

8707

No. _____

Supreme Court of Illinois

Chateau, Harrison & Valle

vs.

Emma Whittaker

71641  7

In the Supreme Court State of Ills
1st Grand Division at Mt Vernon
November term AD 1858

Choteau Harrison & Valle Appellants
vs ~~B~~ appeal from Marion
Emma Whittaker adm^r Appellee
of J. B. Harris dec^d

Com^{rs} this do^g the appellants
by H. S. Nelson their attorney &
say that the Circuit Court of Marion
County erred in rendering Judgment
~~in favor of the appellee~~ against the appellee
for \$1105 whereas by the Law
of the Land the said Court
ought to have rendered Judge-
ment in favor of appellants for
\$2010 $\frac{50}{100}$ and in assigning reasons

Specifically on the record the said appellants
say that the said Circuit Court erred
in rendering Judgment vs the said
Appellee for \$1105 $\frac{50}{100}$ damages and
not rendering a Judgment in favor
of appellants for ~~\$2010 $\frac{50}{100}$~~ to be
Certified to the County Court of Marion
County by the Clerk of said Circuit Court.
2nd the said Court in ~~not~~ rendering

a Judgment against the 1st appellee
as administrator to be paid out of
~~used out against the~~ goods and
Chattels in his hands to be by her
administered in the due Course of
administration -

3 The said Circuit Court erred
in overruling appellants Motion
for a new trial first because the
verdict was against Law 2nd because
it was against evidence & 3rd because
it was against Law and evidence

4 The S. Court Erred in permitting appeal
to ~~stand~~ withdraw her Motion for
a new trial after agreeing to it

5 The Court Erred in overruling
- exceptions to and the
Motion to Exclude the Depositions
of Seymour Harris 7. ~~Grady~~ and Joseph
Gallen first taken & also the subsequent
by taken Depositions of said witnesses.

6 The Court erred in overruling the exceptions
to and the Motion to exclude the
Depositions of James Grant, Lewis
Muttinton and Thos. V. Bogart and
in the foregoing errors apparent on
the record aforesaid. The 1st appellants
say that the said Judgment of the
Circuit Court of Marion County
ought to be reversed and
that they are ready to comply

W. S. Wilson, 1st appellants

State of Illinois
Marion County . Was and proceedings in
the Circuit Court in and for
the County of Marion and State Illinois in a
certain Cause herefore pending in said Court
Between Choteau Harrison and Valle Plaintiffs
and Emma Whittaker admort of the Estate of
James B. Harris Decd Defendant.

Whereas herefore Dourt
on the 14th day of April A.D. 1857 said Defendant
herein filed his transcript of a Judgment of proceeding
had in the Probate Court in and for said County, which
said transcript is in the words figures following
Dourt -

State of Illinois
County of Marion . At a County Court
Continued and held within
and for Marion County at the Court House thereof on
Tuesday December 16th 1857

Present Curshaw Tracy County Judge, James
S. Martin Clerk and Wm Eastland Sheriff, Officers
holding Court in

Choteau Harrison and Valle
vs
Estate of Jas B Harris Decd
Claimant

And now at this day
Cause the said Claimant by Hoyle and Hamilton

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their attys and the Administratrix of said Estate
By Bryan and Mills her attys and acknowledged them-
selves ready for trial. Whereupon Defendants moved
to dismiss this Cause for want of jurisdiction, which
motion is overruled. When on further motion of
Defendants Cause continued until Tuesday of next
March Term of this Court.

March Term 1837. Tuesday the 17th
Present D. Tracy County Judge, Jas S. Martin
Clerk. Wm D Eastland Sheriff.

Came again the said parties
by their attys and Defendant enters motion to dis-
miss for want of Cost Bond. The arguing of which
motion, by consent, was postponed until next Term.
Whereupon Claimants introduced two Witnesses
Dowit. Clark and Richardson who were sworn and
examined. After which by consent of parties
Cause ordered to be continued until the second
day of the next Term of this Court.

April Term 1837. Tuesday the 7th
Present D. Tracy Esq. County Judge, Jas S. Martin
Clerk and Wm D Eastland Sheriff.

Came again the said
parties by their attys. Motion of Defendant to dis-
miss for want of Cost Bond. Taken up and
after argument heard motion overruled by Court.

Whereupon Claimants move to exclude Depositions from Cincinnati for want of authenticity, which motion was sustained by the Court and Depositions ordered to be excluded, Claimants then by their attys waived their objections to Depositions. Depositions were then read in evidence and the Cause argued as well on the part of the Defendant as Claimant and the Court being fully and sufficiently advised of the premises, Ordered that Claimants have judgment for the sum of Two Thousand one hundred and ten Dollars and sixty cents \$2110.60 and that they pay the costs and Charges in this behalf expended taxed Jovint.

Sheriff's fees & Charges	Clerk's fees.
Serving & Returning Notice \$ 80. —	filing papers & swearing
	Witnesses \$ 45
	orders &c of Court entered 1 40
	Appeal Bond 50 ^{cts} Transcript 85 <u>1 35</u>
	3,200.
	Issuing Decimus to take Depositions <u>1,00</u>
	420
	affidavit for con <u>10</u>
	<u>430</u>

State of Illinois
 County of Marion
 I James S. Martin Clerk of the County Court of said County certify the foregoing to be a true and correct Transcript of the Records now of file in my office.
 Given under my hand and seal of office at Salem this 13th day of April A.D. 1867 James S. Martin CLK



And whereas also on the date aforesaid Dowd
on the 14th day of April A.D. 1857 said Defendant
herein filed her appeal Bond which is in words
and figures following To wit—


Know all Men By these presents that
Mrs Emma Whitaker formerly Emma Harris, administra-
trix of the Estate of James B Harris Deceased, Daniel
Whitaker husband of the said Emma and Wick Mills
are held and firmly bound unto Choteau Harrison and
Vallé in the penal sum of four thousand two hundred
and twenty one Dollars and twenty cent lawful money
of the United States for the payment of which well
and truly to be made we bind ourselves our heirs and
Administrators jointly severally and firmly by these presents
Witness our hands and seals this eight day
of April eighteen hundred and fifty seven

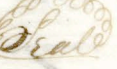
The condition of the
above obligation is such that Whereas the said
Choteau Harrison and Vallé did at the April term of
the County Court of Marion County sitting as a Court
of Probate in and for said County for the year eighteen
hundred and fifty seven obtain an allowance of a certain
claim against the Estate of James B Harris Deceased
by said Court amounting to the sum of two thousand
one hundred and two Dollars and sixty Cents from
which order and allowance the said Emma Whitaker
Administratrix as aforesaid prayed and has taken


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An appeal to the Circuit Court of said County
and State of Illinois. Now if the said Emma
Whittaker Administratrix as aforesaid shall
well and truly prosecute her appeal with effect
and shall pay (in the due course of the ad-
ministration of the said estate according to the
amount of the assets thereof, whatever Judgment
may be rendered by the Court upon dismissal or trial
of said appeal, then the above obligation to be
void, otherwise to remain in full force and effect.

Emma Whittaker 

Administratrix of the Estate of J B Harris 

Daniel Whittaker 

Husband of Emma Whittaker
Urial Mills 

Approved Apr 8 1857
Jas S Martin 

And whereas also on the date last aforesaid there
was filed an article of agreement between the
parties herein which is in the words & figures following

Dowry (and which is referred to in the Bill of Exceptions filed herein as
marked (1)) on the first page thereof.

Articles of Agreement entered into by
and between Orleans Harrison Staller of St Louis
Missouri of the first part and J B Harris & Co of
Cincinnati Ohio of the second part Witnesseth
The party of the first part agrees to furnish to
the party of the second part all or such amount
of Iron suitable for manufacturing wrought iron

Rail Road Chains, as the party of the second part can or may be able to manufacture at the Rolling mill of the said party of the first part. Provided, that the bars shall not be required to be rolled wider than seven (7) inches, the bars to be carefully cut into such length pieces as may be required, and as nearly to exact squares as it is practicable to cut with the common bar iron shear. The quality of the iron to be that of ordinary good Boiled Iron, and warranted to be equal to the iron furnished for similar purposes by the Cincinnati and Pittsburgh Rolling Mills of their Boiled or puddled iron. The party of the first part also agrees and binds themselves that so long as the party of the second part continues to manufacture Rail Road Chains in St Louis, and will take from the party of the first part, all the iron he may manufacture into chains to be used upon the Ohio & Mississippi Rail Roads, and for all other Rail Roads now being built or to be built west of Vincennes, Deerehants and Chicago and for all other Rail Roads either further north or south terminating on or connecting with those having a terminus on the Mississippi River. They will furnish no other parties with chain iron.

The price agreed on to be charged for said iron cut in lengths for

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coming into Chains and delivered in their mill
at the Chain machines is to be for the present
three (3) Cents per pound it being further distinctly
understood that as the St Louis Current selling
prices of iron rises and falls the price of the
Chain iron shall be governed accordingly; that is
to say. The present current rates of Common size
American Bar (Boiled Iron) is Two and Three quarters
Cents per pound and with any rise and fall
in the St Louis Current selling prices of Common
Bar, the price for the Chain iron shall be invariably
one quarter of a cent per pound higher.

The party of the first part also agree
to use their influence in procuring contracts
for Chains, at the best prices that can be pro-
cured.

The Chains to be shipped at
the expense of the party of the second part, by and
in the name of the party of the first part who will
retain their proportion of each collection of all the
monies so collected for Chains, towards the payment
of the iron furnished, and pay over to the party
of the second part their proportion as far as
collected for Chains sold.

The party of the first part
further agree to furnish the party of the second
part Steam power sufficient for driving his
Punching and Knock down machines and

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Room for manufacturing and storing the same.
To say; Commencing at the rail iron furnace
stack (on west side of the mill) from thence
Eastwardly thirty feet, thence Southwardly thirty
feet, thence Westwardly thirty feet & from thence
to place of beginning and also fifteen by thirty
feet laying West of and adjoining above described
premises. Provided however that the party of the
first part shall not be compelled to keep up
steam for Chair machines alone, when from
accident or scarcity of coal, at reasonable prices,
the mill could not be kept in operation, or in case
of its destruction by fire or otherwise or suspension
of operation then this Contract to be void,
Otherwise to continue and to be in force for and
during five (5) years from the first day of
October next.

The party of the first part agree to
take back such pieces of iron as will not make
a merchantable Chair and to replace the same
with good iron and also agree to take from
the party of the second part all his punchings
at the rate of one and a half cent per pound.

Signed in Duplicates at St. Louis
this thirty first day of August Eighteen hundred and
fifty two

Choteau Harrison & Walli

J. B. Harris & Co

9 And Whereas also on the date aforesaid to-wit
 the 14th day of April A.D. 1857 said Plaintiffs
 herein filed their account which is in the words and
 figures following to-wit— and which is referred to supra
 in the bill of exceptions filed herein as marked (2)
 James B. Harris & Co

In ac Current with Chas. Harrison Valle

1852

Nov 16	For 2 Bars East Steel	18/20 a 18	3 33
"	1 30 in Bellows	48	14 40
"	1 Anvil	117 11	12 87
25	" Cash paid dispatches		1 40
1853 April 25	" Do " S B Harris		1000 00
"	" Do " Republican print 2 recto		5 00
June 30	" do " S B Harris dft favor Seymour Harris		500 00
"	" do " for hauling Chairs		75
August 4	" do " " " " at various dates as per ac from Selling Office		13 00
"	" do " for 3,998 Chairs shipped 18 th & 30 th July		2830
"	" do " " " 998 " " August 3 rd		835
14	" do " " " 1873 " " " 11 th		1574
"	" do " " " 3680 " " " "		3550
Sept 8	" " " Seymour Harris		50 00
"	3815 Bus Coals del ^d him at sundry dates a 12 ^d		421 80
"	Labor, weighing & counting 532, 536 R R Chairs		100 00
"	Hauling R R Chairs to places of Shipment		140 00
30	" 400 000 lbs R.R. Chair iron C 3		12000 00

		158.056	"	"	do	4/4	7014.88
			"		Amt assod'd from Mem ^d Book at Mill		168.03
Oct	11		"		Cash paid Time & Tide for on 222 Chairs		1.57
	18		"	"	"	Symour Harris	30.00
Nov	28		"	"	"	Hauling Chairs for W.R.R. Co	22.25
			"	"	"	S B Harris	500.00
	29		"	"	"	Symour Harris	45.00
Dec	5		"	"	"	do	50.00
	6		"	"	"	do	25.00
	13		"	"	"	do	75.00
	31		"	"	"	do	60.00
	37		"	"	"	do	65.00
1884	Jan 3		Dr		Cash paid Symour Harris		30.00
	" 9		"	"	"	for on 1000 Chairs for Young America	9.16
	10		"	"	"	Order Symour Harris	70.00
	11		"	"	Remitted to J. B. Harris Cincinnati		500.00
					Forwarded	8	23017.33
Jan	17		Dr		Cash paid Order S Harris		60.00
	24		"	"	"	do do	50.00
	31		"		do	"	for on Chairs D Naples 23 th & 31 st 92.72
					less allowed on of	13.02	79.70
February	7		"	"	"	Order of S Harris	25.00
	14		"	"	"	do " do	25.00
	21		"	"	"	do " do	25.00
	28		"	"	"	do " do	25.00

March 31	"	Iron in extension G. W. R. R. Co Bill Nov 14 th / 53	1.90
April 4	"	Cash paid Order S Harris	25.00
11	"	do " " do	30.00
18	"	do " " do	25.00
25	"	do " " do	65.00
May 10	"	1 Bar ^{3/8} sq Cast Steel	1.40
31	"	1 " ^{3/4} " " do	4.25
9	"	Cash paid Order S Harris	40.00
9	"	do do do	50.00
16	"	do do do	50.00
23	"	do do do	55.00
30	"	do do do	35.00
June 30	"	300 R. R. Chains returned by Pacific R. R. ¹⁸²⁵ c 5 ^{3/8}	98.09
"	"	R R Chains iron del'd from Sept 11 th / 53 } to 7 th inst 45 @ 5.99 c 4 ^{3/4} c }	21498.45
"	"	Assorted iron from same date per mem'd Book at Mill	120.04
"	"	Oil, Rivets, Brick, clay repairing furnace	85.55
"	"	Labor, Count'g Weighing & Hauling same to place Shopt	196.09
"	"	2617 ²⁵ Bus Coal del'd atundry date	392.65
June 6	do	Cash paid Order Seymour Harris	50.00
13	"	do " " do	55.00
27	"	do " " do	55.00
July 11	"	do " " do	20.00
18	"	do " " do	30.00
"	"	1590 R. R. Chains rec'd by Pacific 8627 c 5 ^{3/8}	453.59
Aug 21	"	136 Fire Brick & Clay for repairing Chain furnace	3.40
Sept 18	"	210 " " " do do do do	5.78

	1 Cast iron plate for chain furnace	9,12
Oct 31	Chain iron 58,242 lbs less 5,794 lbs exchanged they	
	Weight of 898 Plates	52,448 lbs @ 4 3/4
		2491,28
	Coal del ^d from Sept 19 th to Oct 25 th 680 ⁰⁰ Bus 15	102,11
	Hauling Chains at various times from 2 nd to 28 th Oct	50,00
	Interest on Chains sold in Oct say 5 mo int on 5,882.16	147,03
		\$4,9372.18
	Cr By cash at sundry times	47161.58
	Bal due	\$2,110.60

And Whereas upon the filing of such Transcript, Bond &c aforesaid a summons issued which is in the words and figures following to wit

State of Illinois
 Marion County The People of the State
 of Illinois;

Do the Sheriff of said
 County Creating.
 We Command You to Summon
 Choteau Harrison & Valle if to be found in your
 County to appear before the Circuit Court of said
 County, on the first day of the next Term thereof,
 to be holden at the Court House in Salem on the
 Second Monday in the Month of August next to
 answer Emma Whittaker in her appeal from the
 allowance of a claim by the probate Court of

Marion C. Sells against the Estate of James B. Harris doct at the April term 1857 of said Court for the sum of \$2110.50 and have made due return to our said Court as the Law directs.

Witness H. W. Eagan Clerk of our said Court, and the Judicial Seal thereof, at Salem this 5th day of May A.D. 1857



H. W. Eagan Clerk

See Margin. x

And afterwards do wit at the March term A.D. 1854 of the Marion Circuit Court the following order was made do wit -

Choteau Harrison & Valle
vs
Emma Whitaker admr
of J. B. Harris decd

Appeal

And now at this day cause the Plaintiffs herein by Hamilton their attorney and ask leave of the Court to open Dispositions herein which leave is granted and the Defendant by Bryan her attorney comes and ipso being joined. Let a jury come, and thereupon came the following Jury, do wit: J. P. Huff, James Snider, Robert Hanna, John W. Nichols, William Bryant, Alfred Middleton, James Charlton sen

+ And afterwards do wit at the August term 1857 of the Marion Circuit Court the following order was made do wit -
 Emma Harrison & Valle
 doct now at this day cause the said Plaintiffs by their attorney and the said Defendant by Bryan her attorney
 do ask leave of the Court to open Dispositions herein which leave is granted. It is therefore ordered by the Court that
 the Defendants herein have leave to open said Dispositions

John Altom. Hamilton McGein. James A. Marsh
 Absalom Shook ^{and} John Wright, Twelve good
 and Lawful men, who being elected, tried and
 sworn well and truly to try the issues joined
 herein after having heard the evidence argu-
 ments of Counsel and instructions of the Court
 retired to consider of their verdict, and afterwards
 returned into Court the following verdict "We the
 Jury find for the Plaintiff the sum of Eleven
 hundred and five Dollars \$1105⁰⁰00" It is
 therefore ordered and adjudged by the Court
 that the Plaintiff do have and recover of and
 from the Defendant the sum of Eleven hundred
 and five Dollars (\$1105⁰⁰00) together with his costs
 in this behalf expended and may have execution
 therefor &c. And the Defendant thereupon by
 her said Attorney enters her motion for a new
 trial and in arrest of Judgment.

And afterwards Dornit at the August term A.D. 1858
 of said Court the following order was made
 Dornit

Choteau Harrison & Halle

vs

Emma Whittaker formerly
 Emma Harris Administratrix
 of the Estate of James B Harris deceased

} Appeal
 }
 }

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And now at this day came the parties by their attorneys,
and the Defendant by Bryan her attorney enters her
motion for a New Trial. Whereupon the plaintiffs
by Hamilton their attorney consent to a new trial
if tried, at this present Term, and the Defendant
refused to consent to trial at this Term, whereupon
the Plaintiffs withdrew their consent to new trial
herein and the Defendant withdrew her motion for such
new trial. And now the plaintiffs enter their
motion for new trial, which was overruled by the
Court and appealed prayed and granted by
the Court. And thereupon it was ordered and
adjudged by the Court that Judgment be entered
on the verdict of the jury entered at the March
Term A. D. 1838 which verdict was as follows to wit:

"Be the jury finds for Plaintiffs \$1105.00".

It is therefore ordered and adjudged by the Court
that said Plaintiffs do have and recover from the
said Defendant the sum of Eleven hundred and
five Dollars (\$1105.00) Damages together with their
in this behalf expended and may have execution
therefor. (Whereupon the Plaintiffs pray
an appeal, which was granted on the Plaintiffs
entering into an appeal Bond for five hundred
Dollars (\$500) to be executed within thirty days
(30 days) from this date with P. P. Hamilton as
security. Same to be approved by the Clerk of

this Court and filed with him. The Bill of exceptions to be presented by the 1st day of November next A. D. 1858

Whereupon the said Plaintiffs on the 11th day of September A. D. 1858 filed their appeal Bonds which is in words and figures following To-wit

Know all Men By these presents that We Choteau Harrison and Valle and Presley P. Hamilton are held and firmly bound unto Emma Whittaker Administratrix of the Estate of James B. Harris dec'd in the penal sum of five hundred Dollars lawful money of the United States. for the Payment of which well and truly to be made we bind ourselves our heirs executors and Administrators, jointly severally and firmly by these presents.


Witness our hands and seals this Eighth day of September A. D. 1858.

The Condition of the obligation is such that Whereas the said Choteau Harrison and Valle did on the 13th day of August A. D. 1858 in the Circuit Court in and for the County of Marion and State of Illinois recover a Judgment against the above named Emma Whittaker Administratrix of the Estate of James B. Harris dec'd for the sum of Eleven hundred and five Dollars

17 and costs of suit from which said
Judgment of the said Circuit Court and
the said Choteau Harrison and Valle have
prayed for and obtained an appeal to
the Supreme Court of said State.

Now if the said Choteau Harrison and
Valle shall duly prosecute their said
appeal with effect and shall moreover
pay the amount of Judgment costs &
interest that may be rendered against them
by the Supreme Court then the obligation
to be void, otherwise to remain in full force
& virtue

P. Chouliou Jr
per Charles Choteau
James Harrison
Pelix Valle
P. P. Hamilton



Taken & approved by me
at my office in Salem
this 10th day of Sept A.D. 1838

J. P. Egant

And afterwards Dowit September A.D. 1838
said Plaintiffs by P. P. Hamilton their attorney
presented their Bill of Exceptions which is
in the words and following following Dowit

State of Illinois }
Marion County. } set.

In the Circuit Court of Marion
County August Term A.D. 1858.

Choteau, Harrison & Valle

vs

Emma Whittaker, Administratrix
of the Estate of James B. Harris
decd.

Appeal
from County Court,
on an account or

claim filed in said Court for allowance against
the Estate of James B. Harris deceased in favor of
Plaintiffs, Choteau, Harrison & Valle.

Be it remembered that at the March
Term of the Marion Circuit Court for the year 1858,
the above styled cause came on to be heard before
said Court, and was tried by a jury, and said
Plaintiffs to maintain their cause, introduced
testimony as follows, to wit.

John W. Clark, who testified, that he was the
Book keeper of Plaintiffs during the years 1852, 1853,
1854 and up until the fall of 1857. That it was his
duty and business as Book keeper of said Plaintiffs
to keep the Books, make all settlements with persons
doing business with the firm, and pay out all money
for said House. That the contract (which is marked
No 1) was entered into between said Plaintiffs and
James B. Harris, and executed by them in his

presence, at the time of the date thereof, that he
 knew nothing personally of the kinds of materials
 furnished or work done by said plaintiffs for
 said Harris. That said Harris was engaged in
 manufacturing Railroad Chairs at Plaintiffs
 rolling Mill under and by virtue of said contract
 from soon after the entering into said contract in
 the fall or winter of 1852 until the mill burned
 down, that said rolling Mill burned down about
 the 18th day of December, 1854. That said Plaintiff
 did furnish materials & done work for said Harris
 under and by virtue of said contract. That he
 as the Bookkeeper, and Agent of said Plaintiff
 advanced and paid money (for said Plaintiff) to
 said Harris during the time said Harris was
 manufacturing said railroad chairs at said
 Plaintiffs mills, for the purpose of enabling said
 Harris to carry on his work, under said contract,
 That he paid said Harris (for said Plaintiff, ^{as aforesaid}) all
 the money charged on the account filed for
 allowance in this case (which account is
 marked B, 1) which several sums paid as aforesaid
 amounted to ^{about} \$4016.00 ^{as on account appearing} which he advanced
 and paid said Harris or to his order, as the Book
 Keeper and Agent of said Plaintiff, to enable the
 said Harris to carry on said work under said
 contract, that he charged said money to said Harris
 on the Books of said Plaintiff at the request and per

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an order of said Harris
 and that the items charged on the account filed
 in this cause (and which witness examined) (and
 which is marked (2) as aforesaid) are correct,
 that he as the agent or Bookkeeper of said Plaintiff
 paid them all to said Harris at the time mentioned
 therein or to his said Harris order. That after the
 said Mill burned down, which was in Dec 1854,
 said Harris came to the office of said Plaintiff,
 for the purpose of making a settlement with
 said Plaintiff, for and respecting all their
 business transactions. That it being his
 business as Bookkeeper of said Plaintiff to make
 all settlements for them, proceeded with said
 Harris towards making said settlement between
 him the said Harris and said Plaintiff. That
 at that time said Harris claimed a larger
 credit for some item, probably, rail road chairs,
 that what had been given him, that it being
 late in the evening they agreed to disperse
 proceeding further with the settlement that
 Evening) and would resume the same the
 next day. That said Harris went away that
 Evening, and on the following day returned to
 the office of said Plaintiff for the purpose
 of finishing and closing up said settlement.
 That on said day, which was sometime in
 the month of January A.D. 1855, he and said

Harris proceeded to make a final and full settlement of all matters and things existing between said Plaintiffs and said Harris. That the amount claimed as a further credit on the evening previous by said Harris, was found to be correct, and said credit was allowed him to the full amount that he asked, that when they got through examining all the Books, charges and credits to of said Plaintiffs and said Harris, and after allowing said Harris credit for all and every item and thing which he claimed a credit or offset for, they found a balance due and coming to said Plaintiffs from said Harris, for material^s he furnished said Harris under and by virtue of said contract and money advanced as per said the sum of two thousand one hundred and ten dollars and 60 cents. That said Harris acknowledged at that time that there was the said sum of twenty one hundred and ten ^{60/100} dollars due said Plaintiffs from him (said Harris) after allowing him all the credits and offsets he asked for, under said contract or otherwise, and that he was perfectly satisfied with said settlement, and would pay the same, that that was the last and final settlement between said Plaintiffs and said

Starnis, that in said settlement said Starnis was allowed all the credits, claims, and offsets he demanded or asked for, and said sum of \$2110⁰⁰ was the amount found and agreed upon between said Starnis and said witness as the agent and Bookkeeper of said Plaintiffs, as the amount due said plaintiffs from said Starnis on said final settlement of all their matters and contracts as aforesaid.

Edgar A Richardson testified that he was engaged in the employment of Plaintiffs at their Rolling Mill as clerk in August 1852 and continued in their employ at said mill, until said mill was burned down which was on the 18th December 1854 and was in their employ even after that time. That he said James H Starnis was engaged in manufacturing Rail Road chairs at the Rolling Mills of said Plaintiffs for something like two years. He (said Starnis) was thus employed up to the time of the burning down of the Mills 18 Dec 1854. He knew said Starnis procuring iron and ~~wood~~ coal and other articles from said Plaintiffs at various times during said time he was engaged in manufacturing Rail Road chairs as aforesaid. That he knew of the following articles being delivered

24 to said Harris by said Plaintiff, and work to done by said Plaintiff for said Harris at his said Harris request, and for which said work to said Harris was to pay said Plaintiff, to wit.

1853	3515 lbs Coal delivered him (Harris) at sundry dates at \$12 & amt to	\$ 421.80
	Labor weighing & counting 532, 536 RR chains	100.00
	Hauling RR chains to place of shipment	140.00
Sep 30	400,000 lbs RR chain iron @ \$3	12000.00
	165,056 " " " @ \$4	7014.88
	Am't assorted iron	165.03
1854 June 30	300 RR chains returned by Pacific RR @ \$78 7/8 they not being made right	98.69
"	RR chain iron delivered from Sept 53 to June 7/54. 452, 599 @ \$4 3/4	21495.45
	assorted iron from same date	12.04
	Oil Pivots Brick, clay repairing furnace	35.85
	Labor, counting weighing hauling same to place of shipment	190.09
	2617 1/2 lbs coal delivered at sundry dates	392.65
	500 RR chains returned by Pacific road not being made right 5627 @ \$78	463.69
Aug 21	736 Fire Brick Holey for repairing chain furnace	3.45
Sep 10	210 " " " " "	5.78
	1 Cast iron plate for chain furnace	9.12
Oct 31	Chain iron 52, 448 lbs @ \$4 3/4	2491.28
	Coal delivered from Sept 19 to Oct 26 - 680 60 lbs @ 15	102.11
	Hauling chain at various times from 5 to 25 Oct	50.00

That the amounts charged for work in Plaintiffs account was the amounts paid by Plaintiffs to get said work done and which said Harris was to pay said Pliffs back. That the Iron furnished said Harris by said Plaintiffs was good Iron, he considered it the best quality of build Iron, that it was delivered to said Harris in such pieces &c as he required, and in accordance with the contract between said Harris and said Plaintiffs. That the Iron delivered to said Harris was the kind with which he wanted to manufacture Rail Road Chairs, and was of the best quality, that said Harris never objected to either the quality or size of the Iron except once, when that which he objected to was taken back and good Iron furnished in its place, the defective Iron being delivered through mistake, that said Harris had all the Iron he wanted, and at the time he wanted it, That said Plaintiffs furnished said Harris all the Steam power he wanted, for the purpose of manufacturing said chairs. That the prices charged on said account for said Iron, is in accordance with the agreement in said Contract that is to say, the prices are but one quarter of a cent per pound higher, than the current selling prices of common bar Iron in St. Louis at the time.

That said Plaintiffs furnished said Harris room for manufacturing and storing said Rail Road chairs, that they furnished him during all the time he was engaged in manufacturing said chairs, the room and place referred to in said contract. That he (witness) was Clerk at the rolling Mill during all the time said Harris was manufacturing said Rail Road chairs, and that during all that time said Harris was furnished with all the steam power he needed for carrying on said business. That he delivered the iron to said Harris, or to his Agent, that the iron was furnished whenever it was wanted, and was received by said Harris without objections, that he (said Harris) never complained of not receiving the quality of iron and at the time he wanted it. That the iron so furnished said Harris by said Plaintiffs was manufactured into Rail Road chairs by said Harris & sold by him, that there never was any objections made as to the quality of iron used in said Rail Road chairs, but that the reason some of the chairs were not received by the Rail road, was, said chairs were not made right, that in the manufacturing of them, they had been spoiled, that the iron in them was good. That he (witness)

had been engaged for several years in the rolling
 Mill business, and manufacturing of Iron, and
 that he knows all the Iron furnished said Starnis
 by said Plaintiffs was of the best quality of Iron
 for manufacturing rail road chairs. That
 said Starnis was not prevented, for want of either
 Steam power or Iron from manufacturing Rail
 Road chairs, during the whole time he was
 thus engaged except a few times, when the
 mill was stopped for repairs, or when coal
 had become so scarce that it could not be
 purchased at anything like reasonable
 prices. That said Plaintiffs furnished said
 Starnis all the Iron, steam power, room &c
 and everything they agreed to in said contract,
 at the time, and in the manner therein set
 forth, all of which was received and used
 by said Starnis without objections. That said
 Starnis never made application for either Iron
 steam power or any thing else to enable him
 to carry on said contract of manufacturing
 said Rail Road chairs but what the same was
 furnished him at the time, and in the manner
 and of the quality he wanted, and was received
 by him and disposed of by him.

Here the Plaintiffs closed their case.

Whereupon the Defendant offered to read
 as Evidence to the Jury, certain papers purporting
 to be the Depositions of ~~James Grantor; Leslie~~
~~C. Worthington and Thomas O. Bogart~~
~~Henry Miller and James Harris~~
 taken in pursuance of a *Bedimus potestatum*
 issued by the Clerk of the County Court of
 Marion County which were taken by virtue
 of said *Bedimus potestatum* issued by said
 County Clerk as aforesaid, to the reading of
 which the said Plaintiffs by their Counsel
 at the time then and there excepted. And
 the Court overruled the exceptions, and permitted
 said Defendant to read said Depositions
 which was then and there done, which said
 Depositions are as follows,

Hay & Hamilton attys

Please take notice that on Thursday 5th day of March 1857 between the hours of ten o'clock A.M. & 5 P.M. of said day I will by myself or attend at the Clerks office of the County Court in and for the County of Marion and State of Illinois for the purpose of giving out *Deedimus Potestatum* or Commission under the Seal of the said Court directed to William Chidsey a Justice of the Peace at Court South Street No 120 in the City of Cincinnati in Hamilton Co Ohio to take the Depositions of Lewis Worthington, W. S. Winslow, James Trantor and Thomas O Boyer Citizens of the said City, County and State on the annexed interrogatories to be read as testimony on the trial of a certain claim filed against the Estate of James B Harrison now pending for allowance and undetermined in the said wherein I am Defendant as Administratrix of the Estate of said Harris Deceased and Abigail Harrison and Sally are plaintiffs as Claimants I will also attend as aforesaid by and &c as &c as aforesaid and for the purpose aforesaid to be directed to Joseph Clement a Justice of the Peace at Court place in the City of Louisville in the State of Kentucky to take the Depositions of J. B. Coleman and James Dinger

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filed on the annexed interrogatories to be read as aforesaid in the cause &c as aforesaid when and where you may attend if you choose and cross examine by filing cross interrogatories

Feb 23rd 1857 Yours &c

Emma Whitaker (formerly Hans) per Mills & Bryan atty

Chiteau Harrison & Valle

March Term 1857

vs

Emma Whitaker Admx of the Estate of J B Harris dec

Claim filed in the County Court of Marion County

A List of interrogatories to be propounded to Lewis Northington, W S Winslow, James Traylor and Thomas O Bogart Citizens of Hamilton Ohio

1st Are you acquainted with the parties to this suit if so how long have you known them
Answer

Int 2- Were you acquainted with James B Harris in August 1852 or for years or till his death after that date
A

Int 3^d Do you know anything of a contract made by said Harris in August 1852 or at any time under the name & style of J B Harris & Co or otherwise with the plaintiffs in this cause if so state what you

may know of your own knowledge or what you have heard Plaintiffs say about the terms or fulfillment of said Contract

A

Int 4th

State what you know relative to the use and occupation by said S B Harris of the Rolling Mill in the City of St Louis Mo of the said Plaintiffs and how long the said Harris was engaged in the said Mill and what amount of work was turned off by him and also the character of the work - State whether the workmanship of the Rail Road Chains turned out by said Harris was defective or whether the materials furnished and out of which the said Rail Road Chains were made was defective. If either the workmanship or materials furnished were defective. State to what extent the defects affected the value of the manufactured articles

Int 5th

State if you are acquainted with the machinery used by said Harris in the Rolling Mill of said Plaintiffs and if so state its relative character with other machines for the same purpose. State if you know how often and how long the said S. B. Harris was detained in prosecuting his work for the want of Steam power and state what damage if any he sustained by reason of the failure of said Plaintiffs to furnish

good iron & material & a sufficient amount of steam to carry on his business. State if you know how much damages the said S. B. Harris was entitled to by the failing of plaintiffs to comply with their contract

Int 6th State anything and all you may know that would be of benefit to the said Defendant as representative of the said Harris deceased in reference to the Contract herein before referred to and how the iron furnished by said Plaintiffs compared in point of Quality and value with that furnished for similar purposes by The Cincinnati & Pittsburgh Rolling Mills of their boled or puddled iron. State the loss to said Harris if any that he sustained by the failure of Plaintiffs to furnish iron of the quality aforesaid and in quantities sufficient to keep him constantly employed

Certificate

I have this 23rd day of Feb 1857 served the foregoing notice and list of interrogatories on T. J. Harts atty for said Plaintiffs by leaving a correct copy thereof with him

Emma Whitaker (formerly Harris)
per Urial Mills atty

State of Illinois
 Marion County ^{et}
 and Marion County of Illinois

To William Chidsey
 a Justice of the Peace in and for the City of
 Cincinnati in the County of Hamilton in the
 State of Ohio Greeting:

Know Ye That we reposing
 Confidence in your prudence and fidelity have
 appointed you, and by these presents do give unto
 you full power and authority and do hereby au-
 thorize and require you that at a certain time
 and place to be designated and appointed by
 you for that purpose you cause the Witnesses
 whose names are mentioned in the Caption of
 the enclosed interrogatories as well on the part
 of the said Choteau Harrison and Talle Plaintiffs or
 Claimants and Emma Whitaker formerly Emma
 Harris Administratrix is Defendant to come before
 you and then and there diligently and faithfully
 examine each of them upon the said interrogatories
 on their respective Corporal oaths first taken before
 you both on the part of the said Plaintiff and
 Defendant and none others; and that you do take
 such their examinations and cause the said
 interrogatories as they are propounded, together
 with the answers of the said Witnesses thereto

to be reduced to writing in the order in which,
 They shall be proposed and answered and
 when you shall have so taken them you shall
 Cause the said witnesses to sign their names to
 the same in their proper places, in your presence;
 And thereupon you will annex at the foot thereof
 a ^{certificate} subscribed by yourself in which you must
 state that they were sworn to and signed by the
 Deponents and the time and place when and where
 the same were taken, after which you are to send
 the said Depositions together with this Commission
 and the enclosed interrogatories carefully sealed up
 to the Clerk of the County Court in and for the
 County of Marion and State of Illinois with the
 names of the said parties litigant endorsed thereon,
 and this you shall in no wise omit



Given under my hand and Seal
 of Office at Salem this 5th day
 of March 1837

James S. Martin Ck

The Deposition of James Trauter Lewis
 Northington and Thomas O Bogart of the City of
 Cincinnati County of Hamilton State of Ohio of
 Lawful age witnesses produced sworn and exam-
 ined upon their oaths on the 9th day of March
 in the year of our Lord 1887 at the office of William
 Chidsey Justice of the Peace in the City of Cincinnati
 in the County of Hamilton and State aforesaid
 by me a Commissioner duly appointed by a Decree
 Probatum or Commission issued out of the Clerks
 office of the County Court of Marion County in
 the State of Illinois bearing Teste in the name
 of James S Martin Esq Clerk of the said County Court
 with the Seal of said Court affixed thereto and
 to me directed as such Commissioner for the
 examination of the said Witnesses in a certain
 suit and matter in controversy now pending and
 undetermined in the said County Court wherein
 Choteau Harrison & Valle are the Plaintiffs and
 Emma Whitaker Administratrix of the Estate of
 J B Harris is Defendant in behalf of the said
 Defendant and the Interrogatories which are attached
 the said Commission and none other.

The said James Trauter
 being by me first duly sworn as a witness in the
 said Cause previous to the commencement of
 his examination to testify the truth as well on the

part of the Plaintiff as the Defendant in relation to the matter in controversy between said Plaintiff and Defendant as far as he should be interrogated, testified and deposed as follows.

Interrogatory 1st. Are you acquainted with the parties to the suit. if so how long have you known them?

Answer.

I was acquainted with J. B. Harris in his lifetime, and had known him for several years before the year 1852 I am also slightly acquainted with the firm of Christian Harrison & Valle.

Interrogatory 2^d

Answer. I was as I have stated in my first answer

Interrogatory 3^d

Answer. I know nothing

Interrogatory 4th

Answer. I know that James B Harris & Co went to St Louis to manufacture Rail Road Chairs for the firm of Christian Harrison & Valle and I know nothing of the other matters

Interrogatory 5th

Answer. I know the machinery that Harris took from this City for the purpose to be good, and as to the amount of damage it depends on the on the amount of defective Chairs made from unsuitable iron. don't know what time was lost

57 From want of steam or power.
Interrogatory 6th

Answer. The Iron furnished by the Pittsburgh & Cincinnati Mills is more suitable to the manufacture of Chains than the Missouri Iron made from that Pig Metal. It that is the Missouri Pig being of a red short nature, and the loss in consequence of using it would be very great. Nevertheless I do not know whether the Missouri Rolling mill used that Pig altogether or not. The loss per thousand from good Iron that is Pittsburgh or Cincinnati Iron would be about ten in the thousand at the farthest. I do not know the amount lost in the St Louis Mill, but if they used the Missouri Pig alone the loss would be at least thirty three percent

Interrogatory 7th

I can add nothing to the foregoing except that Harris was a good business man

Sworn to and subscribed before me

Sal Traute

this 9th day of March 1837

Whidney
Justice of the Peace

Commissioner &c

Also the said Lewis Worthington being by me
just duly sworn as a Witness in the said
Cause previous to the Commencement

of his examination to testify the truth as well on the part of the Plaintiff as the Defendant in relation to the matter in Controversy between said Plaintiff & Defendant as far as he should be interrogated testified and deposed as follows.

Answer to Interrogatory first.

I am acquainted with the parties to this suit. I have known them since about 1830. I have known Harrison some time longer than that.

Answer to Interrogatory second

I was

Answer to Interrogatory third.

I have heard from both parties about the Contract, and have heard both speak of the terms of said Contract but cannot remember what the terms were.

Answer to Interrogatory fourth.

I was in St Louis about February 1833 and was in the mill occupied by said Harris. Saw the Machinery for making Rail Road Chairs I know nothing of the Character. I know nothing of the other matters.

Answer to Interrogatory fifth.

I know nothing about the matters mentioned in the Interrogatory

39. Answer to Interrogatory Sixth

I have nothing further to add
I know nothing that I can remember
Sworn to and subscribed
before me this 9th day
of March 1837

Louis Washington
Whidsey Justice
of the Peace
Commissioner &c

Also the said Thomas O Bogart being my first
duly sworn as a Witness in the said Cause previous
to the Commencement of his examination to testify
the truth as well on the part of the Plaintiff as the
Defendant in relation to the matter in controversy
between said Plaintiff and Defendant as far as
he should be interrogated, Testified as follows

Answer to Interrogatory First.

I was acquainted with
S. B Harris in his Life time. I am not acquainted
with any other of the parties.

Answer to Interrogatory Second.

I was acquainted with
him about two years before he died.

Answer to Interrogatory Third

I know nothing of the

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Contract between the parties except what has been told me by said Harris.

Answer to Interrogatory Fourth

I know nothing about the matter.

Answer to Interrogatory Fifth

I never saw the machinery Harris had in use in St Louis. I have understood that the machine he had in use was similar to the one I have worked with in this City. It is the best planned machine in use for the purpose and is known as Harris Machine. as to the amount of Damages sustained by the stoppage of the machine either by want of Power Metal or other cause I can not say with much exactness. But it must be ranging from fifteen to twenty Dollars per day on a single machine.

answer to Interrogatory Sixth

I have not used any of the Iron made by the Plaintiff at their Mills in St Louis, but in the manufacture of Rail Road Chairs from Cincinnati Iron the loss is from four to six in every thousand

I now to and subscribed

Chas O Bogart

before me this 10th day of March 1857

W Chesney Commissioner

I, William Chidsey of the County of Hamilton
 and State of Ohio a Commissioner duly app-
 ointed to the Depositions of Lewis Worthington
 James Trantor & Thomas O Bogart whose names
 are subscribed to the foregoing Depositions. do
 hereby certify that previous to the Commencement
 of the examination of the said persons as witnesses
 in the said Suit Between the said Chiteau
 Harrison & Walter Plaintiffs and Emma Whitaker
 Administrator of the Estate of J B Harris
 Defendant. they were duly sworn by me as
 such Commissioner to testify the truth in
 relation to the matters in controversy between
 the said Plaintiffs and Defendant so far as they
 should be interrogated concerning the same, that
 the said Deposition was taken at my office in the
 City of Cincinnati in the County of Hamilton
 and State of Ohio on the 9th & 10th days of March
 A.D. 1837 and that after said Depositions were
 taken by me as aforesaid, the Interrogatories
 and answers thereto as written down were read
 over to the said Witnesses and that thereupon the
 same was signed and sworn to by the said Depo-
 nents before me as such Commissioner and on the day and
 Year last aforesaid

William Chidsey
 Commissioner

Paid by Defendant Agent

Recd
 Subpena \$ 2.00
 Per diem 1.50
 Taking Depositions 2.50
 Witnesses \$ 8.10

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The State of Ohio
Hamilton County

I Thomas Spooner Clerk of the
Court of Common Pleas in and for the County
and State aforesaid do hereby certify that
William Chidsey was on the 10th inst and is
now an acting Justice of the Peace in and
for said County having been duly commissioned
and sworn and that his official acts as such
Justice are entitled to full faith and credit

In Testimony whereof I hereto
subscribe my name and affix
the seal of said Court at
S. D. Cincinnati this 24th day of
March A. D. 1837

Thos Spooner
Clerk Court Common Pleas
Hamilton Co Ohio

And the said Defendant also offered to read as Evidence before the Jury certain other papers purporting to be the Evidence of Friedrich Schrader; Georg Faller; & Seymour Harris.

taken in pursuance of another Bedimus pro-
-testation issued by the Clerk of the County Court of said Marion County, which depositions were taken by virtue of said Bedimus protesta-
-tion issued by said County Clerk as aforesaid, to the reading and offering of which as Evidence the said Plaintiffs by their Counsel at the time then and there excepted. And the Court overruled the exceptions and permitted said Defendant to read said depositions to said Jury as Evidence, which was then and there done, which said depositions are as follows.

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Hout & Hamilton atty

Please take notice that
on Saturday 25th day of July 1857 between
the hours of ten o'clock A.M. & 3 P.M. of said
day & continued till through I will by myself
or atty attend at the Clerks office of the Circuit
Court in and for the County of Marion and State
of Illinois for the purpose of seeing out a *Procurator*
Potestatum or Commission under the seal of
the said Court directed to J. Sweeney a Justice
of the Peace within and for the County of
St. Louis and State of Missouri at his office
in the City of St. Louis Mo to take the Depositions
of Seymour Harris, George Joller, Frederick
Trader and Daniel Curwin Citizens of said
State of Missouri on the annexed interrogatories
to be used in evidence as testimony in the trial
of a certain claim now pending by appeal from
the County Court in the Circuit Court of said
County and State wherein I am Defendant
as Adm^r of the estate of James B. Harris
deceased and Choteau Harrison & Valle are
Plaintiffs or claimants when and where you may
attend if you choose and cross examine by filing
interrogatories.

July 14th 1857 Respectfully
Emma Wheeler formerly Emma Harris
Adm^r of Est of J. B. Harris dead
for Mills & Bryan atty

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A List of Interrogatories to be propounded to Seymour Harris George Fuller Orndorff Fisher and Daniel Curran Citizens of the State of Mo

Int 1st

Are you acquainted with the Plaintiffs in this Cause and were you acquainted with James B Harris dead and if so state how long and under what circumstances you became acquainted with him or them.

Int 2^o

State what you may know in reference to the occupancy of the Rolling mill of Plaintiffs or a part of it by the said J B Harris dead on and after the 31st August 1832 in the City of St Louis Mo - State how and how much of said Mill he occupied and what rights he had to the Room and Steam power of Plaintiffs Rolling Mill

Int 3^o

How much and what kind of iron said Plaintiffs furnished to the said Harris and how the same compared with the Cincinnati and Pittsburgh boiled or puddled iron in point of Quality and working Capacity.

Int 4th

State what proportion of the Chains manufactured out of the iron furnished were defective and what loss Harris sustained by reason of the defect of the iron

Int 5th

State whether said Plaintiffs supplied said

Harris a sufficient quantity of steam for the purpose of manufacturing RR Chairs during the time he occupied the mill and while the said Plaintiffs run their mill for other purposes. State how long Harris was delayed for the want of steam while Plaintiffs had coal and run the mill for other purposes and state if the mill of Plaintiffs lay still at times for the want of coal while it could not be had at reasonable prices. State all you may know about the detention of hands and how many hands were detained while in Harris' employ for the want of steam when it could have been supplied by Plaintiffs and what were the wages paid hands per day by Harris and what was his aggregate loss by reason of a failure to supply steam by Plaintiffs when their mill was running for other purposes. State how many times and how long at each time Harris his hands were delayed for the want of steam when Plaintiffs had coal on hand or could at reasonable prices have had it on hand and while the mill was running for other purposes.

6th State the character of the Chair machinery used by Harris in Plaintiffs mills and the business habits and capacity of the workmen in Harris employ.

7th State what you may know in reference to the detention of Harris and his hands for the want of suitable iron to manufacture Rail Road Chairs while the rolling mill of Plaintiffs was running for other purposes. State how long at each time and how many times Harris was delayed for the want of suitable iron and how

many hands were delayed and the amount of their wages per day and the damage to Harris

Int 8th

State how many chairs in a thousand or what per cent of the R R Chairs manufactured by Harris proved defective by reason of bad iron and the loss thereby occasioned to Harris. State how many of the R R Chairs made by Harris were returned because of defective iron and how many were returned if any for which Plaintiffs did not give other iron in exchange to Harris and the value of the chairs so returned for which other iron was not given in exchange

Int 9th

State who were the clerk or clerks of the Plaintiffs while Harris was making chairs in their rolling mill and where they kept their offices and what their opportunities for knowing anything about the business of Plaintiffs and Harris and how long and what times each of them acted as clerks and where and for what length of time they kept their offices in connection with the rolling mill business.

Int 10th

Do you know anything further that would be of importance to the Defendant in this action in defending against the claim of Plaintiffs in this case touching the the occupation of said mill the supply of material, the defects of iron, the failure to supply steam the delay and loss to Harris in the whole business connection with said Plaintiffs if so state it fully &c

State of Illinois
 Marion County ¹⁸⁵⁷ The People of the State
 of Illinois

To J. Sweeney a
 Justice of the peace in for the
 County of Saint Louis and State
 of Missouri Greeting:

Know Ye that we in confidence of your prudence
 and fidelity have appointed you, and by these
 presents do give unto you full power and
 authority and do hereby authorize and require
 you, that at certain time and place to be
 designated and appointed you for that pur-
 pose, you do cause the witnesses whose
 names are mentioned in the caption of the
 enclosed interrogatories, as well on the part
 of Choteau Hanson and Valle Plaintiff as on
 the part of Emma Whittaker formerly Emma
 Harris Adm^r of Estate of James B. Harris
 deceased Defendant to come before you
 and then and there diligently and faithfully
 examine each of them apart upon the said
 interrogatories on their respective Ojporal oaths
 first taken before you, both on the part of the
 said plaintiff and Defendant and none others
 and that you take such their examinations
 and cause the said interrogatories as they

are propounded together with the answers
of the said Witnesses thereto to be reduced to
writing in the order in which they shall be
propounded and answered and thereupon you
will annex at the foot thereof a Certificate
subscribed by Yourself in which you must
state that they were sworn to and signed by
the Deponents, and the time and place when
and where the same were taken.

After which you are to send the said depositions
together with this Commission and the enclosed
interrogatories carefully inclosed and sealed
up to the Clerk of the Circuit Court in and
for the County of Marion and State of Illinois
with the names of the said parties litigant
endorsed thereon. And this you shall
in no wise omit



Done under my hand and official
Seal at my office in Salem
this 20th day of July A.D. 1837

H. W. Egan Ck.

Chateau Harrison vs Tallie Pliffs
 vs
 Emma Whittaker formerly
 Emma Harris Defendant
 Before the Marion
 County Court
 State of Illinois

Depositions of Witnesses Taken before James
 Sweany a Justice of the Peace in and for the
 City and County of St Louis State of Missouri
 at his office in the 9th Ward of said City.

Frederick Schroder of Lawful age who being by me
 duly sworn on his oath deposes and says that he
 will well and truly answer punctly interrogatories as
 may be propounded to him & testify touching the matter
 in controversy now pending in the Circuit Court now
 pending in the County of Marion County in the State
 of Illinois wherein Chealon Harrison & Taly are
 Plaintiffs & Emma Whittaker formerly Emma Harris
 is Defendant shall be the truth the whole truth and
 nothing but the truth as well on the Part of the Plaintiff
 as the Defendant

Interrogatory 1st Item, I know them the Pliffs personally
 I know the Pliffs six Year ago Mr James B Harris came
 to me in St Louis and hired me to work for him

Interrogatory 2^d I know Mr J B Harris owned the Machinery and which
 I worked but do not know any about the rooms or

place the machinery occupied by J. B. Harris was in the Rolling mill of Puffs.

Interrogatory Third (Answer)

The iron furnished by Choteau Harrison & Valle was bad I would break more than two hundred chains in a thousand.

I don't know any about the Pittsburgh or Cincinnati Iron.

Interrogatory 4th (Answer)

I can't tell how great the damage was Mr J. B. Harris sustained by breaking the chains.

Interrogatory 5th (Answer)

Yes we had always enough Steam if he had enough iron for manufacture we wouldn't stop, the Machinery stood still for two months for the want of iron Eight men of the hands were kept idle when both Machineries were at work for the want of iron for the space of ten weeks, They workmen employed were good workmen and averaged at one Dollar and fifty per day, the mill was running at the same time.

Interrogatory Sixth (Answer)

The Machinery used in making chains was known as Harris the machinery was good

when it was kept in order.

53 Interrogatory Seventh (answer)

I for myself was staying
all the time I B Harris had quit frequently
for want of work. The machinery of Harris
lay still for two ^{months to} months. I went for two, New
Orleans. The machinery layd idle good many
times I know for sure for two months for
want of iron

Interrogatory Eighth (answer)

I often seen a good many returned but could
not tell how many

Interrogatory Ninth

Mr Ritchard and his Brother were
clerks and the only ones at the Rolling mills of
Plyss and are clerks there now. In the warehouse
were they kept the iron was the office

Interrogatory tenth (answer)

I know nothing more about it
I know he had subscribed
before me the right day
of August 1857

James Sweeney
Justice of the Peace

Frederick Schrader

Here the Court Adjourned until Monday morning
August 10th at 9 o'clock AM

George Peller King produced Plover and examined
depos and says

Answer to first interrogatory

I been acquainted with the
parties five years I worked for Chas. Harrison
Stallis also for James B Harris.

Answer to Interrogatory second

James B Harris had two
Chair machines and a punching machine at
the Rolling Mill of the Pletts who used to
furnish him James B Harris with steam iron.

Answer to Interrogatory third

They furnished good and bad
iron was about equal quantities.

Answer to Interrogatory fourth

Between two & three hundred
out of a thousand chains were broken when they
furnished bad iron. The loss or damage for a hun-
dred chains is about five Dollars

Answer to Interrogatory fifth.

The Pletts supplied J B Harris
at all times sufficient Steam J B Harris
had twelve men employed the averaged from

One Dollar fifty Cents per day or one Dollar & seventy five Cents per day. The Mill was idle for want of coal & iron sometimes one month two and three month. The loss per day of the two machines when not running was betwixt six ten two eighteen Dollars

Answer to Interrogatory Sixth

The Machinery used in making chains was known as Harris' The machinery was good when it was kept in order.

J B Harris generally kept good workmen but frequently they had to quit for want of employment and then he had to employ new hands who were inexperienced at such work.

Answer to Interrogatory Seventh

The Loss and damage which Harris sustained I can't tell. The damage which Harris sustained must have been considerable but I can't tell to how much it amounted the year round. J B Harris was detained often for want of iron.

Interrogatory Eight (Answer)

I answered a portion before the balance I can't state - I do not know how many chains was returned

Interrogatory Truth (Answered)

In the first Commencement

Edward Gornell was Clerk afterwards Ed. Richardson & Lee Richardson. The Pliffs kept their office in the Ware house

Interrogatory Truth (Answered)

I know nothing further

Sworn to and subscribed before me the 10th day of August 1857

George Paller

James Sweeney
Justice of the Peace

State of Missouri
County of St. Louis

I James Sweeney a Justice of the Peace in and for said County hereby certify that the foregoing Depositions (Except Seymour Harris) were taken at my office in the 9th ward of the City and County of St. Louis in the State of Missouri and sworn to and signed by Deponents on the 2nd & 10th day of August 1857

Given under my hand this the 10th day of August A D Eighteen hundred and fifty seven

James Sweeney
Justice of the Peace in and for
St. Louis County of Missouri

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State of Missouri
County of St. Louis
I Josiah Thornburgh Clerk of the County
Court within and for St. Louis County, certify
that James Sweeney whose name is subscribed to the foregoing
instrument of writing was on the day of the date thereof and now
is an acting Justice of the Peace in and for said County
duly Commissioned and sworn and that the signature is
Genuine.



In Testimony whereof I hereto set my
hand and affix the seal of said Court
at office in the City of St. Louis this
10th day of August A.D. 1837

Josiah Thornburgh
Clerk

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And the said Defendant also offered
to read as Evidence before the Jury the Deposition
of Seymour Harris, to reading and offering of which
as Evidence the said Plaintiffs at the time, then
and there excepted. And the Court overruled
the exceptions, and permitted Defendant to
read said Deposition to said Jury as Evidence
which was then and there done, which said
deposition is as follows.



State of Illinois ^{3rd Dist}
Marion County ^{3rd Dist} The People of the State of
Illinois

To Peter W Johnson a
Justice of the Peace in & for
the City of St Louis County of
St Louis and State of Missouri
Spring:

Know Ye; that we, in Confidence of your Prudence
& Fidelity have appointed you, and by these presents
do give unto you full power and authority, and do hereby
authorize and require you, that at a certain time
& place, to be designated and appointed by
you for that purpose, you do cause the mentioned
Witness whose name is mentioned in the enclosed
interrogatories, as well on the part of the said
Emma Whitaker Defendant & as on the part
of Choteau Harrison & all Plaintiffs to come
before you and then and there diligently and faith-
fully examine him upon the said interrogatories
on his corporal oath first taken before you, both
on the part of the said Plaintiff and Defendant
& none others; and that you do take such
his examination, and cause the said interrogatories
as they are propounded together with the answers
of the said Witness there to be reduced to writing
in the order in which they shall be proposed and

62

assured, and when you shall have so taken them you shall cause the said Witnesses to sign his name to the same in its proper place in your presence; and thereupon you will annex at the foot thereof a Certificate subscribed by your self, in which you must state that they were sworn to and signed by the Deponent and the time and place when and where the same was taken, After which you are to send the said Deposition together with this Commission and the enclosed interrogatories carefully enclosed and sealed up to the Clerk of the Circuit Court in for the County of Marion County and State of Illinois, with the names of the said parties litigant endorsed thereon.

And this you shall in no wise omit



Witness H. W. Eagan Clerk of our said Court and Seat thereof at office in Salem this 22nd day of February A. D. 1838

H. W. Eagan Clk

63.
D. J. Hamilton Atty

Please take notice
that on the 22nd day of February 1838 Between the
hours of Ten O'clock A.M. and Five P.M. of said
day I will by myself or atty attend at the
Clerks office of the Circuit Court of Marion County
and State of Illinois for the purpose of seeing out
a Pedimus Testament or Commission under the
seal of said Court directed to Peter W. Johnson
a Justice of the Peace in and for the City of
St Louis County of St Louis and State of Missouri
to take the Disposition of Symon Harris a Citizen
of said State of Missouri on the annexed interroga-
ries to be read in evidence as testimony on the
trial of a certain claim now pending by appeal
from the County Court in the Circuit Court
of said County and State wherein I am Defendant
as Administratrix of the Estate of James B. Harris
Deceased and Choleau Harrison & Valle are Plaintiffs
When and where you may attend if you choose
and crop examine by filing crop interrogatories
This Feb 12th 1838

Emma Whitaker formerly
Emma Harris) Adminis-
of Estate of James B. Harris decd
P. Mills & Bryan Atty

Int 1st State if your Deposition has been taken in this cause heretofore.

Int 2nd You will state as an explanation of your former Deposition how the iron furnished by the Plaintiff compared with the Cincinnati and Pittsburg boiled or puddled iron and its working capacity.

Int 3rd State the aggregate loss that Harris sustained on the Chairs manufactured out of the iron furnished by Plaintiff that is how many Chairs of the whole number made were defective, and what the broken or defective were worth at the selling prices.

Int 4th State if you know how long Harris was delayed in all for the want of steam power when the mill of Plaintiff was running for other purposes and the damage to Defendant by reason of the delay - Taking into the account the time lost by the machine hands &c

Int 5th State if you know whether the mill of Plaintiff lay still for the want of coal when it could have been had at reasonable prices, and if so, how long the mill lay idle and the damage to Harris on this account.

Int 6th State how long if you know that Harris and his machine and lands were delayed for the want

65 of now when the mill of Plaintiffs was running
for other purposes and the damage that Harris
sustained from this cause.

Qnt 7th State if you know how many hands Harris had
employed in his business in the mill of Plaintiffs
and the price per day paid his hands and the
whole number of days that the hands were idle
for the want of steam power, iron &c subject to
the conditions of the former questions, and the whole
loss that Harris sustained by the want of employ-
ment for his hands when the mill was running
for other purposes or might have been running.

Qnt 8th State if you have ever heard Plaintiffs or any
of them talk with Harris about the fulfillment
of the contract between them and anything further
that will be of benefit to the Defendant in her
defense against the claim of Plaintiffs.

Oct 12th 1858

I have this day delivered to P P Hamilton
Atty & a correct copy of the above notes and
interrogatories

Silas P Bryan for Emma
Whitaker (formerly Harris)

Coop Interrogatories by Pliffs atty
to be propounded to Seymour Harris.

- 1st What relation was you to James B. Harris
- 2^d Did James B. Harris leave at the time of his death any child or children or descendants of a child or children
- 3^d Was you engaged during the whole time said James B. Harris occupied said Plain Mills, in and about said Mills.
- 4th Was you not absent the most of the time that that your Brother was running and occupying said Mills.
- 5th Is not all the knowledge you have respecting the delay for want of steam, the loss sustained by your Brother in disposing of sd Chairs, the want of employment for hands, was it not obtained from your Brother and thus need not derived from your own personal knowledge and observations.

Chateau Harrison & Valle vs Estate of J. B. Harris
 In the Circuit Court of Marion County State of Missouri

Deposition of Witness produced
 and sworn and examined before me Peter W.
 Johnston a Justice of the Peace in and for
 the County of St. Louis and State of Missouri
 on the 2^d day of March 1838 at my office in the
 City of St. Louis in a certain Cause wherein
 Chateau Harrison & Valle are Plffs and Estate
 of James B. Harris is Dft and taken on the part
 of Defendant agreeable to the Commission hereto
 attached upon interrogatories and cross interrogatories
 propounded to the Witness Seymour Harris.

Seymour Harris of Laconia
 age being produced sworn and examined deponent
 and saith in answer to interrogatories propo-
 unded to him.

Answer to Int 1st

It has been taken.

Answer to Int 2^d

The iron compared by very unfavorably with
 either the Cincinnati or Pittsburgh iron.
 It worked very bad. it was of the quality
 called Red Short and broke in the

manufacturing. It was very inferior to Cincinnati Iron.

Answer to 3^d Int-

There was about 39 ton of Chairs broken and returned by me to the mill - about five hundred and Eighty five Dollars was the loss on the broken Chairs - the number was about 13 Thousand - There was also a large number of Chairs returned to the mill that I took no account of as they were lying in pile when I took Charge of the manufactory

Answer to Int 4th

The manufactory was delayed on account of Steam power about three weeks; and for want of iron between five and six months - The Damage was from fifteen to twenty Dollars a day, and the time delayed was about 6 months

Answer to Int 5th

I don't know.

Answer to Int 6

I have stated that in answer to Int 4th

Answer to Int 7th

Harris sometimes had nine hands and myself and foreman they worked by the hundred 20 cts a hundred that would make two Dollars a month said Chairs for each man - as to the loss I have answered in interrogatory 4th

Answer to Int 8

69.

I never heard Pepps Talk about any Contract The Pepps made out Harris Bill two or three times and it was examined by me and by Deft and sent back to be corrected. They corrected it but not to Defendants Satisfaction. Deft then got me to draw an acc^t off from Pepps Books - which brought the Pepps in Defts Debt. Deft afterwards commenced a suit against Pepps for a breach of Contract. The Pepps then commenced a suit against Deft and myself - Before that suit came on Deft died -

Prop Interrogatories by Pepps Atty

Answer to 1st Prop Int - I am Brother to the late James B Harris

Prop Int 2^o

He left none

Cross Int 3^o

I was not engaged the whole time - The arrangement or work commenced about Dec and I commenced 1st of April afterwards

Prop Int 4th

I was present at the mill every day but three days after I commenced.

Prop Int 5th

It was all from my own personal knowledge - my Brother was away most of the time and I had full charge of his business here - all I have stated is from personal observation and not derived from any other source.

I have stated the time but to be about six months, and I mean that is as near as I can come at it - It might have been less or a little more, but I have had completed the time by my Books and believe it to be nearly right

S Harris

I Peter W Johnston a Justice of the Peace in and for the County of St Louis and State of Missouri a Commissioner duly appointed to take the Deposition of Seymour Harris a Witness in said suit of Octave Harrison & Wife Pliffs & Estate of S. B. Harris Defendant. He was duly sworn by me as such Commissioner to testify the whole truth in relation to the matter in controversy in said case so far as he should be interrogated concerning the same that the said Deposition was taken at my office in the City and County of St Louis and State of Missouri on the 2^d day of March 1838.

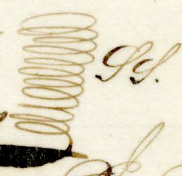
Given and Certified by me this 2^d
day of March 1858

Peter W Johnston
Commissioner & Justice of
the Peace as aforesaid

Justice fees \$2.00

Clerk $\frac{50}{25-0}$

State of Missouri
County of St. Louis



J. Josiah Thornburgh
Clerk of the County Court within and for said
County. Certify Peter W Johnston Esq whose name
is subscribed to the foregoing Certificate was on
the day of the date thereof, and now is, an acting
Justice of the Peace in and for said County,
duly Commissioned and Qualified, that the
Signature thereto is genuine, and that to all
such his official acts full faith and credit
are and ought to be given.

In Testimony whereof, I hereunto set my
hand and affix the seal of said
Court at office in the City of St. Louis
the 2^d day of March eighteen hundred
and fifty eight



J. Thornburgh Clerk

And the said Plaintiffs by their Counsel also excepted at the time of the reading thereof to each and all of the Interrogatories and Answers thereto, in the said first and second Depositions read by said Defendant.

And also to the Interrogatories and answers of the deposition of said Seymour Harris (except the cross Interrogatories and answers thereto) which said several exceptions the said Court then and there overruled, and permitted said Defendant to read all the Interrogatories and answers of said Depositions to said Jury as evidence.

And the said Defendant also read as evidence to the Jury the depositions of Friedrich Schrader and George Fuller to the reading of which and to the several Interrogatories and answers therein the said Plaintiff by their Counsel at the time excepted. And the Court overruled the exceptions, and permitted said Defendant to read said depositions to the Jury as Evidence, which said depositions so read as aforesaid are as follows, to wit.

S

State of Illinois
Warren County The People of the State
of Illinois

D. S. Swearing a Justice
of the Peace in and for the County City of St Louis County
Missouri Greeting;

Know Ye that we in confidence
of your prudence and fidelity, have appointed you
and by these presents do give unto you full power
and authority, and do hereby authorize and require
you, that at a certain time and place, to be dis-
signed and appointed by you for that purpose
you do cause the witnesses whose names are
mentioned in the caption of the enclosed interog-
atories as well on the part of the said Chateau
Harrison & Valle Plaintiffs as on the part of
Emma Whitaker administratrix of the Estate of P. B. Harris
Deed Defendant, to come before you and then
thou diligently and faithfully examine them
apart upon the said interogatories on their respective
in person oaths first taken before you both on
the part of the said Plaintiffs and Defendant
and none others and that you do take such
their examinations, and cause the said interog-
atories as they are propounded together with the
answers of the said witnesses thereto to be reduced
to writing in the order in which they shall be

proposed ^{and} answered ^{and} when you shall have so
 taken them you shall cause the said witnesses
 to sign their names to the same in their proper
 places in your presence: and thereupon you
 will annex at the foot thereof a certificate sub-
 scribed by yourself, in which you must state
 that the same were sworn to and signed by Deponents
 and the time ^{and} place when and where the
 same were taken. After which you are to send
 the said Depositions together with this Commission
^{and} the enclosed interrogatories, carefully enclosed
 and sealed up to the Clerk of the County Court
 in ^{and} for the County of Marion ^{and} State of
 Illinois with the names of the said parties liti-
 gant endorsed thereon. And this you shall
 in no wise omit.



Given under my hand and
 Seal of office at Salem this
 14th day of March A.D. 1837

James S. Martin Clk.

77
Houls & Hamilton Attys

Please take notice that on Tuesday
the 10th day of March 1837 Between the Hours of ten o'clock
A.M. & 5 P.M. of said day I will by myself or atty
attend at the Clerks office of the County Court in
and for the County of Marion and State of Illinois
for the purpose of suing out a *Requisitoire* Potestatum
or Commission under the seal of the said Court directed
to J. Sweeney a Justice of the Peace in and
for the City of St Louis in St Louis County at
Mexico at the Mound in said City to take the
Depositions of Seymour Harris George Dallen, Ferdinand
Broder & Daniel Curwin Citizens of said State of
Mexico on the annexed interrogatories to be read
in evidence as testimony on the trial of a certain
claim filed against the estate of James B Harris
Deceased now pending for allowance and undeter-
mined in said Court wherein I am Defendant
as administratrix of the Estate of said Harris
Deceased and Choteau Harrison & Valle are
Plaintiffs or claimants when and where you
may attend if you choose and cross examine
by filing interrogatories Feb 28th 1837

Yours &c
Emma Whitaker (formerly Harris)
Per
Wills & Bryan Attys

A List of Interrogatories to be propounded to Seymour Harris, George Doller, Frederick Boden and Daniel Curwin Citizens of the State of Missouri.

Int 1st

Are you acquainted with the Plaintiffs in this Cause and were you acquainted with James B Harris deceased; if so state how long & under what circumstances you became acquainted with them.

Int 2^d

State what you may know in reference to the occupancy of the Rolling Mill of Plaintiffs or a part of it by the said J. B. Harris on and after 31st August 1832 in the City of St Louis Mo. State how he occupied the same and what rights he had to the Room and Steam Power of Plaintiffs Rolling Mill.

Int 3^d

How much & what kind of iron & materials said Plaintiffs furnished to the said Harris and how the iron furnished compared with the Cincinnati and Pittsburgh Boiled or puddled iron in point of Quality and working Capacity.

Int 4th

State what damages said Harris was entitled to if any for the defects in ^{the} iron furnished. State his losses on account of defective iron and what proportion of the Rail Road Chairs made out of the iron furnished were refused and lost to him.

Int 5th
79

State whether plaintiffs supplied said Harris with sufficient steam power for his purposes & if not how much damages he sustained in the want of steam power - State fully all you know about the detention of hands & loss to said Harris for the want of steam power and for the failure of plaintiffs to furnish him in sufficient quantities

Int 6th

State the character of the machinery used by said Harris in the mill of plaintiffs and the capacity of his workmen &c

Int 7th

State what you may know of plaintiffs making a contract or contracts for R.R. Chairs for one half per cent above the cost of the iron when they were to take no contract for less than three quarters of a cent above the cost of the iron

Int 8th

Do you know anything more that would be of importance to the Defendant in this suit in conducting her defense against the claims of the plaintiffs based upon the rent of said Rolling mill or a part of it - the kind of steam power and the supply of iron and materials to the said Harris - if so state it fully?

Int 9th

To Seymour Harris. Have you at any time been interested and concerned with the said James B Harris in and about the business hereupon

referred to ^{and} have you now any interest in the
 result of this claim of Pels, have you received
 a release from all liability growing out of the
 business connections of the said plaintiffs & the said
 A. B. Harris ^{and} yourself if ever connected from
 the said Defendant and her husband,

I hereby Certify that I have this 28th day
 of Dec 1837 served the foregoing notice and
 accompanying interrogatories on P. P. Hamilton
 atty for Pels by delivering to him a correct
 copy thereof this Dec 28th 1837

Emma Whitaker (formerly Harris)
 per
 Silas L. Bryan

Chuteau Harrison & Valle Plaintiffs

vs
 Emma Whitaker formerly
 Emma Harris } Defendants

Before the Warren
 County Court
 State of Illinois

Depositions of Witnesses taken before James Sweeney
 a Justice of the Peace in and for the City and County
 of St Louis State of Missouri at his office in the
 9th Ward of said City.

Frederick Schrader being produced and examined
deposes and says:—

Answer to 1st interrogatory:

I was acquainted with
the above named parties.

Answer to interrogatory 2^d:

James B Harris occupied a
part of the rolling mill of Chateau Harrison & Valle
in the Town of Bremen in St Louis County in the
Year 1833.

Answer to interrogatory 3^d:

The iron furnished by Chateau Harrison & Valle
was bad I could break more than two hundred
chairs in a thousand.

Answer to interrogatory 4th:

The machinery stood still for two months
for the want of iron and coal.

Answer to interrogatory 5th:

(6) Six of the hands were kept idle for the want of
iron and coal for the space of ten weeks.

Answer to interrogatory 6th:

The machinery made good work when they had
good iron. The workmen employed were good
workmen.

Answer to interrogatory 7th:

I do not know.

Answer to interrogatory 8th:

I do not know.

Frederick Schrader

Sworn to and subscribed
before me the 16th day of
March 1837

James Sweeney Justice

George Pallas being produced and examined deposes
and says.

Answer to 1st interrogatory

I was acquainted with the parties in the year
1832. I worked in the mill as foreman for
James B Harris.

Answer to interrogatory 2^d

James B Harris had two chain machines and
a punching machine at the Rolling mill of Choteau
Harrison and Valls who were to furnish him with
stead power.

Answer to interrogatory 3^d

They furnished good and bad iron, both the good
and bad iron were about equal quantities.

Answer to interrogatory 4th

Between two and three hundred out of a thousand
Chairs were broken when they furnished bad iron.

Answer to interrogatory 5th

The mill was idle for the want of iron sometimes
two weeks, sometimes five weeks and sometimes two
months. the loss per day of the two machines when
not running was between sixteen and eighteen Dollars

Answer to interrogatory 6th

The Machinery used in making Chairs was known as Harris the machinery was good when it was kept in order. James B Harris workmen frequently quit for want of employment and he thus had to employ new hands who were inexperienced at such work

Answer to interrogatory 7th

I do not know.

Answer to interrogatory 8th

I know nothing about it.

Sworn to and subscribed

before me the 16th day of

March 1837 James Sweeney

Justice

George Fuller

Seymour Harris being produced and examined deposed and says.

Answer to interrogatory 1st

I was acquainted with the parties in April 1838 that I commenced as foreman in the Rolling Mill of Plaintiffs as foreman for S. B Harris.

Answer to interrogatory 2nd

I know nothing.

Answer to interrogatory 3rd

The iron was very inferior of the quality of red short.

Answer to interrogatory 4th

for the defects in the iron furnished is five hundred and eighty five Dollars that the loss on a thousand would be between two and three hundred of broken chairs that there was a large amount chairs returned that was exchanged for other iron at the time and that thirteen thousand that was not exchanged at the time or times when returned.

Answer to interrogatory 5th

Not at all times at about two hundred dollars that is about five months not less then twenty dollars per day.

Answer to interrogatory 6th

It is known as Harris's Machine they were grate machines his workman when as good as could be got that I had to procure new hands in consequence of detension and instruct them in the art of Chair making

Answer to interrogatory 7th

I don't know.

Answer to interrogatory 8th

There is no rent to be paid for the use of the mill or steam power to my knowledge.

Answer to interrogatory 9th

To Srymore Harris I have been I have not I have,

Sworn to and subscribed

before me this the 16th day

March 1857

James Swamy
Justice

J. S. Harris

State of Missouri
County of St. Louis

I James Sweeney a Justice of the Peace in and for said County hereby certify that the foregoing Depositions (except Seymour Harris) were taken at my office 9th Ward City & County of St. Louis and sworn to and signed by Deponents on the 16th day of March 1857 that of Seymour Harris was taken in my presence at the residence of said Harris in the 10th Ward City aforesaid on same day, he being confined to bed by sickness

Given under my hand this 15th day
of March 1857

James Sweeney
Justice of the Peace in and for
St. Louis County Missouri

State of Missouri
County of St. Louis

I Josiah Thornburgh
Clerk of the County Court within and for the said
County, certify that James Sweeney Esq whose name
is subscribed to the foregoing Certificate was on the day
of the date thereof, and now is, an acting Justice of the
Peace in and for said County, duly Commissioned and
Qualified. that the signature thereon is genuine and
that to all such his official acts full faith and credit
are and ought to be given.



In Testimony whereof, I hereunto set my hand
and affix the seat of said Court,
at office, in the City of St. Louis, the
17th day of March Eighteen Hundred
and fifty seven

J. Thompson Clerk

Whereupon Defendant closed her case.

And this was all the Evidence in the case, and the Counsel for the Plaintiffs, and Defendant proceeded to argue the case before the Jury. And upon the close of the Argument, the Court instructed the Jury at the instance of the Plaintiffs Counsel as follows.

1st That if they believe from the evidence that there was a settlement between the Plffs & said J. B. Harris before his death of this amount between them now filed for allowance that they cannot go behind said settlement unless the Deft proves that there was a mistake in said settlement

Given

2^d That if they believe from the evidence that J. B. Harris before his death made a final settlement with Plffs and made no objections to the balance then struck found to be due & Plffs at said settlement, but admitted the correctness of said settlement they should find a verdict for Plffs for amount so found to be due on said settlement, unless satisfied from the evidence that a mistake was made in that settlement

Given

3rd That if the Jury believe from the evidence that the intestate James B Harris deceased was satisfied with the account including the interest rendered by Pliffs to him though interest was charged on the account the Pliffs are entitled to recover interest notwithstanding that interest cannot be recovered by Law in the absence of an agreement to pay interest Given

4th That if the Jury believe from the evidence that the Witness Clark was the Clerk and Book Keeper of the Claimants and had the settling of all accounts of the firm of Choteau Harrison & Wells that the settlement made by him was as binding on Claimants and James B Harris as if made by the Claimants themselves and what Claimants do by their Agent is as binding as if they did it themselves Given

89 Whereupon the Court also instructed the
jury at the instance of the Defendant as follows

1st If the claim for damages under said Contract
was not made in any settlement nor waived
by Harris or abandoned by C. his Representative
is entitled now to set it up

Given

2^d That before the Jury can consider a settlement
between J. B. Harris and Clark the Bookkeeper
of the Plaintiffs they must be satisfied from
the evidence that said Bookkeeper had full
power and authority from the Plaintiffs to make
such a settlement as would bind the plaintiffs
as well as Harris, and unless the Jury believe
that said Clark the Bookkeeper had such
authority, and that he actually did as the
agent of Plaintiffs settle with said Harris in
reference to the rights and liabilities of the
parties under the Contract in evidence then
the Defendant cannot be barred of her right
to set off damages under this Contract, and
they should be able to pay this from the evidence
before the settlement is binding

Given

3rd The Court instructs the jury in behalf of Defendant
that in considering the effect of the conversation

Between James B Harris and Clark the Book Keeper of the Plaintiffs in reference to the Book account current they are at liberty to take into account the situation and relation of the parties and the capacity of the said Clark and his duties to the parties in the matter of the Books of Plaintiffs

Given

4th Before the Jury can infer that the right to claim damages under the Contract was abandoned by Harris they must have some evidence of the fact either of a direct character or from the circumstances proven transaction between the parties

Given

5th If the Jury believe from the evidence that the Witness Clark presented the account in this suit to Harris and that Harris made no objection thereto, yet if the Jury further find that said account arose out of the Contract between the Plaintiffs & Harris and that the damages sustained by Harris by the failure of Choteau Harris & Valle to perform their Contract with him equal to the amount of Plaintiffs account, then the verdict must be for the Defendants, unless they further believe that Harris waived a claim for damages

Given

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5th Further, that if the said Harris sustained any Damage out of said Contract from which this transaction arose the amount of said Damages are to be deducted from the amount of Plaintiffs account proven & if the Damages are more than the account proven then the Verdict must be for Defs unless they believe that Harris at the time the account was rendered did not intend to claim such Damages

6th If the Plaintiffs have agreed to run the machinery of Harris or to furnish Steam and iron and they fail to do so as agreed in the written Contract by reason of which the machinery of Harris was stopped & his hands thrown out of Employment the Defendants here are entitled to whatever Damages said Harris sustained by not being able to run his machinery as well as for the money paid to hands kept idle a reasonable time for want of said Steam or Iron & failed to be furnished, and if these Damages exceed or equal the Claim of Plaintiffs the verdict should be for Defendants unless they further believe that when the account was rendered Harris did not intend to claim such damages

Given.

To the giving of each of said seven instructions for said Defendant, the said Plaintiffs then another by their counsel excepted, and the Court overruled said exceptions, and gave said instructions. And the jury having considered the matter returned into open Court the following Verdict

"We the Jury find for the Plaintiffs. Eleven hundred and five Dollars."

And thereupon the Defendant by her counsel entered her motion to set aside the Verdict, and for a new trial, which motion the Court took under advisement until the next Term of said Court.

And at the next Term of open Court, to wit, at the August Term thereof A.D. 1858, this cause again coming up for hearing under the motion for a new trial entered by said Defendant at the last (that is to say) at the March term, the said Plaintiffs by their counsel confessed the motion so made and entered for a new trial by said Defendant as aforesaid, and then and there consented that a new trial be had in said cause. And thereupon said Defendant by her counsel withdrew her motion for a new trial, to the withdrawing of which said motion by said Defendant, the said

Plaintiffs then and there excepted And the Court overruled said exceptions, and permitted said Defendant to withdraw said motion for a new trial And thereupon said Plaintiff by their counsel entered their motion for a new trial, and assigned as cause for a new trial

1st. That the first motion for a new trial having been made by Def^t. and the Plaintiffs consenting thereto, before and again at the time said motion was withdrawn, by reason thereof said Plaintiffs were entitled to a new trial.

2nd That the verdict of the Jury was contrary to the Evidence

3rd That the verdict was contrary to the Law

4th That the Verdict of the Jury was contrary to the Law and evidence.

Thereupon the Court overruled the motion for a new trial, and entered judgment upon the verdict of the Jury, and to the ruling of the Court the said Plaintiff by their counsel then and there excepted, and prayed an appeal to the Supreme Court, and was granted, and the said Court signs this Bill of exceptions. A. H. O'Neil
 C. J. Dudgeon

Defendant in case comes
and says there is no error
in the foregoing record

Geo L Bogan

Atty Gen of

1000

Missouri Circuit Court

Common Pleas

Superior

County

Records

1838

1000

State of Illinois
Marion County

Geo L Bogan Clerk of
the Circuit Court of said

County do hereby certify the foregoing ^{94 pages to be} a true, full
and complete copy of the Bill of Exceptions ^{Records} as signed
by the Hon. H. C. O'Neil County Judge
and on file in my office & I further certify that
the copy hereto offered of Pleas and proceedings in said
Circuit Court in the cause heretofore pending therein between Choteau
Harrison & Nalle Pliffs. Emma Whitaker adm^r of the Estate of J B Harris
dec^d ^{as appears} is truly copied from the papers on file of Records in my
office. Given under my hand & official Seal at Salem this 1st day
of October A D 1838

Geo L Bogan Clk
Circuit Court

Receipt 31

Chatham, Harrison & Valle

appeal from
the
Marion Circuit
Court

Emma Whitaker

Admirer

Dec 9th (11.00) Paid by
P.P. Hamilton leg.
Atty for P.P.H.

Filed October 4, 1858

A. Johnston M

Paid \$5.00

Salem Oct 2^d 1858

Friend Johnson

I send you to day the record
& precepi for Sumner's Case of Christian Harrison
& Wall by C. Whittaker against Appeal, and also
five Dollars, on the estorena fee, please send
the Summons up by Monday, so that I can
be certain to get it served. I write a line
beneath to Nelson, to assign errors and
verake abstract, which you will please hand
him, I am very anxious to get this case
off, at the approaching term, and want to
be ready. If there is any thing else needed
before Sumner's Case is up, please either fix it
for me, or have Nelson to do it. I start away
to morrow so that I cannot see to it further
at this time. By attending to this matter
for me, you will greatly oblige

Your friend

P. J. Hornitter

Maj - A Johnson
C/M Supreme Court
Mt Vernon
Va

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IN THE SUPREME COURT—STATE OF ILLINOIS—FIRST GRAND
DIVISION—TO NOVEMBER TERM, A. D. 1858.

CHOTEAU, HARRISON & VALLE, Appellants. }
vs } Appeal from Marion.
EMMA WHITTAKER, Appellee.

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Chairs to be shipped at expense of J B Harris & Co. in names of appellants, who were to retain out of collections for the iron furnished, and pay over balance to J B Harris & Co. Appellants to furnish sufficient steam power for driving, punching and knock down machines, and room for manufacturing and storing same. Appellants not be compelled to keep up steam for chair machines alone, when from accident or scarcety of coal at reasonable prices, mill could not be kept in operation, or in case of its destruction by fire or otherwise, or suspension of operation—then the contract to be void, otherwise to be in full force and virtue for 5 years from the 1st day of day of October next following.

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Page 21. That witness paid said Harris all the cash in account marked (2) amounting to \$4016, 72 cents, which he advanced or paid said Harris or to his order, and that said account No. (2) is correct. That after the mill was burned down, said Harris came to appellants office to make settlement for and respecting all their business transactions, as was his peculiar business to do. That Harris claimed something more than was allowed him as a credit for some item, probably rail road chairs, and it being late in the evening agreed to meet next day, which they did, and that day, some time in the month of January 1855, made a full and final settlement with said Harris, of all business transactions whatever between them, and a full and careful examination

of the accounts. the item Harris disputed the evening before was found to be correct, and after allowing all just credits, said Harris was found to be appellants debtor \$2010, 60 cents, which he afterwards promised to pay, and was perfectly satisfied, and acknowledged that the said sum of \$2010 60 cts was the amount due by him to the appellants on final settlement made with witness as bookkeeper and agent of appellants.

Page 23. Edgar A. Richardson, another witness for appellants, stated that he was in their employment from August 1852, to 17th Dec. 1854, during which time Harris was engaged in manufacturing rail road chairs for appellants, and up to the time the mill was burned down, said witness also proved the whole of appellants account to be correct (excepting the cash payments proved by witness Clark.) the iron furnished by appellants was good and suitable for the manufacture of rail road chairs—was the kind said Harris wanted, and was the best quality of rail road iron, and Harris never objected to it in any respect—that said Harris had all the steam power and iron he wanted, and the prices charged are in accordance with contract, being but 1-4 cent higher than selling price in St Louis, all the time appellants furnished said Harris iron.

Page 26. That witness was clerk in the rolling mill of appellants all the time and that said appellants to his knowledge in all things complied with their contract, and at no time was there any want of steam power, except when coal was so it could not be got at any thing like reasonable prices, and the mill was never stopped except when undergoing repairs or want of coal as aforesaid. Which was all the evidence on the part of the part of appellants.

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Page 35. The above three witnesses testify all pretty much the same in substance, and state they don't any of them know what kind of iron was furnished by appellants to Harris, but that the loss, if no pig iron was used, would be 33 per cent, and on Cincinnati or Pittsburg iron about ten chairs at the farthest on the thousand, and that Cincinnati and Pittsburg iron was the best iron to manufacture into chairs, could not tell what the damage would be from want of steam power, metal, or other cause, but think the loss would be eighteen or twenty dollars per day. The loss on Cincinnati iron is from 4 to 6 on every thousand.

Page 43. The appellants next introduced depositions of Fredrick Scradar, George Fuller and Seymour Harris. to same objection as before was made by appellants, and objection overruled, and ruling of court at the time excepted to. Page 51. Fredrick Scradar stated that there was always plenty of steam power, but that the mill stopped for want of iron, for two months. Iron furnished by Chotau, Harrison & Valle was bad, would break more than 200 in a 1000, don't know about Pittsburg and Cincinnati iron; eight hands kept mill ten weeks for want of iron; they worked \$1,50 per day, and were good hands, the mill was running at the same time; machinery good when kept in order; witness was gone for two months, to New Orleans, could not tell how many chairs were returned—though a good many. W. Richards and his brother were the only clerks at the rolling mill. The machinery lay idle a good many times. This witness knew nothing of the time or place, but stated he knew he worked in pl'ff's. rolling mill. George Fuller stated same as the other witness in substance, only that the mill was stopped for want of both coal and iron, and appellants furnished an equal quality of good and bad iron, and that the damage for ^{making} ~~making~~ 100 chairs is about \$5; he also stated that Harris had generally good hands, but they sometimes had to quit for want of work and then they had to hire inexperienced hands. J B Harris was detained sometimes 2 and sometimes 3 months for want of iron; his damage considerable, but could not tell how much; Harris was often detained for want of iron; loss when not running \$18 to \$20 per day.

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Page 81. The appellees also introduced other Depositions of Frederic Scradler, Seymour Harris, George Fallon as evidence on their behalf, the reading of which was objected to by appellants, but their objection was overruled, and appellees excepted at the time.

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From the bill of exceptions it appears that the appellants excepted on the trial, to the reading of the deposition of Seymour Harris (except the cross interrogations and answers thereto,) which were allowed and excepted to at the time, and permitted appellees to read all the interrogations and the answers thereto to the jury as evidence. The same objections were made to the subsequent depositions of Scradler and Fallon, and exceptions overruled and excepted to, which was all the evidence of appellees. The Court gave the following instructions on behalf of appellants to the jury, that is to say, instructions, No. 1, 2, 3 and 4, and on behalf of the appellees, gave instructions No. 1, 2, 3, 4, 5, 6 and 7, to the giving of the instructions for appellee, appellant at the time excepted. Verdict for appellants for \$1105. Motion for a trial by appellee, appellants consented to a new trial, and the appellee withdrew his motion for a new trial, to the withdrawing of which motion appellant excepted at the time. The exceptions were overruled, and appellee was permitted to withdraw motion. Appellant for reasons stated in the record, then moved for a new trial, and the court overruled his motion, to which appellant excepted at the time. And rendered judgment on the verdict, and filed his bill of exceptions which was allowed.

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R. S. NELSON, for Appellant.

State of Illinois
In The Supreme Court 1st Grand Division
Nov Term 1858

Chontau Harrison & Valle Appellants

By
Emma Whitaker Administratrix
of James B Harris dec'd Appellee.

Appeal from Marion

The Clerk of The Supreme Court will
please issue Summons in The above
Cause, directed to Sheriff of Marion County
returnable to next term at
Salem Oct 2^d 1858

J. J. Hamilton atty
for App.

Chuteau Harmon's Valle

by

E. Whittaker Admpt

Principia

Filed 14th October 1858

And R. S. Nelson Esq

Deputy Sheriff of this

County

W. Johnston Clerk

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Valle - Appellants

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Emma Whittaker

Adm^r of estate of

J. B. Harris decd

Appellee

Appeal from

Marion

Erro^r Confidua &

Reversal and

Remand

8707