

Defferson. County Circuit Court
Case Files - Civil

Box

24 Folder 70

November 1869, No. 349

Garvin, James

vs

Cluigan, W. V.

Walker, James R.

Dover, Oscar

Battle, Thomas, et al

Debt, note

Debt \$250; other defendants Charles

Vinyard, J. B. Fuqua, L. Dumaïn;

depositions

Protested for non payment
this Eighth day of July 1868



#10885
July 18

Thomas Scott
Esq. New York

Dear Sir,
I have the honor to acknowledge the receipt of your letter of the 11th inst.

and in reply to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
Yours, Sir, very respectfully,
J. B. Thompson

State of Missouri, } ss.
COUNTY OF ST. LOUIS. }

Be it Known, That on the day of the date hereof, at the request of the United States Savings Institution, the holder of the original Note a copy of which is on the reverse hereof written, I, **J. F. BERGESCH**, Notary Public for the County of St. Louis, in the State of Missouri, duly commissioned and qualified, residing in the City of St. Louis, in said State, presented the same at the United States Savings Institution to the paying teller thereof and demanded payment of same which was refused.

Whereupon, I, the said Notary Public, at the request aforesaid, have PROTESTED, and do hereby solemnly PROTEST, as well as against all persons and every party concerned therein, whether as Maker, Drawer, Drawee, Acceptor, Payer, Endorser, Guarantee, Surety or otherwise howsoever, against whom it is proper to protest, for all Exchange, Re Exchange, Damages, Interest and Costs, accrued and to accrue, by reason of the non-Payment thereof. Of all which I have given due notice to the parties concerned, in writing and print, in manner following:

To H. W. Clingman mailed & addressed postage prepaid to F. T. O'Brien & Co. No.
 To Jas. W. Walker " " " " " " " "
 To Oscar Owen " " " " " " " "
 To Thos. Pettit " " " " " " " "
 To Chas. Kuyasa " " " " " " " "
 J. B. Fugate & Co. " " " " " " " " Esq. & Co. No.
 Thus Done and Protested, at the City of St. Louis, aforesaid, this Eighth day
 of July A. D. 1868

The Testimony of the undersigned J. B. Fugate & Co. has hereto set

In Testimony Whereof, I, the said Notary Public, have hereunto set my hand, and affixed my Notarial Seal, the day and year above written.

I, the said Notary Public, have hereunto set
 my Notarial Seal, the day and year
 J. T. Bergesch
 Notary Public.



Recorded, Book A.

Folio 18, Fee, \$ 3.15

STATE OF MISSOURI, } ss.
COUNTY OF ST. LOUIS. }

Before the undersigned, a Notary Public within and for said County, came **J. F. Bergesch**, who being duly sworn by me, on his oath says, that the facts set forth in the foregoing Certificate are true.

Sworn to and subscribed before me, this

day of

Smith
July 9. 1868

1868 J. T. Bergesch
Charles Kern
Notary Public, St. Louis, Mo.


$$\begin{array}{r} 25 \\ 315 \end{array}$$

Stamp:
15¢

\$250.⁰⁰

Victoria Jefferson Co Mo May 6. 1868.

Sixty days after date, we jointly and severally
promise to pay to J. D. Sugua & Co or order
Two Hundred and Fifty Dollars
for value received, negotiable and payable without
defalcation or discount at the United States Savings
Institution in St Louis

#10885
Due July 78.

Endorsed
J. D. Sugua & Co

W. M. Lligan
Jas. W. Walker
Oscar Dover
Thomas Pettie
Chas. Fuyard

No. 86.

W. M. Lligan & Co

Protectable for non-payment

Due July 78 1868

\$250.

Due Dec. 3. 15

J. F. BERGESCH,

NOTARY PUBLIC,

N. E. Cor. Second and Market Streets,
ST. LOUIS, MO.



James Garnier, Plaintiff

vs
W. A. Blingan,
James R. Walker,
Oscar Dover,
Thomas Bettle,
Charles Vinyard &
J. B. Ingua & Co., Defendants
L. Duman

In the Circuit
Court of
Jefferson
County
Missouri

Plaintiff states that
the Defendants W. A. Blingan, James R.
Walker, Oscar Dover, Thomas Bettle,
& Charles Vinyard by their promissory
note herewith filed and dated May the
6th 1868 promised for value received to
pay to J. B. Ingua & Co. or their order,
jointly & severally, sixty days after the
date thereof the sum of Two hundred
& fifty dollars, together with six per
cent interest thereon from the date thereof
& payable at the United States Savings
~~and~~ institution in Saint Louis Mo.

Plaintiff further states
that said J. B. Ingua & Co. the said
Defendant L. Duman then being
& composing one of said ~~firm~~
firm of J. B. Ingua & Co. did on
a day before the maturity of said
promissory note endorse and
deliver said promissory note to
this Plaintiff for value received, whereby
Plaintiff became & still is the legal
holder & owner thereof. — Plaintiff
further states that on the 8th day of
July 1868 he caused said promissory

note to be duly presented for payment at
said United States saving institution by
one J. H. Bergesch a Notary Public duly
commissioned & qualified within & for
Saint Louis County Mo. the County within
which said United States saving institution
is situated who then and there presented
the said note for payment and demanded
payment thereof and Plaintiff avers that
payment thereof was then and there
refused whereupon said Notary did at
the request of Plaintiff then and there
protest said note for non payment,
and did then and there on that day
give immediate notice in writing to
each of these Defendants as required
by Law of such presentment, demand
of payment, and of such non pay
ment, and protest, all of which will
fully appear by a certificate of said
Notary in the form of Law hereto
attached and made a part of this
petition, Plaintiff avers that neither
said promissory note nor any part
thereof has been paid to Plaintiff
or any other prior, holder, payee
or endorser thereof wherefore the
Plaintiff prays judgment against
Defendants for said principal
sum of said note together with
four per cent damages thereon
& also interest on said
principal sum of money at

The rate of six per cent. from the
date of said note till the rendition of
judgment

Jos. J. Williams
Atty. for Plaintiff

James Garvin
vs

J. B. Fugna
vs al

Petition on note
original

Filed Sept 27 1869
Est Kenney & D

clerk issue process
Williams
for self

THE STATE OF MISSOURI, }
COUNTY OF JEFFERSON. } ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson—Greeting:

We command you, that you summon *W. A. Klingman,*
James R. Marker, Oscar Dover, Thomas
Betts, Charles Vinard (J. B. Fugate
and L. Dumas)

if they be found in your County, that
they be and appear before the Hon. Judge of our Circuit Court, on the
first day of the next term thereof, to be begun and held at the town of Hillsboro,
within and for the County of Jefferson, on the ~~Sunday~~ Monday after the
fourth Monday of ~~September 6th next~~, then and there to answer unto

James Garni

upon *his* original petition, a copy whereof is hereunto annexed and
accompanies this writ, and have you then there this writ.

Witness, ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, at office in Hillsboro, this

27th day of *Sept.* A.D. 18*69*

Elias F. Honey

Clerk Circuit Court.

By *L. H. Alford* Deputy

No. 349

29 TO 16

JEFFERSON CIRCUIT COURT.

Second Term, 1869

James. L. Carver

vs

M. L. King and J. H. D.

Walter, C. Green

Thomas Battle &

Charles King and

On grant

In office

The within was Served this 28 Day of September A. D. 1869 in Jefferson County Missouri, by delivering a copy of the Writ and the within Petition as furnished to me by the Circuit Court Clerk, to the within named Peter Dorer, ^{the first one served} and I further served the same by delivering a copy of the Writ to the Defendants Thomas Battle, and Charles King, and I further served the same, by delivering a copy of the writ, to a white member of the family of the Defendant ^{W H Clugan} above the age of fifteen years at his usual place of abode. The within named Defendants James R. Walker can not be found in my County

Fred Lichtenmeyer Sheriff
by Fred Vollmann
Deputy

fees \$ $\frac{50}{100}$

No.

~~Court Room No.~~

Vs. }

~~Spa~~

WITNESSES:

Louis Lamin *WR*

1504 Chestnut St.

L. Dumaine

2921 Laclède av.

Not in the City *WR*

Set for

18

Executed this summons by L. Dumaine County
on the 12th day of November 1869 ^{at 2-30 P.M.} by offering
to read the same to our guest. A person to which he
refused to hear left - accepted service thereat
Thee 50¢
Paid by *W. J. Lamin*
John W. Lamin
By A. Valentine
Deputy Sheriff.

No.

Court Room No.

Vs.

Spa

WITNESSES:

Lamar Larmin W.

1514 Chestnut st.

L. Dumaine

1921 Lacluse av.

not in the City W.

Set for

18

Eye called this summons in St.
Louis County on the 12th day of November
1869 by reading the same to James
Garrin. L. Dumaine cannot

be found in my County

St. Louis Nov. 12th 69.

Due \$100- Paid by Defendant.

W. Russell

W. Russell

The State of Missouri

To the Sheriff of St Louis County: Subj.

You are hereby commanded to attach James Garvin by his body and him safely keep, so that you have his body before me the undersigned at the office of Rudolph Schulerberg, attorney at law, S. W. corner of 5th & Market Streets in the City of St. Louis, ~~in the~~ county of St Louis, State of Missouri on the 13th day of November A.D. 1869 at 11 o'clock A.M. then and there to testify and the truth to say in a certain matter of controversy now pending at the Circuit Court of Jefferson County, Missouri between James Garvin, plaintiff and W. N. Clingan, James R. Walker, Oscar Loner, Thomas Beble, Charles King and J. B. Fugia and L. L. Lorraine, defendants wherein the said James Garvin has heretofore been summoned on the part of the defendants. -

Witness my hand and notarial Seal
herein affixed at office in the City of St Louis
Mo. this 13th day of November 1869.

Louis Reinken
Notary Public

Attachment

James Garvin

150x showing at

at 12 hrs,

have been to house

house of

W.D.

~~James Garvin~~
W.D.

The within named James Garvin,
cannot be found in my County Nov. 13th 69.
Thommes Sheriff

N. E. 5-0¢
W. R.

for paid by Oscar Jones,
Louis Runkin
Robert F. Feltz



James Larvin

vs.
W. A. Clingan,
James R. Walker,
Oscar Jover,
Thomas Beble,
Ch. Vinzard - et al.

Circuit Court
of Jefferson County
State of Missouri

Deposition of witness Frederick Swann
and examined at the office of Rudolph
Schubert, S. W. Corner of 5th Market Street
in the City of St. Louis, County of St. Louis
and State of Missouri on the 12th day of
November A.D. 1869. Between the hours of
Eight o'clock in the forenoon and Six
o'clock in the afternoon before me Louis
Reinher a notary public in and for the
County of St. Louis State of Missouri in a
certain cause now pending in the Circuit Court
of Jefferson County, State of Missouri, between
James Larvin plaintiff and W. A. Clingan,
James R. Walker, Oscar Jover, Thomas Beble,
Charles Vinzard, J. B. Eugene and L. Immaire
defendants on the part of the defendants. —

of lawful
age being Frederick Swann and examined, on the
part of the defendants deposes and says:

The witnesses summoned not
appearing, by consent of the parties
the taking of said depositions is adjourned
till to morrow, then to be continued at
the same place, and between the same
hours mentioned above. —

Louis Reinber
Notary Public

Pursuant to the adjournment as above stated
on the 13th day of November in the year
Eighteen Hundred and Sixty nine between the
hours of Eight o'clock in the forenoon and
Six o'clock in the afternoon, at the office of
Rudolph Schlenker, S.W. cor. of 5th & Market
Streets in the City of St. Louis, County of St. Louis
State of Missouri I continued the taking of said
depositions, as follows: viz:

George Hanning, of lawful age, being
produced, sworn and examined on the part of
the defendants, deposed and said:

My name is George Hanning — I am bookkeeper
in the United States Pen. Institution at St. Louis Mo. —
I am acquainted with M. L. Tammie. — I do
not know anything about the notes mentioned in the
petition. — The Tammie keeps an account and

the bank, ~~which~~ he kept an account there in
May, June July 1868 and from that time to the
present time. —

Geo. Newsing

Sworn to and Subscribed before me on the day,
at the place and within the hours first aforesaid.

Louis Rinken

Notary Public.

I J. F. Bergish of lawful age, being
produced, sworn and examined on the part of the
defendants, deposes and saith:

My name is J. F. Bergish — I was in July 1868
general bookkeeper in the United States Savings Institution
at St. Louis, Mo. — I was a notary public for St. Louis
County at that time. — On the 8. day of July 1868
~~I then~~ I produced the note mentioned in the
petition of James Lawson against W. D. Chisgan,
James R. Walter, Oscar Lane, Thomas Beble,
Chs. Wiggins as others, shown to me, — said note
pending in the Circuit Court of St. Louis Co. Mo. —
that note was endorsed on the back by J. B. Fugate & Co.
I got that note from the United States Sav. Institution.
where it was left for collection. — It was left there
by J. B. Fugate & Co. — J. B. Fugate & Co. were then
the owners of that note. — I distinctly ~~recalled~~
recognize the note mentioned in the petition as the

and overhauled ^{I protested} ~~in the presence of~~ - I returned
the note after protest the same day as the
next day to the Bank - I did not know
Mr. James Garvin was anything, throwing him
to be a common mistake transaction. - ~~and~~
his name was not on the note. -

J. F. Bergesch

Sworn to and subscribed before me on
the day at the place and within the hours
first aforesaid

Louis Reinken
Notary Public

State of Missouri
County of St. Louis

I Louis Reinken a Notary Public
within and for said County and State do
certify, that by consent of the parties came
before me at St. Louis, in the County and
State last aforesaid George Handing and
J. F. Bergesch who were by me severally sworn
to testify the whole truth of their knowledge
touching the matter in controversy aforesaid;
that they were examined and their examinations
reduced to writing and subscribed by them respectively

\$3.00 fees for taking depositions and
 affidavit certifying the facts by me Oscar Jones.
 Louis Reincken
 Notary Public

in my presence, on the day between the hours
 and at the place in that behalf first aforesaid
 and their said depositions are now herewith
 returned. - And I further certify that David
 George Harding and J. F. Belgich are residents
 of said County and State. -

Witness my hand and seal at St Louis
 Mo. this 13. day of November A.D. 1869.

Louis Reincken

Notary Public

This is to certify that James Larvin, having
 been summoned on the 12th day of November 1869
 to testify in the matter in controversy above
 mentioned, and he not appearing, an attachment
 having been issued by me returnable November
 13th 1869 at 11 o'clock A.M., could not be found
 in the County of St Louis, State of Missouri as
 will appear from the sheriff's return hereto
 attached and for his absence the taking of said
 depositions was closed. -

Witness my hand and seal at St Louis
 Mo. this 13. day of November A.D. 1869

Louis Reincken

Notary Public

W. H. H. H. H.
Deposition Co. Inc.

James H. H. H.

W. H. H.

James H. H. H.

James H. H. H.

James H. H. H.

James H. H. H.

James H. H. H.

James H. H. H.

James H. H. H.

James H. H. H.

James H. H. H.
James H. H. H.
James H. H. H.
James H. H. H.
James H. H. H.

James Garvin Plaintiff

vs
W. A. Cluigan, James
R. Walker, Oscar Dover,
Thomas Beattie, Charles
Vniegard et al, Defendants,

In the Upper
Solicitor
Court

Now at this day come
W. A. Cluigan, James R. Walker, Oscar
Dover, Thomas Beattie and Charles Vnie
gard, and for answer to the petition of
the Plaintiff admit that they executed
the note sued on by Plaintiff.

These Defendants deny that J. B.
Fugua & Co, on the day before the maturity
of said note for value received, or at
any other time before said note became
due, endorsed and delivered the same
to the Plaintiff.

These Defendants deny that the Plaintiff
caused said note to be duly protested for
non-payment as is by him in his said
petition alleged.

These Defendants for further answer to Plain
tiff's petition allege that about the 6th day
of May 1888 J. B. Fugua & L. Deumain
and this Plaintiff Combined & Confedera
ted together to cheat and defraud the people

and for that purpose the Plaintiff engaged
said Fugua & Duman to sell for all three
of them a pretended patent called, "Improve-
ments in Making Butter"; that on or about
the 6th day of May 1868 said Fugua & Du-
main came to Victoria and fraudulently
and falsely represented to these Defend-
ants that said patent was valuable and
would be of great value to them whereby
they induced W. A. Cluigan, James R. Walker
and Oscar Dore to purchase the right
to said patent in the Counties of Washington
Jefferson, St. Francois, Madison, Ste
Genevieve and Perry in the State of Missouri
for the sum of Five hundred dollars,
to be secured by two promissory notes of
two hundred and fifty dollars each,
one of which is the note sued on, the
said Thomas Beute and Charles Vniedz
having some security for the other, and
that the sole and only consideration of
said note was said patent for said Counties.
They allege that said patent for making
butter was utterly worthless, ^{and of no value whatever} for the purpose
for which it was sold or for any other
purpose which was well known to said
Fugua, Duman & this Plaintiff and
which fact was fraudulently concealed

from these Dependents at the time of the sale aforesaid.

These Dependents allege that Plaintiff has never paid any thing for said note but they believe and so charge the fact to be that said Plaintiff was originally concerned in the sale of said worthless and valueless patent, but ^{he} was not known as a public partner in the sale of the same in order that Trigua & Dorman might bring suit in his name alone in which event he could set up that he was an innocent purchaser of said note and thus evade the consequences of their fraudulent and false conduct and ~~mis~~representations.

These dependents therefore allege that said note was obtained from them ~~for~~ by the false and fraudulent means aforesaid and that Plaintiff is not an innocent purchaser of said note ~~nor~~ that he paid nothing whatever for the same.

They allege that said Plaintiff and Trigua & Dorman are utterly insolvent and that if said note should be transferred to an innocent person for a valuable consideration these Dependents might have to pay the amount of the same.

to their irreparable injury.

They therefore ~~for~~ deny that Plaintiff is
entitled to recover ~~the~~ amount of said
notes or any part of the same or the
expenses of the protest.

They pray the Court to order and
adjudge that Plaintiff shall be
noted up to their Defendants to be
concluded and that Plaintiff be
forever enjoined from prosecuting
or selling the same.

Given at New York

Atty for said Defendants.

James Garvie
v

W. V. Clingan et al

Answer of Defts.

Filed Dec. 16/86
E. J. Hennick