN M. JONES, recalled in behalf of defendants.

Direct examination by Mr. Kalisch.

Q Mr. Jones, you spoke of Mr. Wence being in your employ? A He is one of the officers.

Q Has he been in your employ very long? A He has been one of the officers quite a number of years.

Q Do you know his handwriting? A I have seen it many times.

Q You can recognize it if you saw it? A I think I might.

Q Would you say whether this is Mr. Wence's handwriting? A It looks like it.

Q Will you say whether or not that is a letter sent out by the O. J. Gude Company and who dictated it? A It looks as though it has been signed by Mr. F. W. Wence.

Q Do you recognize that as a letter sent out by the O. J. Gude Company? A That is our letterhead.

Q Do you know whether or not this letter I have just shown you is one in answer to this one which the Gude Company received? A I can't say that. I didn't handle the correspondence myself.

Q But you identify this letter as one sent out by the O. J. Gude Company and you identify Mr. Wence's signature? A I identify the

letterhead as being our official and in all probability Mr. Wence signed it.

Mr. Kalisch. I offer this letter in evidence.

Marked Exhibit D. 9.

Letter marked Ex. D. 10.

Q What position did Mr. Wence occupy on December 30, 1915? A Second vice-president.

Q Of the company? A Yes, sir.

Q Did he take any active part in the management? A Parts of it.

Ex. D. 10 read to the jury.

Ex. D. 9 read to the jury.

GEORGE McINTYRE, sworn in behalf of defendants.

Direct Examination by Mr. Kalisch.

Q Where are you employed? A Representative Ivin B. Nordhem Company.

Q How long have you been in their employ? A Approximately seven months.

Q Were you ever in the employ of the Newark Sign Company? A Yes.

Q What position did you occupy? A I was there from January 1st, on or about January 1, 1913, to February, 1914, when I was changed to secretary and manager of sales, which position I held until July 1, 1915.

Q Were you ever a director of the company? A As an officer, yes.

Q Were you director during what period of time? A February, 1914, to February, 1915.

Q During the time that you were director of this company did you ever know of any signs of the Gude Company being defaced or burned or

destroyed or damaged by any employees of the Newark Sign Company? A Absolutely not.

Q You attended the meetings of the board of directors, the only meetings? A During my office as secretary.

Q During the time you were director? A Yes.

Q There were certain resolutions that were passed by the directors of the Newark Sign Company approving the acts of the officers and employees of the company; you recall such resolutions, don't you? A I am not familiar with it.

Q You don't remember that those resolutions were passed? A No.

Q Have you any recollection of it? A Neither one way or the other.

Q Do you recall whether at any of the directors' meetings which you attended any information was presented to the board of directors that signs belonging to the Gude Company, O. J. Gude Company, had been destroyed or damaged or dafaced or burned or flopped by the employees of the Newark Sign rompany or Poster Advertiser Company? A Absolutely not.

Q Or any of these defendant corporations? A Absolutely not.

Cross examination by Mr. Lum.

Q When did you first become a director? A February, 1914.

Q And you remained a director until February, 1915? A February, 1915.

Q During that year how many directors' meetings did you attend? A Possibly two or three. My recollection is not absolutely clear.

Q You have no clear recollection of any, have you? A Only as I before stated.

Q And you don't remember anything that was passed on the resolutions, do you? A If there is anything definite, possibly if you will mention it it may come to my mind.

Q You don't remember now anything? A No.

Q Did Mr. Pratt discuss the details of the business with you? A Sales and contract matters, yes.

Q He didn't discuss with you— A Yes, sir.

Q —about the competition of others in your territory, did he? A No.

Q That was not gone into at all; you had nothing to do with the general management of the business excepting the sales end? A Sales and merchandise.

Q And that was all? A Yes.

Q By whom are you employed now? A Ivin B. Nordhem.

Q What is their business? A They are one of the official solicitors for poster advertising companies throughout the United States.

Q Do you know whether Mr. Pratt has any connection with that company? A Absolutely not.

Q You have now no recollection of any directors' meetings during that year, have you? A I say as I stated before.

ARTHUR H. GUERTIN, sworn in rebuttal in behalf of plaintiff.

Direct examination by Mr. Lum.

Q Mr. Guertin, you are in the employ of the O. J. Gude Company? A Yes, sir.

Q Do you remember visiting the Dawson property? A The Dawson property at St. George's road and Jake's avenue, Rahway.

Q When did you go there? A On the 15th of January, 1915.

Q Immediately after did you go to the office of the Newark Sign Company? A I didn't go directly.

Q Did you later? A Yes.

Q Did you there see Mr. Kelly?

Mr. Kalisch. I think that is very leading. He can ask what he saw.

Q Who did you see? A I saw the girl first and asked for Mr. Kelly, the general manager.

Q Then did you see him? A Yes.

Q Did you see anybody else? A Mr. Kavney.

Q What took place? A I told him I had been down to Rahway and we had two signs that were down and there was a lot of others that had been taken down, and this fellow gave a description of a man and said he was a Newark Sign Company man.

Mr. Kalisch. I object and ask to have that stricken out.

Mr. Lum. I consent to it being stricken out.

Q Did Kavney state to you on this occasion that you have just mentioned that the Newark Sign Company had no men at Rahway since the 15th of December, 1914? A Yes, sir.

Q Did they go over any yellow slips with you to prove that? A Mr. Kelly ordered him to get the slips out, the time slips.

Q And then did he get them? A Yes, and he said there was nobody working there since the 15th of December.

Joseph Jarvis, direct.

Q Did Mr. Kelly further state that this matter of the destruction of signs would have to be stopped? A Yes, sir.

Q And that they would assist you in running down the common offender and would further keep you in touch with any information they might receive regarding the culprits? A Yes, sir.

JOSEPH JARVIS, recalled in behalf of the plaintiff, in rebuttal.

Direct Examination by Mr. Lum.

Q Mr. Jarvis, did you go down to the Dawson property in January, 1915? A Yes, sir.

Q Thereafter did you go to the Newark Sign Company's office? A Yes, sir.

Q Did you there see Mr. Kelly and Mr. Kavney? A Yes, sir.

Q Did or did not Mr. Kavney say that the Newark Sign Company had no men at Rahway since the 15th day of December, 1914? A Yes, sir.

Q Did Mr. Kelly also say that this matter of the destruction of signs would have to be stopped? A Yes, sir.

Q And that "the Newark Sign Company will be willing to help you run down the common offender?" A Yes, sir.

PLAINTIFF RESTS.

HENRY POMEREHNE, sworn in behalf of defendants.

Direct Examination by Mr. Kalisch.

Q Mr. Pomerehne, you are an attorney at law of the State of New Jersey? A Yes, sir.

Q And you are a counsellor-at-law? A Yes, sir.

Q How long have you been so? A Since 1905 attorney, and counsellor 1908.

Q And you are a Master in Chancery of New Jersey? A Yes, sir.

Q I show you a paper and ask you whether you ever saw it before? A Yes, sir.

Q Was that affidavit taken before you? A Yes, sir.

Q Was the man whose affidavit you took—was the man James Galvin, whose affidavit you took drunk or sober when you took that affidavit? A Sober at the time.

Cross Examination by Mr. Lum.

Q Mr. Pomerehne, do you know Mr. James H. Galvin? A I do not.

Q Never saw him before? A I never saw him before that time.

Q You don't know whether the man that signed that name there is actually James Galvin? A The man that signed that is the man who gave the name, James H. Galvin.

Q How long were you there on the preparation of this paper? A Why, four about, it must have been over half an hour.

Q Were you in the room all the time? A All the time the original notes of that affidavit were transcribed.

Q There was a great deal of discussion with reference to the original notes of this affidavit? A There had been some discussion before I got there.

Q When you got there who was in the room? A Myself and Mr. Kelly and one other man, I

forget his name, Mendham or Mahan. He was in court the other day.

Q Mahan, anybody else? A That is all in the room.

Q And there was quite a long discussion with reference to this affidavit? A There was some discussion before I got inside the room.

Q Did you see any lady there? A There was a stenographer outside of the partition. There was a glass partition which was open and there was a stenographer there with Officer Farrell of police headquarters.

Q Taking notes? A Taking notes.

Q When you got there? A No, when I got there.

Q All the time you were there the girl was taking notes? A Apparently she was.

Q And inside the room there was considerable discussion with reference to this affidavit? A There wasn't considerable discussion; there was some discussion about the affidavit before I got there.

Q Mr. Pomerehne, you don't know anything about the discussion before you got there?

The Court. Let him answer.

A There was a lot of talking in the office before I entered.

Q Do you want to tell us about the discussion of the affidavit that took place before you got there? A I didn't know anything about it.

Q I am asking you why you testified to that then? After you got there there was considerable discussion about this affidavit? A In the room?

Q Yes. A He made a voluntary statement which I took down on paper on original notes.

I think they are in the possession of the company. They were.

Mr. Lum. I would like to see the original notes.

Mr. Kalisch. We have those original notes. I offer to put them in if you would consent to them. I have not got them here now.

Q You made a draft of the affidavit in pencil first, didn't you? A On pad paper, ordinary scribble paper.

Q And that was the original of the affidavit? A And that was the original of the affidavit.

By Mr. Kalisch.

Q Did you read it over to him?

Mr. Lum. I object.

By Mr. Lum.

Q The matter of the affidavit was spoken of, you say, whether he should sign an affidavit, and so forth? A Whether he should sign an affidavit, I don't recall that.

Q What did he say about the subject of an affidavit? A He made the statement. some statement, I don't know what is in that affidavit now, but he made some statement which I took down on pad paper which was furnished to me by Mr. Kelly, by Mr. Mahan—I don't know which it was—and after it was written by me I read it over to him and asked him if that was right and he said yes and it was taken outside and some young man—not the lady I mentioned—copied it off and I handed it to this man and asked him to read it and he read it and I said, "Is that true?" and he said, "Yes."

Henry Pomerehne, cross.

Q You wrote out something on their letterhead and you say that letter was read out here the other day? A Yes.

Q And then after this came back it was given to the man to read? A That is right. It was handed to me and then I gave it to him to read and asked him if that was true and he said, "Yes," and asked him to sign it and I swore him.

Q There was quite a little talk in the room about the affidavit. Was there anything else discussed in the room beside the affidavit?

Mr. Kalisch. I object to that. I asked him only about the affidavit.

The Court. He can tell us all that took place.

Q (Question read). A I believe there was a conversation between Mr. Mahan and Mr. Galvin with reference to Galvin's wanting to get away to go to Philadelphia. He mentioned his wife there and he asked for the money several times.

Q That is all you heard? A I saw the money passed and the moment the money was passed Officer Farrell came in and at the point of a gun took him out.

Mr. Kalisch. I offer this in evidence.

Mr. Lum. I object.

By the Court.

Q Would you know Mr. Galvin if you saw him again? A I believe so.

By Mr. Kalisch.

Q Can you pick him out in the court room? A I think that is Mr. Galvin over there, the second man in the rear seat.

Q Just come out and point him out so there is no mistake about it. A I think that is Mr. Galvin.

Mr. Lum. Indicating Mr. Galvin.

Q And that is the same man you took this affidavit for? A Yes, sir.

Mr. Kalisch. I offer this in evidence.

The Court. It may be admitted.

Mr. Lum. I object. This witness has said when this came back he handed it to the man to read.

By Mr. Kalisch.

Q There are three words put in there, "Received the material?" Was that in there before the man signed it to the best of your recollection? A I can't say.

By the Court.

Q Whose writing is it? A It is not in mine.

Q It is not your handwriting? A It is not my handwriting.

Mr. Kalisch. Mr. Mahan testified it was put in.

Q You don't recollect? A I don't recall that, no, sir.

Mr. Kalisch. I offer this in evidence.

The Court. It may be admitted.

D. 1 for identification admitted in evidence as Exhibit D. 1.

Q Do you know when that young lady stopped taking the notes? A I do not. She was on one side of the partition and I was on the other side.

Q How did you know she was there? A I could see her because the two faces of this lady

and Farrell was disclosed to me. They were right over the partition, both of them together.

Q You didn't notice when the faces disappeared? A No, sir.

By Mr. Lum.

Q You saw her taking notes practically all the time she was there? A One time she had the book close up to her, leaning up against the back, where the window was open, and I didn't see her from that time because I was writing the affidavit.

By Mr. Kalisch.

Q Who sent for you? A Mr. Kelly.

Q He told you to take this affidavit; he rung you up? A If you want to go into things thoroughly—

Q Who rung you up? A Mr. Kelly.

Q And he told you to come over? A He told me to come over.

Mr. Kalisch. I offer the transcript in evidence.

Admitted in evidence as Ex. D. 11.

Mr. Fairlie. It is stipulated by counsel of the respective parties that an answer was filed by Mr. Kalisch for the defendants jointly, Newark Sign Company, Newark Billposting Company, Newark Poster Advertiser Company, Thomas F. J. Kelly, and Hugh J. Kavney, which is offered in evidence, and that subsequently a separate answer was filed on behalf of Mr. Kelly.

Admitted in evidence and marked Ex. D. K. 5.

Mr. Kalisch. Now, I want the further stipulation that the answer that was filed

by me in behalf of Mr. Kely was done under the impression that I represented Mr. Kelly, and after the mistake was found out I spoke to Mr. Fairlie, who said he represented Mr. Kelly and said he would file an answer for Kelly himself.

Mr. Lum. That is satisfactory. And I consent to a nonsuit as against Michael J. Cullen.

The Court. I do not see anything to connect him.

Mr. Lum. We discontinue as against Mr. Cullen.

Mr. Kalisch. I make a motion that there shall be a verdict directed in favor of the defendant corporations and the ground upon which that motion is made is this: that there has been no evidence showing that any of these acts that are said to have taken place were done by the defendant corporations or with their authority, implied or actual authority.

The Court. I think there are some facts to go to the jury and I shall let it go to the jury.

Mr. Kalisch. I object to this ruling of the Court.

Objection noted as ground of appeal.

PLAINTIFF RESTS.

DEFENDANTS REST.

Charge to Jury.

The Court charges the jury as follows:

CUTLER, *J.*

Gentlemen of the Jury: This action is brought by the O. J. Gude Company against the Newark Sign Company, Newark Billposting Company, Newark Poster Advertising Company, Thomas F. J. Kelly, Hugh J. Kavney, Samuel Pratt and Michael J. Cullen, to recover damages for injuries resulting from an alleged conspiracy.

In this case it is admitted that Michael J. Cullen has been shown not to be liable under this action, and therefore you will return a verdict of no cause of action against him. In other words, in considering this case, you may leave his name out of the same as if it had not been brought in the case because your verdict, by an admission of all the parties, will be a verdict of no cause against him, and that leaves the action against the three corporations and three individuals, Kelly, Kavney and Pratt.

It is well settled that an action will lie for a combination or a conspiracy by fraudulent and malicious acts to drive a trader out of business resulting in damages.

The gravamen in a civil action is not the conspiracy but the malice, the former is a matter of organization or inducement only in the pleadings and the evidence under which one or all the defendants may be found guilty.

The plaintiff in this case must establish by a preponderance of the evidence that one or more of the six defendants did some act or acts which resulted in the injury complained of and

that the act or acts so done were prompted by malice and ill will to enable it to recover damages in this case. Only the defendants who join in the conspiracy are liable, and, therefore, you can find no cause of action against all of the defendants or you can find a verdict against some of the defendants, or if the evidence establishes the fact, you can find some of the defendants liable and no cause of action as against others.

You are to determine whether the acts complained of were prompted by malice—malice in the law means nothing more than the intentional doing of a wrongful act without justification or excuse.

"A wrongful act is any act which in the ordinary course will infringe upon the rights of another to his damage, except it be done in the exercise of an equal or superior right. Intentionally to do that which is calculated in the ordinary course of events to damage, and which does in fact damage another in that other person's property or trade, is actionable if done without just cause or excuse. Such intentional action, when done without just cause or excuse, is what the law calls a malicious wrong."

In addition to the conspiracy there must have been something done pursuant to the conspiracy from which damages and injuries have proximately resulted to the plaintiff.

A conspiracy alone is never sufficient to support a civil action for damages. The gist of the civil action for damages suffered by reason of the conspiracy are the damages sustained by the plaintiff and not the confederating together.

It is not necessary, in order that the fact of a conspiracy may be established, that it should

be proved by evidence of an express agreement or compact between the alleged conspirators, or by the direct evidence of any agreement or compact.

A conspiracy may be proved inferentially or by circumstantial evidence.

Conspiracies from their very nature, it has been said, are usually entered into in secret and are consequently difficult to be reached by positive testimony, which renders it peculiarly necessary and proper to permit them to be inferred from circumstances.

Was there a conspiracy to injure the plaintiff, and, if so, who were concerned in it, are questions that you will have to answer.

The plaintiff has limited the time during which these defendants took part in the conspiracy, from January 1, 1910, to the beginning of this suit. There has been some evidence of acts previous to January 1, 1910. They should only be considered by you if they throw any light on the attitude of any of the defendants after that day.

There are three corporations charged with having taken part in this conspiracy; the Newark Bill Posting Company. This is a holding company. It did no active business although it had offices, stockholders and so on and you are to say whether there had been any evidence produced that establishes the fact that this company had any part in the conspiracy. You should consider all the testimony that has been offered on behalf of the plaintiff and on behalf of the defendants, and if it has been proved to your satisfaction that this company took part in the conspiracy you should find it liable to the plaintiff if injuries resulted to the plaintiff from such

conspiracy, but, if, on the contrary, you find that it does not appear by a preponderance of the testimony that this company was a party to the conspiracy or that the plaintiff did not suffer any injury therefrom your verdict should be in favor of this defendant.

The Newark Sign Company is another company charged with having engaged in this conspiracy.

This company entered into contracts for the erection of signs. The moneys received were turned over to the Newark Poster Advertiser Company. It had no bank account of its own.

You are to say by your verdict whether you are satisfied by a preponderance of the evidence that this company was a party to this alleged conspiracy.

The third corporation charged with being a party to this conspiracy is the Newark Poster Advertiser Company.

It appears from the testimony that this company was engaged in active business. It employed men to build and repair signs. It had a bank account. It drew checks on this account. It employed Mr. Galvin and the other witnesses who have testified in this case. Mr. Samuel Pratt was president of this company and Mr. Kelly was another of its officers. All checks had to be signed by Kelly and Pratt, while Mr. Kelly was an officer of this company. There was no evidence that the company ever took any formal action in this matter or authorized the officers to injure or destroy the property of the plaintiff. But Mr. Kelly says that the president directed the plaintiff's property to be damaged and injured in the manner in which he described while

the president, Mr. Pratt, says that he never gave any such directions or orders.

None of these corporations can be held liable for injuries resulting from the individual acts of its officers or directors not connected with their duties in their several corporations. But you are to say after considering all the testimony whether the officers of this company took part in this conspiracy, and if so, whether they were acting for the companies or in their individual capacities. If you find by a preponderance of the testimony that this company was a party to this conspiracy your verdict should be against the company, but if you find that this company was not a party to this conspiracy or that the plaintiff was not injured by the conspiracy your verdict should be for the defendant. You should next consider whether any of the three men charged with having joined in this conspiracy are guilty of the acts charged.

Thomas F. J. Kelly admits that he at the direction of Samuel Pratt ordered certain employees of the Newark Poster Advertiser Company to damage certain property of the plaintiff.

This defendant is just as liable if he directed some one else to do this damage as if he had done it personally, neither can he excuse himself by the plea that some one else requested or directed him to do it.

If you believe from all the testimony that this defendant, Kelly, was in a conspiracy with one or more others to injure the plaintiff and that in carrying out this conspiracy Mr. Kelly caused the property of the plaintiff to be damaged in the manner he has testified to you would be war-

ranted in finding a verdict against him in favor of the plaintiff.

Samuel Pratt denies he ever ordered or consented that any injury or damage be done to the property of the plaintiff's signs. Here is a direct contradiction of testimony and you are to say whether the plaintiff has established by a preponderance of the testimony that Mr. Pratt was a party to the conspiracy. Hugh J. Kavney also denies that he had anything to do with injuring the property of the plaintiff and that when he learned that the propery had been injured and destroyed by Galvin he immediately or soon after discharged him.

You have heard what the plaintiff's witnesses have said about the part that this man took in destroying these signs and you are to say from the evidence whether the plaintiff has established by a preponderance of the testimony that he was a party to this conspiracy.

As I have said conspiracy is not the gravamen of the charge, but may be both pleaded and proved as aggravating the wrong of which the plaintiff complains and enable it to recover against all as joint tort feasors; if the plaintiff fails in the proof of a conspiracy or concerted design it may still recover damages against such defendants as are shown to be guilty of the tort without such agreement.

A trader may lawfully engage in the sharpest competition with those in a like business by holding out extraordinary inducements, by representing his own wares to be better and cheaper than those of others, yet when he oversteps that line and commits an act with the malicious intent of inflicting injury upon his rival's business his conduct is illegal, and if damages result from it

the injured party is entitled to redress. There has been evidence offered showing that another company brought suit against some of these defendants on a similar complaint and that suit was settled by one of the defendant companies in this suit taking over that company; but that does not show the liability of the defendants in this suit to the present plaintiff, but it should be considered by you as showing the knowledge of at least some of the defendants that similar charges had been previously made.

You should carefully consider all the evidence that has been offered by the plaintiff and by the defendants.

If you find there was a conspiracy in which one or more of the defendants were engaged to injure and damage the plaintiff and that the plaintiff did suffer injury thereby or if you find there was no conspiracy, but if one or more of the defendants did the acts complained of, prompted by malice or ill will, with the purpose of injuring the plaintiff and its business and that such acts produce the injury complained of, the plaintiff is entitled to recover against such of the defendants as committed these acts; then you should go a step farther and determine the amount of damages to which the plaintiff is entitled.

The plaintiff is entitled to such damages as the evidence shows it has suffered by reason of the acts of these defendants or any one of them.

You must be governed by the evidence in determining the amount of damages sustained by the plaintiff. You cannot say that the plaintiff is entitled to recover the costs of repairing all signs because you may be satisfied that some of the defendants may have damaged some of the plain-

tiff's signs. You cannot say arbitrarily and without evidence that all the signs of the plaintiff repaired during this time were damaged by the defendants, but it is your duty to consider all the evidence that has been offered in this case and determine the actual number of signs, if you can, that were injured by these defendants.

You are to consider all the evidence and allow the plaintiff the reasonable cost of repairing the signs damaged by the defendants or any of them, if you believe any of the signs were so injured.

There is testimony showing that certain sign boards were injured by the defendants or their agents, if you believe any were so injured. If any signs were destroyed by the defendants or any of them the plaintiff is also entitled to recover in addition to the costs of repairing them the loss that it suffered by reason of the signs not being used and you have heard that when a sign was damaged or destroyed there had to be an allowance made to the person whose sign it was for the time it was out of commission. If you find that any of these acts of the defendants or defendant were malicious then you may award, in addition to the actual damages, what is known in law as exemplary damages.

Exemplary damages are not computed from the amount of damages actually sustained by the plaintiff but may be such amount as you consider should be paid if anything by way of punishment by such of the defendants as you find committed or caused to be committed the acts complained of by the plaintiff, but there can be no exemplary damages unless the acts were the malicious, unlawful acts of the parties doing it.

I am requested to charge certain principles of law which I will dispose of at the present time.

"10. A conspiracy is a combination of two or more persons to accomplish, by concerted action, some criminal or unlawful purpose, or some purpose, not in itself criminal or unlawful by criminal or unlawful means."

"1. It is sufficient to show unity of design and purpose, the common design being of the essence of a conspiracy."

"3. The jury may imply the conspiracy of all from the overt acts of each."

"42. Though the common design is the essence of the charge it is not necessary to prove that the defendants came together and actually agreed, in terms, to have that design, and to pursue it by common means. If it be proved that the defendants pursued by their acts the same unlawful object, often by the same means, one performing one part and another another part of the same, so as to complete it, with a view of the attainment of the same unlawful object, the jury will be justified in the conclusion that they were engaged in a conspiracy to effect that object; for every person entering into a conspiracy or common design, already formed, it is deemed in law a party to all acts done by any of the other parties, before or afterwards, in further of the common design."

I so charge you.

"5. Corporations are liable for torts done in conspiracy and combination between them. A concurrence of intent by several parties to act together in the accomplishment of an unlawful act or a lawful act by unlawful means, in which it is understood that they are to act to-

gether, is sufficient to constitute a conspiracy, although there is no express agreement to confederate together for such purpose."

I so charge you.

"6. Any act done by a party to an unlawful conspiracy in furtherance of and naturally flowing from the common design, is the act of each and all of the conspirators."

I so charge you.

"7. Whether or not the act done by a member of the conspiracy, and whether or not it naturally flowed from, and was done in furtherance of, the common design, are questions of fact for the jury."

I so charge you.

"9. It is not essential to the formation of a conspiracy that there should be a formal agreement between the parties to do the act charged. It is sufficient if the minds of the parties meet understandingly, so as to bring about an intelligent and deliberate agreement to do such acts, although such agreement be not manifested by any form of words."

I so charge you.

"11. When it appears that several persons have similar or identical grounds of complaint and entertain like feelings of resentment against another, and when, for the gratification of such feelings, they, by their acts and utterances, endeavor to destroy his business, each being aware of the feelings and doings of the other, and approving the results accomplished, it is for the jury to say whether there is sufficient evidence of a combination or common purpose to establish a conspiracy."

I so charge you.

"12. It has been decided by our Court of Errors and Appeals in Trainor *vs.* Wolff that where an injury is inflicted with a reckless and wanton disregard of the rights of the injured party exemplary damages may be recovered; and that case speaks of exemplary damages as 'damages as a punishment to the defendant.'"

I so charge you.

"13. Ordinarily a corporation cannot be held for punitive damages; that is, a corporation is not liable in punitive damages for the acts of its agents of either fault or negligence where an agent has merely failed to perform a duty or has performed it negligently. If, however, the company as such is in fault a different rule applies and in *Ackerson vs. Erie Railway Company,* our Supreme Court has said that a company for its own negligence may be justly held liable for smart money."

I so charge you.

"14. It is the wrongful personal intention to injure that calls forth the penalty and the liability to punitive damages springs from the wrongful motive of the defendant."

I so charge you.

"15. If the wrong is committed through mistakes, ignorance or mere carelessness the damages are limited to the actual injury received, but if the defendant acted maliciously, wilfully or with such gross negligence as to indicate a wanton disregard of the rights of others the jury are not confined in assessing damages or compensation but may give damages as a punishment to the defendant called exemplary, punitive or vindictive damages. For instance, in this state in the case of *Winters vs. Peterson,* 24 N. J. L.,

524, punitive damages were allowed for malicious destruction of timber. The object of exemplary or punitive damages is to punish the wrongdoer and not merely to compensate the person injured."

I so charge you.

"16. Wide latitude must be allowed to a jury in the event it may determine or decide to allow punitive damages as to what sum it will allow."

I so charge you.

"The jury may take into consideration the motives and conduct of a witness on the stand in determining whether they will believe the witness."

That is the law and I so charge you.

"1. The jury is to disregard all motions made by parties in this action, as that does not affect the rights of the parties after this Court has left the facts in the jury's hands."

That is so and I so charge you.

"4. The burden of proving the allegations set out by the complaint, which burden remains with the plaintiff throughout the entire case."

That is true and I so charge you.

"5. The jury should take into consideration the fact that defendant Kelly filed an answer denying allegations of complaint, but on the stand admitted the allegations of complaint."

I so charge you.

"6. The interest of the parties in the result may be considered in deciding what weight is to be given to their testimony."

I so charge you.

Now, gentlemen, apply the rules of law I have laid down to you to the evidence offered in this case—you are the sole judges of the evidence.

Pay no more attention to any portion of it that the Court has referred to than the evidence that has not been mentioned, but you are to take the evidence and consider it and judge it yourselves. If the evidence of a witness is contradictory and that cannot be reconciled with other evidence, you must determine which witness you will believe and in that connection you should consider whether the witnesses were interested. You may also consider their demeanor on the stand and all the facts and circumstances appearing in this case that throw any light on the question. You are to be governed in this case by the evidence which has been offered here throughout this trial. You must not consider evidence that has been given other than that has been given on the stand. You have no right to consider any facts which might have come to your personal knowledge outside of the trial of this case. This case is to be tried entirely on the evidence as it has been produced here before you on the witness stand. Determine whether there was a conspiracy to injure the plaintiff in the manner complained of and whether the plaintiff was injured thereby; whether any or all of the defendants participated in this conspiracy and if not all the defendants then which of the six, if any, took part in the conspiracy; if there was no conspiracy then whether any or all of the defendants did any unlawful acts that injured the plaintiff and if any of the defendants, then which one of the defendants. If there was a conspiracy then all the parties to such conspiracy are liable for all the damages resulting from the illegal acts of any or all, of the acts done in compliance with the terms of such conspiracy. If there was no conspiracy then only the defendants who did the in-

jury to the plaintiff by himself or his agent would be liable for the damage so done and the other defendants who took no part in the doing of the unlawful act would not be liable. If you find any of the defendants liable then determine the amount of damages to which the plaintiff is entitled under the rules I have laid down. If you find there was no conspiracy or that the plaintiff was not damaged thereby, your verdict should be for the defendants unless you are satisfied by a preponderance of the evidence that such defendant did, individually himself, or by his direction and order, others did some act to damage the plaintiff or the plaintiff's property, against such of the defendants who did such act to injure the plaintiff's property, and did injure the plaintiff's property, your verdict should be and the amount of the damages should be ascertained in the manner which I have laid down.

Now, gentlemen, take this case; consider it carefully. It has been tried at great length. It has been tried in a very careful and able manner by counsel engaged by the plaintiff and the defendants and it has been laid before you and you are the sole judges of this evidence. Take this case and decide it under the rules I have laid down from the evidence that has been offered in this case.

(The jury retires.)

Mr. Lum. I except to your Honor's charging the request of the defendants. I except to each charge.

Objection noted as ground of appeal.

Mr. Lum. I except to what your Honor stated in reference to the officers aside of the companies being bound, or whatever con-

struction your Honor put on that as of the Newark Advertising Company.

Exception allowed.

Mr. Lum. And I except to what your Honor said with reference to Pratt's denial to consent on the ground that Pratt's denial was found merely on a statement that he did not order.

Mr. Lum. I except to what your Honor said with reference to the taking over of the New Jersey Sign Company on the ground that Mr. Kelly's testimony stated expressly that the settlement of damage was one of the terms of that.

Mr. Lum. I also except to your Honor's refusal to charge each of the requests of the plaintiff in the wording of the request, an exception being taken to each one separately.

Mr. Lum. I also except to your Honor's refusal to charge the second request and the eighth request.

Exceptions noted as ground of appeal.

Mr. Kalisch. I want to take exception to that part of your Honor's charge wherein your Honor said that there is evidence to show that some of the signs were damaged by some of the defendants and all that your Honor said on that point.

The Court. I will recall the jury.

Mr. Kalisch. Your Honor said the jury may consider it. I take exception to what your Honor said on that point.

The Court. I refuse to charge No. 2 and No. 3 and you may take exception to that.

Exceptions noted as ground of appeal.

Exceptions to Charge.

Mr. Kalisch. I take exception to that part of your Honor's charge wherein your Honor said that if the officers were connected with the companies the companies may be held.

Objections noted as ground of appeal.

Mr. Kalisch. And whatever your Honor said upon the former suit brought by the New Jersey Sign Company, I take exception to that, or any other suit that was mentioned by your honor. Also on the question of settlement, which was part of what your Honor said as to the suit, I take exception to your Honor telling the jury that fact may be considered as against the defendant corporations.

Objections noted as ground of appeal.

Mr. Kalisch. And I take exception to that part of your Honor's charge wherein your Honor said the jury may allow damage for other signs beside the seven signs which was our contention was the only element of damage.

The Court. Objection noted as ground of appeal.

(By direction of the Court the jury returns to the court room.)

The Court. Gentlemen, counsel thinks that the Court erred in saying to you that there was evidence that some of the signs were damaged by some of the defendants. That is a matter for you to determine. The whole question is a question for your determination and you are to say whether the evidence shows that there were any signs

damaged by some of the defendants. The whole question is a question for you. I did not mean to take it out of your hands by determining what the evidence is.

(The jury again retires.)

Verdict.

The jury rendered a verdict of $10,000 in favor of the plaintiff.

Exhibits P. 1, P. 2.

Exhibits.

EXHIBIT P. 1.

Order CD8641 Lease Contract

INSTRUCTIONS Date Finished 1-26

Manhattan Transfer. Rebuild Ryzon. Palm Beach. Size

TIME Retouch Letters

No.	Employee	Date	Exp.	Began	Fin.	H.	Cost
153	J. Geighman	1-25	35	8	5	8	2.75
125	H. Keller	1-25	35	8	5	8	2.00
168	Zahn	1-25	35	8	5	8	2.50
188	Oduber	1-25	35	8	5	8	2.50
	Storage		60				
	Telephone		65				
197	F. Fitzsimmons	1-26	20	8	12	4	1.50
168	Zahn	1-26	20	8	12	4	1.25

Retouch Picture
Coated?
Scaffold?
COSTS
Material
Labor
Dept. Exp.
Expenses
TOTAL
Contract
Notification
Record
Diagram
Lists
Lease
Ledger
Distribution

Order Date	Quant.	Material	Cost	Employee	No.

DIAGRAM AND REMARKS.

P. 1—6-13-16.

Exhibit P. 1 is printed in full as a sample form. Exhibits P. 2, P. 4, P. 5, P. 16, P. 17, P. 19 and P. 20 are the same in form as Exhibit P. 1; the names of employees, items of time and cost of material being omitted in detail, but Total Cost of Material, Labor, Dept. Expense, and Expenses are printed to show the Grand Total.

EXHIBIT P. 2.

Order C-D-8641 Lease 1638-ER Contract

INSTRUCTIONS—Manhattan Transfer, N. J., ⅛ Mi. East of Manhattan Transfer, North of P. R. R.

Rebuild Ryzon (21x88) 4.4 E.

Palm Beach Cloth (30x50) 4.6 E.

Signs are blown down.

Reported by Mr. W. E. Gude. Dec. 27, 1916.

Date Finished—1-26.

Paint Ryzon Sat. Finished.

COSTS—Material, $445.27. Labor, $237.51. Dept. Exp., $178.13. Expenses, $46.80. TOTAL, $907.71.

Exhibits P. 4, P. 5, P. 16, P. 17.

EXHIBIT P. 4.

Order C-C-5075 Lease 313-R. R. Contract
INSTRUCTIONS—Elizabethport, N. J., ½ Mile East of Station, North of CRR. of NJ. (Opp. Singer Sewing Machine Factory).
Rebuild Haig & Haig, No. 3.
Sign No. 2.22 K.
Sign is partly down.
Repaired at once.
14-40x286. C-14x40. 95782-1.
January 9, 1913.
Date Finished, 2-17.
COSTS—Material, $225.23. Labor, $231.62. Dept. Exp., $69.48. Expenses, $78.65. TOTAL, $604.98.

EXHIBIT P. 5.

Order C-C-2814 Lease 313 Contract
INSTRUCTIONS—Elizabethport, N J.
Repair Haig & Haig.
August 2, 1912.
Date Finished, 8-2-12.
COSTS—Material, $3.78. Labor, $6.87. Dept. Exp., $2.06. Expenses, $1.30. TOTAL, $14.01.

EXHIBIT P. 16.

Order C-B-6867 Lease 565a-RR. Contract 11970
INSTRUCTIONS—Hackensack Meadows, N. J., ¾ Mile West of Station, North of D. L. & W. R. R.
Rebuild Haig & Haig sign.
Sign No. C 3.16.
Repaint at once. F-803.
June 4, 1911.
Date Finished, 6-26.
COSTS—Material, $86.02. Labor, $123.40. Dept. Exp., $30.85. Expenses, $20.66. TOTAL—$260.93.

EXHIBIT P. 17.

Order C-C-7 Lease 565a-R. R. Contract
INSTRUCTIONS—¾ Mile West of River, North of Tracks, Hackensack Meadows, D. L. & W. R. R.
Repair Haig & Haig.
No. C-3.16.
Date Finished, 1-8.
COSTS—Material, $90.17. Labor, $121.27. Dept. Exp., $72.76. Expenses, $16.35. TOTAL, $300.55.

Exhibits P. 19, P. 20, P. 24.

EXHIBIT P. 19.

Order C-D-4975 Lease 1423-RR, 1840-RR. Contract

INSTRUCTIONS—Perth Amboy Jct., N. J., ¾ Mile West of Rahway Station, North of Penn. R. R.

Rebuild the following signs:—Cusonier—P. 3-8, King Geo. IV.—P. 3.10.

These signs were cut down. Mr. Jarvis has located lumber. Diagram attached. G. L.

January 18, 1915. February 25, 1916.

Date Finished, 3-2.

COSTS—Material, $63.71. Labor, $24.77. Dept. Exp., $12.39. Expenses, $9.40. TOTAL, $110.27.

EXHIBIT P. 20.

Order C-C-5751 Lease 1991-RR. Contract

INSTRUCTIONS—Linden, N. J., 2 Blks. East of Station, North of Penn. R. R.

Rebuild Gimbel. Sign No. 1.18 M.

About 20 ft. down on one end. Reported by painters.

March 4, 1913.

Date Finished, 3-7.

COSTS—Material, $16.94. Labor, $11.00. Dept. Exp., $3.30. Expenses, $3.65. TOTAL, $34.89.

EXHIBIT P. 24.

Form 25 4-21-11 D & Co.

THE O. J. GUDE CO., N. Y.

6-14-16 No. 14670

Term of Contract: One (1) Year. New York, Dec. 6th, 1912.

We hereby authorize you to enter our order for 150 spaces located as per list below: for which we promise to pay THE O. J. GUDE CO., N. Y., or order Nine Thousand and no-100 Dollars per annum, payable $750.00 monthly in advance.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

CONTRACT BEGINS on date set against each location and ends one year thereafter.

No specific assignment of space assured until this order is accepted by

H. B. TURNER,

Contract Clerk for The O. J. Gude Co., N. Y.

Name—Francis Draz & Co., Address—24 Hudson St., N. Y. City.

LOCATION	Size	Now Painted for	Space No.	Price per Month
N. Y., N. H. & H. R. R. Park Ave. & 150th-151st Sts. East of tracks. Sign No. A 2.10	10x48 Ft	King Geo. IV.	1677-RR	$ 5.00
Williamsbridge, NY 2 Blks. So. of Sta., West of tracks Sign No. 1.9 C 1-8-13	10x48 Ft	"	1900-RR	5.00
Willimsbridge, NY 2 Blks. No. of Sta., East of tracks Sign No. C 1.16 1-4-13	10x48 Ft	"	125-RR	5.00

Exhibit P. 24.

Woodlawn, N. Y., ¼ Mi. South of Sta., East of tracks Sign No. 1.6 D 1-9-13	10x48 Ft	King Geo. IV.	2074-RR	$ 5.00
Woodlawn, N. Y. 3 Blks No. of Sta., east of tracks Sign No. D 2.2 12-8-12	10x48 Ft	"	1853-RR	5.00
New Rochelle, N. Y., ⅛ Mi. So. of Sta. West of tracks Sign No. 2.3 H 12-28-12	10x48 Ft	"	1426-RR	5.00
New Rochelle, N. Y., 1¼ Mi. No. of Sta., East of tracks Sign No. H 5.2 4-21-14	10x48 Ft	"	2202-RR	5.00
Larchmont, N. Y. Just North of Sta., West of tracks Sign No. J 1.9 2-21-13	10x48 Ft	"	1881-RR	5.00
Larchmont, N. Y. 1 Blk. North of Sta., East of tracks Sign No. J 1.6 12-29-12	10x48 Ft	"	2024-RR	5.00
Mamaroneck, N. Y., 3 Blsk So. of Sta., West of tracks Sign No. 1.1 K 1-4-13	10x48 Ft	"	1489-RR	5.00
Mamaroneck, N. Y., ¾ Mi. North of Sta., West of tracks Sign No. K 3.3 12-9-12	10x48 Ft	"	2203-RR	5.00
Harrison, N. J., Just North of Station, west of tracks Sign No. L 1.3 1-3-13	10x48 Ft	"	797-RR	5.00
Portchester, ½ Mile South of Sta., West of tracks Sign No. 2.3 N 1-5-13	10x48 Ft	"	1844-RR	5.00
Riverside, Conn., Opposite Station, West of tracks, Sign No. Q 0.3 1-15-13	10x48 Ft	"	961-RR	5.00
Sound Beach, Conn. ¼ Mi. So. of Sta., East of tracks, Sign No. 1.8 R 1-2-13	10x48 Ft	"	1277-RR	5.00
Sound Beach, Conn. Just North of Sta., West of tracks Sign No. R 1.7 1-9-13	10x48 Ft	"	1470-RR	5.00
East Norwalk, Conn., ¼ Mi. South of Sta. West of tracks Sign No. 1.3 W 4-20-13	10x48 Ft	"	2340-RR	5.00
Greens Farms, Conn., Opposite Station, East of tracks Sign No. Y 0.2 1-10-13	10x48 Ft	"	217-RR	5.00
Stratford, 1½ Mi. South of Station, East of tracks Sign No. 6.2 CC 1-23-13	10x48 Ft	"	2053-RR	5.00
Stratford, ¼ Mile South of Station, East of tracks	10x48 Ft	"	2551-RR	5.00
Stratford, Conn. 1 Mi. North of Sta., West of tracks Sign No. CC 4.3 12-18-12	10x48 Ft	"	914-RR	5.00
SHORE LINE DIVISION				
Milford, Conn., 1 Mi. North of Sta., East of tracks 4-10-13	10x48 Ft	"	2339-RR	5.00
East Haven, Conn. Just north of Sta. West of tracks 4-5-13	10x48 Ft	"	2338-RR	5.00
Guilford, Conn. 1 Mi. South of Sta., West of tracks 4-6-13	10x48 Ft	"	2337-RR	5.00

Exhibits P. 24.

Clinton, Conn., 1 Mi. North of Sta., East of tracks 4-8-13	10x48 Ft	King Geo. IV.	2335-RR	$ 5.00
Black Hall, Conn., ¾ Mi. North of Sta. East of tracks 3-27-13	10x48 Ft	"	2332-RR	5.00
Sound View, Conn. Opposite Station, West of tracks 3-28-13	10x48 Ft	"	2331-RR	5.00
Crescent Beach, Conn. ⅛ Mi. So. of Sta., E. of tracks 3-30-13	10x48 Ft	"	2333-RR	5.00
Waterford, Conn. ¼ Mi. North of Sta., West of tracks 4-9-13	10x48 Ft	"	2330-RR	5.00
Groton, Conn. 2 Mi. North of Sta., East of tracks 3-26-13	10x48 Ft	"	2336-RR	5.00
West Mystic, Conn., ¼ Mi. South of Sta., West of tracks 3-20-13	10x48 Ft	"	2329-RR	5.00
Stonington, Conn. 2 Mi. North of Sta., East of tracks 3-13-13	10x48 Ft	"	2328-RR	5.00
Stonington, Conn. ½ Mi. North of Sta., West of tracks 12-21-12	10x48 Ft	"	1289-RR	5.00
Westerly, R. I. 1 Mi. North of Sta., West of tracks, 3-14-13	10x48 Ft	"	2326-RR	5.00
Westerly, R. I. 1½ Mi. North of Sta., East of tracks 3-14-13	10x48 Ft	"	2323-RR	5.00
Bradford, R. I. Just South of Sta., East of tracks 3-16-13	10x48 Ft	"	2327-RR	5.00
Bradford, R. I. 1½ Mi. North of Sta., West of tracks 3-16-13	10x48 Ft	"	2325-RR	5.00
Slocums, R. I. ¼ Mi. South of Sta., East of tracks 3-22-13	10x48 Ft	"	2322-RR	5.00
Wickford Jct. Sta., R. I. 1 Mi. North of Sta., West of tracks 3-11-13	10x48 Ft	"	2321-RR	5.00
E. Greenwich, R. I. 1 Mi. South of Sta., East of tracks 3-9-13	10x48 Ft	"	2320-RR	5.00
Apponaug Sta. R. I. Just North of Sta. West of tracks 3-8-13	10x48 Ft	"	2318-RR	5.00
Norwood Sta., R. I. 2 Blks. No. of Sta. East of tracks 3-6-13	10x48 Ft	"	2319-RR	5.00
Pleasantview, Mass. ¼ Mi. North of Sta. East of tracks 3-19-13	10x48 Ft	"	2307-RR	5.00
Dodgeville, East. Jct. (Opp. E. Jct.) 1 Mi. South of Dodgeville, Mass. West of tracks 3-4-13	10x48 Ft	"	2306-RR	5.00
West Mansfield, Mass. 1 Mi. So. of Sta. East of tracks 2-27-13	10x48 Ft	"	2306-RR	5.00
Mansfield, Mass. ½ Mi. South of Sta. West of tracks 2-26-13	10x48 Ft	"	2305-RR	5.00
E. Foxboro, Mass. ¼ Mi. South of Sta., West of tracks 2-28-13	10x48 Ft	"	2317-RR	5.00

Exhibit P. 24.

Sharon Heights, Mass. ¾ Mi. South of Sta., East of tracks 3-2-13	10x48 Ft	King Geo. IV.	2315-RR	$ 5.00
Sharon Heights, Mass. 1¼ Mi. North of Sta., West of tracks 3-1-13	10x48 Ft	"	2316-RR	5.00
Deadham Rd. Sta. (Canton, Mass.) 2 Blks. South of Station, East of tracks 2-29-13 N. Y. C. & H. R. R. R.	10x48 Ft	"	2309-RR	5.00
River Ave. & 151st Street, West of tracks, Sign No. A 4.13 1-22-13	10x48 Ft	"	1926-RR	5.00
Highbridge, N. Y. 1 Blk. North of Sta. East of tracks Sign No. B 1.2 1-5-13	10x48 Ft	"	1960-RR	5.00
Highbridge, N. Y., ¼ Mi. North of Sta. East of tracks Sign No. B 2.16 12-8-12	10x48 Ft	"	1838-RR	5.00
Kingsbridge, N. Y., 3 Blks South of Sta. East of tracks Sign No. 1.2 D 1-22-13	10x48 Ft	"	1830-RR	5.00
Kingsbridge, N. Y., ¼ Mi. North of Sta. West of tracks Sign No. D 1.9 3-5-13	10x48 Ft	"	2184-RR	5.00
Greystone, N. Y., 1 Blk No. of Sta. East of tracks Sign No. L 1.8 3-22-13	10x50 Ft	"	2387-RR	5.00
Tarrytown, N. Y., ¾ Mi. No. of Sta. East of tracks Sign No. Q 3.8 3-25-13	10x48 Ft	"	1464-RR	5.00
Scarborough, ½ Mi. North of Sta., East of tracks Sign No. R 2.2 4-12-13	10x48 Ft	"	338-RR	5.00
Croton-on-Hudson, NY ¼ Mi. South of Sta. W. of tracks Sign No. 2.1 T 1-17-13	10x48 Ft	"	959-RR	5.00
Croton-on-Hudson, NY ¾ Mi. South of Sta. East of tracks Sign No. 3.2 T 2-14-13	10x48 Ft	"	2109-RR	5.00
Crugers, N. Y. 1 Blk. South of Sta., West of tracks Sign No. 1.3 V 2-15-13	10x48 Ft	"	917-RR	5.00
Montrose, N. Y. ¼ Mi. So. of Sta., East of tracks Sign No. 2.2 W 2-13-13	10x48 Ft	"	1919-RR	5.00
Peekskill, N. Y. 1 Mi. South of Sta., West of tracks Sign No. 4.1 X 5-1-13	10x48 Ft	"	1678-RR	5.00
Fishkill Landing, Opposite Sta. East of tracks Sign No. 0.2 DD 1-26-13	10x48 Ft	"	1003-RR	5.00
Chelsea, N. Y. ¼ Mi. South of Sta., East of tracks Sign No. 1.6 EE 7-16-13	10x48 Ft	"	2430-RR	5.00
Poughkeepsie, NY (N. E. Cor. Prospect & Fox Sts.) 1 Mi. South of Station, East of tracks Sign No. HH 1.2 7-3-13	10x48 Ft	"	2417-RR	5.00

Exhibit P. 24.

Linlithgo, N. Y. (Along Washburn Co. Road) South of Station, East of tracks Sign No. 2.1 QQ 7-15-13	10x48 Ft	King Geo. IV.	2416-RR	$ 5.00
Stockport Landing, N. Y. 1 Mi. No. of Sta., E. of tracks Signs No. TT 4.2 7-19-13	10x48 Ft	"	2419-RR	5.00
Newton Hook, 1 Mi. South of Sta., West of tracks, Sign No. 4.1 UU 7-19-13	10x48 Ft	"	2152-RR	5.00
Newton Hook Sta., ¼ Mi. North of Sta. East of tracks Sign No. UU 1.2 7-18-13	10x48 Ft	"	2415-RR	5.00
Stuyvesant, N. Y. ½ Mi. So. of Sta. East of tracks Sign No. 2.4 VV 7-20-13	10x48 Ft	"	2418-RR	5.00
Shodack Landing, abt. ¼ Mi. South of Sta. East of tracks Sign No. 1.2 WW 7-20-13	10x48 Ft	"	2403-RR	5.00
Castleton, abt. 3 Mi. North of Sta., West of tracks Sign No. XX 12.1 8-24-13	10x48 Ft	"	2398-RR	5.00
Castleton, abt. 1 Mi. North of Sta. East of tracks Sign No. XX 4.2 8-21-13	10x48 Ft	"	2397-RR	5.00
Rensselaer, 2 Mi. South of Station, West of tracks Sign No. 8.1 YY 8-3-13	10x48 Ft	"	2401-RR	5.00
Rensselaer, N. Y. 2 Mi. South of Sta. East of tracks Sign No. 8.2 YY 7-24-13	10x48 Ft	"	2402-RR	5.00
PENNSYLVANIA RAILROAD				
Marion, N. J. ¾ Mile West of Sta., South of tracks Sign No. B 3.9 12-20-12	10x50 Ft	"	716b-RR	5.00
Newark, N. J. ¼ Mi. West of South St. Sta., So. of tracks Sign No. G 1.3 1-18-13	10x48 Ft	"	1873-RR	5.00
Waverly, N. J. 3 Blks. East of Sta. North of tracks Sign No. 1.8 H 1-10-13	10x48 Ft	"	1733-RR	5.00
Waverly, N. J. ¼ Mi. West of Sta., North of tracks Sign No. H 1.8 3-1-13	10x48 Ft	"	2039-RR	5.00
North Elizabeth, N. J. ½ Blk. East of Sta. North of tracks Sign No. J 1.2 2-24-13	10x48 Ft	"	2224-RR	5.00
North Elizabeth, N. J. 1 Blk. West of Sta., So. of tracks Sign No. J 1.13 1-5-13	10x48 Ft	"	2235-RR	5.00
South Elizabeth, N. J. ¼ Mi West of Sta., So. of tracks Sign No. L 1.9 12-30-12	10x48 Ft	"	1872-RR	5.00
Linden, N. J. ⅛ Mi. East of Sta., North of tracks Sign No. 1.4 M 12-9-12	10x48 Ft	"	1807-RR	5.00
Linden, N. J. ¾ Mi. West of Sta., South of tracks Sign No. M 3.11 2-28-13	10x48 Ft	"	2233-RR	5.00

Exhibit P. 24.

Rahway, N. J. ¼ Mi. West of Sta., South of tracks Sign No. P 1.3 4-6-13	10x48 Ft	King Geo. IV.	2344-RR	$ 5.00
Perth Amboy Jct., N. J. ¾ Mi. West of Rahway, North of tracks Sign No. P 3.10 4-12-13	10x48 Ft	"	1840-RR	5.00
Colonia Sta., N. J. ½ Mi. West of Sta., north of tracks Sign No. PP 2.2 2-27-13	10x48 Ft	"	2227-RR	5.00
Iselin, N. J. 2 Blks West of Sta. South of tracks Sign No. Q 1.3 2-27-13	10x48 Ft	"	2225-RR	5.00
Menlo Park, N. J. Opposite Station, south of tracks Sign No. 0.5 R 1-8-13	10x48 Ft	"	1448-RR	5.00
Metuchen, N. J. ¾ Mi. East of Sta., South of tracks Sign No. 3.1 S 4-15-13	10x48 Ft	"	2230-RR	5.00
Stelton, N. J. ¾ Mi. East of Sta., North of tracks Sign No. 3.4 T 4-27-13	10x48 Ft	"	1445-RR	5.00
Stelton, N. J. ¼ Mi. West of Sta., South of tracks Sign No. T 1.1 2-19-13	10x48 Ft	"	1498-RR	5.00
New Brunswick, N. J. 1¼ Mi. West of Sta., So. of tracks Sign No. U 5.1 1-30-13	10x48 Ft	"	2206-RR	5.00
Adams, N. J. ½ Mi. E. of Sta., South of tracks Sign No. 2.1 V 3-7-13	10x48 Ft	"	2208-RR	5.00
Adams, N. J. 1 Mi. East of Sta. North of tracks Sign No. 4.2 V 3-7-13	10x48 Ft	"	2209-RR	5.00
Adams, N. J. 1¼ Mi. West of Sta., North of tracks Sign No. V 6.2 3-8-13	10x48 Ft	"	2210-RR	5.00
Adams, N. J. 1½ Mi. West of Sta. South of tracks Sign No. V 6.1 3-8-13	10x48 Ft	"	2289-RR	5.00
Deans, N. J. Just West of Sta., North of tracks Sign No. W. 2.2 3-9-13	10x48 Ft	"	2290-RR	5.00
Monmouth Jct., N. J. abt. 1 Mi. E. of Sta. North of tracks Sign No. 4.2 X 3-5-13	10x48 Ft	"	2292-RR	5.00
Monmouth Jct., N. J. 1 Mi. West of Sta. South of tracks Sign No. X 4.1 1-16-13	12x50 Ft	"	133-RR	5.00
Monmouth Jct., N. J. Abt. 2 Mi. West of Sta. No. of trks Sign No. X 8.2 3-3-13	10x48 Ft	"	2291-RR	5.00
Plainsboro, N. J. ½ Mi. East of Sta., South of tracks Sign No. 6.1 Y 3-6-13	10x48 Ft	"	1-RR	5.00
Plainsboro, N. J. Just West of Sta., North of tracks Sign No. Y 1.2 3-5-13	10x48 Ft	"	2293-RR	5.00
Princeton Jct., N. J. 1 Blk. East of Sta. South of tracks Sign No. 1.1 E 3-2-13	10x48 Ft	"	187-RR	5.00

Exhibit P. 24.

Princeton Jct., N. J. 1 Mi. W. of Sta., North of tracks Sign No. Z 4.4 1-6-13	10x48 Ft	"	129-RR	5.00
Lawrence, N. J. ⅛ Mi. East of Sta., South of tracks Sign No. 1.3 AA 2-27-13	10x48 Ft	"	1647-RR	5.00
Lawrence Sta., N. J. 1 Mi. East of Sta. North of tracks Sign No. 4.2 AA 2-28-13	10x48 Ft	"	2295-RR	5.00
Lawrence, N. J. abt. 1 Mi. West of Sta., north of tracks Sign No. AA 4.4 2-29-13	10x48 Ft	"	2296-RR	5.00
Trenton, N. J. abt. 2 Mi. East of Sta. nr. Hamilton Mills, So. of tracks Sign No. 8.1 BB 3-2-13	10x48 Ft	"	2310-RR	5.00
Morrisville, Pa. abt. ½ Mi. West of Sta. So. of tracks Sign No. CC 2.1 2-20-13	10x48 Ft	"	2313-RR	5.00
Wheatsheaf, Pa. Opposite Sta. South of tracks Sign No. 0.1 DD 2-19-13	10x48 Ft	"	1651-RR	5.00
Morrisville, Pa. 1¼ Mi. East of Wheatsheaf, No. of trks Sign No. 5.2 DD 2-20-13	10x48 Ft	"	2312-RR	5.00
Tullytown, Pa. ¼ Mi. West of Sta., No. of tracks Sign No. EE 1.2 2-17-13	10x48 Ft	"	2314-RR	5.00
Bristol, Pa. 1 Mi. East of Sta. North of tracks Sign No. 4.2 FF 3-17-13	10x48 Ft	"	2300-RR	5.00
Bristol, Pa. abt. ½ Mi. South of Sta. East of Baseball Park, West of tracks Sign No. FF 2.2 4-1-13	10x50 Ft	"	2035-RR	5.00
Croydon, ½ Mi. East of Sta., Lot No. 228 South of tracks Sign No. 2.1 GG 3-30-13	10x49 Ft	"	2352-RR	5.00
Torresdale, ¾ Mi. West of Station, north of tracks Sign No. LL 3.2 3-30-13	10x48 Ft	"	2348-RR	5.00
Cornwells, Just East of Sta., South of tracks Sign No. 1.2 JJ 2-14-13	10x48 Ft	"	2302-RR	5.00
Torresdale, ¾ Mi. West of Station, South of tracks Sign No. LL 3.3 3-28-13	10x48 Ft	"	2349-RR	5.00
Frankfort, Phila., Pa., 2 Blks East of Frankfort Jct., No. of tracks 2-15-13	10x48 Ft	"	2304-RR	5.00
Derby, Pa. abt. 2 Blks South of Sta., East of tracks 6-24-13	10x48 Ft	"	2358-RR	5.00
Norwood, ¼ Mi. South of Station, bet. Washington & Philadelphia, East of tracks 2-6-13	10x48 Ft	"	2303-RR	5.00
Chester, Pa. abt. 3 Blks North of Thurlow Station, West of tracks 6-26-13	10x48 Ft	"	2359-RR	5.00

Exhibit P. 24.

Marcus Hook, abt. 2 Blks North of Sta., West of tracks 7-3-13	10x48 Ft	"	2360-RR	5.00
Marcus Hook, Pa. abt. 1 Mi. West of Sta., So. of tracks 6-27-13	10x48 Ft	"	2365-RR	5.00
Wilmington, Del. abt. ½ Mi. East of Sta., South of tracks 6-28-13	10x48 Ft	"	2361-RR	5.00
Newport, Del. ⅛ Mi. East of Sta., North of tracks 6-29-13	10x48 Ft	"	2367-RR	5.00
Stanton, Del. abt. ⅛ Mi. East of Sta., North of tracks 6-29-13	10x48 Ft	"	2364-RR	5.00
Ruthby, Del. abt. ½ Mi. West of Sta. South of tracks 7-1-13	10x48 Ft	"	2363-RR	5.00
Iron Hill, Md. abt. ⅛ Mi East of Sta., North of tracks 7-2-13	10x48 Ft	"	2362-RR	5.00
North East, Md. abt. ½ Mi. West of Sta. north of tracks 7-3-13	10x48 Ft	"	2354-RR	5.00
Charlestown, Md. Just East of Sta., South of tracks 7-5-13	10x48 Ft	"	2355-RR	5.00
Havre de Grace, Md., Just West of Sta., North of tracks 7-6-13	10x48 Ft	"	2356-RR	5.00
Aberdeen, Md. 1 Mi. So. of Station, east of tracks 7-30-13	10x48 Ft	"	2366-RR	5.00
Magnolia, Md. abt. 1 Mi. East of Sta. South of tracks 7-8-13	10x48 Ft	"	2357-RR	5.00
Chase, Md. Opposite Station, North of tracks 7-8-13	10x48 Ft	"	2370-RR	5.00
Stemmers Run, Md. abt. ⅛ Mi. East of Sta. So. of tracks 7-26-13	10x48 Ft	"	2368-RR	5.00
Bay View Jct., Md. abt. ½ Mi. East of Sta., North of tracks 7-10-13	10x48 Ft	"	2369-RR	5.00
Arundel, Md. abt. ½ Mi. West of Sta., North of tracks 7 12 15	10x48 Ft	"	2374-RR	5.00
Winans, Md. Opposite Station, South of tracks 7-11-13	10x48 Ft	"	2372-RR	5.00
Halethorpe, Md. abt. ½ Mi. West of North of tracks 7-11-13	10x48 Ft	"	2371-RR	5.00
Odenton, Md. abt. ⅛ Mi. East of Sta. South of tracks 7-12-13	10x48 Ft	"	2373-RR	5.00
Seabrook, Md. Opposite Station, South of tracks 7-13-13	10x48 Ft	"	2375-RR	5.00
Tuxedo, Md. abt. 2 Blks East of Station, North of tracks 7-15-13	10x48 Ft	"	2376-RR	5.00

Exhibit P. 24.

Elkton, Md. abt. ½ Mi. West of Sta. South of tracks 7-3-13	10x48 Ft	"	2353-RR	5.00
Eddington, Pa., ½ Mi. East of Sta., South of tracks Sign No. 2.2 HH 2-13-13	10x48 Ft	"	2301-RR	5.00
CUT-OFF TO 23rd ST.				
Secaucus, N. J. ¼ Mi. East of County Rd. So. of tracks Sign No. 1.77 A 12-9-12	10x48 Ft	"	2104-RR	5.00
Secaucus, N. J. ½ Mi. East of County Rd. North of tracks Sign No. 2.14 A 5-22-13	10x48 Ft	"	2148-RR	5.00
Manhattan Transfer, 1¼ Mi. East of Sta. South of tracks Sign No. 1.11 B 1-26-13	10x48 Ft	"	2187-RR	5.00
MAIN LINE				
Manhattan Transfer, N. J. ½ Mi. East of Sta., South of (Frank's Creek) Sign No. D 1.3 2-28-13	10x48 Ft	"	134-RR	5.00
				$750.00

Signs to be repainted with the same copy once during the year, without extra charge.

This is a memorandum contract for 2nd year. Original No. 13458 was made for three years.

Form 25 4-21-11 D & Co.

THE O. J. GUDE CO., N. Y.

No. 13458

Term of Contract: Three (3) Years New York, Jan. 2, 1912.

We hereby authorize you to enter order for 150 spaces located as per list below: for which we promise to pay THE O. J. GUDE CO., N. Y., or order Seven Hundred and Fifty and No.-100 Dollars per month for three years payable $750.00 monthly in advance. $27,000.00

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on completion of painting of each sign and ends three years thereafter, Dec. 8, 1914.

No specific assignment of space assured until this order is accepted by

H. B. TURNER, FRANCIS DRAZ & CO.

Contract Clerk for The O. J. Gude Co., N. Y.

Name Francis Draz & Co. Address 24 Hudson St., N. Y. City.

LOCATION	Size	Price Per Month
150 Railroad Bulletins at $5.00 per month per board	10x48 Ft each	$750.00

NOTE—Francis Draz & Co. have the privilege of discontinuing this contract at the end of the second year by giving written notice 90 days before the expiration of this second year, and by paying an additional $1,800, which is 50 cts. per month per bulletin additional for this entire period.

Exhibit P. 24.

Signs to be repainted with same copy at the beginning of each year and once during the year, without extra charge.

This contract cancels previous one.

Form 25 4-21-11 D & Co.

THE O. J. GUDE CO., N. Y.

No.

Term of Contract: One (1) Year. New York, Nov. 24th, 1911.

We hereby authorize you to enter our order for 150 spaces located as per list below: for which we promise to pay THE O. J. GUDE CO., N. Y., or order Ten Thousand Eight Hundred and no-100 Dollars per annum, payable $900.00 monthly in advance.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on completion of painting of each sign and ends one year thereafter.

No specific assignment of space assured until this order is accepted by H. B. TURNER, FRANCIS DRAZ & CO.

Contract Clerk for The O. J. Gude Co., N. Y.

Name Francis Draz & Co., Address 24 Hudson St., New York City.

SCOTCH WHISKEY ACCOUNT.

LOCATION	Size	Price Per Month
PENNSYLVANIA RAILROAD.		
Between New York and Philadelphia		
Fifty (50) Bulletins	10x48 Ft each	
Between Philadelphia & Washington		
Twenty-five (25) Bulletins	10x48 Ft each	
N. Y. C & HUDSON R. R.		
Between New York & Albany		
Twenty-five (25) Bulletins	10x48 Ft each	
N. Y., N. H. & H. R. R.		
Between New York and Boston		
Fifty (50) Bulletins	10x48 Ft each	
Price—$6.00 per sign per month		$900.00

NOTE—It is further agreed that Francis Draz & Co. have the privilege of contracting with The O. J. Gude Co. for as many more of these bulletins (Size 10x48 Ft) as desired during the year 1912 at the above price. ($6.00 per month per bulletin).

Signs to be repainted with same copy once during the year, without extra charge.

Cancelled Jan. 3rd, 1912.—FRANCIS DRAZ & CO., per S. D. GOWEN, Advertising Dept.

August 28th, 1912.

Messrs. Francis Draz & Co., New York City.

Gentlemen.

We beg to enclose herewith a list of the railroad bulletins painted for KING GEORGE IV Whiskey.

You will notice that the list shows 151 signs, or one more than your contract calls for. As, however, the sign at Rahway is temporarily obstructed and likely to be so for some time, we figure that the last

Exhibit P. 24.

sign painted takes its place, and the total number of signs below being charged for is only 150. Should the obstruction be removed later from Rahway, we will continue to make no charge, so that the amount of the bill does not exceed your appropriation.

Trusting that this is satisfactory, we remain,

Yours very truly,

THE O. J. GUDE COMPANY.

THE O. J. GUDE CO.,
935 Broadway, 5th Ave. and 22nd St., City.
August 26th, 1912.

LIST OF "KING GEORGE IV." RAILROAD BULLETINS
(Size 10x48 ft. each). 150 Spaces.

NEW YORK, NEW HAVEN AND HARTFORD R. R.

TOWN & LOCATION	Side of Tracks	Sign No.	Lease No.	Date of Expiration
Park Ave. & 150th-151st Sts.	East	A. 2.10	1677	1-26-15
Williamsbridge, 2 blocks south of Sta.	West	1.9 C	1900	1- 8-15
Williamsbridge, 2 blocks north of Sta.	East	C. 1.16	125	1- 4-15
Woodlawn, ¼ mile south of Station	East	1.6 D.	2074	1- 9-15
Woodlawn, 3 blocks north of Station	East	D. 2.2	1853	12- 8-14
New Rochelle, ⅛ mile south of Sta.	West	2.3 H.	1426	12-28-14
New Rochelle, 1¼ mile north of Station	East	H. 5.2	2202	4- 5-15
Larchmont, just north of Station	West	J. 1.9	1881	1-25-15
(Painted 1-8-12—Extended 17 days)				
Larchmont, 1 block north of station	East	J. 1.6	2024	12-29-14
Mamaroneck, 3 blocks south of Station	West	1.1 K.	1489	1- 4-15
Mamaroneck, ¾ mile north of Station	West	K. 3.3	2203	12- 9-14
Harrison, just north of Station	West	L. 1.3	797	1- 3-15
Portchester, ½ mile south of Station	West	2.3 N.	1844	1- 5-15
Riverside, Conn., opp. Station	West	Q. 0.3	961	1-15-15
Sound Beach, Conn., ¼ mile south of Sta.	East	1.8 R.	1277	1- 2-15
Sound Beach, just north of Station	West	R. 1.7	1470	1- 9-15
East Norwalk, Sta., ¼ mile south	West	1.3 W	2340	4-20-15
Greens Farms, Conn., opp. Station	East	Y. 0.2	217	1-10-15
Stratford, 1½ miles south of Station	East	6.2 CC	2053	1-23-15
Stratford, 1 mile north of Station	West	CC. 4.3	914	12-18-14
SHORE LINE DIVISION—N. Y., N. H. AND H. R. R.				
Milford, Conn., 1 mile north of station	East		2339-RR	4-10-15
East Haven, Conn., just north of Sta.	West		2338-RR	4- 5-15
Guilford, Conn., 1 mile south of Sta.	West		2337-RR	4- 6-15
Clinton, Conn., 1 mile north of Sta.	East		2335-RR	4- 8-15
Black Hall, Conn., ¾ mile north of Sta.	East		2332-RR	3-27-15
Sound View, Conn., opp. Station	West		2331-RR	3-28-15
Crescent Beach, Conn., ⅛ mile south	East		2333-RR	3-30-15
Waterford, Conn., ¼ mile north of Sta.	West		2330-RR	4- 9-15
Groton, Conn., 2 miles north of Sta.	East		2336-RR	3-26-15
West Mystic, Conn., ¼ mile so. of Sta.	West		2329-RR	3-20-15
Stonington, Conn., 2 miles north of Sta.	East		2328-RR	3-18-15
Stonington, Conn., ½ mile north of Sta.	West		1289	12-21-14
Westerly, R. I., 1 mile north of Sta.	West		2326-RR	3-14-15
Westerly, R. I., 1½ miles north of Sta.	East		2323-RR	3-14-15
Bradford, R. I., just south of Station	East		2327-RR	3-16-15
Bradford, R. I., 1½ miles north of Sta	West		2325-RR	3-16-15
Slocums, R. I., ¼ miles south of Sta.	East		2322-RR	3-22-15
Wickford Jct, Sta.. R. I., 1 mile north	West		2321-RR	3-11-15
E. Greenwich, R. I., 1 mile so. of Sta.	East		2320-RR	3- 9-15

Exhibit P. 24.

Apponaug, Sta., R. I., just north of Sta.	West		2318-RR	3- 8-15
Norwood Sta., R. I., 2 blocks north of Sta.	East		2319-RR	3- 6-15
Pleasantview, Mass., ½ mile north of Sta.	East		2307-RR	3-19-15
Dodgeville, East Jct. (Opp. E. Jct.) 1 mile south of Dodgeville, Mass.	West		2308-RR	3- 4-15
West Mansfield, Mass., 1 mile So. of Sta.	East		2306-RR	2-27-15
Mansfield, Mass., ½ mile south of Sta.	West		2305-RR	2-26-15
E. Foxboro, Mass. ¼ mile south of Sta.	West		2317-RR	2-28-15
Sharon Hts., Mass., ¾ mi. south of Sta.	East		2315-RR	3- 2-15
Sharon Sta., Mass., 1¼ miles No. of Sta.	West		2316-RR	3- 1-15
Deadham Rd. Sta. (Canton, Mass.), 2 blocks south of Station	East		2309-RR	2-29-15
NEW YORK CENTRAL AND HUDSON RIVER				
River Ave. & 151st St.	West	A. 4.13	1926	1-22-15
Highbridge, 1 block north of Sta.	East	B. 1.2	1960	1- 5-15
Highbridge, ¼ mile north of Sta.	East	B. 2.16	1838-A	12- 8-14
Kingsbridge, 3 blocks south of Sta.	East	1.2 D.	1830	1-22-15
Kingsbridge, ¼ mile north of Sta.	West	D. 1.9	2184	3- 5-15
Greystone, 10x50, 1 block north of Sta.	East	L. 1.8	1387	3-22-15
Tarrytown, ¾ mile north of Sta.	East	Q. 3.8	1464	3-25-15
Scarborough, ½ mile north of Sta.	East	R. 2.2	383	4-12-15
Croton-on-Hudson, ½ mile south of Sta.	West	2.1 T	959	1-17-15
Croton-on-Hudson, ¾ mile south of Sta.	East	3.2 T	2109	2-14-15
Crugers, 1 block south of Sta.	West	1.3 V	917	2-15-15
Montrose, ¼ mile south of Station	East	2.2 W	1919	2-13-15
Peekskill, 1 mile south of Station	West	4.1 X	1678	2-12-15
Fishkill Landing, Opp. Station	East	0.2 DD	1003	1-19-15
Chelsea, N. Y., ¼ mile south of Sta.	East	1.6 EE	2430	7- 6-15
Poughkeepsie, N. Y., N. E. Cor. Prospect & Fox Sts., 1 mile south of Sta.	East	HH. 1.2	2417	7- 3-15
Linlithgo, N. Y., (Along Washburn County Road) south of Station	East	2.1 QQ.	2416	7-15-15
Stockport Landing, N. Y., 1 mile no. of Station	East	TT 4.2	2419	7-19-15
Newton Hook, 1 mile south of Sta	West	4.1 UU.	2152	7-19-15
Newton Hook Sta., ¼ mile north of Sta.	East	UU. 1.2	2415	7-18-15
Stuyvesant, N. Y., ½ mile so. of Sta.	East	2.4 VV	2418	7-20-15
Schodack Landing, abt. ¼ mile south	East	1.2 WW	2403	7-20-15
Castleton, abt. 3 miles north	West	XX. 12.1	2398	7-23-15
Castleton, abt. 1 mile north	East	XX. 4.2	2397	7-22-15
Rensselaer, 2 miles south of Sta.	West	8.1 YY	2401	7-24-15
Rensselaer, 2 miles south of Sta.	East	8.2 YY.	2402	7-24-15
PENNSYLVANIA CUT-OFF TO 33RD STREET				
Secaucus, ¼ mile east of Co. Rd.	South	1.77 A.	2104	12- 9-14
Secaucus, ½ mile east of Co. Rd.	North	2.14 A.	2148	5-22-15
Manhattan Transfer, 1¼ miles E. of Sta. Main Line)	South	1.11 B.	2187	1-26-15
Manhattan Transfer ¼ mile east of Sta. (Frank's Creek)—Painted 6-4-12—In place of Marion, N. J.	South	D. 1.3	134	2-28-15
PENNSYLVANIA RAILROAD				
Marion, 10x50, ¾ mile west of Sta.	South	B. 3.9	716b	12-20-14
Newark, ¼ mile west of So. St. Sta.	South	G. 1.3	1873	1-18-15
Waverly, 3 blocks east of Sta.	North	1.8 H.	1733	1-10-15
Waverly, ¼ mile west of Sta.	North	H. 1.8	2039	3- 1-15
North Elizabeth, ½ block east of Sta.	North	J. 1.2	2224	2-24-15
North Elizabeth, 1 block west of Sta.	South	J. 1.13	2235	1- 5-15
South Elizabeth, ¼ mile west of Sta.	South	L. 1.9	1872	12-30-14
Linden, ⅛ mile east of Sta.	North	1.4 M.	1807	12- 9-14
Linden, ¾mile west of Sta.	South	M. 3.11	2233	2-28-15

Exhibit P. 24.

Rahway, ¼ mile west of Sta. (Temprarily obstr. 7-1-12, charge disc.)	South	P. 1.3	2344	4- 6-15
Perth Amboy Jst., ¾ mile west of Rhy.	North	P. 3.10	1840	4-12-15
Colonia Sta., N. J., ½ mile west of Sta.	North	PP. 2.2	2227	2-27-15
Iselin, 2 blocks west of Sta.	South	Q. 1.3	2225	2-27-15
Menlo Park, Opp. Station	South	0.5 R.	1448	1- 8-15
Metuchen, ¾ mile east of Sta.	South	3.1 S	2230	4-15-15
Stelton, ¾ mile east of Sta. (Painted 4-11-12, extended 16 days)	North	3.4 T	1445	4-27-15
Stelton, ¼ mile west of Sta.	South	T. 1.1	1498	1-10-15
New Brunswick, N. J., 1¼ miles west of Station	South	U. 5.1	2206	1-30-15
Franklin Park, N. J., ½ mile east of Sta.	South	2.1 V	2208	3- 7-15
Franklin Park, N. J., 1 mile east of Sta.	North	4.2 V.	2209	3-7-15
Franklin Park, N. J., 1¼ miles west of Station	North	V. 6.2	2210	3- 8-15
Franklin Park, N. J., 1½ miles west of Station	South	V. 6.1	2289	3- 8-15
Deans, N. J., Just west of Station	North	W. 2.2	2290	3- 9-15
Monmouth Jct., N. J., abt. 1 mile east of Station	North	4.2 X.	2292	3- 5-15
Monmouth Jct., 1 mile west of Sta.	South	X. 4.1	133	1-16-15
Monmouth Jct., N. J., abt. 2 miles west of Station	North	X. 8.2	2291	3- 3-15
Plainsboro, N. J., ½ mile east of Sta. Must be removed by Dec. 1, '12.	South	6.1 Y.	1	1-23-15
Plainsboro, N. J., Just west of Sta.	North	Y. 1.2	2293	3- 5-15
Princeton Jct., N. J., 1 block east of Sta.	South	1.1 Z.	187	1-17-15
Princeton Jct., N. J., 10x50 1 mile west of Station	North	Z. 4.4	129	1- 6-15
Lawrence, ⅛ mile east of Sta.	South	1.3 AA	1647	2-27-15
Lawrence Sta., N. J., 1 mile east of Sta.	North	4.2 AA	2295	2-28-15
Lawrence, N. J., ab. 1 mile west of Sta.	North	AA. 4.4	2296	2-29-15
Trenton, N. J., abt. 2 miles east of Station; near Hamilton Mills	South	8.1 BB.	2310	3- 2-15
Morrisville, Pa., abt. ½ mile W. of Sta.	South	CC. 2.1	2313	2-20-15
Wheatsheaf, Pa., Opp. Station	South	0.1 DD.	1651	2,19-15
Morrisville, Pa., 1¼ miles east of Wheatsheaf	North	5.2 DD.	2312	2-20-15
Tullytown, Pa., ¼ mile west of Sta.	North	EE. 1.2	2314	2-17-15
Bristol, Pa., 1 mile east of Sta.	North	4.2 FF.	2300	2-16-15
Bristol, Pa., 10x50, abt. ½ mile south of Sta., east of Baseball Park	West	FF. 2.2	2035-RR	4- 1-15
Croydon, ½ mile east of Sta., Lot 228	South	2.1 GG.	2352-RR	3-30-15
Torresdale, ¾ mile west of Sta.	North	LL. 3.2	2348-RR	3-30-15
Cornwells, just east of Station	South	1.2 JJ.	2302	2-14-15
Torresdale, ¾ mile west of Sta.	South	LL. 3.3	2349-RR	3-28-15
Frankfort, Phila., Pa., 2 blocks east of Frankfort Jct.	North		2304	2-15-15
Darby, Pa., abt. 2 blocks south of Sta.	East		2358-RR	6-24-15
Norwood, ¼ mile south of Sta., between Wash. & Phila	East		2303	2- 6-15
Chester, Pa., abt. 3 blocks north of Thurlow Station	West		2359-RR	6-26-15
Marcus Hook, Pa., abt. 2 blocks north of Station	West		2360-RR	6-26-15
Marcus Hook, Pa., abt. 1 mile W. of Sta.	South		2365-RR	6-27-15
Wilmington, Del., abt ½ mile east of Station	South		2361-RR	6-28-15
Newport, Del. ⅛ mile east of Sta.	North		2367-RR	6-29-15
Stanton, Del., abt. ⅛ mi. east of Sta.	North		2364-RR	6-29-15

Exhibit P. 24.

Ruthby, Del. abt. ½ mi. east of Sta.	South			2363-RR	7- 1-15
Iron Hill, Md. abt. ⅛ mile east of Sta.	North			2362-RR	7- 2-15
North East, Md. abt. ½ mi. west of Sta.	North			2354-RR	7- 3-15
Charlestown, Md., just east of Sta.	South			2355-RR	7- 5-15
Havre de Grace, Md., just west of Sta.	North			2356-RR	7- 6 15
Aberdeen, Md., just east of station	South			2366-RR	7- 6-15
Magnolia, Md., abt. 1 mile east of Sta.	South			2357-RR	7- 8-15
Chase, Md., Opp. Station	North			2370-RR	7- 8-15
Stemmers Run, Md., abt. ⅛ mile east of Station (Painted 7-9-12—extended 17 days)	South			2368-RR	7-26-15
Bay View Jct., Md., abt. ½ mile east of Station	North			2369-RR	7-10-15
Arundel, Md., abt. ½ mile west of Sta.	North			2374-RR	7-12-15
Winans, Md., Opp. Station	South			2372-RR	7-11-15
Halethorpe, Md., abt. ½ mile west of Station	North			2371-RR	7-11-15
Odenton, Md., abt. ⅛ mile east of Sta.	South			2373-RR	7-12-15
Seabrook, Md., Opp. Station	South			2375-RR	7-13-15
Tuxedo, Md., abt. 2 blks. east of Sta.	North			2376-RR	7-15-15
Elkton, Md. abt. ½ mi. west of Sta.	South			2353-RR	7- 3-15
Eddington, Pa., ½ mile east of Sta	South	2.2	HH.	2301	2-13-15

THE O. J. GUDE CO.,
935 Broadway, 5th Ave. & 22nd St., City.

December 12th, 1911.

LIST OF SIGNS TO BE PAINTED FOR "KING GEORGE IV."

NEW YORK, NEW HAVEN & HARTFORD R. R.

LOCATION	Side of tracks	Size	Now Painted	Lea	No.	Sign No.	Painted
Park Ave. & 150-151st Sts.	East	10x48	Northrop (1-25-11)	1677	A.	2.10	1-26
Williamsbridge, 2 blocks south	West	10x48	Greenhut (1- 5-12)	1900	1.9	C	1-8
Williamsbridge, 2 blks. north	East	10x48	Greenhut (12-19-11)	125	C.	1.16	1-4
Woodlawn, 3 blocks north	East	10x48	Domes of S.	1953	D.	2.2	12.8
Woodlawn, ¼ mile south	East	10x48	Cammeyer (1- 6-12)	2074	1.6	D.	1-9
New Rochelle, ⅛ mile south	West	10x48	Northrop (12-19-11)	1426	2.3	H	12-28
New Rochelle, 1¼ miles north	East	10x48	Greenhut (1-25-12)	2202	H.	5.2	4-5
Larchmont, just north	West	10x48	Greenhut (1- 5-12)	1881	J.	1.9	1-8
Larchmont, 1 block north	East	10x48	Greenhut (12-28-12)	2024	J.	1.6	12-29
Mamaroneck, ¾ mile north	West	10x48	Ill. Watch	2203	K.	3.3	12-9-11
Mamaroneck, 3 blocks south	West	10x48	Greenhut (12-30-11)	1489	1.1	K.	1-4
Harrison, just north	West	10x48	Greenhut (1- 1-12)	797	L.	1.3	1-3
Portchester, ½ mile south	West	10x48	Greenhut (1- 3-12)	1844	2.3	N.	1-5
Riverside, Conn., opp. Sta.	West	10x48	Greenhut (1- 6-12)	961	Q.	0.3	1-15

Exhibit P. 24.

Stratford, 1 mile north	West	10x48	Luden Greenhut	914	CC. 4.3	12-18
Sound Beach, just north	West	10x48	(1- 5-12) Greenhut	1470	R. 1.7	1-9
Sound Beach, Conn., ¼ mi. So.	East	10x48	(12-28-12) Greenhut	1277	1.8 R.	1-2
Greens Farms, Conn. opp. Sta.	East	10x48	(1- 7-12) Greenhut	217	Y. 0.2	1-10
Straftford, 1½ miles south	East	10x48	(1-11-12)	2053	6.2 CC	1-23
East Norwalk Sta. ¼ mile So.	West	10x48	to be built	2340	1.3 W.	4-20

BRIDGEPORT TO BOSTON, MASS.

	Side of Tracks	Size	Lease	Painted
Wickford Jct. Sta., R. I. 1 mile North of Sta.	West	10x48	2321-RR	3-11
E. Greenwich, R. I. 1 mile South of Sta.	East	10x48	2320-RR	3- 9
Apponaug Sta., R. I. Just north of Sta.	West	10x48	2318-RR	3- 8
Norwood Sta., R. I. 2 blocks north of Sta.	East	10x48	2319-RR	3- 6
Pleasantview, Mass., ½ mile North of Sta.	East	10x48	2307-RR	3-19
East Dodgeville Jct., (opp. E. Jct.) 1 mi. So. of Dodgeville, Mass.	West	10x48	2308-RR	3- 4
West Mansfield, Mass. 1 mile South of Sta.	East	10x48	2306-RR	2-27
Mansfield, Mass., ½ mile South of Sta.	West	10x48	2305-RR	2-26
E. Foxboro, Mass. ¼ mile South of Sta.	West	10x48	2317-RR	2-28
Sharon Hts., Mass. ¾ mile South of Sta.	East	10x48	2315-RR	3- 2
Sharon Sta., Mass. 1¼ miles North of Sta.	West	10x48	2316-RR	3- 1
Deadham Rd. Sta., (Canton, Mass.) 2 blks So. of Sta.	East	10x48	2309-RR	2-29
Slocums, R. I. ¼ mile South of Sta.	East	10x48	2322-RR	3-22
Bradford, (Bradford P. O.) R. I. 1½ miles North of Sta.	West	10x48	2325-RR	3-16
Bradford, R. I. Just South of Sta.	East	10x48	2327-RR	3-16
Westerly, R. I. 1½ miles North of Sta.	East	10x48	2323-RR	3-14
Westerly, R. I. 1 mile North of Sta	West	10x48	2326-RR	3-14
Stonington, Conn. 2 miles North of Sta.	East	10x48	2328-RR	3-18
West Mystic, Conn. ¼ mile South of Sta.	West	10x48	2329-RR	3-20
Groton, Conn. 2 miles North of Sta.	East	10x48	2336-RR	3-26
Waterford, Conn. ¼ mile North of Sta.	West	10x48	2330-RR	4- 9
Crescent Beach, Conn. ⅛ mile South of Sta.	East	10x48	2333-RR	3-30
Sound View, Conn. Opp. Sta.	West	10x48	2331-RR	3-28
Black Hall, Conn. ¾ mile North of Sta.	East	10x48	2332-RR	3-27
Saybrook Jct., Conn. Opp. Sta.	West	10x48	2334-RR	4- 1
Clinton, Conn. 1 mile North of Sta.	East	10x48	2335-RR	4- 8
Guilford, Conn. 1 mile South of Sta.	West	10x48	2337-RR	4- 6
East Haven, Conn. Just North of Sta.	West	10x48	2338-RR	4- 5
Milford, Conn. 1 mile North of Sta.	East	10x48	2339-RR	4-10

NEW YORK CENTRAL & HUDSON RIVER

Highbridge, ¼ mile north	East	10x48	Domes of S.	1838a	B. 2.16	12-8
River Ave. & 151st St.	West	10x48	Greenhut (1-20-12) Greenhut	1926	A. 4.13	1-22
Highbridge, 1 block north	East	10x48	(1- 3-12) Cammeyer	1960	B. 1.2	1-5
Kingsbridge, 3 blocks south	East	10x48	(1-20-12) Greenhut	1830	1.2 D.	1-22
Kingsbridge, ¼ mile north	West	10x48	(3- 4-12) Greenhut	2184	D. 1.9	3-5
Greystone, 1 block north	East	10x50	(3-20-12) Greenhut	1387	L. 1.8	3-22
Tarrytown, ¾ mile north	East	10x48	(3-23-12) Greenhut	1434	Q. 3.8	3-25

Exhibit P. 24.

Scarborough, ½ mile north	East	10x48	(4- 9-12) Greenhut	338	R.	2.2	4-12
Croton-on-Hudson, ½ mile So.	West	10x48	(1- 3-12) Cammeyer	959	2.1	T	1-17
Croton-on-Hudson, ¾ mi. So.	East	10x48	(1-18-12) Greenhut	2109	3.2	T	2-14
Crugers, 1 block south	West	10x48	(1-26-12) Cammeyer	917	1.3	V.	2-15
Montrose, ¼ mile south	East	10x48	(1-19-12) Cammeyer	1919	2.2	W	2-13
Peekskill, 1 mile south	West	10x48	(1-17-12) Greenhut	1678	4.1	X	2-12
Fishkill Landing, opp. Sta.	East	10x48	(1- 6-12)	1003	0.2	DD	1-19
Rensselaer, 2 miles south	West	10x48	Not built	2401	8.1	YY.	7-24
Rensselaer, 2 miles south	East	10x48	Not built	2402	8.2	YY	7-24
Schodack Landing, abt. ¼ mi. south	East	10x48	Not built	2403	1.2	WW.	7-20
Castleton, abt. 1 mile north	East	10x48	Not built	2397	XX	4.2	7-22
Castleton, abt. 3 miles north	West	10x48	Not built	2398	XX	12.1	7-23
Newton Hook, 1 mile south of Sta.	West	10x48	McClure	2152	4.1	UU	7-19
Chelsea, N. Y. ¼ mile south of Sta.	East	10x48	Not built	2430	1.6	EE	7-6
Poughkeepsie, N. Y. (N. E. Cor. Prospect & Fox Sts.) 1 mile south of Sta.	East	10x48	Not built	2417	HH	1.2	7-3
Stockport Landing, N. Y., 1 mile north of Sta.	East	10x48	Not built	2419	TT	4.2	7-19
Stuyvesant, N. Y. ½ mile So.	East	10x48	Not built	2418	2.4	VV	7-20
Linlithgo, N. Y. (Along Washburn County Rd.) So. of Sta.	East	10x48	Not built	2416	2.1	QQ	7-15
Newton Hook Sta., ¼ mile north of Sta.	East	10x48	Not built	2415	UU	2.1	7-18
			PENNSYLVANIA R. R.				
Marion, ¾ mile west	South	10x50	Greenhut	716b	B	3.9	12-20
Manhattan Transfer, ¼ mi. E.	South	10x48	Scully	134	D	13	6-4
Newark, ¼ mile west of So. St. Sta.	South	10x48	Greenhut (1-15-12)	1873	G	1.3	1-18
Waverly, 3 blocks east	North	10x48	Greenhut (1- 5-12)	1733	1.8	H	1-10
Waverly, ¼ mile west	North	10x48	Cammeyer (2-25-12)	2039	H	1.8	3-1
No. Elizabeth, ½ block east	North	10x48	Greenhut (2-22-12)	2224	J.	1.2	2-24
No. Elizabeth, 1 block west	South	10x48	Not built	2235	J	1.13	1-5
Linden, ⅛ mile east	North	10x48	B auman	1916	1.4	M	12-9-11
South Elizabeth, ¼ mi. west	South	10x48	Greenhut (12-28-12)	1872	L	1.9	12-30
Linden, ¾ mile west	South	10x48	Greenhut (2-23-12)	2233	M	3.11	2-28
Rahway, ¼ mile west	South	10x48	Greenhut (4- 5-12)	2344	P	1.3	4-6
Perth Amboy Jct., ¾ mile west of Rahway	North	10x48	Greenhut (4- 9-12)	1840	P	3.10	4-12
Colonia Sta., N. J. ½ mi. W.	North	10x48	Greenhut (2-23-12)	2227	PP	2.2	2-27
Iselin, 2 blocks west	South	10x48	Greenhut (2-23-12)	2225	Q	1.3	2-27
			Greenhut				

Exhibit P. 24.

Menlo Park, opp. Sta.	South	10x48	(1- 3-12) Greenhut	1448	0.5	R	1-8
Metuchen, ¾ mile east	South	10x48	(3- 4-12) Greenhut	2230	3.1	S	4-15
Stelton, ¾ mile east	North	10x48	(4- 9-12) Greenhut	1445	3.4	T	4-27-12
Stelton, ¼ mile west	South	10x48	(1- 3-12 Greenhut	1498	T 1.1		1-10
Monmouth Jct. 1 mile west	South	12x50	(1- 5-12) Greenhut	133	X 4.1		1-16
Plainsboro, ½ mile east	South	10x48	(1-11-12)	1	6.1	Y	1-23
Princeton Jct. 1 mile west	North	12x50	Naumburg Greenhut	129	Z 4.4		1-6
Princeton Jct., 1 block east	South	10x48	(1-10-12) Greenhut	187	1.1	Z	1-17
Lawrence, ⅛ mile east	South	10x48	(1-25-12) Greenhut	1647	1.3	AA	2-27
Wheatsheaf, Pa., opp. Sta.	South	10x48	(1-22-12)	1651	0.1	DD	2-19
Deans, N. J., just west of Sta.	North	10x48	to be built	2290	W 2.2		3-9
Monmouth Jct., N. J., abt. 1 mile east of Sta.	North	10x48	to be built	2292	4.2	X	3-5
Monmouth Jct., N. J., abt. 2 miles west of Sta.	North	10x48	to be built	2291	X 8.2		3-3
New Brunswick, N. J., 1¼ miles west of Sta.	South	10x48	to be built	2206	U 5.1		1-30
Franklin Park, N. J., ½ mile east of Sta.	South	10x48	to be built	2208	2.1	V	3-7
Franklin Park, N. J., 1 mile east of Sta.	North	10x48	to be built	2209	4.2	V	3-7
Franklin Park, N. J., 1¼ miles west of Sta.	North	10x48	to be built	2210	V 6.2		3-8
Franklin Park, N. J., 1½ miles west of station	South	10x48	to be built	2289	V 6.1		3-8
Plainsboro, N. J., just W. of Sta.	North	10x48	to be built	2293	Y 1.2		3-5
Lawrence Sta., N. J., 1 mile east of Sta.	North	10x48	to be built	2295	4.2	AA	2-28
Trenton, N. J., abt. 2 miles east of Sta.. nr. H. Mills	South	10x48	to be built	2310	8.1	BB	3-2
Lawrence, N. J., abt. 1 mile west of Sta.	North	10x48	to be built	2396	AA 4.4		2-29
Morrisville, Pa., 1¼ miles E. of Wheatsheaf	North	10x48	to be built	2212	5.2	DD	2-20
Morrisville, Pa., abt. ½ mile west of Sta.	South	10x48	to be built	2313	CC 2.1		2-20
Tullytown, Pa., ¼ mi. W. of Sta.	North	10x48	to be built	2314	EE 1. 2		2-17
Bristol, Pa., 1 mi. E. of Sta.	North	10x48	to be built	2300	4.2	FF	2-16
Eddington, ½ mile east	South	10x48	to be built	2301	2.2	HH	2-13
Cornwells, just east of Sta.	South	10x48	to be built	2202	1.2	JJ	2-14
Frankford, Phila., Pa., 2 blks. E. of Frankford Jct.	North	10x48	to be built	2304			2-15
Norwood, ¼ mile south of Sta.. (P. W. & B. R. R .) P. B. & W. Div.	East	10x48	to be built	2303			2-6

	Side of Tracks	Size	Lease	Painted
Magnolia, Md. abt. 1 mile East of Sta.	South	10x48	2357-RR	7- 8
Chase, Md. Opp. Sta.	North	10x48	2370-RR	7- 8
Stemmers Run, Md. abt. ⅛ Mi. E. of Sta.	South	10x48	2368-RR	7- 9
Bay View Jct., Md. abt. ½ mile East of Sta.	North	10x48	2369-RR	7-10

Exhibit P. 25.

PENNSYLVANIA R. R.

Torresdale, ¾ mile west of Sta.	North	10x48	2348-RR	LL 3.2	3-30
Torresdale, ¾ mile west of Sta.	South	10x48	2349-RR	LL 3.3	3-30
Bristol, Pa., abt. ½ mile south of Sta., east of baseball park	West	10x50	2035-RR	FF 2.2	4-1
Croydon, ½ mile east of Sta. Lot No. 228	South	10x48	2352-RR	GG 2.2	3-30

SHORE LINE DIV.

	Side of Tracks	Size	Lease	Painted
Darby, Pa. abt. 2 blocks South of Sta.	East	10x48	2358-RR	6-24
Chester, Pa., abt. 3 blocks North of Thurlow Sta.	West	10x48	2359-RR	6-26
Marcus Hook, Pa. abt. 2 blocks North of Sta.	West	10x48	2360-RR	6-26
Wilmington, Del. abt. ½ mile East of Sta.	South	10x48	2361-RR	6-28
Iron Hill, Md. abt. ⅛ mi. E. of	North	10x48	2362-RR	7- 2
Ruthby, Del. abt. ½ mi. W. of	South	10x48	2363-RR	7- 1
Stanton, Del. abt. ⅛ mi. E. of Sta.	North	10x48	2364-RR	6-29
Marcus Hook, Pa., abt. 1 mile West of Sta.	South	10x48	2365-RR	6-27
Halethorpe, Md. abt. ½ mile West of Sta.	North	10x48	2371-RR	7-11
Winans, Md. Opp. Sta.	South	10x48	2372-RR	7-11
Odenton, Md. abt. ⅛ mile East of Sta.	South	10x48	2373-RR	7-12
Arundel, Md. abt. ½ mile W. of Sta.	North	10x48	2374-RR	7-12
Seabrook, Md. Opp. Sta.	South	10x48	2375-RR	7-13
Tuxedo, Md. abt. 2 blocks East of Sta.	North	10x48	2376-RR	7-15
Newport, Del. ⅛ mile East	North	10x48	2367-RR	6-29
Abt. ½ mile West of Elkton, Md	South	10x48	2353-RR	7- 3
North East, Md., abt. ½ mile West of Sta	North	10x48	2354-RR	7- 3
Charlestown, Md. Just East of Sta.	South	10x48	2355-RR	7- 5
Havre de Grace, Md. Just West of Sta.	North	10x48	2356-RR	7- 6
Aberdeen, Md. Just East of Sta.	South	10x48	2366-RR	7- 6

EXHIBIT P 25.

Form 25 4-21-11 D & Co.

THE O. J. GUDE CO., N. Y.

No. 15178-12584

Term of Contract: One (1) Year. New York, May 14th, 1913.

We hereby authorize you to enter our order for twelve (12) spaces located as per list below: for which we promise to pay THE O. J. GUDE CO., N. Y., or order Three Thousand Nine Hundred and Sixty and no-100 Dollars per annum, payable $350.00 monthly in advance.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on date set against each location and ends one year thereafter, June 20, 1914.

No specific assignment of space assured until this order is accepted by

H. B. T.,
Contract Clerk for The O. J. Gude Co., N. Y.

Name Gimbel Bros., Address Broadway and 33rd St., N. Y. City.

LOCATION	Size	Now Painted For	Space No.	Price Per Month
LONG ISLAND RAILROAD				
Dunton, L. I., Opp. Sta., So. of tracks Sign No. 2.2 EE (Atlantic Div.) 9-28-13	20x 96 Ft	Gimbel Bros.	2167-RR	$ 22.50

Exhibit P. 25.

PENNSYLVANIA RAILROAD.				
Linden, N. J. 2 Blks. East of Sta., north of tracks Sign No. 1.18 M 9-6-13	20x100 Ft	"	1991-RR	22.50
Secaucus, N. J. Just East of County Rd. South of tracks Sign No. 1.3 A (Cutoff to 33rd St.) 8-24-13	20x 96 Ft	"	2066-RR	22.50
WEST SHORE RAILROAD				
New Durham, N. J., ½ Mi. North of Sta., East of tracks Sign No. B 2.2 8-27-13	20x 96 Ft	"	2199-RR	22.50
N. Y. C. R. R.				
Kingsbridge, N. Y. ¼ Mi. North of Sta. West of tracks Sign No. D 15 7-24-13	15-40x100	"	1802-RR	75.00
				$375.00
				45.00
				$330.00

Signs to be repainted with the same copy once during the year, without extra charge.

This is a memorandum contract for 3rd year. Original No. 12584 was made for three years.

Form 25 4-21-11 D & Co.

THE O. J. GUDE CO., N. Y.

No. 14029-12584

Term of Contract: One (1) Year. New York, May 27th, 1912.

We hereby authorize you to enter our order for fifteen (15) spaces located as per list below: for which we promise to pay THE O. J. GUDE CO., N. Y., or order Five Thousand Three Hundred and Ten and no-100 Dollars per annum, payable $442.50 semi-annually.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on date set against each location and ends one year therafter, May 25, 1914.

No specific assignment of space assured until this order is accepted by

H. B. T.,
Contract Clerk for The O. J. Gude Co., N. Y.

Name Gimbel Bros., Address Broadway & 33rd St., N. Y. City.

LOCATION	Size	Now Painted For	Space No.	Price Per Month
LONG ISLAND RAILROAD				
Dunton, L. I. Opp. Sta., So. of tracks Sign No. 0.2 E (Atlantic Div.) 9-28-12	20x 96 Ft	Gimbel Bros.	2167-RR	$ 22.50

Exhibit P. 25.

PENNSYLVANIA RAILROAD				
Linden, N. J. 2 Blks. East of Sta., North of tracks Sign No. 1.18 M 9-6-12	20x100 Ft	"	1991-RR	22.50
Secaucus, N. J. Just East of County Rd. So. of tracks Sign No. 1.3 A (Cutoff to 33rd St.) 8-24-12	20x 96 Ft	"	2066-RR	22.50
C. R. R. OF N. J.				
Greenville Sta., Jersey City, N. J. 1 Blk. West of Sta., South of tracks Sign No. D 1.1 11-8-12	20x 96 Ft	"	2266-RR	22.50
WEST SHORE RAILROAD				
New Durham, N. J. ½ Mi. North of Sta., East of tracks Sign No. B 2.2 8-27-12	20x 96 Ft	"	2199-RR	22.50
Little Ferry, N. J. 2 Blks. So. of Sta. West of tracks Sign No. 1.11 C 9-30-12	20x 96 Ft	"	1845-RR	22.50
ERIE RAILROAD				
Hackensack Meadows, N. J. 3 Mi. So. of Rutherford, West of tracks Sign No. 12.15 B 10-24-13	20x 96 Ft	"	1924-RR	22.50
Hackensack Meadows, N. J. 3 Mi. So. of Rutherford, East of tracks Sign No. 12.4 B 11-11-12	20x 96 Ft	"	1415-RR	22.50
N. Y., N. H. & H. R. R.				
Williamsbridge, N. Y. ½ Mi. North of Sta., East of tracks Sign No. C 2.2 6-20-12	14-40x277 Ft	"	1674-RR	75.00
N. Y. C. R. R.				
Kingsbridge, N. Y. ¼ Mi. North of Sta., West of tracks Sign No. D 1.5 6-24-12	15-40x400	"	1802-RR	75.00

This is a memorandum contract for 2nd year. Original No. 12584 was made for three years.

Signs to be repainted with the same copy once during the year without extra charge.

Form 25 11-15-09 D

THE O. J. GUDE CO., N. Y.

No. 12584

$15,930.00 For 3 Years New York, April 3rd, 1911.

We hereby authorize you to enter our order for fifteen (15) spaces located as per list below: for which we promise to pay THE O. J. GUDE Co., N. Y., or order Four Hundred and Forty-two and 50-100 Dollars per month, payable $2,655.00 semi-annually for a period of thirty-six months.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Exhibit P. 25.

Contract begins on completion of painting of each sign and ends three years thereafter, May 25, 1914.

No specific assignment of space assured until this order is accepted by

H. B. TURNER — GIMBEL BROS.

Contract Clerk for The O. J. Gude Co., N. Y.

Name Messrs. Gimbel Bros. Address Broadway & 33rd St., N. Y. City.

LOCATION	Size	Now Painted For	Space No.	Price Per Month
LONG ISLAND RAILROAD				
Dunton, L. I. ½ Mi. West of Sta., South side tracks Sign No. 2 EE	20x 96 Ft	Being Built	2083-RR	$ 22.50
Dunton, L. I. (Atlantic Div.) Opp. Sta., South of tracks Sign No. 0.2 E	20x 96 Ft	"	2169-RR	22.50
North side of Thompson Ave., N. E. Cor. of East Greenpoint Avenue	20x 96 Ft	"	7235-ST	22.50
PENNSYLVANIA RAILROAD (Cut-off to 33rd St. Terminal)				
Linden, N. J., 2 blocks E. of Sta. N. of tracks Sign No. 1.18 M	20x100 Ft	"	1991-RR	22.50
Secaucus, N. J., just E. of County rd, South of tracks Sign No. 1.3 A	20x 96 Ft	"	2066-RR	22.50
D., L. & W. R. R.				
West of Hackensack River, North of tracks	20x 96 Ft	"		22.50
Hoboken, N. J., 3 blocks W. So. of tracks Sign No. A 2.3	20x100 Ft	"	2080	22.50
C. R. R. OF N. J.				
Bayonne, N. J., ⅛ Mi. East of West 8th St. Sta., North of tracks Sign No. 1.24 H	20x 96 Ft	"	137-RR	22.50
Greenville Sta., Jersey City, N. J., So. of tracks 1 block W. of Sta. Sign No. J 1.9	20x 96 Ft	"	19-RR	22.50
WEST SHORE RAILROAD				
New Durham, N. J., ½ Mi. North of Sta., East of tracks	20x 96 Ft	"	2199	22.50
Little Ferry, N. J., 2 blocks So. of Sta., West of tracks Sign No. 1.11 C	20x 96 Ft	"	1845	22.50
ERIE RAILROAD				
Hackensack Meadows, N. J., 3 Miles So. of Rutherford, West of tracks Sign No. 12.15 B	20x 96 Ft	"	1924-RR	22.50
Hackensack Meadows, N. J., 3 Miles So. of Rutherford, East of tracks Sign No. 12.4 B	20x 96 Ft	"	1415-RR	22.50
N. Y., N. H. & H. R. R.				
Williamsbridge, N. Y., ½ Mi. North of Sta., East of tracks Sign No. C 2.2	14-40x277 Ft	Hippodrome (After 5-9-11)	1674-RR	75.00

Exhibit P. 25.

N. Y. C. R. R.				
Kingsbridge, N. Y., ¼ Mi. North of Sta., West of tracks Sign No. D 1.5	15-40x400 Ft	"	1802-RR	75.00
	(After 5-10-11)			
				$442.50

Signs to be repainted with the same copy at the beginning of each year and once during the year without extra charge.

THE O. J. GUDE CO.,
935 Broadway, 5th Ave. & 22d St., N. Y. C.

Oct. 4, 1911.

LIST OF "GIMBLE BROS." RAILROAD SIGNS.

Town and Location	Side of Tracks	Size	Lease No.	Sign No.	Date Painted
LONG ISLAND R. R.					
Dunton, L. I., ½ Mile West of Station	South	20x96	2083	2.2 EE	6-27-11
Dunton, L. I., (Atlantic Div.) Opposite Station	South	20x96	2169	0.2 E	9-28-11
North side of Thompson Ave., N. E. Cor. of East Greenpoint Ave.		20x96	7235		5-25-11
PENNSYLVANIA R. R.					
Linden, N. J., 2 Blocks East of Station	North	20x100	1991	1.18 M	8-26-11
Secaucus, N. J., (Cut-off to 33d St. Sta.) Just East of County Rd	South	20x96	2066	1.3 A	8-24-11
D., L. & W. R. R.					
Hoboken, N. J., 3 Blocks West of Station	South	20x100	2080	A 2.3	8-21-11
1 sign to be secured.					
C. R. R. OF N. J.					
Bayonne, N. J., ⅛ Mile E. of W. 8th St. Sta	North	20x96	137	1.24 H	7-31-11
Bayonne, N. J., ⅛ Mile W. of Ave. "A" Sta.	South	20x96	190	J 1.9	8-23-11
Greenville Sta., Jersey City, N. J. 1 Blk. W. of Sta.	South	20x96	2266	D 1.1	12-9-11
WEST SHORE R. R.					
New Durham, N. J., ½ Mile North of Station	East	20x96	2199	B 2.2	8-1-11
Little Ferry, N. J., 2 Blocks South of Station	West	20x96	1845	1.11 C	9-30-11
ERIE RAILROAD					
Hackensack Meadows, N. J., 3 Miles South of Rutherford	West	20x96	1924	12.15 B	8-7-11
Hackensack Meadows, N. J., 3 Miles South of Rutherford	East	20x96	1415	12.4 B	8-7-11

Exhibit P. 26.

N. Y., N. H. & H. R. R.

Williamsbridge, N. Y., ½ Mile North of Station	East	14-40x277	1674	C 2.2	6-20-11

N. Y. C. R. R.

Kingsbridge, N. Y., ¼ Mile North of Station	West	15-40x400	1802	D 1.5	6-24-11

EXHIBIT P 26.

Form 25 5-5-13

THE O. J. GUDE CO., N. Y.

No. 15757

Term of Contract: One (1) Year — New York, Oct. 17th, 1913.

We hereby authorize you to enter our order for two (2) spaces located as per list below: for which we promise to pay THE O. J. GUDE Co., N. Y., or order Two Thousand Four Hundred and no-100 Dollars per annum, payable $200.00 monthly.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on date set against each location and ends one year thereafter, Nov. 30, 1914.

No specific assignment of space assured until this order is accepted by

H. B. TURNER
Contract Clerk for
The O. J. Gude Co., N. Y.

ROOSEVELT & SCHUYLER,
M. Rosswell Schuyler,
V-Pres & Treas

Name: Roosevelt & Schuyler. Address: 99 Pearl St., N. Y. City.

LOCATION		Size	Now Painted For	Space No.	Month
D., L. & W. R. R. Hackensack Meadows, N. J., ¾ Mi. W. of Hackensack River, North of tracks Sign No C 1.16	11-30-13	14-40x287	Haig & Haig	565a-RR	$100.00
C. R. R. OF N. J. Elizabethport, N. J., ½ Mi. East of Sta., North of tracks Sign No. 2.22 K	4-9-14	14-40x286	"	313-RR	100.00
					$200.00

Signs to be repainted at the beginning of the contract and once during the year with the same copy without extra charge.

Exhibit P. 27.

EXHIBIT P 27.

Form 25 5-5-13

THE O. J. GUDE CO., N. Y.

16198

No. 13776

Term of Contract: One (1) Year. New York, April 10th, 1914.

We hereby authorize you to enter our order for twenty-four (24) spaces located as per list below: for which we promise to pay THE O. J. GUDE CO., N. Y., or order One Thousand Seven Hundred and Twenty-eight and no-100 Dollars per annum, payable $144.00 monthly in advance.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on date set against each location and ends April 4, 1915.

No specific assignment of space assured until this order is accepted by H. B. T.

Contract Clerk for The O. J. Gude Co., N. Y.

Name: Cusenier Co. Address: 400 West 23rd St., N. Y. City.

LOCATION	Contract Begins	Size	Now Painted For	Space No.	Price Per Month
N. Y., N. H. & H. R. R.					
Williamsbridge, N. Y., 4 Blks. So. of Sta., East of tracks Sign No. 1.12C	4-3-14	10x48 Ft	Cusenier	1882-RR	$6.00
Woodlawn, N. Y., ¼ Mi. South of Sta., East of tracks Sign No. 1.4 D	4-4-14	10x48 Ft	"	2074-RR	6.00
New Rochelle, N. Y., 1 Mi. North of Sta., West of tracks Sign No. H 4.13	4-4-14	10x48 Ft	"	2272-RR	6.00
East Norwalk, Conn., ¼ Mi. North of Sta., West of tracks Sign No. W 1.1	8-16-14	10x48 Ft	"	21-RR	6.00
Stratford, Conn., 1 Blk. North of Sta., East of tracks Sign No. CC 1.2	4-8-14	10x48 Ft	"	920-RR	6.00
N. Y. C. & H. R. R. R.					
Highbridge, N. Y., ¼ Mi. North of Sta., West of tracks Sign No. B 2.3	5-20-14	10x48 Ft	"	1838-RR	6.00
Highbridge, N. Y., ½ Mi. North of Sta., East of tracks Sign No. B 2.28	4-6-14	10x48 Ft	"	2245-RR	6.00
Greystone, N. Y., just South of Sta., East of tracks Sign No. 1.4 L	8-15-14	10x48 Ft	"	1837-RR	6.00
Ossining, N. Y., 3 Blks. North of Sta., East of tracks Sign No S 1.4	4-8-14	10x48 Ft	"	2282-RR	6.00
Montrose, N. Y., ½ Mi. South of Sta., East of tracks Sign No. 2.6 W	5-4-14	10x48 Ft	"	1919-RR	6.00

Exhibit P. 27.

PENNSYLVANIA RAILROAD					
No. Elizabeth, N. J., ¼ Mi, West of Sta., South of tracks Sign No. J 1.3	4-5-14	10x48 Ft	"	1676-RR	6.00
Linden, N. J., ¾ Mi. West of Sta., South of tracks Sign No M 3.1	6-24-14	10x48 Ft	"	115-RR	6.00
Perth Amboy Jct., N. J., ¾ Mi. West of Rahway Sta., North of tracks Sign No. P 3.8	6-25-14	10x48 Ft	"	1423-RR	6.00
Stelton, N. J., ½ Mi. East of Station, North of tracks Sign No. 1.2 T	7-29-14	10x48 Ft	"	1455-RR	6.00
CUT-OFF TO 33RD ST. STA.					
Secaucus, N. J., ¼ Mi. E. of County Rd., South of tracks Sign No. 1.19 A	4-8-14	10x48 Ft	"	2066-RR	6.00
C. R. R. OF N. J.					
Spring St., Elizabeth, N. J., ¼ Mi. East of Sta., North of tracks Sign No. 1.2 L	6-26-14	10x48 Ft	"	159-RR	6.00
Elmora, N. J., 3 Blks. West of Station, South of tracks Sign No N 1.7	4-8-14	10x48 Ft	"	2311-RR	6.00
D., L. & W. R. R.					
Hackensack Meadows, N. J., ¾ Mi. West of Sta., North of tracks Sign No. C 3.4	5-17-14	10x48 Ft	"	2041-RR	6.00
Mulburn, N. J., 1 Blk. West of Station, North of tracks Sign No. S 1.8	4-6-14	10x48 Ft	"	2143-RR	6.00
Dover, N. J., Just East of Sta., South of tracks Sign No. 1.1 BB	4-8-14	10x48 Ft	"	2232-RR	6.00
ERIE RAILROAD					
Hackensack Meadows, N. J., 3 Mi. South of Rutherford, East of tracks Sign No. 11.10 B	6-27-14	10x48 Ft	"	1415-RR	6.00
Hackensack Meadows, N. J., 3 Mi. South of Rutherford, West of tracks Sign No. 12.27 B	5-15-14	10x48 Ft	"	1924-RR	6.00
LONG ISLAND RAILROAD					
Kew Sta., L. I., ½ Mile East of Sta., North of tracks Sign No DD 2.9	4-24-14	10x48 Ft	"	2089-RR	6.00
Forest Hills, L. I., ¼ Mi. West of Sta., South of tracks (6 track Div.) Sign No 1.2 CC	6-17-14	10x48 Ft	"	2278-RR	6.00
					$144.00

This is a memorandum contract for 3rd year. Original No. 13776 was made for three years.

Signs to be repainted with the same copy once during the year without extra charge.

Exhibit P. 27.

Form 25 4-21-11 D & Co.

THE O. J. GUDE CO., N. Y.

No. 15025

Terms of Contract: One (1) Year. New York, April 7th, 1913.

We hereby authorize you to enter our order for twenty-five (25) spaces located as per list below: for which we promise to pay THE O. J. GUDE CO., N. Y., or order One Thousand Eight Hundred and no-100 Dollars per annum, payable $150.00 monthly in advance.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on date set against each location and ends one year thereafter, April 3, 1914

No specific assignment of space assured until this order is accepted by H. B. T.

Contract Clerk for The O. J. Gude Co., N. Y.

Name: Cusenier Co. Address: 400 West 23rd St., N. Y. City.

LOCATION	Contract Begins	Size	Now Painted For	Space No.	Price Per Month
N. Y., N. H. & H. R. R.					
Williamsbridge, N. Y., 4 Blks. So. of Sta., East of tracks Sign No. 1.12 C	4-3-13	10x48 Ft	Cusenier	1882-RR	$6.00
Woodlawn, N. Y., ¼ Mile South of Sta., East of tracks Sign No. 1.4 D	4-4-13	10x48 Ft	"	2074-RR	6.00
New Rochelle, N. Y., 1 Mile North of Sta., West of tracks Sign No. H 4.13	4-4-13	10x48 Ft	"	2272-RR	6.00
East Norwalk, Conn., ¼ Mi. North of Sta., West of tracks Sign No. W 1.1	8-16-13	10x48 Ft	"	21-RR	6.00
Stratford, Conn., 1 Block North of Sta., East of tracks Sign No. CC 1.2	4-8-13	10x48 Ft	"	920-RR	6.00
N. Y. C. & H. R. R.					
Highbridge, N. Y., ¼ Mi North of Sta., West of tracks Sign No. B 2.3	5-20-13	10x48 Ft	"	1838-RR	6.00
Highbridge, N. Y., ½ Mi. North of Sta., East of tracks Sign No. B 2.28	4-6-13	10x48 Ft	"	2245-RR	6.00
Graystone, N. Y., Just South of Sta., East of tracks extend 3 m. 23 days Sign No. 1.4 L	8-15-13	10x48 Ft	"	1837-RR	6.00
Ossining, N. Y., 3 Blks. North of Sta., East of tracks Sign No. S 1.4	4-8-13	10x48 Ft	"	2282-RR	6.00
Montrose, N. Y., ½ Mile South of Sta.. East of tracks Sign No. 2.6 W	5-4-13	10x48 Ft	"	1919-RR	6.00

Exhibit P. 27.

PENNSYLVANIA RAILROAD					
No. Elizabeth, N. J., ¼ Mile West of Sta., South of tracks Sign No. J 1.3	4-5-13	10x48 Ft	"	1676-RR	6.00
Linden, N. J., ¾ Mile West of Sta., South of tracks Sign No. M 3.1	6-24-13	10x48 Ft	"	115-RR	6.00
Perth Amboy Jct., N. J., ¾ Mile West of Rahway Sta., North of tracks Sign No. P 3.8	6-25-13	10x48 Ft	"	1423-RR	6.00
Stelton, N. J., ¾ Mile East of Station North of tracks Sign No. 3.2 T	7-29-13	10x48 Ft	"	1455-RR	6.00
CUT-OFF TO 33RD ST. STA.					
Secaucus, N. J., ¼ Mi. E. of County Road, South of tracks Sign No. 1.19 A	4-8-13	10x48 Ft	"	2066-RR	6.00
C. R. R. OF N. J.					
Spring St., Elizabeth, N. J., ¼ Mi. East of Sta., North of tracks Sign No. 1.2 L	6-26-13	10x48 Ft	"	159-RR	6.00
Elmora, N. J., 3 Blks. West of Station, South of tracks Sign No. N 1.7	4-8-13	10x48 Ft	"	2311-RR	6.00
D., L. & W. R. R.					
Hackensack Meadow, N. J., ¾ Mi. West of Sta., North of tracks Sign No. C 3.4	5-17-13	10x48 Ft	"	2041-RR	6.00
Milburn, N. J., 1 Blk. West of Sta., North of tracks Sign No. S 1.8	4-6-13	10x48 Ft	"	2143-RR	6.00
Chatham, N. J., ¼ Mi. West of Sta., South of tracks Sign No. AA1.3	4-23-13	10x48 Ft	"	2389-RR	6.00
Dover, N. J., Just East of Sta., South of tracks Sign No 1.1 BB	4-8-13	10x48 Ft	"	2232-RR	6.00
ERIE RAILROAD					
Hackensack Meadows, N. J., 3 Mi. South of Rutherford, East tracks Sign No. 11.10 B	4-4-13	10x48 Ft	"	1415-RR	6.00
Hackensack Meadows, N. J., 3 Mi. South of Rutherford, West of tracks Sign No. 12-27 B	5-15-13	10x48 Ft	"	1924-RR	6.00
LONG ISLAND RAILROAD					
Kew Sta., L. I., ½ Mile East of Sta., North of tracks Sign No. DD 2.9	4-24-13	10x48 Ft	"	2089-RR	6.00
Forest Hill, L. I., ¼ Mi. West of Sta., South of tracks (6 track Div.) Sign No. 1.2 CC	6-17-13	10x48 Ft	"	2278-RR	6.00
					$150.00

This is a memorandum contract for 2nd year. Original No. 13776 was made for three years.

Signs to be repainted with the same copy during the year without extra charge.

Exhibit P. 27.

Form 25 4-21-11 D & Co.

THE O. J. GUDE CO., N. Y.

No. 13776

Term of Contract: Three (3) Years — New York, Mar. 11th, 1912.

We hereby authorize you to enter our order for twenty-five (25) spaces located as per list below: for which we promise to pay THE O. J. GUDE CO., N. Y., or order Five Thousand Four Hundred and no-100 Dollars per three years, payable $150.00 monthly in advance.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on completion of painting of each sign and ends April 3, 1915.

No specific assignment of space assured until this order is accepted by

H. B. TURNER,
Contract Clerk for
The O. J. Gude Co., N. Y.

CUSENIER COMPANY,
O. Chanfour.
Vice-Pres.

Name: Cusenier Co. — Address: 400 West 23rd St., N. Y. City.

LOCATION	Size	Price per Month
Twenty-five (25) R. R. bulletins—locations to be selected—distributed as follows	10x48 Ft ea.	
N. Y. C. R. R. Showing to all through traffic from Albany, Rochester, Utica, Buffalo and connections West	5 signs	
N. Y., N. H. & H. R. R. Showing to all through traffic from New Haven, Springfield, Hartford, Boston and points east of Boston	5 signs	
PENNSYLVANIA R. R. Covering traffic into New York from Newark, Philadelphia, Atlantic City and intermediate stations, also all through traffic from Pennsylvania Lines West of Pittsburgh	5 signs	
D., L. & W. R. R. New York to Buffalo and intermediate points. The suburban and Western traffic by connections at Buffalo is very large here	4 signs	
ERIE RAILROAD Covering through traffic from West as well as cities of good population, such as Paterson and Passaic.	2 signs	
C. R. R. OF N. J. New York to Philadelphia, Atlantic City and New Jersey resorts, also suburban communities of big population and purchasing power.	2 signs	

Exhibit P. 28.

L. I. R. R.
Covering the main line of the Long Island R. R. and from all points of Long Island into New York. 2 signs

Price—$6.00 per sign per month $150.00

Signs to be repainted with the same copy at the beginning of each year, and once during the year without extra charge.

EXHIBIT P. 28.

Form 25 5-5-13

No. 17211

THE O. J. GUDE CO., N. Y.

Term of Contract: One (1) Year. New York, Feb. 8th, 1915.

We hereby authorize you to enter our order for Five (5) spaces located as per list below: for which we promise to pay THE O. J. GUDE Co., N. Y., or order Seven Hundred and Twenty and oo-100 Dollars per annum, payable $60.00 monthly in advance.

It is hereby agreed that in case The O. J. Gude Co., N. Y., fails to maintain any one or more of the signs specified below, that this agreement shall not terminate by reason thereof, but we to receive credit on the amount of this contract, pro rata, according to the value stated herein of said sign or signs so discontinued from date of said discontinuance.

Contract begins on completion of painting of each sign and ends one year thereafter Feb. 11, 1916.

No specific assignment of space assured until this order is accepted by

H. B. TURNER.
Contract Clerk for
The O. J. Gude Co., N. Y.

L. S. GOLDSMITH,
for Goodall Worsted Company.
Sanford, Maine.

Name: Goodall Worsted Co. Address: Sanford, Me.

LOCATION	Size	Now Painted For	Space No.	Price per Month
PENN. R. R.				
Secaucus, N. J., ¼ Mile East of County Rd., (cut-off to 33rd St.), South of tracks. Sign No. 1.61 A	20x96 Ft	Regan (Open 4-11-15)	2104-RR	24.00
Manhattan Transfer, N. J., ⅛ Mile East of Sta., (Cut-off to 33rd St.), North of tracks. Sign No. 4.6 E	30x50 Ft	Ex. Buffet	1638-RR	18.00
South St. Sta., Newark, N. J., ¼ Mi. W. of Sta., South of tracks. Sign No. G 1.3	10x48 Ft	King Geo.	1873-RR	6.00
Waverly, N. J., 1 Mile West of Old Sta., (2¼ Mi. W. of South St. Sta., Newark, N. J.), North of tracks. Sign No. H 2.14	12x60 Ft	Lea & Per.	2601-RR	6.00

Exhibit P. 28.

Rahway, N. J., ½ Mi. West of Sta., North of tracks. Sign No. P 2.2	12x60 Ft	"	2605-RR	6.00
				$60.00

Signs to be repainted with the same copy once during the year without extra charge.

February 8, 1915.

Mr. L. S. Goldsmith,
Empire Building,
Philadelphia, Penna.

Dear Sir:

Answering yours of the 5th we are enclosing herewith new contract for your re-selection of railroad bulletins on the Pennsylvania Railroad.

It is understood that this contract will automatically cancel your contract of December 10th under the following conditions.

As soon as we have completed the new bulletins and begun charge under the new contract, we will discontinue charge for a similar amount under the old contract.

As the one bulletin 20x96 ft. equivalent to four regulars, is not open and will not be painted until April 11th, your charge will be for 7 bulletins up to that time and when the big bulletin is painted, the charge for the entire list of 10 will begin.

You are, also correct in your understanding that we will leave your advertising displayed on the signs which you are giving up until they are sold to another advertiser, at no charge to you.

It is also understood that you will pay us $133.24 for the cost of painting the bulletins which you have cancelled.

This letter may be considered a part of the contract in connection with the foregoing conditions,

In regard to bulletin near Iselin Station, which you asked to have substituted for the bulletin near Rahway, would state that we can find nothing on our open list agreeing with your description—consequently, we have put in the Rahway bulletin.

In regard to adding another sign not on our schedule which you saw ½ a mile East of Station called Deans, South side, 12x60 ft., would state that we have a sign open at this spot—also a 12x60 ft. sign—Lea & Perrin—but our description reads 1 mile West of Adams Station.

We believe it must be the same sign, however, so if you want it, it is available.

Yours very truly,
THE O. J. GUDE CO.,
Sales Department.

H. J. M.—K. W.

Exhibit P. 28.

EXHIBIT P. 28.

NEW JERSEY SUPREME COURT.
ESSEX COUNTY.

NEW JERSEY SIGN ADVERTISING COMPANY, *Plaintiff,* *vs.* SAMUEL PRATT, NEWARK SIGN COMPANY and NEWARK BILL POSTING COMPANY, *Defendants.*	*Action at Law.* *Rule.*

This matter being opened to the court by Messrs. Lum, Tamblyn & Colyer, attorneys for the plaintiff, in the presence of Messrs. Pitney, Hardin & Skinner, attorneys for the defendants, and counsel having been heard:

It is on this twenty-fourth day of May, 1913, ORDERED that the defendants shall furnish to the plaintiff a bill of particulars of their joint answers specifying the following particulars, viz:

In respect to paragraph 5 of the defendants' joint answer:

1. The particular signboards of plaintiff in said paragraph referred to and the dates and places in each instance.

2. The particular instances as to which said paragraph alleges settlement was made with plaintiff.

3. The particular release in said paragraph alleged to have been given by plaintiff to the said defendants, specifying the date of each and the respective claims of plaintiff for which release

Exhibit P. 28.

is claimed to have been given and specifying which of the releases mentioned were given in writing and which were not.

4. True copies of all of said alleged releases which are in writing.

It is further Ordered that the defendant Newark Sign Company shall furnish to the plaintiff a bill of particulars of its counterclaim, specifying the following particulars, viz:

In respect to paragraph 1 of its said counterclaim:

1. The signboard bulletins erected, owned and maintained by said defendant mentioned in said paragraph and the location of each.

2. The respective days and dates when the plaintiff has broken, torn down, sawed, chopped, demolished or otherwise defaced or damaged the respective signboard bulletins erected, owned and maintained by said defendant, as in said paragraph alleged.

3. The respective days and dates when plaintiff has caused or procured the same to be broken &c. and damaged as in said paragraph alleged.

4. The particular signboard bulletins of said defendant alleged in said paragraph to have been replaced by sign bulletin boards of plaintiff and the location of each and the date when each such sign bulletin of said defendant was replaced by a sign bulletin board of plaintiff.

In respect to paragraph 2 of the counterclaim of Newark Sign Company.

1. The names of those with whom the said defendant had leases or contracts and to whom said false, fraudulent, malicious and unfair representations were made and the respective days and dates and places when and where each of the said alleged representations was made.

Exhibit P. 28.

2. The names of customers of said defendant to whom said false, fraudulent, malicious and unfair representations were made, and the respective days, dates and places when and where each of the said alleged false and fraudulent representations was made in so far as they are known to said defendant.

3. The names of persons with whom said defendant had leases or contracts who were induced by said representations to sign and execute other and different leases and contracts with plaintiff.

4. The names of the customers of said defendant who were induced by said representations to withdraw their trade from the defendant and give the same to the plaintiff.

It is further Ordered that the defendant Newark Bill Posting Company shall furnish to the plaintiff a bill of particulars of its counterclaim, specifying the following particulars, viz:

In respect to paragraph 1 of the said counterclaim of Newark Bill Posting Company:

1. The billboards erected, owned and maintained by said defendant as mentioned in said paragraph and the location of each.

2. The respective days and dates when the plaintiff has broken, torn down, sawed, chopped, demolished or otherwise damaged and defaced the respective billboards erected, owned and maintained by said defendant as in said paragraph alleged.

3. The respective days and dates when plaintiff has caused or procured the same to be broken, etc., and damaged as in said paragraph alleged.

4. The particular billboards of said defendant alleged in said paragraph to have been replaced

Exhibit P. 28.

by sign bulletin boards of plaintiff and the location of each and the dates when each such billboard of said defendant was replaced by a sign bulletin board of plaintiff.

And in respect to paragraph 2 of the said counterclaim of said Newark Bill Posting Company:

1. The names of those with whom said defendant had leases or contracts and to whom said false, fraudulent, malicious and unfair representations were made and the respective days, dates and places when and where each of the said alleged representations was made.

2. The names of customers of said defendant to whom said false, fraudulent, malicious and unfair representations were made and the respective days, dates and places when and where each of the said alleged representations was made.

3. The names of persons with whom said defendant had leases or contracts who were induced by said representations to sign and execute other and different leases or contracts with plaintiff.

4. The names of the customers of said defendant who were induced by said representations to withdraw their trade from the defendant and give the same to the plaintiff.

In respect to paragraph 3 of the said counterclaim of Newark Bill Posting Company:

1. The names of the customers of said defendant with whom it had contracts for poster display advertising and to whom said representations were made, as in said paragraph alleged, and the respective days, dates and places when and where said representations were made.

Exhibit P. 28.

In respect to paragraph 4 of the said counterclaim of Newark Bill Posting Company:

1. The names of those from whom said defendant sought or might seek to obtain contracts for poster display advertising on its billboards and to whom said representations were made as in said paragraph alleged, and the respective days, dates and places when and where said representations were made.

In respect to paragraph 5 of the said counterclaim of Newark Bill Posting Company:

1. The names of those with whom the defendant had contracts for the distribution of circulars, books, pamphlets and other advertising literature and to whom said representations were made as in said paragraph alleged, and the respective days, dates and places when and where said representations were made.

It is further Ordered that said defendant Newark Bill Posting Company specify the particulars of its special losses and expenses and special damaged sustained by reason of the acts of the plaintiff alleged in the 1st, 2nd, 3rd, 4th and 5th paragraphs of its said counterclaim.

It is further Ordered that said defendant Newark Sign Company specify the particulars of its special losses and special damage sustained by reason of the acts of the plaintiff alleged in its said counterclaim.

It is further Ordered that said particulars be served upon the plaintiff's attorney within thirty days from the date hereof and that the time of the plaintiff to reply to the answer of the said defendants and to answer the respective counterclaims of the said defendants be and the same is hereby extended until fifteen days after the

Exhibit P. 29.

service of said bills of particulars, as hereinbefore ordered.

WM. S. GUMMERE,
C. J.

EXHIBIT P. 29.

THE STATE OF NEW JERSEY to Samuel
L. S. Pratt, Newark Sign Company, a corporation, and Newark Bill Posting Company, a corporation.

You are summoned to answer the annexed complaint of New Jersey Sign Advertising Company, a corporation, in an action at law in the Supreme Court. And take notice that unless you file your answer to said complaint with the Clerk of the Supreme Court at Trenton *within twenty days* after service upon you of this writ and the annexed complaint, the plaintiff may proceed in the suit and judgment may be entered against you.

Witness William S. Gummere, Chief Justice of the Supreme Court at Trenton, this thirteenth day of January, Nineteen hundred and thirteen.

LUM, TAMBLYN & COLYER,
Attorneys.

JOSEPH P. TUMULTY,
Clerk.

Exhibit P. 29.

NEW JERSEY SUPREME COURT.

ESSEX COUNTY.

NEW JERSEY SIGN ADVERTISING COMPANY, a corporation, *Plaintiff,* *vs.* SAMUEL PRATT, NEWARK SIGN COMPANY, a corporation, and NEWARK BILL POSTING COMPANY, a corporation, *Defendants.*	*Action at Law.* *Complaint.*

Plaintiff, a New Jersey Corporation, having its principal place of business at No. 448 Mulberry street, Newark, New Jersey, says that:

1. Plaintiff is, and since its incorporation in the year 1906, has been engaged in the business of sign advertising, which during said period has and still does consist (1) of negotiating and entering into leases with owners of real estate, whereby, for certain rentals reserved to said owners, sign spaces and advertising privileges on lands and premises of said owners are leased and demised to plaintiff for certain terms; (2) of negotiating and entering into contracts with persons and corporations for the placing and maintaining of signs and advertisements of such persons and corporations on the spaces so as aforesaid leased and demised to plaintiff; (3) of placing and maintaining, upon said demised spaces, signs and advertisements of such persons and corporations, pursuant to said contracts entered into by plaintiff and in consideration of

Exhibit P. 29.

moneys agreed to be paid to plaintiff by said persons and corporations.

2. From a time prior to the incorporation of plaintiff, the defendants, Newark Sign Company and Newark Bill Posting Company, have been and are still engaged in the same business as that described in the preceding paragraph, and since the incorporation of plaintiff have been and are competitors and rivals in trade of plaintiff throughout the City of Newark, aforesaid, and the surrounding territory.

3. At the time of the committing of the grievances herein mentioned the defendant Samuel Pratt, was and still is president of each of said defendant corporations.

4. The defendants, Newark Sign Company and Newark Bill Posting Company, by their respective officers and directors, and the said defendant Samuel Pratt, maliciously intending to drive plaintiff out of business and into public disrepute, and to injure plaintiff's credit and business, and to prevent it from increasing its business and from acquiring any profit or gain therefrom or from continuing the same did maliciously conspire, combine, and agree, and have maliciously conspired, combined and agreed to drive plaintiff out of business and into public disrepute, and to injure plaintiff's credit and business, and to prevent it from increasing its business or from acquiring any profit or gain therefrom or from continuing the same.

5. In pursuance of said unlawful conspiracy, combination and agreement the said defendants, Newark Sign Company and Newark Bill Posting Company, by their respective servants, agents or employees, and the said Samuel Pratt, continuously and at divers and numerous times and places since the twentieth day of January, 1907,

Exhibit P. 29.

(a) have broken, torn down, sawed, chopped, pasted over with paper and posters, painted over, and otherwise defaced and damaged the signs so as aforesaid erected and maintained by plaintiff under contracts with its customers throughout the City of Newark, aforesaid, and the surrounding territory, and have caused or procured the same to be broken, torn down, sawed, chopped, pasted over with paper and posters, painted over, and otherwise defaced and damaged;

(b) and have falsely and fraudulently represented and have caused or procured to be falsely represented to the customers of plaintiff and to those with whom the plaintiff has or had or might otherwise have had business dealings that plaintiff was unable to meet its obligations and did not pay the rentals for its said sign spaces and was financially irresponsible; and thereby endeavored to and did prevent the customers of plaintiff and those with whom plaintiff had business dealings from having dealings with plaintiff which they might and would otherwise have had;

(c) and by their agents and servants, have falsely and fraudulently represented to those with whom plaintiff had leases or contracts, as aforesaid, that said agents were representatives of the plaintiff and that the plaintiff was identical or associated with said defendant companies or one of them, and did thereby induce such persons with whom plaintiff had leases or contracts to sign and execute other and different leases or contracts in the belief that they were dealing with plaintiff;

(d) and, under color of such leases so as aforesaid fraudulently obtained or under no color of title whatsoever, said defendant com-

Exhibit P. 29.

panies by their agents and servants are under the direction and instigation of the defendant Samuel Pratt, with full knowledge of plaintiff's rights in the premises, have gone into possession of sign spaces rightfully occupied by plaintiff's sign boards and have wrongfully torn down and demolished plaintiff's said sign boards with the advertisements of plaintiff's customers thereon.

(e) added by amendment.

(6) Amended.

6. By means whereof, during all of said time, plaintiff has been seriously and greatly injured in its business, and time, effort and attention of the officers and employees of the plaintiff which should, and otherwise would, have been devoted to the conduct, promotion and increasing of plaintiff's business have been of necessity diverted therefrom to the repairing of the damage caused as aforesaid to plaintiff's property and in attempting to overcome and counteract the injurious effects of the said wrongful acts of the defendants upon the business and reputation of the plaintiff, and the conduct, promotion and increasing of plaintiff's business has been prevented, impeded and interfered with, [and real estate owners with whom plaintiff otherwise could and would have entered into leases for sign spaces have been induced and led to believe that plaintiff could not and did not pay its rentals, and plaintiff has been unable to negotiate and enter into leases for sign spaces and advertising privileges which it otherwise could and would have made and entered into, and plaintiff's customers and those who otherwise would have been customers of plaintiff were induced to believe that plaintiff was unable to perform and complete its contracts to erect and maintain signs, and their confidence in plaintiff's

Exhibit P. 30.

ability so to do was destroyed, and plaintiff has been and was prevented from making and entering into contracts with advertisers which it otherwise could and would have made and entered into, and its customers have withheld and withdrawn business which they would otherwise have placed and transacted with plaintiff,] and plaintiff has been and is prevented from acquiring profit and gain from its business which it otherwise could and would have acquired and gained.

Plaintiff demands $25,000 damages.

LUM, TAMBLYN & COLYER,
Attorneys for Plaintiff.

EXHIBIT P. 30.

SUPREME COURT OF NEW JERSEY,
ESSEX COUNTY.

NEW JERSEY SIGN ADVERTISING COMPANY, *Plaintiff,* *vs.* SAMUEL PRATT, NEWARK SIGN COMPANY and NEWARK BILL POSTING COMPANY, *Defendants.*	*Action at Law.* *Answer.*

The defendants Newark Sign Company and Newark Bill Posting Company, corporations of the State of New Jersey having their principal office at Nos. 27-33 Treat Place, in the City of Newark, Essex County, New Jersey, and Samuel

Exhibit P. 30.

Pratt of the City of New York, in the County and State of New York, say that:—

1. Defendants admit the first paragraph of plaintiff's amended complaint.

2. Defendants deny the second paragraph, except so far as admitted in the following statement:

From a time prior to the incorporation of plaintiff the defendant Newark Sign Company has been and still is engaged in the same business as that described in the first paragraph of plaintiff's complaint, and since the incorporation of plaintiff has been and is a competitor and rival in trade of plaintiff throughout the City of Newark and the surrounding territory, in the branch of its business which is described in the first paragraph of plaintiff's complaint, but that the said defendant Newark Sign Company carries on several branches of business in which the plaintiff is not engaged and in which it is not a competitor and rival in trade of the plaintiff.

That the defendant Newark Bill Posting Company has never been and is not now engaged in the same business as that described in the first paragraph of plaintiff's complaint, and since the incorporation of plaintiff has not been and is not now a competitor and rival in trade of plaintiff throughout the city of Newark and the surrounding territory.

3. The defendants admit the third paragaph.

4. The defendants deny the fourth paragraph.

5. The defendants deny the fifth paragraph and each sub-division thereof, except so far as the allegations of sub-division (a), (c) and (d) are admitted by the following statement:—

The defendants Newark Sign Company and Newark Bill Posting Company have on several

Exhibit P. 30.

occasions taken down plaintiff's sign boards after obtaining leases from the owners of the locations formerly occupied by plaintiff, but without any knowledge whatsoever of plaintiff's rights in the premises, and that in every such instance when the said defendants learned of the plaintiff's rights settlement was made with plaintiff for the damage caused to plaintiff thereby, and releases therefor were given by plaintiff to the said defendants.

6. The defendants deny the sixth paragraph.

The defendant Newark Sign Company says by was of counterclaim:—

1. That the plaintiff, since its incorporation, by its officers, directors, agents and employees, has broken, torn down, sawed, chopped, demolished or otherwise defaced and damaged the sign board bulletins erected, owned and maintained by said defendant throughout the city of Newark and the surrounding territory, and has caused or procured the same to be broken, torn down, sawed, chopped, demolished or otherwise defaced and damaged, and has replaced the sign bulletin boards of said defendant upon such locations with sign bulletin boards of its own, with full knowledge of defendant's rights in said premises.

2. And by its officers, directors, agents and employees has made false, fraudulent, malicious and unfair representations to those with whom said defendant had leases or contracts, and to the customers of said defendant, relative to the said defendant's methods of doing business, and did thereby induce such persons with whom said defendant had leases or contracts to sign and execute other and different leases or contracts with plaintiff, although plaintiff had full knowledge of the rights of the said defendant in said

Exhibit P. 30.

premises; and did thereby induce the customers of said defendant to withdraw their trade from the defendant and give the same to the plaintiff.

The defendant, Newark Sign Company, counterclaims five thousand dollars ($5,000) damages.

The defendant Newark Bill Posting Company says by way of counterclaim:—

1. That the plaintiff, since its incorporation, by its officers, directors, agents and employees, has broken, torn down, sawed, chopped, demolished or otherwise defaced and damaged the bill boards erected, owned and maintained by said defendant throughout the city of Newark, and the surrounding territory, and has caused or procured the same to be broken, torn down, sawed, chopped, demolished or otherwise defaced and damaged, and has replaced the bill boards of said defendant upon such locations with sign bulletin boards of its own, with full knowledge of the defendant's rights in said premises.

2. And by its officers, directors, agents and employees has made false, fraudulent, malicious and unfair representations to those with whom said defendant had leases or contracts, and to the customers of said defendant, relative to the said defendant's methods of doing business, and did thereby induce such persons with whom said defendant had leases or contracts to sign and execute other and different leases or contracts with plaintiff, although plaintiff had full knowledge of the rights of the said defendant in said premises; and did thereby induce the customers of said defendant to withdraw their trade from the defendant and give the same to the plaintiff.

3. That said plaintiff, through its officers, directors, agents and servants, has falsely, fraudulently and maliciously represented to the cus-

Exhibit P. 30.

tomers of said defendant, with whom it had contracts for poster display advertising on its bill boards, that the poster advertising displays contracted to be posted and displayed had not been posted or displayed, and that when such display advertising had been posted by the said defendant it was done in such a careless and negligent manner that the said poster advertising displays immediately became so mutilated and destroyed as to be valueless to said customers for advertising purposes.

4. That said plaintiff, through its officers, directors, agents and servants, has falsely, fraudulently and maliciously represented to those from whom said defendant sought or might seek to obtain contracts for poster display advertising on its bill boards, that the said defendant after obtaining such contracts would not post or display the advertising matter of such persons in accordance with the terms of its contracts, or that if it should post or display such advertising matter it would do so in such a careless and negligent manner that such advertising displays would become so mutilated and destroyed as to be valueless for advertising purposes.

5. That said plaintiff, through its officers, directors, agents and servants, has falsely, fraudulently and maliciously represented to those with whom the defendant had contracts for the distribution of circulars, books, pamphlets and other advertising literature, that such defendant failed to distribute such circulars, books, pamphlets and other advertising literature in accordance with the terms of the contracts with its customers, and that it destroyed such circulars, books, pamphlets and other advertising literature and failed to distribute it.

Exhibit P. 31.

Defendant, Newark Bill Posting Company, counterclaims fifteen thousand dollars ($15,000) damages.

PITNEY, HARDIN & SKINNER,
Attorneys of Defendants.

EXHIBIT P. 31.

NEW JERSEY SUPREME COURT.

ESSEX COUNTY.

NEW JERSEY SIGN ADVERTISING COMPANY, a *Corporation*, *Plaintiff*, *vs.* SAMUEL PRATT, NEWARK SIGN COMPANY, a corporation, and NEWARK BILL POSTING COMPANY, a corporation, *Defendants.*	*Action at Law.* *Discontinuance.*

IT IS HEREBY STIPULATED AND AGREED, that the above entitled cause, including the plaintiff's complaint and the respective counter-claims of the defendants, be, and the same is hereby discontinued, without cost to either party as against the other.

LUM, TAMBLYN & COLYER,
Attorneys for Plaintiff.

PITNEY, HARDIN & SKINNER,
Attorneys for Defendants.

Exhibit P. 32.

EXHIBIT P. 32.

(Filed July 18th, 1913.)

NEW JERSEY SUPREME COURT.

ESSEX COUNTY.

NEW JERSEY SIGN ADVERTISING COMPANY, *Plaintiff,* *vs.* SAMUEL PRATT, NEWARK SIGN COMPANY and NEWARK BILL POSTING COMPANY, *Defendants.*	*Action at Law.* *Reply and Answer to Counter-Claim.*

Reply.

As to the fifth paragraph of the joint answer of the defendants, the plaintiff admits that the defendants, Newark Sign Company and Newark Bill Posting Company, have on several occasions taken down plaintiff's signboards after obtaining leases from the owners for the locations occupied by plaintiff, but denies that the said defendants did so without the knowledge of plaintiff's rights in the premises, and denies that in every or any such instance when the said defendants learned of the plaintiff's rights full settlement was made with plaintiff for the damage caused to plaintiff thereby, and denies that releases therefor were given by plaintiff to the said defendants.

But on the contrary plaintiff alleges that the defendants, Newark Sign Company and Newark Bill Posting Company with the knowledge and assent, and at the instance of the said Samuel

Exhibit P. 32.

Pratt, and with full knowledge of plaintiff's rights in the premises, obtained said leases from the owners of the locations occupied by plaintiff and took down plaintiff's sign signboards, in pursuance of the conspiracy in the complaint mentioned, and for the purpose and with the intent of harassing, embarrassing and injuring plaintiff in its business, and of putting plaintiff to the necessity of employing counsel, and of involving plaintiff in costly litigation, knowing full well that by such means the said defendants could and would injure and eventually totally ruin plaintiff's business.

ANSWER TO COUNTERCLAIM OF NEWARK SIGN COMPANY.

1. Plaintiff denies every allegation in the counter-claim of the defendant, Newark Sign Company.

2. As to the second paragraph of said counterclaim plaintiff says that it made no false, fraudulent, malicious or unfair representations relevant to the said defendant's methods of doing business, as in said paragraph alleged, but on the contrary insists that any and all representations which its officers, directors, agents or employees may have made relevant to the said defendant's methods of doing business were true and justified by the fact.

ANSWER TO COUNTERCLAIM OF DEFENDANT, NEWARK BILL POSTING COMPANY.

1. Plaintiff denies every allegation in the counterclaim of the defendant, Newark Bill Posting Company.

2. As to the second paragraph of said counterclaim plaintiff say that by its officers, directors, agents or employees it made no false, fraud-

Exhibit D. 1.

ulent, malicious or unfair representations as in said paragraph alleged, but on the contrary insists that any and all representations which may have been made by it through its officers, directors, agents and employees relevant to the said defendant's methods of doing business were true and justified by the fact.

3. As to the third pagraph of said counterclaim plaintiff says that if any representations were made, as in said paragraph alleged, the same were true and justified by the fact.

4. As to the fourth paragraph of said counterclaim plaintiff says that if any representations were made, as in said paragraph alleged, the same were true and justified by the fact.

5. As to the fifth paragraph of said counterclaim plaintiff says that if any representations were made, as in said paragraph alleged, the same were true and justified by the fact.

LUM, TAMBLYN & COLYER,
Attorneys for Plaintiff.

EXHIBIT D. 1.

See p. 468.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

James H. Galvin, of full age, being duly sworn on his oath according to law deposes and says I made a statement for the Trowbridge Co. in the office of Lum, Tamblyn & Colyer that I was sent out by Mr. Kavney to throw paint on signs of Job DeCamp and Jackie Clarke on Frelinghuysen avenue about three weeks ago, and the statement that I made was not true. They wanted me to swear to the statement but I would

Exhibit D. K. 2.

not swear to it. I told them they had to show me something to get out of the City, but they wouldn't give me anything and I would not sign it.

The O. J. Gude people also accused me of tearing down their signs in Rahway, and that Dawson received the material and they wanted me to sign an affidavit and I wouldn't do it because it was not true, and I would not make an untrue affidavit, unless they came across. The O. J. Gude Co. requested me to call over at their office on February 6th and forwarded me $1.00 as expenses for the trip, so when I got there they produced a statement for me to sign; on request of O. J. Gude Co. to sign their statement I read it over and found that it was a statement signed by Frank B. Ray and Joe Collins saying that I done all the flopping on the signs. I didn't sign their statement because there was nothing coming across.

JAMES H. GALVIN,

Sworn to and subscribed before
me this 10th day of February, 1915.
HENRY POMEREHNE,
Master in Chancery of New Jersey.

EXHIBIT D. K. 2.

6/13/16.

See p: 451.

February 1st, 1912.

At the annual meeting of the stockholders of the Newark Billposting Company, the following resolution was adopted:

That each stockholder of this company and its subsidiary, The Newark Sign Company, desiring

Exhibit D. 6.

to sell part or all of their stock, offer the same to treasurer of the company at par with division of any profits and the treasurer hereby authorized to purchase same within thirty days after such offer of stock has been made.

Copy from Minute Book.

S. PRATT,
President.

T. F. J. KELLY,
Secretary.

EXHIBIT D. 6.

See p. 329.

Newark, N. J.,
January 4th, 1916.

The O. J. Gude Co.,
220 West 42nd Street,
New York City.

Gentlemen:—

We were in receipt of a letter this morning from Mr. A. J. Gavett, Street Commissioner of Plainfield, as follows:

"The large sign along South avenue between the Netherwood Station and Berckman street is partly blown down, encroaching on the sidewalk and is liable to cause a serious accident.

If this board belongs to your company, will you please give same your immediate attention."

We at once sent our men to Plainfield to investigate, and they found that it was not our board, but one of yours, and was in a dangerous condition.

However, they have now fixed it so that there will be no danger to passersby, and we have

Exhibit D. 6.

written accordingly to the Street Commissioner of Plainfield.

Yours very truly,
NEWARK SIGN COMPANY,
Secretary.

D/C

Newark, N. J.,
January 4th, 1916.

Mr. Andrew J. Gavett, Street Commissioner,
151 North Avenue,
Plainfield, N. J.

Dear Sir:—

We are in receipt of your letter of December 31st, relative to the large sign along South Avenue, between the Netherwood Station and Berckman Street being partly blown down, and as we have signs in this immediate neighborhood presumed it was ours. We have today sent our men down to investigate and they have just reported that the sign is the property of the O. J. Gude Company of New York.

However, our men have now fixed this sign so that it is not in danger of falling on any passersby.

We thank you for your kindness in advising us of this condition.

Yours very truly,
NEWARK SIGN COMPANY,
Secretary.

D/C

Exhibit D. 7.

Plainfield, N. J., Dec. 31, 1915.

Newark Poster Adv. Co.,
27 Treat Place,
Newark, N. J.

Gentlemen:—

The large sign along South Avenue between the Netherwood Station and Berckman Street is partly blown down, encroaching on the sidewalk and is liable to cause a serious accident.

If this board belongs to your company, will you please give same your immediate attention.

Yours very truly,
ANDREW J. GAVETH,
Street Commissioner.

EXHIBIT D. 7.

Jan. 11th, 1916.

Messrs. O. J. Gude Co.,
220 W. 42nd St.,
New York City.

Gentlemen:—

It has been reported to us that a sign opposite North Grove Street Station, East Orange, was blown down. On investigation we found that this sign is not our property, but was one of your signs.

We thought you would be interested to know of this, if you have not already received a report.

Very truly yours,
NEWARK SIGN COMPANY,
Gen'l. Superintendent.

M/W

Exhibit D. 8.

EXHIBIT D. 8.

See p. 365.

February 10th, 1915.

G Now, I came in to see Mr. Mahan and I won't have anything to do with you Mr. Kelly, so unless I can speak to Mr. Mahan alone, why I will have to see him some other time.

K Well, if that is the way you feel about it Mr. Galvin, I have got other work to do and I will step in the other office as long as Mr. Mahan wants to use the Private Office.

M Well, Galvin, what's the trouble?

G You know what the trouble is.

M No I don't. What is it?

G Well, the Gude Co. are after me for tearing down some of their boards around Rahway and I know I did it and they know I did it, but they don't want to get me. They want to get someone else—some bigger people.

M Well, what do you mean by bigger people —who are they trying to get at?

G (softly) Well, they want to get Kavney, Kelly and the Newark Sign Co.

M Well, what do you mean? Do you mean to say that the Gude people are trying to instigate you into making a statement that the people in the Company you mention were back of you when you threw these boards down, as you say you did?

G Yes, that's it, and I have already made a statement and so have a couple of other fellows and this statement is ready for me to sign.

M Well, how did you happen to come to make this statement?

G I got a letter from the Gude Co. and they forwarded me a dollar for expenses to call at

Exhibit D. 8.

their office and make this statement and I did, but before I went to this Gude Co. office I called in to see Bruce Campbell in Van Beuren Company's office, and Bruce backed me up and told me that the Gude people were good people to stick to and to do all I could to put the leaches up against those people.

M Who did he mean by those people?

G Well, he meant Kelly and Kavney and the Newark Sign Co.

M Well, Mr. Galvin this is quite an offense on your part, especially in trying to bring the names of individuals and a Corporation in general in your statement to a competitor. Now, I'll ask a favor of you since I was kind enough to grant you an audience. Why, I am going to ask you to dictate a statement to me of this whole matter, so that I can keep it on record.

Galvin then jumps up and grabs Mr. Mahan's hand, and states that he would sign a statement for Mr. Mahan but he wouldn't do a g— d—thing for that fellow Kelly. Mr. Mahan goes to outer office and calls in his assistant Jones (Mr. Pomerehene). Mr. Mahan requests Mr. Galvin to state to Mr. Jones whatever he wants to go down on the statement.

G And remember Mahan there is another matter that I want to call your attention to, and that is the Trowbridge matter.

M Trowbridge, who is that?

G Oh! you know that piker on Market street that is trying to open up some opposition to this Company.

M Oh! that's the Trowbridge Advertising Co. in the Ordway Building I believe you refer to.

G Yes, that's it.

Exhibit D. 8.

M Well, what's up with those people? What have you done to them?

G Well, I'll tell you. I turned off a couple of tricks on these people on account of an old grudge against Trowbridge himself.

M Tricks! What tricks do you refer to?

G Oh! you remember reading it in the paper about smearing over four or five of their boards with a lot of tar and stuff. Well, I did that and thru some g— d— sucker they found out that I was the man, but just the same as the Gude Co. they found out that I did this while I was working for Kavney, so just the same as the Gude Co. they were looking for bigger bait, and one day a Mr. Lum met me on the street and invited me up to his office.

M Who was this Mr. Lum, an employee of Mr. Trowbridge?

G No, he was a lawyer and he was in with some other people.

M Is that Mr. Lum of Lum, Tamblyn & Colyer?

G That's it, that's it.

M Well, what about that statement?

G Well, as I said they were looking for bigger bait and I admitted doing the job, but I made a statement saying that Kavney gave me the stuff and Kelly told me to do it and that I did it for the Newark Sign Co.

M Well, did you do it for the Newark Sign Co.?

G No, I did it to carry out my grudge against that s— of a b— Trowbridge.

M Did you sign this statement?

G Yes, I did sign that statement.

M Well, did you know that it wasn't true?

G Yes, I knew it wasn't true.

Exhibit D. 8.

M Well, what did you sign it for?

G Well, Trowbridge promised me a good job.

M Did anything pass between you and the lawyer and Mr. Trowbridge for the signing of this statement?

G What the h— are you trying to get at?

M Well.

G Oh! I know what you mean. If I did get anything, it's none of your d— business.

M Well then you mean to say Mr. Galvin that you tore down those boards that were the property of the Gude Co. and you sold the material and received money for them, and that you were instigated by the Gude Co. and backed up by Bruce Compbell to conspire against the Newark Sign Co., its officers and its employees.

G Now listen Mahan, I don't want Bruce Campbell's name brought into this.

M Well, you visited Mr. Bruce Campbell in his New York office before you visited the Gude Co. and he told you that he would back you up in trying to get the hooks on the Newark Sign Co. Didn't he?

G Yes, but I don't want his name brought in this. Bruce and I have been good friends for a long while, and Bruce is a d— good skate, and I want his name left out of this whole g— d— thing.

M I believe that Mr. Lum of Lum, Tamblyn & Colyer was Mr. Campbell's attorney while he was connected with the New Jersey Sign Adv. Co. Do you know whether he has anything or had anything to do in instigating this deal that you turned over against the Trowbridge Co. and tried to blame the Newark Sign Co. for your dirty work?

Exhibit D. 8.

G Now listen Mahan, I'm not saying anything or trying to connect Bruce Campbell's name with the Trowbridge matter. I put my foot in it when I let out that he was in back of me on the Gude matter, so from now on leave Bruce Campbell's name out of this. He told me to put the leeches to the Newark Sign Co., as long as the Gude Co. were looking out for my expenses and Bruce Campbell said that they were good people and they would look out for me, why that's what I was looking for to get as much as I could and then beat it.

M Well, then, you mean to say that you have got as much as you possibly can get out of these people and that it is now up to you to sign the statement for them.

G You're a h— of a smart fellow, Mahan, but I'll be g— d— if I'll give you any more information.

M Well, I won't bother you anymore now, as I promised Mrs. Mahan that I would be home early and it is now 6:15 and I promised I would be home about 6 o'clock. Sit down there beside Jones (Mr. P.) and then dictate whatever you want to say to Mr. Jones and he will take care of you.

A statement was dictated then to Jones (Mr. P.) See statement.

In the course of the re-reading of the statement by Mr. Mahan before its rewriting by the stenographer, the paragraph of the visit to O. J. Gude's office was gone over, and when the point in the statement came to the visit to Bruce Campbell's office, Mr. Mahan tried to have inserted in there the conversation of Mr. Bruce Campbell to Mr. Galvin. Mr. Galvin was quite indignant at this and said he would sign no statement that

Exhibit D. 8.

contained Bruce Campbell's name, as he wanted to keep on the right side of Bruce Campbell, as Bruce Campbell stated that he would help him out when it was necessary, and that he had known Bruce Campbell for a good many years and Bruce Campbell had done a number of good turns for him, so the reference to the trip to Bruce Campbell's office was stricken out of the statement.

Mr. Jones (Mr. P.) then made his exit and had the statement typewritten. The statement as typewritten was then re-read to Mr. Galvin by Mr. Mahan and sworn to by him.

G Now understand Mahan that you're a d— good fellow and I want to talk to you after I sign this statement.

The statement was then sworn to and handed to Mr. Jones (Mr. P.) who still remained in the room.

G Now remember Mahan, unless you come across with $15.00, why I am going to stick in the City tomorrow and the Gude Co. will bring me over to their office and it's up to me to sign that statement.

M Well, Mr. Galvin, you're just after signing a statement, wherein you stated that the statement that you made to the Gude people and the Trowbridge Co. were untrue.

G Well, that statement isn't worth a d— because I didn't swear to it.

Mr. Mahan not wishing to dwell on the subject any longer told him that he would see him in the morning.

G No you won't see me in the morning, because in the morning I am going over to the Gude Co.

Exhibit D. 8.

M Well, Galvin I have only got a few dollars in my pocket and if you are hungry, why I will feed you up good and strong.

G (Quite indignant and in a low tone) G— d— it Mahan, don't you understand? They got statement over there saying that I did this dirty work and that I was put up to it by the Newark Sign Co. and a couple of the high mucks around here, and unless you come across with $15.00 I am going to sign that statement.

Mr. Mahan then makes his exit to the outer office and gets one $5.00 bill and five 1's, and takes a copy of the numbers and hands copy of the numbers to the detective in outer office. Not having any more bills he takes $5.00 in quarters, and he hands the $10.00 to Mr. Galvin and tells me that that is all he has (in bills).

G Come across now Mahan, come across. You know my price—$15.00 and I go to Philadelphia on the midnight train and then the Gude Co. can go clean to H—

Mr. Mahan then hands Mr. Galvin the $5.00 in quarters.

G Well Mahan you're all right but slip me another dollar for good luck. Come across now, come across.

M I doubt very much whether I have it Mr. Galvin as you completely cleaned me out.

Exhibit D. 9.

EXHIBIT D. 9.

See p. 459.

Out Door Advertising Everywhere.

THE O. J. GUDE CO., N. Y.
Candler Building
220 West 42nd Street
In the Midst of the Great White Way.

Directors—O. J. Gude, President; L. E. La-Tour, Vice-President; W. F. Wentz, 2nd Vice-President; A. E. Gans, 3rd Vice-President; F. M. Jones, Secretary; W. E. Gude, Treasurer; J. P. Gillroy, H. J. Mahin.

Telephone, Bryant 5900.

Cable Address—Ojay, New York.

Codes—A. B. C. 4th Edition, Western Union, Universal Edition.

Spectacular Electric Signs.

"Day and Night" Illuminated Painted Signs.

Permanent Painted Bulletins in All Prominent Centers.

Painted Bulletins Along Railroads and Automobile Roadways.

Painted Walls.

In the Midst of the Great White Way.

The O. J. Gude Co.

West 42nd Street.

BROADWAY—The Great White Way

220 West 42nd Street, N. Y.

The Candler Building.

Please address all communications in company name.

Exhibit D. 10.

New York, December 30th, 1915.

Mr. H. L. Karpeles, Sales Mgr.,
Newark Poster Adv. Co.,
Newark, N. J.

Dear Mr. Karpeles:—

We thank you for calling our attention to the Ryzon sign on the meadows. We are having the sign rebuilt.

Very truly yours,
THE O. J. GUDE CO.
W. F. Wentz.

WFW/W

EXHIBIT D. 10.

Newark, N. J.,
December 27, 1915.

Mr. Wentz,
O. J. Gude Co.,
220 West 42nd St.,
New York City.

My Dear Mr. Wentz:—

When coming across the meadows yesterday, I noticed that your Ryzon sign on the right hand side coming in was partly destroyed by the gale. Thought you would like to know it at the earliest moment.

Yours very truly,
NEWARK SIGN COMPANY,
H. N. K.,
Sales Manager.

K/C

Exhibit D. 11.

EXHIBIT D. 11.

See p. 469.
(A true copy.)

COMPLAINT.

Filed April 11, 1916.

New Jersey Supreme Court.
Essex County.

The O. J. Gude Co., N. Y., a corporation, plaintiff, v. Newark Sign Company, a corporation, Newark Bill Posting Company, a corporation, Newark Poster Advertising Company, a corporation, Thomas F. J. Kelly, Hugh J. Kavney, Samuel Pratt and Michael J. Cullen, defendants.

Transcript of Pleadings for Trial.

Lum, Tamblyn & Colyer, Attorneys for Plaintiff.

Kalisch & Kalisch, Attorneys for Defendants, Newark Sign Company, a corporation, Newark Bill Posting Company, a corporation, Newark Poster Advertising Company, a corporation, Hugh J. Kavney.

Fairlie & Vanderbilt, Attorneys for Defendant, Thomas F. J. Kelly.

(Summons issued April 3, 1916.)

Plaintiff, a corporation organized and doing business under the laws of the State of New York, says that:

1. At the times and during the period hereinafter mentioned it was and still is engaged in the business of sign advertising, which, during said period did and still does consist of leasing or controlling sign spaces or privleges and entering into contracts with persons and corporations for

Exhibit D. 11.

the placing and maintaining of signs and advertisements of such persons and corporations on the spaces so as aforesaid leased or controlled by the plaintiff, and placing and maintaining upon such spaces signs and advertisements of such persons and corporations pursuant to said contracts entered into by plaintiff, and in consideration of moneys paid or agreed to be paid to plaintiff by said persons and corporations.

2. At the times and during the period hereinafter mentioned the defendant corporations were and still are each engaged in the same business as that described in the preceding paragraph, and were and are competitors and rivals in trade of plaintiff throughout the City of Newark and the surrounding territory.

3. At the times and during the period hereinafter mentioned the defendants, Thomas F. J. Kelly and Hugh J. Kavney were and still are officers, directors and employes of each and all of said defendant corporations and were and are actively engaged in the conduct, management and promotion of the business of each and all of said defendant corporations and of their rivalry and competition with plaintiff.

4. Said defendant corporations, by their respective officers and directors, and said defendants, Thomas F. J. Kelly, Hugh J. Kavney, Samuel Pratt and Michael J. Cullen maliciously intending to harass, annoy and embarrass plaintiff in the carrying on of its said business, and to damage and destroy its signs and property, and to cause dissatisfaction among its customers and to injure it and drive it out of its said business, and to prevent it from increasing its said business and from acquiring any profit or gain therefrom and from continuing the same,

Exhibit D. 11.

did maliciously conspire, combine and agree and have maliciously consigned, combined and agreed to harass, annoy and embarrass plaintiff in the carrying on of its said business and to damage and destroy its signs and property and to cause dissatisfaction among its customers and to injure it in and drive it out of its said business and prevent it from increasing its said business and from acquiring any profit or gain therefrom and from continuing the same.

5. In pursuance of said malicious and unlawful conspiracy, combination and agreement the said defendant corporations by their respective agents, servants and employes, and the said Thomas F. J. Kelly, Hugh J. Kavney, Samuel Pratt and Michael J. Cullen continuously and at divers and numerous times and places, since January 1st, 1914, have broken, torn down, sawed, chopped, pasted over with paper and posters, painted over, daubed with paint and stains, and otherwise defaced and damaged the signs so as aforesaid erected and maintained by plaintiff under contracts with its customers throughout the City of Newark and the County of Essex aforesaid, and the surrounding counties, towns and cities, and have caused and procured the same to be broken, torn down, sawed, chopped, pasted over with paper and posters, painted over, daubed with paint and stains, and otherwise defaced and damaged.

6. By means whereof during all of said time plaintiff has been harassed, annoyed, embarrassed, and greatly and seriously injured in its said business, and its said signs and property have been damaged and destroyed; and time, effort and attention of itself and its employes which should and otherwise would have been

Exhibit D. 11.

devoted to the conduct, promotion and increasing of its business, have of necessity, been diverted therefrom to the repairing of the damage done as aforesaid to its signs and property, and in attempting to overcome and counteract the injurious effects of the said wrongful acts of the defendants upon its said business; and many of its customers have become dissatisfied because of the damage done to the signs which plaintiff had contracted to maintain for them, and they have withdrawn and withheld business which plaintiff otherwise could and would have had from them, and an injurious belief and reputation has been created among its customers and throughout the said community that plaintiff is unable to perform and complete its contracts to erect and maintain signs, and public confidence in plaintiff's ability so to do has been prevented and destroyed; and it has been compelled to and has laid out and expended large sums of money in endeavoring to repair the damage done as aforesaid to its signs and property, and the conduct, promotion and increasing of its business have been prevented, impeded and interfered with; and it has been prevented from acquiring profit and gain from its said business which it otherwise could and would have acquired and gained.

Plaintiff demands $30,000 damages.

LUM, TAMBLYN & COLYER,
Attorneys for Plaintiff.

Exhibit D. 11.

ANSWER.

Filed March 17, 1916.

The defendants, Newark Sign Company, a corporation, Newark Bill Posting Company, a corporation, Newark Poster Advertising Company, a corporation, and Hugh J. Kavney, all of the City of Newark, say:

1. That they have no knowledge or information sufficient to form a belief as to the allegations of paragraph 1 of the complaint.

2. That they deny the allegations of paragraph 2 of the complaint, excepting that they admit that at the times and during the period mentioned in the complaint the defendant corporations were engaged in the same business as that described in paragraph 1 of the complaint.

3. That they deny the allegations of paragraph 3 of the complaint, excepting that they admit that at the times and during the period mentioned in the complaint, the defendants, Thomas F. J. Kelly and Hugh Kavney, were employees of the defendant corporations.

4. That they deny the allegations of paragraph 4 of the complaint.

5. That they deny the allegations of paragraph 5 of the complaint.

6. That they deny the allegations of paragraph 6 of the complaint.

KALISCH & KALISCH,
Attorneys for Defendants.

Filed February 17, 1916.

Defendant, Thomas F. J. Kelly, residing in the City of Newark, Essex County, New Jersey, says:

Exhibit D. 11.

1. He admits paragraphs 1, 2 and 3 of the complaint.

2. He denies paragraphs 4, 5 and 6 of the complaint.

FAIRLIE & VANDERBILT,
Attorneys for Defendant, Thomas F. J. Kelly.

10

STIPULATION.
Filed May 1, 1916.

It is hereby stipulated and agreed by and between Chester W. Fairlie, attorney for the defendant, Thomas F. J. Kelly; Kalisch & Kalisch, attorneys for the defendants, Newark Sign Company, Newark Bill Posting Company, Newark Poster Advertising Company and Hugh J. Kavney, and Lum, Tamblyn & Colyer, attorneys
20 for plaintiff, The O. J. Gude Co., N. Y., that the answers heretofore filed by these defendants to the complaint in the above entitled cause stand and remain as their respective answers to the amended complaint filed by the plaintiff herein, in pursuance to the leave granted said plaintiff to make Samuel Pratt and Michael J. Cullen parties defendant and to file an amended complaint, entered on April 1st, nineteen hundred and sixteen.

30 FAIRLIE & VANDERBILT,
Attorneys for Thomas F. J. Kelly.

KALISCH & KALISCH,
Attorneys for
Newark Sign Company,
Newark Bill Posting Company,
Newark Poster Advertising Company,
and Hugh J. Kavney.

LUM, TAMBLYN & COLYER,
Attorneys for Plaintiff,
40 The O. J. Gude Co., N. Y.

Exhibit D. 11.

AFFIDAVIT.

I, WILLIAM C. GEBHARDT, Clerk of the Supreme Court of the State of New Jersey, do certify that the foregoing is a true transcript of the pleadings in the above stated cause as the same remain on file in my office.

(L. S.) In testimony whereof I have set my hand and the seal of said court at Trenton, this tenth day of June, A. D. nineteen hundred and sixteen.

WILLIAM C. GEBHARDT,
Clerk.

NEW JERSEY

Court of Errors and Appeals.

O. J. GUDE COMPANY, *Plaintiff-Respondent,* *vs.* NEWARK SIGN COMPANY ET AL., *Defendants-Appellants.*	*On Appeal from Supreme Court.*

Brief of Gilbert Collins for Appellants—In Reply.

The main question presented is whether the Trial Court erred in admitting evidence of an attempt of the defendant companies six or seven years ago to drive out of business a competitor by the name of New Jersey Sign Advertising Company which resulted in a law-suit by that company against the defendant companies which was settled when the suit was reached for trial under the terms of which settlement the defendant companies took over the good will and the business of that company.

Counsel for the plaintiff cites the following authorities for the position that such evidence was admissible in the present suit:

8 Cyc., 684, 685.

Crosby vs. Wells, 73 N. J. L., 790, 806.

State vs. Jankowski, 82 N. J. L., 229, 233.

The quotation from Cyc., contained in the plaintiff's brief at page 5, is not pertinent. The guilt of the defendants in the case at bar is not based upon

the intent, purpose or design with which they damaged and destroyed the signs and property of the plaintiff for the defendants would be liable irrespective of the intent, purpose or design with which they destroyed the plaintiff's property. It will also be noted that the quotation says:

> "It is sufficient that *such collateral facts* have been so connected with each other as part of the same plan or is induced by the same motive and it is immaterial that they show the commission of other crimes."

There can be no contention, in the case at bar, that the destroying of property of the New Jersey Sign Advertising Company was in any way connected with, or was part of the alleged plan to destroy the plaintiff's property, for the two happenings are about six or seven years apart.

The question of motive would seem to play no part in a civil action. The motive would only be material in a criminal action. Furthermore, the facts sought to be adduced are not "collateral facts" connected with the matters now in dispute, but an entirely separate and distinct matter is sought to be injected into the case.

The two New Jersey cases cited in the brief of counsel for the plaintiff, apply a rule that is an exception to the general rule to be applied in cases of this kind. The general rule is that on the trial of a person accused of crime, proof of a distinct, independent offense is admissible.

Clarke vs. State, 47 N. J. L., 556 (selling lottery tickets on other occasions).

State vs. Raymond, 53 N. J. L., 260 (burning of buildings on other occasions).

Meyer vs. State, 59 N. J. L., 310 (prescribing medicine without a license on other occasions).

Parks vs. State, 59 N. J. L., 573 (keeping a disorderly house at another time and place).

Leonard vs. State, 60 N. J. L., 8 (larceny).

State vs. Newman, 73 N. J. L., 202 (embezzlement of public funds on another occasion).

(See also exhaustive note in 63 L. R., 193).

The general rule is stated in 17 Cyc., 279, as follows:

> "Among inferences which, except under certain conditions, the law will not permit to be drawn is that a person has done a certain act because he has done a similar act at another time. The rule has repeatedly been asserted by the Courts, and has been applied equally to civil and criminal cases."

In the case of Crosby vs. Wells, 73 N. J. L., 790, 807, *supra*, cited on the brief of counsel for plaintiff, Green, J., speaking for the Court of Appeals, says:

> "At least as long ago as *Clark v. State* (1885), 18 *Vroom*, 556, 558, and as recently as the case of *State v. Hummer*, *ante*, p. 714, this Court has said that, for the purpose of showing a defendant likely to commit a crime charged, it is not proper to prove that he committed other crimes, although of a like nature. We have no idea of gainsaying that which

> these or other cases have held or assumed; nevertheless, we are of opinion that it is not this rule, but another, governing the admission of evidence, to which effect is to be given in the present case."

We can therefore say without fear of contradiction that this is the general rule. Also as stated by Green, J., in that case, page 809:

> "The principal under consideration is by no means unknown among us in civil cases."

Also as stated by Green, J., at page 808:

> "All of the authorities quoted above have reference to evidence in criminal cases, but the principle has a place in civil cases as well."

The other case cited by counsel for plaintiff, namely, *State vs. Jankowski*, 82 N. J. L., 229, *supra*, also recognizes this general rule, for Swayze, J., cites the case of *State vs. Raymond*, 54 N. J. L., 260, *supra*, and says that the rule as applied in the Jankowski case is an exception to the general rule.

It is a difficult matter to point out the exceptions to this general rule. However, the Crosby case is not pertinent here because that case involved the question of fraud in the sale of 3,000 shares of stock of the Ohio Oil Company. The question was whether the defendant had made fraudulent representation as to the stock to the plaintiff and to prove that he had evidence was offered that he had made the same fraudulent representations to other persons. The Court held that the evidence was admissible. There is no question of fraud involved

in the case at bar. In the case of *State vs. Jankowski*, 92 N. J. L., 235, *supra*, the offense charged was that the defendant transported a girl through the State for the purposes of prostitution. The Court held that it was admissible in order to prove the purpose, to prove his attempt to transport another girl for that purpose at a date subsequent by a short time to the offense charged in the indictment.

The complaint in the present case alleges that the plaintiff was in the sign advertising business; that the defendants were engaged in the same business and the defendants maliciously intending to harass, annoy and embarrass the plaintiff in carrying on its business, damaged and destroyed its signs and property and caused dissatisfaction among its customers, and to injure and drive the plaintiff out of business the defendants maliciously conspired, combined and agreed to damage and destroy its signs and property, etc.

The plaintiff seeks to prove the allegations of its complaint by proving that five or six years prior a similar suit was instituted by another Sign Company, which was subsequently settled by the defendants. Counsel for the plaintiff claims that this evidence is admissible because it tended to show the intent, purpose and design with which the acts of the defendants were done in the case at bar. The purpose of the present suit is to recover damages for the destroying of the plaintiff's property and for exemplary damages. If this was a case of fraudulent representations in the sale of stock and the plaintiff attempted to prove that the defendants had made the same fraudulent representation to other people about the same time, the decision in *Crosby vs. Wells* would be pertinent and this case would then come within the exception of the gen-

New Jersey State Library

eral rule laid down in that case. Likewise the other case, *State vs. Jankowski*, 82 N. J. L., *supra*, cannot be regarded as precedent because there is not similarity at all between that case and the case at bar, and in that case the similar happenings were limited to a very short time subsequent to the offense charged.

In the case at bar it is admitted in the brief of counsel for the plaintiff, that the trouble with the New Jersey Sign Advertising Company was six or seven years ago (p. 3). The fact that the transactions were six or seven years apart should have of itself made the previous transaction inadmissible. In the case at bar no logical inference whatever can reasonably be drawn from the fact that a similar suit was brought against the defendants six or seven years before by another person, especially when there was no determination in that suit. The previous transaction with another person is in no way collateral to the present transaction for which the present suit is brought. In permitting exceptions to the general rule that similar acts or occurrences cannot be proven, the main considerations are three:

1. What dangers lie in the use of similar acts or occurences;

2. What necessity exists for resorting to such evidence;

3. What would be the probative quality of the evidence itself, and consequently what advantage may reasonably be expected to accrue from its use.

17 Cyc., 274.

In the present case the great dangers that resulted from the admission of this evidence were:

1. The practical inconvenience of trying this

very involved and complicated prior suit that had been settled at the same time as the present suit and thus confusing the issues.

2. The mischief of protracting the trial to an undue length and thus confusing the jury as to what the main issue was.

3. Surprising the defendant by the production of evidence which a defendant would not ordinarily expect to meet in a suit of this kind.

4. Otherwise prejudicing the rights of the defendants by permitting the use of this evidence so well calculated to bewilder and mislead a jury.

I have been unable to find a single case in which any Court, in any State, in a civil action for conspiracy (in which the gist of the action is not the conspiracy but the damage resulting), has permitted evidence of a similar happening six or seven years before, and no such case is cited on the brief of counsel for the plaintiff.

In Van Horn vs. Van Horn, 56 N. J. L., 318, the Court of Errors and Appeals, speaking through Van Syckel, J., held (head note):

> "In an action on the case against several for a tort, though a conspiracy be charged, one of the defendants may be found guilty and the others not guilty, *the foundation of the action being the damage and not the conspiracy.*

The question of knowledge, intent and design plays no part in the present case. The present action is brought for damages, and if the plaintiff proved that the defendant and its servants and agents destroyed the plaintiff's property intentionally and wilfully, the cause of action is made out. The only reason for making the action one of conspiracy is

for the purpose of joining all of the defendants in one suit, and judgment may be against a single defendant, where it is shown that such defendant has destroyed the property or the business, etc., of the plaintiff without any proof of the conspiracy (8 Cy., 673).

The rule is well settled that in civil actions the conspiracy is not the gravamen of the charge, but may be pleaded and proved in aggravation of the wrong of which the plaintiff complains and for the purpose of enabling him to recover against all the conspirators as joint tort feasors. The allegation of conspiracy does not change the nature of the action from one purely on the case, subject to all the settled rules of such action. And when it becomes necessary to prove a conspiracy in order to connect defendant with the wrong complained of no averment of the conspiracy need be made in the pleadings to entitle it to be proved.

8 Cyc., 674.

Van Horn vs. Van Horn, 56 N. J. L., 318.

Under the Practice Act of 1912, which provides that:

> "The plaintiff may join separate causes of action against several defendants if the causes of action for a common question of law or fact arose out of the same transaction or series of transactions."

It would not be necessary to prove a conspiracy in order to join the defendant all in one action, providing they all assisted or took part in the destroying of the plaintiff's property.

The judgment should be reversed.

GILBERT COLLINS,
Of Counsel with Appellants.

Arthur W. Cross, Law Printer, 243 Market Street, Newark, N. J.

New Jersey Court of Errors and Appeals

O. J. GUDE COMPANY, a Corporation,
Plaintiff-Respondent,

vs.

NEWARK SIGN COMPANY, a Corporation, *et als.*,
Defendants-Appellants.

On Appeal from Supreme Court.

Brief for Appellants.

This appeal brings up for review a judgment for ten thousand dollars obtained by the plaintiff against all the defendants, except Michael J. Cullen, in the Supreme Court, Essex Circuit.

The plaintiff was engaged in the sign advertising business, and in pursuance of said business leased and controlled certain spaces, and entered into contracts with certain persons and corporations for the placing and maintaining of their signs and advertisements on the spaces so leased and controlled as aforesaid. The defendant corporations were engaged in the same business as the plaintiff, while the defendant Kavney and Pratt were officers of said defendant companies. It is charged by the plaintiff that the defendants conspired to damage and destroy the signs and property of the plaintiff, and have, by their servants and employees at divers and numerous times and places since January 1st, 1914, in pursuance of said conspiracy, broken, torn down, sawed, chopped, etc., and otherwise defaced and damaged the signs erected and main-

tained by plaintiff under contracts with its customers throughout the City of Newark and the surrounding towns, by reason of which the plaintiff suffered damages, in that the plaintiff was obliged to re-erect or repair said signs and to make allowances to their customers for the time that said signs were down or defaced.

The answer of all the defendants to these charges was a general denial.

There are thirty grounds of appeal relied on by the defendants, but for the purposes of discussion those that involve the same subject matter may be grouped under one head.

No. 1, 8, 9, 10, 14, 18, 21 and 27.

These grounds of appeal all have reference to certain transactions and a certain controversy between New Jersey Sign Advertising Co. (which company is not a party to this suit) and three of the defendants in this suit, namely: Samuel Pratt, Newark Sign Co. and Newark Bill Posting Co.; evidence of which transactions and controversy, the court received and referred to in his charge to the jury, over the objection of the defendants.

In offering this evidence, the plaintiff sought to show that the above mentioned three defendants in an earlier suit brought against them by the said New Jersey Sign Advertising Co. in January, 1913, were charged with the commission of acts similar to those charged against them in the present suit; the complaint in the earlier suit alleged that said acts were committed in pursuance of an unlawful conspiracy, combination and agreement entered into by the three defendants above mentioned, and that said acts were committed since January 20th, 1907. (See p. 528, line 25, State of Case.)

The record of that suit was offered in evidence and marked Exhibits P-28 to P-32 inclusive. (See p. 282, State of Case.)

We contend that it was error to receive it in evidence. It throws no light upon the present controversy. It was a suit based upon an alleged conspiracy entered into in 1907, which was more than seven years before the acts complained of in the suit at bar. The plaintiff in that suit was New Jersey Sign Advertising Co., whereas the plaintiff in the case at bar is O. J. Gude Co. In a word, the plaintiff was not the same in each case. It further appears, upon an examination of the record in that case (see pp. 531-536, State of Case), that the answer filed by the defendants denied the charges in the complaint, and that lastly and most important of all, the suit was never tried, but was discontinued. (See p. 536.) So far as the record of that case shows, the merits of the controversy were never determined, as the entire suit was discontinued, as stated above. We contend, therefore, that the record in that case threw no light upon the present controversy. How can it be said, that because the New Jersey Sign Advertising Company, three years before the present suit was started, accused three of the present defendants of conspiring back in 1907 to do certain injurious acts against the New Jersey Sign Advertising Company, without any verdict in the case to establish the truth of the accusations, that that accusation in the form of a suit brought against those three defendants, affords any light in determining whether the accusations in the present case were true? We contend that it was highly improper to place before the jury the record of that case. It confused the issues in the case and prejudiced the defendants in the eyes of the jury since it held them up as chronic law-break-

ers; it also affected the question of punitive damages. Certainly the defendants could not be expected to anticipate that they had to meet the issues of the other case, and were therefore at a disadvantage, as they could not present proof as to the issues of the other case.

The court in dealing with the matter in his charge (p. 477, State of Case) said that the jury should consider the earlier suit and the settlement of it as showing that some of the defendants had knowledge that similar charges had been previously made. This was error, for as said before it did not make any difference whether similar charges were previously made, if those charges were not substantiated.

An effort was made to substantiate the charges in the previous suit by showing that the suit was settled. The question was asked of one of the defendants, Samuel Pratt (p. 424) as follows:

"Q And that suit was settled?"

This question was objected to, but allowed. It was error to allow it. (*Lehigh Valley Railway Co.* v. *Currie,* 54 Eq. p. 94; *Wrege* v. *Wescott,* 30 N. J. L. p. 214.)

Also case of *Richardson* v. *International Pottery Co.,* 63 N. J. L., on page 249, in which the court says as follows:

> "Greenl. Evid., Paragraph 192, states the ruling applicable to this subject to be, 'that confidential overtures of pacification and other offers or propositions between litigating parties, expressly stated to be made without prejudice, are excluded on the grounds of public policy.' It is well settled that such admissions are competent unless it is expressly stated that they are made

without prejudice, or unless the party making them has been led to believe by the conduct of the adversary that a compromise may probably be affected. In this case the evidence was clearly competent. The letter was written before the suit was commenced and more than a year before the alleged tortious act of the defendant was committed."

In that case, of course, it could not be said that the admissions in the form of a letter were made with the idea of compromise, because the tortious act had not yet been committed. In the case at bar, however, not alone was the defendants led to believe that there was to be a compromise, but the actual compromise took place.

No. 2 and 3.

Under these reasons the objection was made to the testimony of Mr. Edward M. Slocum, concerning a conversation which took place between Slocum and Samuel Pratt, the defendant, some time during 1907 or 1908. The testimony objected to is to be found on page 66 of the State of the Case, and beginning at line 38 reads as follows:

Q Do you know Mr. Pratt? A Yes, sir; twenty-eight years.

Q Will you tell us whether or not you heard him make any statement with reference to the New Jersey Sign Company continuing in business?

This testimony was objected to, but the question was allowed. The contention of the defendants is that it had no bearing upon the present suit. It had no reference to the plaintiff in this suit and it certainly was prejudicial to the de-

fendants. A further objection to the testimony is to be found in the fact that the alleged conversation took place not later than 1908, which was eight years before the present suit was started and six years before the acts complained of in the present suit. See bottom of page 74 and top of page 75, where the following evidence appears:

> Q Where was it they made the statement you were testifying to? A That occurred quite often when Mr. Pratt used to come over to New York.
>
> Q About what year? It went over several years.
>
> Q When was the last? A About the last, I remember, was 1907, I think; 1906 or 1907.

And further on the witness places the last conversation either in 1907 or 1908. When the date of this conversation appeared a motion was made to strike out the testimony and the motion was denied. We contend that this was error, as this conversation, taking place so long before the alleged conspiracy and not concerning the plaintiff in the suit, could not throw any light upon the present controversy.

No. 12 and 13.

These two reasons raise the question as to whether Earl R. Birnie, a witness produced by the plaintiff, should have been permitted to testify as to the contents of certain contracts and as to the contents of certain books all in the possession of the plaintiff. The particular testimony which raises this question as to the contracts is to be found on page 22, beginning at line 32. This evidence, we think, was hearsay and should never have gone to the jury, as it

was upon a very vital part of the case, viz.; the damages. It further appears that the very contracts in question were not received in evidence by the court upon objection made to them by counsel for the defendants. (See p. 226, State of Case.) As to the contents of the books we raise the same objection, that it is purely hearsay; the books being the best evidence of their contents.

Reasons 23 and 24.

These reasons bring up for review the ruling of the court permitting counsel for plaintiff to ask Kelly, a witness produced on behalf of the plaintiff, on direct-examination, the following question:

> "Q From the year 1910 until you left the employ of this company, either from your own knowledge or from reports received in the course of your employment, the destruction of signs of this plaintiff, the destruction of what signs of this plaintiff was brought to your attention?" (See p. 250, line 16.)

The declaration filed by the plaintiff in the present case alleges that:

> "5. In pursuance of said malicious and unlawful conspiracy, combination and agreement, the said defendant corporations, by their respective agents, servants and employees, and the said Thomas F. J. Kelly, Hugh I. Kavney, Samuel Pratt and Michael J. Cullen, continuously and at divers times and numerous times and places since January 1st, 1914, have broken, torn down, sawed, chopped, pasted over with paper and posters, painted over, daubed and damaged the signs so as aforesaid erected and maintained, &c." (See p. 7.)

The first objection to this question is that it refers to a time long before the time alleged in the declaration, and for that reason could have no possible bearing upon the acts that were alleged to have taken place in this suit. The next objection is that it refers to *all* damage that might have been suffered by the plaintiff, regardless of who caused the damage. It does not call for damage caused by the defendants. It is difficult to see how the acts of third persons in no way connected with the defendants, can throw any light upon the conduct of the defendants. It is perfectly plain that the facts elicited by such a question were highly prejudicial to the defendants' case. The testimony which followed the question is as follows:

Q Take in 1910, how many? A I don't remember.

Q 1911? A I don't remember.

Q 1912? A Why, probably, to the best of my recollection, twenty or twenty-five.

Q 1913? A From twenty-five to thirty.

Q 1914? A Eighteen to twenty.

While no evidence was given as to the amount in dollars and cents of damages caused by the destruction of the signs testified to above, yet in a case of this kind we are concerned with punitive damages and necessarily the amount of punitive damages is in a large measure to be determined by the enormity of the offense committed. Certainly the minds of the jury must have been prejudiced against the defendant by this testimony. After this testimony was given in, over the objection of the defendant, a motion was made to strike out the testimony, which motion was denied. (See p. 262.)

Another objection to the testimony, of course, is that it is hearsay in so far as it attempts to

prove that the damage took place. The mere fact that it was reported to the witness that the damage too place, is no proof that it actually occurred.

We, therefore, respectfully submit that the question asked and the answers given were in contravention of the elementary rules of evidence and were injurious to the defendants' case. For the foregoing reasons we ask that the judgment in this cause be set aside.

Respectfully submitted,

KALISCH & KALISCH,
Attorneys for Appellants.

Arthur W. Cross, Law Printer, 243 Market Street, Newark, N. J.

New Jersey Court of Errors and Appeals

O. J. GUDE COMPANY, New York, a Corporation,
Plaintiff-Respondent,

vs.

NEWARK SIGN COMPANY, a Corporation; NEWARK BILL POSTER ADVERTISING COMPANY, a Corporation; THOMAS F. J. KELLY, HUGH J. KAVNEY and SAMUEL PRATT,
Defendants-Appellants.

On Appeal from Supreme Court.

Brief for Plaintiff-Respondent.

This was an action instituted in the New Jersey Supreme Court, Essex County, by the O. J. Gude Company of New York, against the defendants. The complaint as set out in the book, page 5, &c., alleges that the plaintiff has been and is in the sign advertising business in general, that the defendant corporations were engaged in the same business and were and are competitors and rivals throughout the City of Newark and the surrounding territory; that Kelly and Kavney were officers, directors and employees of each of the defendant companies and were actively engaged in the conduct, management and promotion of the business of each of the companies and of their rivalry and competition with the plaintiff; that they, with Samuel Pratt and Cullen, maliciously intending to harass, annoy and embarrass the plaintiff in the carrying on of its business, damaged and de-

stroyed its signs and property, and caused dissatisfaction among its customers, and to injure and drive out of business, &c., maliciously conspired, combined and agreed to damage and destroy its signs and property, and to cause dissatisfaction among its customers and to injure and drive it out of business and in pursuance of this design the defendants chopped down, sawed off, burned and otherwise mutilated and injured the signs of the plaintiff to the extent of thirty thousand dollars. The answers put the matter at issue and the trial before Judge Willard W. Cutler and a jury resulted in a verdict in favor of the plaintiff against the defendants (except Cullen, as to whom the plaintiff took a nonsuit) for the sum of ten thousand dollars. From this a Rule to Show Cause was allowed with the reservation of exceptions. This rule was dismissed on its argument.

I.

WE ARE ACCORDINGLY NOT CONCERNED WITH QUESTIONS AS TO THE WEIGHT OF THE EVIDENCE OR THE AMOUNT OF THE VERDICT.

Thirty grounds of appeal are set up in the Book, ps. II to XI.

We are not enlightened as to where these exceptions are found in the voluminous record. We have puzzled them out as best we could, and in this brief will give line and page wherever possible. Some of them are so inexact and indefinite that we are unable to locate them.

Moreover many of them seem to be abandoned and the others in the brief of the defendants-appellants are grouped. The first group comprises Nos. 1, 8, 9, 10, 14, 18, 21 and 27, and they

refer to matters involving the New Jersey Sign Advertising Company.

According to the testimony, the New Jersey Sign Advertising Company was engaged in business in Newark and vicinity as competitors of Pratt and his companies some six to seven years ago. The company was started by a couple of young men who had been former employees of Pratt and the Sign Company, the Advertising Company and the Poster Company and at the time they started in business Pratt stated to his manager that they did not have much money; they couldn't last long; they must be roughhoused, broken up and put out of business. Pursuant to this plan, Pratt himself, dissatisfied with the work of his managers here, wrote out a fake or false poster and had five thousand of them printed in a jim-crow shop in New York and sent them over to be pasted over the signs of the New Jersey Sign Advertising Company in this vicinity, and his instructions were carried out. In other ways, according to the testimony, Pratt and the Sign, Poster and Advertising Companys, adopted and attempted every means and device to drive this competitor from the field. Finally a suit was brought for the sum of $50,000. and an answer was filed; also a counterclaim, but before the suit was reached for trial the question of a settlement was taken up and effected, under the terms of which Pratt and his companies took over the good will and what business there was left of the New Jersey Sign Advertising Company, which then was discontinued.

This appears from the testimony of Slocum, pages 66 to 71; the testimony of Kelly, page 126, and of Pratt, pages 423, 424 and 425, and elsewhere throughout the record.

This suit was one for conspiracy, under which the evidence is probably wider than in perhaps any other class of cases.

The wanton and malicious injuries inflicted against the property of the Gude Company was not done by reason of the fact that it was the Gude Company, but solely by virtue of the fact that it was a competitor of Pratt and his companies and because it was a sign company. In cases of this kind, the intent, purpose and design with which an act is done, or upon which guilty knowledge can be predicated, is all important, and of course the legitimate and reasonable way of showing it is by making clear the attitude of the party accused against others similarly circumstanced, as was this plaintiff.

All of this evidence, we contend, was not only admissible but was admissible for the widest purpose and in the fullest manner. Nevertheless the Trial Court protected the defendants to the fullest possible extent, not only rigidly limiting the evidence admitted but so framing his charge to the jury, as to deprive the plaintiff of the benefit of this testimony, to which we contend it was most properly entitled.

For instance on page 477, the Court said,—

> "There has been evidence offered showing that another company brought suit against one of these defendants on a similar complaint and that suit was settled by one of the defendant companies in this suit, taking over that company, but that does not show the liability of the defendants in this suit to the present plaintiff, but it should be considered by you as showing the knowledge of at least some of the defendants that similar charges had been made."
>
> Page 477, lines 1 to 15.

In other words the jury was expressly charged and directed that this testimony should be considered only for the purpose of showing that the defendants were aware that similar charges to the one in question had previously been made.

Clearly it would have been a proper charge to have directed the jury that they might have taken into consideration all that was proven with reference to these defendants' conduct toward the New Jersey Sign Advertising Company so far as it could shed any light upon the defendants' state of mind or attitude toward competitors in business and so far as it could go to make clear its intent, purpose or design toward the Gude Company.

The law on this point is clearly settled by a multitude of decisions found in this jurisdiction and elsewhere, and there is no conflicting note.

Taken by themselves the acts of a conspiracy are rarely of an unequivocally guilty character, and they can only be properly estimated when connected with all the surrounding circumstances. 8 Cyc., pages 684, 685, and a long list of authorities therein stated, many of which have been examined and fully sustained the text.

From the rationale of these decisions it is stated that,—

> "Where the guilt of a party depends upon the intent, purpose or design with which an act is done, or upon his guilty knowledge thereof, collateral facts in which he bore a principal part may be examined into for the purpose of establishing such guilty intent, design, purpose or knowledge. It is sufficient that such collateral facts have been so connected with each other as part of the same plan or is induced by the same motive

and *it is immaterial that they show the commission of other crimes.*"

In *Peoples* v. *Pecksen,* 153 N. Y. 576, at 593, it is held that evidence of other transactions otherwise material and relevant is not inadmissible merely because it tends to prove another crime. In other words any act which tends to prove part of a general scheme, plan or conspiracy are necessarily and in the nature of things admissible. How otherwise could a general plan or scheme possibly be proved?

In the present case we proved by Slocum, Kelly and others, the plan and scheme to drive the New Jersey Sign Company out of business. We proved the commission of actual injuries pursuant to that plan; the participation of Pratt and other directors and officers of the Sign Company, the Poster Company and the Advertising Company, and then followed it up by proof of suit brought for the redress of those injuries and the final absorption by Pratt and his companies of its former competitor.

We might indeed justly complain of having been unfairly dealt with by the Trial Court in depriving us of all the benefit of this by the limitations contained in its charge. We fail to see how these defendants can raise even a whisper of objection.

This subject, however, is placed entirely at rest by the well-considered opinion of this Court in *Crosby* v. *Wells,* 73 N. J. L. 44, Vr. 790, at 806.

It is there said,—

"Fraud is complex, involving a mental state, as well as an open act. The mental state, in turn, has usually at least three elements—knowledge, intent and design. Knowledge is the receiving of a mental

impression—the state of being aware (Wigm. Evid., sections 244, 245, 300); intent is the state of mind which precedes or accompanies an act—volition (*Id.*, sections 242, 300), and design is the conceived plan or system by which the intent is to be carried out or attained (*Id.*, sections 237, 300). As this mental state can in itself be neither seen nor handled, the existence of its elements must be shown by acts of the person charged or occurrences in which he has borne some part. Furthermore, as the logical process by which knowledge, intent or design may be inferred from acts or occurrences is inductive, we increase the probability of safe and sane inference by multiplying instances of the act or occurrence. Hence it becomes a sound rule, both in logic and in law, that evidence of acts similar to the one immediately under investigation may be offered for the purpose of showing the knowledge, intent or design which are elements of the fraudulent conduct. See Wigm. Evid., sections 300, 305, 320, 340, 344; also Greenl. Evid. (Lewis' ed), section 53, and Tayl. Ev. (9th Am. & Eng ed.), sections 327, 338, 349."

The decision further makes it clear that the rule is the same in civil cases as in criminal.

This rule is approved in the decision of Justice Swayze in *State* v. *Jankowski,* 82 N. J. L. 53 Vr. 229 at 233 (Sup. Ct.). See also *Standard Oil* v. *U. S.,* 221 U. S. 1; *Bottomley* v. *U. S.,* 3 Fed. Cases 968 at 871.

Taking up the grounds of appeal separately, No. 1 appears in the record, bottom of page 66, top of 67. Slocum, the witness under ex-

amination, was formerly the vice-president of the defendant companies and had been for many years a business associate of Pratt and later came to know Kelly. The only ground stated in the objection is that the New Jersey Sign Company is not a party to the present suit; that any statement Mr. Pratt made would not be binding upon any of the defendants, and that whatever was said with reference to the New Jersey Company would not throw any light "upon this particular trouble." The answer shows both the admissibility and the propriety of the question "to put them out of business in any way that was possible; keep after them, give them a rough-house; they haven't got any money; they will go broke." Page 67, line 25. Nothing could more completely show the attitude of Pratt towards his competitors no matter by what name they were called, whether they were Gude Companies, New Jersey Sign Advertising Company or the Randolph Company, whose signs, this case shows, were also most ruthlessly dealt with, wherever destruction was feasible and detection improbable.

This testimony is all followed up and brought right down to date, and shows in a most clear and emphatic way that the same instructions were given to Kelly when he succeeded Slocum, and that the one concern of Pratt and his officers was to kill all competition and to rule this entire field alone.

Certainly this specific question, covered in the first objection, is unobjectionable.

Objections Nos. 8, 9 and 10 appear in the record, bottom of page 125 and throughout page 126. This is evidence of Kelly proving the success of the effort of these defendants in dispos-

ing of their competitors. This deal was consummated by Kelly, then the manager, at the office of the company's then counsel and Mr. Pratt was present at several of the negotiations. See testimony of Pratt, pages 423 and 424.

The 14th objection is directed to the admission of the record of the New Jersey Sign Advertising Company suit in evidence. Referring to page 282 it becomes apparent that there was no objection to the ruling admitting these papers known as Exhibits P. 28 to P. 32, inclusive.

The discussion throughout that period was with reference to a District Court suit which was brought against the Newark Sign Company and others, the evidence as to which was later overruled, and then Mr. Kalisch made motions for non-suit. The motions were refused and objection noted to those rulings. The papers referred to were then admitted without objection. Accordingly there is no legal question before the court on the admission of these papers.

Coppola v. *Grande,* 96 Atl. Rep. 67.
Kargman v. *Carlo,* 85 N. J. L., 632.
Miller v. *The Del. River Trans. Co.,* 85 N. J. L. 700.

Even if full objection had been made and the admissions of the papers were most erroneous it would be harmless error under the charge of the court above referred to covering all reference to the claim and litigation of the New Jersey Sign Company.

The 18th exception is found at page 391, bottom of page 390. One of these defendants was asked if he had ever heard of the suit of the New Jersey Sign Company. He answered

that he never had. It seems to us that to set up this as a ground of appeal is to portray a singularly confused mental state. If the admission of this question was error of the most serious type the answer shows that it would prove more harmless than a dove. We can hardly conceive, however, of anything much more proper than asking the defendant in a conspiracy suit with reference to his knowledge of similar offenses.

The 21st ground of appeal is found at the bottom of page 424 where Pratt was asked with reference to the settlement of the New Jersey Sign Company's suit. We have argued before the propriety of this. The brief of the defendant, however, seems to think that this should not be admitted because of some rule effecting settlement without prejudice. Of course that rule would have no application whatsoever unless the suit was between the same parties who effected the settlement. We cannot pass, however, without observing that *Wrenge* v. *Westcott,* 30 N. J. L. 212, is in no way relevant to the question under consideration, and that *Richardson* v. *International Pottery Co.,* 63 N. J. L. 248, is direct authority for the proposition that an offer made by one litigating party to the other is competent evidence unless express reservations are made, such as were not proved to have been made in the present case.

If, then, this suit had been brought by the New Jersey Sign Company all of this settlement and the whole transaction would doubtless have been gone into most thoroughly, but of course that is all utterly beside the issue, which was a logical attempt to show the defendants'

guilty knowledge and their intent, purpose and design upon their competitors.

We contend, then, that none of these objections grouped under the first heading have any validity whatsoever, and that if they did have, the error, if any, would be entirely harmless, and moreover it is all cleared from the record by the narrow and limiting charge of the court, under which the jury were expressly instructed and directed to consider it solely for the purpose of showing that certain of these defendants had some knowledge of other claims having been made.

We should not have to repeat that this was not an effort made to prove merely the claim in a declaration and a settlement of the suit.

The plaintiff's evidence proceeded back to the pre-arrangement before the injury, the directing of it and the carrying it out by these defendants, or some of them, and the culmination of the suit and the elimination of the competiting company.

II.

Under this heading the defendants have grouped objections Nos. 2 and 3. No. 2 is found on pages 66, 67 and 75 and No. 3 at page 75.

We are hardly able to deal with No. 2 because of its omnibus character, but it raises the same question as No. 3.

By these objections the defendants seek to make the point that we cannot show intent, purpose, design or knowledge unless such intent, purpose, design or knowledge came within the calendar years covered by the particular suit in question. It would seem, however, both

logical and reasonable to make this proof full and complete by going as far back towards its inception as the circumstances would permit. The Statute of Limitations would doubtless bar a recovery any injury committed more than six years before the bringing of the suit, but the conspiracy met with in this case was definitely entered into and consistently carried out for some years before that.

But the brief of the defendants purports to set up no authorities to support its contention on either of these groups, and indeed there are no objections covering the groups so broad and general as No. 2.

We would further call the court's attention to the charge of the trial judge, page 473, line 20, where the jury were expressly instructed that they should only consider evidence of acts previous to January 1, 1910, "if they throw any light on the *attitude* of any of the defendants after that day."

It should also be observed that the testimony of Kelly shows the same conversations testified to by Slocum, taken up where Slocum's time leaves off. In other words whatever Pratt and his companies may be charged with they can never be charged with inconsistency.

Pratt and his directors were certainly of single purpose so far as competition was concerned.

III.

Under this hearing are groups Nos. 12 and 13. We find nowhere in the record the question referred to in No. 12.

> "Did the conferences show whether allowances were made?"

We find this:

> "Do the contracts show whether allowances were made?" Page 222, line 30.

This question, however, had been previously answered and no objection was noted, and the question when objected to was not again answered.

In fact we are unable to see just the point of these objections unless the defendants had fallen into the error which would appear from their brief, and assumed that these contracts referred to by this preliminary question were not admitted in evidence. These contracts were admitted in evidence and are printed as a part of the record, starting with Exhibit P. 24 pages 491 to 520; P. 25, P. 26, P. 27 and P. 28.

In other words, while the signs, destroyed by these defendants, were down, the Gude Company was obliged to make a pro rata deduction from the amount received under each contract. This is covered in the second paragraph of the contract, Exhibit P. 24, page 491, which is a type of the contracts used. This was of course a proper and wholly unobjectionable method of proving the damages actually suffered by the Gude Company.

The witness, Birnie, an employee of the Gude Company, produced certain contracts, and purely by way of introduction was asked whether they showed if allowances were made. The brief of the defendants seems to assume by

this that Birnie was testifying as to the contents of these contracts. We are unable to understand the basis for this inference, and as we have said, these contracts are all in evidence, printed as a part of the record and unobjectionable and not objected to.

The same is true as to objection No. 13. This appears at page 226. The trial counsel, examining this employee of the Gude Company, desired to know whether the books of the company, irrespective of any contract, would show if any allowance was made on a Cusenir sign. The answer was, "This is a copy of the contract." The court observes that this question, which was objected to, was not answered. No other objection is taken and the witness proceeds to explain his company's method of bookkeeping.

The brief of the defendants says on this point, "As to the contents of the books—this is purely hearsay." If this witness was testifying as to the contents of the books we are unable to understand the record.

On this point we would further say that this Cusenir sign referred to was one of those on the board at Rahway, which was chopped down by Galvin, an employee of the defendants, who was corroborated by Dawson, the owner of the land, who assisted him in removing the chopped signs, and was told that he could have the material, which material was located by Jarvis, and was the culminating point leading the Gude Company to the conclusion that it must take steps to preserve its rights.

George Martin, one of the sign builders employed by the Gude Company, testified page 198, line 30, with reference to this Cusenir sign. He told exactly what had been done with it,

the amount of labor, material, etc., he had expended on it, and this was all covered by Exhibit P. 19, page 491.

We are inclined, then, to doubt the seriousness of the defendants' contention under groups Nos. 12 and 13.

IV.

The remaining grounds of appeal, which are now presented for consideration, are Nos. 23 and 24.

No. 23 appears at page 250, line 15. It has been in evidence that Pratt, the president of the company, was dissatisfied with the extent of the ruthlessness displayed by his manager and officers in peaceful New Jersey, and he accordingly hired a gang from New York who were to take up the matter of wrecking the signs of competitors in a more serious way. The expense of this was to be borne, however, by the Newark offices and charged to Pratt's account under the head of "detective services." It was testified to by Kelly that the figures for this work in one year amounted to as much as $1,500, and Pratt when pressed on cross examination would not deny that the figure was not at least as high as that. But in order that this might be checked up and determined whether the company was getting its money's worth of destruction, Pratt made regular reports to his manager, Kelly, showing the wreckage. These reports were filed in the office of the Newark Sign Company. Page 250 Kelly was recalled and asked how many signs of this plaintiff were destroyed to his knowledge or from reports received in the course of his employment. The Court observed, line 35, "This is limited to the report of the president," to which the

trial counsel replied, "The report of the president or any of the officers of the company," and the numbers are then given by the witness during the various years.

The grounds of the defendants' objection, page 250, line 22, were that the reports were hearsay and that there was no time given to connect them, and that there would have to be some connection between the destruction of these signs and these defendants.

The objection that they were hearsay is disposed of by the plaintiff's request to produce and the defendants' insistment that they had no such report. Book, page 91, line 20.

The objection as to the lack of connection is covered by the observation of the Court limiting the question to the reports, and is further covered by the first question of Mr. Kalisch on cross examination, page 251, line 14.

> Q "You say there were reports made to you of Gude signs that were destroyed or damaged during the years 1912, 1913 and 1914?"
>
> A "Yes, sir."
>
> Q "These reports were made by various means, various people?"
>
> A "No, superintendent in charge of that department."
>
> Q "And he always reported to you, made these reports to you?"
>
> A "Yes, sir."

The objection noted in the defendants' brief that the question refers to a time previous to that alleged in the declaration has been previously covered. The attempt was to show the defendants' intent, purpose and design and this of course is not limited to the period for which damages are sought.

The defendants' brief in setting out the fifth paragraph of the plaintiff's declaration mentions the date of January 1, 1914. This date was a typographical error in the original declaration. The error was called to the attention of Messrs. Kalisch & Kalisch by a communication of May 22, 1916, nearly three weeks before the starting of the trial on June 12, 1916. The printed record seems not to show the amendment, but we are sure that on the argument no question will be raised as to its having been made. This appears also throughout the trial. For instance on page 26, line 22, Mr. Kalisch himself refers to the date of 1910 and the six year period. Again at page 88, line 19, Mr. Kalisch refers to "the foundation being laid in 1910 and this conversation taking place in 1909." Moreover the charge of the Court, page 473, line 19, covers the matter specifically, referring to the date of January 1, 1910, but of course if necessary the amendment could be made at this time and in this court, yet we think the matter is made sufficiently clear by the record as it stands.

In other words, this evidence objected to tended to prove that the conspiracy sworn to by Slocum, having been under way from 1906 and 1907, continued right down to the day of the smashing of the Cusenir sign by Galvin, a few weeks before the bringing of this suit.

Clearly this question, limited to the reports which the manager received from the president or officers of the company as to signs destroyed from 1910 to 1915, is most material, relevant and competent.

Group No. 24 we are unable to understand.

Kelly, the manager of the defendant companies, at that time an officer and director, the man in whom Pratt had fullest confidence, a man

who drove about Essex County and vicinity with Pratt on Sundays, and other times in automobiles, picking out favored spots where competitors' signs should be removed, and who received reports from the president and heads of departments as to specific signs destroyed, testified that there were twenty-five in 1912, twenty-five to thirty in 1913, and eighteen to twenty in 1914.

The defendants' employees from page 143 straight through to 246, testified to a ruthless destruction and injury to this plaintiff's signs; how wires were cut, posts burned, metal faces torn from signs, supports sawed through, hacked off and every manner of injury. The evidence showed the employment of special agents for this very purpose. The charge of the conspiracy was proven by an overwhelming weight of evidence, yet the 24th ground of appeal would seem to limit the evidence to a scope narrower than that which would be covered in an action for replevin.

If there was any validity whatsoever to this point it must have been considered by the Supreme Court in disposing of the defendants' rule to show cause why the verdict should not be set aside as against the weight of the evidence.

Certainly that was the time to make this point if any point was to be made.

Grounds Nos. 4, 5, 6, 7, 11, 12, 13, 15, 16, 17, 19, 20, 22, 25, 26, 28, 29 and 30, are not argued in the brief of the defendants and are understood to be waived, and are accordingly not dealt with in this brief.

None of the reasons which are argued raise any question which seems to us even debatable. A full examination of the record shows that the

interest of the defendants was treated by the Trial Court with the very fullest consideration; the plaintiff was greatly restricted in its proof; the defendants have had the benefit of a Rule to Show Cause covering the weight of the evidence and the amount of the verdict, and surely it could not be seriously contended that a different ruling on any or all of the objections covered in the defendants' grounds of appeal would have led to any different result.

We respectfully urge that the judgment be sustained.

Respectfully submitted,

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