


No. 11824

Supreme Court of Illinois

Flint

vs.

Moss

71641  7

Seaverell
L. S. Flint
as
W. S. Moss

91

1829

1851

Prepared

Plead to the Circuit Court of
 Yazoo County and State of
 Illinois, before the Hon: David
 Davis, Judge of the Eighth Judicial
 Circuit of said State, and com-
 posed of the Counties of Sangamon,
 Yazoo, Woodford, Mc-
 Lean &c

" Thompson, J. S. Plaintiff
 " David J. T. Thompson,
 " and Richard Hunt. Part-
 " ners in the firm of Hunt & Co. Defendants
 " vs
 " William S. Moss Appellant

Appeal

To it remem-

bered, that, on the 29th day of December, in
 the year of our Lord, one thousand eight
 hundred and forty-nine, the Defendant
 in the above cause filed in the office of
 the Clerk of said Court his Transcript and
 Appeal Bond, in the words and figures,
 as follows, to wit:—

" Thompson, J. Hunt
 " David J. T. Thompson,
 " Richard Hunt
 " vs
 " William S. Moss

November 27th

Transcript

49 Suit on account. Summons
 issued returnable the third day of Decem-
 ber. By consent of Parties it was agreed
 that the case should be tried when it
 would suit the convenience of the Defendant.
 " The Parties met in pursuance of said

" agreement on the fourth of December last
 Debt \$75.00 The Parties proceed to trial. The
 " Mayors fees Plaintiff's call Geo. Mepick, David
 " Issuing Summ 19 Strong, James Post and J. St.
 " Pookating Suit 12 and who was duly sworn as set-
 " Issuing 1 subps 17 telled - The Defendant called
 " Swearing 7 sub 43 James Stuart, Herman James
 " Entering Judge 25 - Johnson who was sworn
 " Pitts Summ 25 as witnesses for the Defense, then
 " Appeal 25 hearing the proofs and allegations
 " Handcup of Sum 25 of the parties it is ordered and
 " Court Fees adjudged that said Defendant
 " Summ + Return pay the sum of Seventy eight
 " ing Sum 35 dollar debt and two ⁶⁰/₁₀₀ dollar
 " Summ Supd 37 cost, and that execution issue
 " Standing trial 25 therefore
 " Cost 281

" State of Illinois
 " Sangamon County I J. Bernard Fairer
 " Mayor of the City of Ekin and ex officio
 " Justice of the Peace do hereby certify that
 " above is a true Transcript of a Pocket book
 " kept in the above entitled suit
 " In witness whereof I do set my hand
 " and caused the Seal of the City of
 " Ekin to be affixed this 2nd day
 " of Dec 1849
 " Bernard Fairer
 " Mayor

" Appeal
 " Bond
 " Know all men by these presents, that
 " we, William S. Moss, Thomas S. Maxwell
 " H. W. Mc Ginitie and William Compher
 " are here and firmly bound to J. S.
 " Sent Philo Thompson, David Thompson

3
" and Richard Hunt composing the firm
" of Hunt and Company in the penal sum of
" One hundred and sixty one $\frac{24}{100}$ dollars
" of the United States; for the payment of
" which well and truly to be made, we bind
" ourselves, our heirs and Administrators,
" jointes and severally, firmly by these
" Presents - Witness our hands and seals
" this 22^d day of December 1849

" The contents of the above obligations
" are such, that whereas the said Hunt &
" Company did, on the fourth day of
" December 1849 before Bernard Bailey
" a Justice of the Peace for the County
" of Tazewell recover a Judgment, a-
" gainst the above bounden, William
" S. Moss for the sum of Eighty $\frac{12}{100}$
" Dollars; from which Judgment the said
" William S. Moss had taken an Appeal
" to the Circuit Court of the County of Tazewell
" aforesaid, and State of Illinois; Now
" if the said William S. Moss shall pros-
" ecute his Appeal with effect, and shall
" pay whatever judgment may be render-
" ed by the Court upon dismissal or
" trial of said Appeal, then the above
" obligations to be void, otherwise to remain
" in full force and effect -

" Approved before me, at my Office
" this 21 day of Decem-
" ber 1849
" Bernard Bailey
" Mayor

W. S. Moss
for J. S. Bradley Attorney
in fact
Thomas J. Maxwell
H. M. McQuinn
William Crupher

And now, afterwards; to wit: on the
said 29th day of December A.D. 1849,
summons was issued to the said Appel-
lee, in the word and figures, as
follows; to wit: _____

" State of Illinois The, People of the
" Sangamon County vs. State of Illinois,
" to the Sheriff of said
" County Greeting:
" We command you to summon Thos.
" Jas. Hunt, Daniel S. Hunt, and
" and Richard Hunt, pursuant under
" style of Hunt & Co., if they shall be found
" your name (and), to us and appear before
" our Court (and) for said County, on the
" first day of the next Term thereof, to be
" held at the Court House, in the Town
" of Summit, on the first Wednesday
" of April next, there and there to prose-
" cute their suit against William S. Moss
" appeared latter part, before Bernard
" Gaily, Mayor of Peoria in said County
" and State:

" And know you that there this writ,
" with an endorsement of the manner in
" which you may execute the same

" J. A. Jones Clerk
" of said Court (and) this 29th
" day of December A.D. 1849

Return) Served the within Summons on the
" within named Defendants J. S. Hunt
" by reading the same, without his hearing
" the balance not found in my County

January 3^o 1850

R. S. Gill Jff. C.

And, now, afterwards; at a Circuit Court, begun and held in the Town of Turnout, on the first Wednesday of the month of April, in the year of our Lord one thousand eight hundred and fifty, present, the Hon. David Davis, and on the first day of said Term, being the third day of said April, the following order was entered in said cause -

Thompson J. S. Hunt et al

vs
William S. Moss et al

Appeal
of this day

order
The Parties and by agreement
this cause is continued.

And, now, afterwards; to wit: at a Circuit Court, begun and held at Liberia, in and for said County & Town, on the third Wednesday of the month of September, in the year of our Lord, one thousand eight hundred and fifty, and on the first day of said Term, being the 18th day of said September, the following motion was made in said cause

Thompson J. S. Hunt et al

vs
William S. Moss

Appeal
of this day

order
The Parties, and they
Pruntzle move to dismiss the
Appeal

And, now, afterwards; to wit: on the
second day of said June, being the
19th day of said September, the follow-
ing proceeding was had in said cause

" Thompson J. Flint vs

" "

" William S. Moss Appell

Appel

This day

came again the Parties, and on mo-
tion of Appellant, leave is granted to
file an amended Bond of Appeal
in this cause.

And, now, afterwards; to wit: on said
19th day of September, the said Defendant
filed his Amended Bond in the usual
and figured, as follows; to wit:—

Now all now in these Presents, That
I, the undersigned, William S. Moss, Charles T. Wood,
Thomas H. Purpo are held and firm-
ly bound unto Thompson J. Flint Daniel
J. Thompson and Richard Flint in the
penal sum of One hundred sixty one $\frac{12}{100}$
dollars, good and 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 in these
presents. As witness our hands and
seals this 19th day of September Anno
Domini one thousand eight hundred
and fifty. Now, the conditions
of the above obligations is such, That
whenever on the 1st day of December

220 Appell

" A.D. 1849, before Bernard Bailey Esq.
" of Justice of the Peace in and for the County
" of Surrey, a Judgment was rendered a-
" gainst the above named William S. Moss
" in favor of Thompson J. Hunt, Daniel J. J.
" Thompson, and Richard Hunt for the sum
" of Twenty eight pounds eight shillings and 2.81 cents
" of suit; from which said Judgment the said
" William S. Moss had taken an Appeal
" to the Circuit Court, Now it the said writ
" claim S. Moss shall prosecute his said
" Appeal with effect and shall all debt or
" cost which on the trial or dismissal there-
" of shall be adjudged against him there-
" upon this obligation, to be null and void, other-
" wise remain in full force and virtue in
" law

" Taken and read into and entered into the
" approved before me this 19th day of September 1850
" J. H. Hunt Clerk

And, now, afterwards, to wit: on the
30th day of said Term of said Circuit
Court being the 20th day of said Septem-
ber, the following order was entered in
said cause—

" Thompson J. Hunt vs
" William S. Moss Appell
" This day came
" again the Parties, and on applica-
" tion of Defendant, this cause is
" continued at his costs—

And, now, afterwards; to wit: at a
Circuit Court begun and held at Paris

Order

on the 1st Wednesday day of the month
of April, in the year of our Lord, one
thousand eight hundred and fifty-one, and
on the 7th day of said month of April, be-
ing the 5th day of said Term of said
Court, the Defendant files his exceptions
to the Deposition filed by the Plaintiff
in the words and figures; as follows; to
wit:

Thompson J. Hunt
David S. Thompson, } In the Circuit
Richard Hunt } Court of Maryland
v
William S. Moss

Deposition
Exceptions
to Deposition
taken

The Defendant
excepts to the Deposition of Thomas Bredt
taken in the above cause for the follow-
ing reasons

1st Because the Deposition is not
taken in the cause as entitled above
but in a cause entitled

Thompson J. S. Hunt
Richard S. Hunt
David S. Thompson
v
William S. Moss
March 7th 1857

N.H. Purple
Ses Atty

And, now, afterwards, to wit: on said
7th day of April, the Plaintiff files
their exceptions to the Defendants Depo-
sitions, in the words and figures, as
follows, to wit:—

"Thompson J. Hunt
"David S. Thompson,
"and Richard Hunt

Excep- Pattern trading man

line to J. S. Hunt & Co -

Plaintiff

27

"William S. Moss

"The Plaintiff, except
"to the Depositions of James B. Smith, David
"Thomas, James Hunt, because said Depo-
"sitions are not taken in the cause entitled
"above

"March 7, 1857

James P. Papp

And, now, appears and, to wit: on the
8th day of said April, being the 6th day
of said Term of said Court, the following proceed-
ings were had in said cause:

"Thompson J. S. Hunt & Co

" 27

"William S. Moss

Appeal

Order

"This day
"came again the Parties by their Attorneys
"and, the Defendant moves the Court to sup-
"press the Depositions of the Plaintiff herein
"offered, and the Court having heard argument
"thereon, is of opinion that said motions be sub-
"stantiated as to all the Depositions, And,
"now on motions of Plaintiff leave is granted
"to amend the original Summons issued
"from the Court aforesaid by changing the name
"of David J. S. Thompson, to David J. S.
"Thompson, and, it is ordered, that this
"suit go on in his name, It is, also,
"ordered, that this cause be continued at
"the cost of the Defendant.

10 And, now, above and, to wit; on said 8th day of April, in the year of our Lord, one thousand eight hundred and fifty-one, the said Defendant filed his Bill of exceptions, in the usual and figured, ad Gallans, to wit;

" Thompson J. Hunt
" David J. S. Thompson,
" Richard J. Hunt, Partner
" under the style of Hunt & Co.
" William S. Moss

In the Circuit Court of the Eastern District of Virginia

Bill app-
tions filed
April 8, 51

" But remembered, that on this day the Defendant by his Attorney entered his motion to suppress the Deposition of Thomas Greese filed in the above entitled cause for the reason that they are not taken in said cause

" Upon examination of the papers it appeared to the Court that a subpoena was issued in a cause entitled as above that the transcript was entitled

" Thompson J. Hunt
" David J. S. Thompson
" Richard Hunt

" William S. Moss

" and that the Deposition of said Greese was taken in a suit entitled Thompson J. S. Hunt

" Richard J. Hunt,
" James S. Thompson, Partner
" under the name style and firm of Hunt & Co.
" William S. Moss

" The Court returned said exception to
" said Deposition and ordered that the
" same be suppressed

" The Plaintiff then entered a motion, for leave
" to amend the original summons issued
" by the Justice by changing the name of
" "David S. Thompson" in said summons to
" Daniel S. Thompson, which motion it al-
" lowed by the Court and said summons
" permitted to be amended as before stated
" to which the Defendant on his counsel
" objected then and there and excepted
" and requested the Court to sign and
" seal this Bill which is done

" April 8, 1857

David Davis Esq

And, now, afterwards; to wit; at
a Special Term of the Circuit Court of
said County begun and held at Pekin
pursuant to an order of the Hon^{ble} Jus-
tice Davis, on the second day of
the month of September in the year of
our Lord, one thousand eight hundred and
fifty one, and on the 5th day of said
Term being the 15th day of said Sep-
tember, the following exceptions were filed
by said Defendant to the Plaintiff's
Depositions:

" Thompson J. Flint

" Daniel S. Thompson

" Richard Flint

" " "
" Depo^t William S. Moss

In the Circuit
Court of Cass
County

And now came the

Exceptions to
Deposition

"Said Defendant and excepts to the
"Deposition of Thomas Breece taken in
"this cause for the following reasons
"1st. Because no notice had been given to
"take a Deposition in this cause, But the
"notice is to take the Deposition in the
"case of Thompson J. Hunt, Daniel J.
"Thompson, and Richard Hunt vs
"Wm S. Moss -

"2. Because no depositions had been
"taken in this cause but in a cause
"as pretended one wherein Thompson J. S.
"Hunt and Co are Plaintiffs & William
"S. Moss Defendant -

"3. Because the Certificate of the Commissioner
"is informal and insufficient in this -

"1st. That it does not state that the witness
"was sworn before he gave his testimony or
"deposition -

"2. Because it does not appear from said
"Certificate that the testimony of the
"witness was read to writing out his
"examinations only -

"3rd Because the said Certificate states no time
"or place when or where the said Deposition was
"taken -

"4th. Defendant excepts also to the answer
"of said witness to the 1st & 2^d Interrogatories of
"the Plaintiff - as being irrelevant infor-
"mal and insufficient and responsive to the
"Interrogatories -

"Defendant therefore prays that the said answer
"of the said Defendant, may be suppressed
"5th. Because the said Deposition is informal, ir-
"relevant and otherwise insufficient

and on the sixth day of said Term, being
the thirtieth day of said September the fol-
lowing proceedings were had in said cause
"Thompson, J. S. Hunt
"Paul J. S. Thompson, and
"Richard Hunt, partners under
"style of Hunt & Co
"vs
"William S. Moss Appeal

Order
5-5

And now
"on this day came again the Parties,
"whereupon came a jury; to wit; Abraham
"Brown, William S. Rankin, Nathan S.
"Chico, Joshua Cope, Timothy Crosby, Sam-
"uel S. Carter, Samuel D. Higginson, So-
"merville S. Hamilton, James Larimore, Le-
"wellyn H. Kirby, John Walker of the regular
"panel and Ed D. Hall, summoned
"among the rest, the regular panel
"having been exhausted, were good
"and careful men, duly sworn, and
"separated to try said cause, and, having
"heard the proofs and allegations of the
"parties and argument thereon, for verdict
"say, that the jury find for the Plaintiffs
"and assess their damages to the sum
"of seventy eight dollars — whereupon,
"the said Defendant moved his said
"motions for a new trial and arrest
"of Judgment in this cause, and the
"Court having heard argument thereon, and
"being fully advised in the premises,
"is of opinion, that said motions, be overruled
"It is, therefore, ordered and adjudged by
"the Court, that the Plaintiff recover of the

0
" The said sum of Seventy eight dollars, the
" damages aforesaid in favor aforesaid
" assessed and likewise the costs and
" charges in them about their suit, ap-
" proved, both in this and the former
" ~~case~~ ~~cases~~ ~~cases~~, and that execution issue
" therefore."

And, now, aforesaid, to wit, on the
seventh day of said Term of said Court
being the 14th day of said month of
April, the following proceedings were
had in said case:

" Thomas S. Hunt
" Daniel S. Thompson
" and Richard Hunt
" joined under style of Hunt & Co
" vs

" William Snags Appellant

Appeal

And, now, on this day, came again the Par-
tist, and the Defendant presents his Bills
of exceptions to the Court, which are signed
and sealed and agreed to be made a
part of the record in this cause, and,
now, on motion of Defendant, an Ap-
peal to the Supreme Court is allowed
him, on filing his own Bond to
the Plaintiff, in the penultimate obli-
gation aforesaid, conditioned as the
law directs, within thirty days from
this date

And, now, on said 14th day of April
the said Plaintiff files his Bills of excep-
tions in the usual and figured, as follows;
to wit:

* Thompson, J. S. Hunt
 " and others,
 " "
 " v. Moss
 Tazewell Circuit
 Court April Term
 A.D. 1852

Original
 Summons
 2"

Be it remembered, that
 on the motion made and decided at
 the April Term of this Court A.D. 1851,
 to dismiss this cause on the ground
 of a variance between the Transcript
 from the Justice of the Peace, and
 the original Summons in the Christian
 name of said Thompson, and the
 allowance of a motion of said Plaintiff
 to change the name of David to Daniel,
 to which a Bill of Exceptions was
 filed in this cause, the following
 papers were exhibited in proof, to the
 Court by the Plaintiff and found the
 basis of the said decisions of this Court
 on said motions: to wit: The original

Original Summons
 Summons
 2"

State of Illinois The People of the
 Tazewell County vs State of Illinois
 to any Constable
 of said County:
 You are hereby commanded to sum-
 mon William S. Moss to appear before
 me at 10 o'clock on the third day of
 December at my Office in the City of
 Peoria to answer the complaint of Thomas
 J. Hunt David J. S. Thompson, and
 Richard J. Hunt partners under style of
 Hunt & Co for a failure to pay them a cer-
 tain demand not exceeding one hun-
 dred dollars, and shall make and return

as the law direct
Gives under my hand and
Seal of said Court & Term this
27th day of November 1849

Bernard Bailly

Mayor

off acct

The account of the Plaintiff on file
having

Thompson J. Hunt

Daniel J. J. Thompson

Richard Hunt partner

under style of Hunt & Co

A Sum of
\$100.00

William S. Moss, Captain
of the Gunner Avalanche

The demand
is for 39 gallons Brandy out of hull
of the ship of Oct 10th 1849 at \$2.00 and deliv-
ered short the 39 gallons \$78.00
and the Transcript of the Justice of the
Peace

Thompson J. Hunt

Daniel J. J. Thompson

Richard Hunt

William S. Moss

Nov 27th 1849 Suit
on account - Summons issued returnable

the third day of December By consent of
Parties, it was agreed that the case
should be tried when it would suit the
convenience of the Defendant, the Parties
went in pursuant of such agreement on
the fourth of December Inst. The Parties
proceed to trial, the Plaintiff's call for
Weyheid David Strong, James Trot and

Account

I. Throes who was duly sworn, at
 Westchester The Defendant called James
 Stuart, Thomas James Johnson, who
 Paid \$ 75 was sworn at Westchester for
 May as per the defence. After hearing
 the proofs and allegations of
 the Plaintiff 12 the Parties, it is ordered
 and adjudged that said
 Defendant pay the sum of
 twenty five pounds eight shillings and
 six pence (25 £ 8 s 6 p) and
 that expenses shall therefore
 be paid by the Defendant
 of Costs 25
 of Service & Return 3
 of Jury 25
 of Hearing before the Jury 37
 of Attending trial 25
 of Costs 2. 81

I, Bernard Bailey
 Mayor of the City of Plain and of His
 Justice of the Peace do hereby certify the above
 as a true Transcript of a (Docket kept by
 me the above entitled Court
 In witness whereof I do set my
 hand and caused the Seal of
 the City of Plain to be affixed
 this 25th day of December 1849
 Bernard Bailey Mayor
 and which is hereby certified and made
 part of said Bill & Captioned, when
 it is done
 David David

X

" Thompson J. Hunt & co

" " William S. Moss

In the Court
(Court of Baywell
County -

" The Defendant moved a motion in
" Court of Judge

" Because the Court permitted the original
" Summons in this case to be amended
" making a new party Plaintiff in the
" case

" N. H. Purcell Esq. Dist. Atty

" The Court allowed said motion
" and the Defendant then and there ex-
" cepted and requested the Court to seal
" this Bill of exceptions which is done

" And now, also, on said Tenth day
" of said Term, the Defendant filed his
" stipulations in the record and figured, as
" follows; to wit:

" Thompson J. Hunt

" and shad

" "

" William S. Moss

In Court (Court
Baywell County

Stipula-
tion of
Bill

" I hereby stipulate that all excep-
" tions to Depositions and all the orders
" of Court made in this cause shall
" be incorporated into and form part of
" the record in this cause and Bill
" of Exceptions in the cause -

" Apr 14th 1832

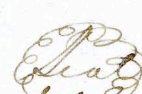
N. H. Purcell
Dist. Atty

" And, now, afterwards, to wit, on the
" 21th day of said month of April in

The year of our Lord, one thousand
Eight hundred and fifty-two, the said
Defendant filed his Appeal Bond to
the Supreme Court, in the word and
figured, as follows, to wit:

Appeal Bond. Know all men by these Presents,
that William S. Moss am here and
formerly bound unto Thompson, J. S. Hunt, Ri-
chard G. Hunt Daniel J. P. Thompson in
the sum of Two hundred dollar lawful
money of the United States to whom
payment well and truly to be made and
done I do bind myself my heirs executors
and Administrators, jointly and severally
by these Presents, witness my hand and
seal at Tazewell County this 23rd day of
April A.D. 1852.

The condition of this obligation is this,
whenever the above bound William S. Moss
shall appear to the Supreme Court &
the Court of Merits from a judgment
of the Circuit Court of Tazewell County ren-
dered at the April Term & said Court
in favor of the above named Thompson
Hunt & Hunt against the above bound
William S. Moss, which said judgment is for
the sum of Seventy eight dollar and costs
of suit. Now if the said William S. Moss
shall duly prosecute his said Appeal and
shall pay said Judgment, costs, interest
and damages, in case the Judgment
shall be affirmed in the Supreme Court
then this Bond shall be void otherwise
in force.

Wm S. Moss 

State of Illinois
Clerk of the Circuit Court in and for said
County do hereby certify, that the foregoing
document one page contain a true, full
and complete transcript of all the pro-
ceedings had and of all the papers
filed and required to be certified to,
the Supreme Court and as fully
and completely as the same are to
be seen in my said Office, in
the said entitled cause of Thompson
J. S. Hunt, Daniel J. Thompson, and
Richard Hunt, partners versus State
of Hunt & company.

In testimony whereof I have
hereunto set my hand and
official seal at Peoria this
3^d day of May, A. D. 1852.
Jno A Jones Clerk

Thompson v. Hunt
et al

Edm. S. Moss

transcript

Fee \$5.50

J. J. Hunt
Richard Hunt
Phil Thompson
" "
William S. Moss

In the Circuit
Court of Page-
ville County
Appeal

You are hereby notified that on the
10th day of August A.D. 1850 between
the hours of 8 o'clock A.M. & 10 o'clock
P.M. of said day and to continue
from day to day if necessary I shall
at the office of W. H. Purcell in
Pocahontas County Illinois before
said Justice of the Peace or other
Officer duly qualified take the
depositions of Henry James
David Thomas James Wright
to be read in evidence on the part
of the Defendant in the above
cause.

Edward James Esq. Attor
Pocahontas July 23 1850

W. H. Purcell
Esq. attor

I do hereby acknowledge service
of the above notice on having a
copy of the same left with me
the 27th day of July of A.D. 1850
J. J. Hunt

The Depositions of William James
and James Stewart taken, at the
Office of N. N. Purple Esq. in the City
and County of Peoria in the State
of Illinois, between the hours of eight o'clock
A.M. & six o'clock P.M. on Saturday the
Tenth day of August A.D. 1850, pursu-
ant to the notice hereto attached marked
"A".

William James, being first duly
sworn, in answer to the first interroga-
tory on behalf of the defendant aforesaid,
as follows: —

Ques: 1st What is your age, residence and
in what occupations have you been
for a year or more past?

Ans: — I am thirty five years old and re-
sides in Peoria, and for a year
or more past have been a Clerk on the
Steam Boat Avalanche, running on the
Missouri River.

Ques: 2 — State what you know of the said
Steam Boat Avalanche having received
a half Pipe of Brandy for the Plaintiff,
and the delivery of the same and when
and where the same was delivered
and received, and in what name
or condition & all you know respecting
it.

Ans: — On the seventh day of October
1849 I received in my capacity of Second
Clerk of the Steam Boat Avalanche
a quantity of liquor for the Plaintiff
from James E. Woodworth & Co. in Saint
Louis, in apparent good order, excepting

that one half or quarter Tons have
lost a hoop, which cost of a hoop
was by me notice in the grand
Ticket sent you to the Shipper &
which Ticket so named came to the
hands of the Plaintiff & I have seen
said Ticket in the possession of the
Plaintiff. The above named goods
were delivered to Mr Johnson the mate
Cock of the Boat & I believe they were
delivered to the Plaintiff in a good
order as when received by the Boat -

Wm B. Barnes
The Deposition of James Stewart
taken at a public and pursuant
to said notice -

James Stewart being first
duly sworn, in answer to Interrogator-
ies on behalf of the Defendant deposed
as follows:

Q: What is your age, residence & occu-
pation?

A: My age is twenty nine years,
I reside in Fond du Lac and am by
occupation a Steam Boat man.
Q: Were you employed in the
Steam Boat Avalanche at the time
of the receipt and delivery of the
goods mentioned in the Deposition
of Wm B. Barnes. If so, in what
capacity? State how & in what
connection, the goods were received
& delivered, where they were stored,
and all your knowledge of the
matter.

And: Seal. Seal made of the Boat.
The goods were received in good condition
except that one cask had lost a hoop,
and they were delivered at the landing
at Tiffin in equally good condition
as when they were received on the
Boat. They were stowed in the
behave room about mid ship in
a most Public part of the Boat near
where the two engineers constantly
stood and no one could have med-
dled with them without being seen
and, if any of the casks had leaked
it would have been perceived at
the main Deck in which their
lay was tight and smooth. I was
on watch at the time of the
Delivery of the goods in Tiffin and
I am confident that they were all
delivered in as good order as they
were received on the Boat.

James Swat

John & James
Tiffin (arriving) & Thurstons
that at the time and place specified
in the caption of the foregoing Depo-
sition the above named persons
Hiram Gamble and James Swat
being on the first voyage according
to law to satisfy the same, returned
to the matter in answer so far as
they might be interrogated, made
answer as above set forth to the
interrogatories proposed to them.

As the Defendant could not appear
In person and unless being
as he refused to appear in the
order in which they were proposed
and ordered, and such a said
writ was signed his name to his
Deduction in my presence, and
no further appeared or what
the Court all which was
taken the hour of eight o'clock P.M.
and ten o'clock P.M. on Saturday
the sixth day of August, at the office
of N. H. Phelps Esq. in the City and
County of Lewis in the State of
Tennessee

George J. Nutcalbe
Master in Chancery
Lewis County

State of Tennessee
Chancery County
County of the Circuit, Court of said County
hereby certify that the foregoing four
and one half pages contain a full
and accurate and complete copy of the
notice filed with the deposition of William
Barnes and James Stewart as also of
the Depositions of said Barnes and
Stewart taken in the foregoing entitled
cause before George J. Nutcalbe Master
in Chancery of Lewis County, and fur-
nished in order to Defendant Attorney
this day, and omitted in the original Inven-
tury, because not required

Witness my hand and official Seal at Jefferson
the 24th day of August A.D. 1852
N. H. Phelps Clerk

William J. Mose

} Appellant

Thompson, J. T. Flint
vs
Harris

} Appellee

Appeal from Towson

And now comes the said Appellant and says that in the Records and Proceedings aforesaid and in the rendition of the Judgment aforesaid there is Manifest Error in this to wit

- 1st Because the Circuit Court overruled his motion for a new trial
2. Because said Court overruled his motion in arrest of Judgment
3. Because said Court permitted the Appellee to amend their summons thereby making real and different parties than those before the Justice
4. Because the Court excluded the Appellants Depositions of Hiram Barnes David Thomas & James Stewart
- 5th Because the Court gave Judgment for the Appellee

For these and other Manifest Errors in said Record & Judgment he prays that the same may be set aside annulled & wholly for nothing returned

Wm 12th 1852

W. J. Mose

Att'y for App.

Tazewell
H. S. Hunt
or
Wm. S. Moss

Manuscript
& Record
Vol. 1. 50

Copy of errors

Filed June 10, 1857
L. Leland Clerk

H. D. Morrison
per Supt. in Charge