

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI.

GEORGE W. HANCE and PARTHENY HANCE,)

Plaintiffs,)

-vs-)

WALES ARNOLD, ET AL,)

Defendants.)

ORDER APPOINTING
COMMISSIONER.

This cause coming on upon motion for an interlocutory order appointing a commissioner to take charge of and distribute the waters to the several parties in interest, and to provide measuring boxes for diversion from the main ditches to the respective lands cultivated by the parties, E. S. Clark appearing for plaintiffs, and Norris & Ross appearing for defendants, and both parties uniting in consent that such an order be entered, provided that the order and appointment be provisional pending the trial of the action, and the final determination of the rights of the parties respectively.

After considering the matter of the suggestions of parties and in consideration of the fact that it appears that heretofore the parties interested in the ditch, at a meeting, passed a resolution requiring the employment of proper measuring boxes for the diversion of the water to the respective users, and that the same be completed as soon as possible and not later than April 1, 1908, the parties using such measuring boxes to pay the expense thereof; it is ordered that Geo. Reid be appointed temporary commissioner for the purpose of providing the necessary measuring boxes for the diversion of the water, and that provision be made for the water to be measured and delivered to the several users under a four inch pressure, according to the requirements of such users under the upper ditch as follows:

Wales Arnold,	3/40
S. C. Cherry,	2/40
J. H. Wingfield,	6/100
C. H. Harbeson,	9/100
W. J. Davis,	1/10
E. W. Monroe,	2/40
Estate of John Wood,	5/40

and to those in the lower ditch, as follows:

Wm. Gray,	1/5
E. J. Monroe,	1/5
John Scott,	1/5
George W. Hance and Partheny Hance,	1/5
Estate of John Wood,	1/5

The commissioner has the right either to work himself constantly upon the ditch, or employ a hand for that purpose, and shall keep the ditch clean and the measuring boxes in proper condition for the measurement and economical diversion of the water, with no waste or leakage, and proceed upon receiving a copy of this order, and shall continue until further orders of this court; he shall put the ditch in repair from the place of diversion from the river to the last farm irrigated. The cost and expenses of the repairs shall be charged to the respective parties according to their interest; the lower ditch and pipe line being repaired and kept in order at the expense of those using the water furnished through the same, as the custom has been heretofore. The commissioner may in his discretion, and for the convenience of the water users, permit the temporary exchange or combination of rights in order that a greater irrigating head may be furnished on the lands, provided however, that when any two or more rights are united for the purpose of securing a greater irrigating head, the party or parties so exercising said right shall not use more water than the several shares of the

parties so uniting entitled them to use, and said commissioner shall at all times, so distribute and apportion said water as to meet the requirements of the parties to this action, regardless of the ownership of the lands. Said commissioner is directed to keep water for domestic and stock purposes in the ditch at all times.

The commissioner may, as to the parties hereto using water below the pipe line, divide the use of said water by the day, if, in his judgment, it shall be expedient, so that a person owning a two-fifths interest may use the entire flow of the ditch two days in five, and so on in that proportion. The commissioner shall notify the parties interested when repairs or other work becomes necessary beyond the ordinary work of the commissioner himself, or his employee, upon the ditch, and specify the date or time when they shall appear and contribute according to their interests. He is authorized and directed to employ the necessary assistance in case of their absence and charge the same to such party or parties, which shall be paid within ten days after demand of the commissioner, and, if not so paid, the commissioner is hereby directed to report such failure to this court for such action as may be deemed necessary. The charges of the commissioner and those of his assistant shall be paid monthly. Commissioner's salary to be Ninety (\$90.00) per month.
Done in open court this 3rd day of March, 1908.

Richard E. Shroy

Judge.

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IN THE DISTRICT COURT OF THE FOURTH
JUDICIAL DISTRICT OF THE TERRITORY
OF ARIZONA, IN AND FOR THE COUNTY OF
YAVAPAI.

GEORGE W. HANCE & PARTHENY HANCE

PLAINTIFFS:

VS -

WALES ARNOLD, ET AL,

DEFENDANTS.

*Order appointing
temporary Commissioner*

FILED.

at 4 o'clock P.M.

MAR 3 1908

J. M. Watts Clerk.

By _____ Deputy.

LAW OFFICES OF
NORRIS & ROSS,
PRESCOTT, ARIZ.

pipe line, said Water Commissioner commenced to irrigate back down the ditch and irrigating successively the farms of Wood, Monroe and Scott, and finally irrigated the farm of plaintiff after irrigating the farms above him twice before giving plaintiff a drop of water. Plaintiff was thus deprived of water for nine days during which time the farms above him were irrigated twice while his lands did not receive any.

Affiant further says that the water so given to his lands by said Water Commissioner was that which had theretofore been used upon the Gray place, instead of the water belonging and apportionable to the lands of ~~Parthey H. Hance~~ ^{Plaintiff's}, notwithstanding the Court's order was ~~that plaintiff was to receive on his land, the water belonging to said Parthey H. Hance;~~ Affiant further says that at the time he received this water theretofore used by the Gray place, the crop on the Gray place had been finished and harvested. Affiant is further informed and believes that said Water Commissioner acted maliciously and deliberately in said matter and for the purpose of damaging and annoying plaintiff, because said Water Commissioner told J. W. Sullivan at that time that he would give plaintiff a few extra runs of water, at the same time using vile, abusive and insulting language about plaintiff.

Affiant further says that the irrigation season in Camp Verde is now practically closed, the rainy season having commenced, and the crops nearly all made; that there is no longer any reason why the farmers along said ditch should be subject to the expense of a Water Commissioner for this season; that plaintiff has received no benefit from the services of said Commissioner, but on the contrary, has been greatly damaged and injured thereby and has not received sufficient water to make a crop and it is now too late for plaintiff to make any crop, even though he should be permitted by said Commissioner to receive the water to which he is entitled.

Plaintiff therefore asks that said Water Commissioner be removed, his services being no longer required, to the end that the

burdens and expense thereof may be lifted from plaintiff and others in like position.

Plaintiff further asks that said Commissioner be cited to appear before this Honorable Court to show cause, if any he has, why he should not be punished for contempt in violating the Order of this Court in manner and form as hereinbefore set out.

Geo. H. Hance

Subscribed and sworn to before me this ____ day of July, 1908.

My commission expires _____.

Notary Public.