

The defendant pleaded that plaintiff was first engaged at a fixed salary of \$125; that in order to induce him to give his best efforts to defendant's work, he told him, that if his work was satisfactory, he would from time to time give him a percentage of profits; but that was subject to defendant's option. In April 1913, defendant being satisfied with plaintiff's work, gave him a bonus of \$1491.81, which was on the basis of 20 p. c. on his profits. Since the work of plaintiff was not generally satisfactory, and plaintiff had to employ another draftsman. Moreover defendant was unfaithful and disloyal to him, by accepting work from others which he carried out for his own benefit, in the time for which he was paid by defendant and with this latter material and appliances. Finally, plaintiff left defendant's employ of his own accord. Therefore, the plaintiff has been paid all and more than he is entitled to for the services he has rendered to defendant.

The Court dismissed the plea and gave judgment as prayed for.

The Court, having heard the parties by their Counsel and their witnesses upon the issues joined in this cause; having examined the pleadings and documents of record and deliberated:

"Considering that it appears by the evidence, both oral and written, confirmed by the subsequent act and conduct of defendant, that by the contract of lease or hire of services between plaintiff and defendant, plaintiff was to receive a fixed salary of \$125., plus a percentage of the profits of defendant's business, as an architect which percentage was fixed at 10 p. c. of the profits, that this portion of plaintiff's remuneration was not left to the mere will or discretion of defendant who could pay it or not, merely as he would thought fit and proper, and remit it or