

The result is, that plaintiffs should have judgment against defendants for one-half the amount paid the Snow Drift Co. in settlement of the loss under their policy, which was \$1,000.

Judgment for plaintiffs for \$500 with interest and costs.

MEREDITH, C.J.

JANUARY 7TH, 1905.

TRIAL.

ATLAS LOAN CO. v. DAVIS.

*Promissory Note—Purchase Price of Shares—Misrepresentations as to Value—Confidential Adviser—Agency—Evidence.*

Action to recover the amount of a promissory note for \$5,000 made by defendant, dated 17th April, 1902, and payable, with interest at 6 per cent. per annum, 12 months after date, to A. E. Wallace in trust.

The defence was, that the note was given in part payment of the price of 100 shares of the common stock of W. A. Rogers Limited, of the par value of \$100, purchased by defendant from plaintiffs for \$7,000, \$2,000 of which was paid in cash; that plaintiffs, through Wallace (their president), agreed with defendant in the month of May (sic), 1902, that, as soon as a good opportunity should arise, the company would purchase stock in some good company on behalf of defendant, and would give him the full benefit of the purchase, and transfer the stock to him at cost price; that Wallace, acting as defendant's confidential adviser, soon afterwards notified defendant that he could obtain stock of the Rogers Co. of the par value of \$10,000, for the actual price of \$7,000, and that defendant thereupon agreed to purchase the stock, and paid \$2,000 on account, and gave the promissory note sued on for the residue of the price; that defendant was induced to enter into the transaction, pay the \$2,000, and give the note, by the false and fraudulent representations of Wallace as to his knowledge and means of knowledge of the stock; that Wallace falsely represented to defendant that the stock was worth par, and that the actual price paid for it was \$7,000, and that plaintiffs were giving defendant the full benefit of the transaction and were not making a profit thereon; that these representations were false to the knowledge of plaintiffs, because they had in fact purchased the stock at 35 cents in the dollar, and that plaintiffs, instead of acting in