

Jefferson County Circuit Court
Case Files - Civil
September 1870

Box

27

Folder

26

Fiske, Knight, & Co.

Fiske, James

Knight, Augustus

Bennett, Oliver

Garritt, William B.

vs

Kennett, James W
Mivin, W.S.

Appeal

Defendant appealed from JP
Samuel Eaken on \$130.14 note;
depositions

FISKE, KNIGHT & CO.,

No. 87 Main Street.

\$134 17/100

Saint Louis,

Sept 2 1861

And day

after date

We the Subscribers,

W. J. Hurin and Geo. W. Stennett
of Bush Grove County of Jefferson State of
Missouri promise to pay to FISKE, KNIGHT & CO.,

(A Mercantile Firm composed of James P. Fiske, Augustus Knight, Oliver Bennett and William B. Garrett) or Order,

One Hundred Thirty and 100/100 Dollars,

negotiable and payable, for value received, without deduction or discount, with interest at the rate of
seven per cent. per annum after maturity.

No. 21005 Due, Sept 2

Wm J Hurin
in Signification

No 56 Sept
1864

24138
210
24348

Due Mar 19/70 = \$241³⁸/₁₀₀
2.00

In Cash Dr. Mr. P. P. P.

SUMMONS.

THE STATE OF MISSOURI,

JEFFERSON COUNTY:

To the Constable of *Laachman* Township,

in the County of *Jefferson* *GREETING,*

The Command you to Summon

Kenneth W. S. Green and Jos. M.

to appear before the undersigned, one of the Justices of the Peace of *Laachman*
Township, in *Jefferson* County, on the *19th* day of
March, 18*76*, at *12* o'clock in the forenoon, at his office, in the said
Township, to answer the complaint of *James P. Fisher* against *Benjamin*

James Bennett and *William B. Powell*

Given under my hand, this *2nd* day of *March*, A. D. 18*76*

Harmon Green

Justice of the Peace.

Purchases
 July Night 8.60

Wm. L. Davis
 Geo. W. Bennett

10
35
35
50
35
165
35
25
60
225

Here the visiting summer on the
 within 11 and ~~the~~ ^{from 8 term} ~~the~~ 8. Co. by leaving
 a copy of the place of a book with
 a number of the family over the
 of 13 years at the evening of 7
 on the 3 day of March 1890
 of 1890
 of 1890
 of 1890

the State of Wisconsin County of Jefferson

To John Watt Greeting you are hereby

commanded to be and appear personally before
me Samuel Eakem one of the Justices of the peace
within and for Racine Township in the County
of Jefferson South with at my office
in the Township and County aforesaid to
testify on the trial of a case wherein
John Wright is plaintiff and William
Kinnel is defendant in behalf of the
defendants and hear of said trial at your
perce

Witness my signature this 21st
day of May 1870

Samuel Eakem
J. P.

Subpenna

Jahne Wiatt

June 1870 21

J. B. Pomeroy 22

I extracted the Western Subpenna in the
County of Jefferson on the 21st day of
May 1870 by reaching the house in the
forest and hearing of John Wiatt
where he was out on the
for me this 21st day of
May 1870
Pomeroy taken & p

James P. Fisk
Augustus Knight
Oliver Bennett, &
Wm B. Garritt

vs
James W. Kennett &
W. L. Lavin

} Before
Justice
Saml. Eaker

Now at this day comes Joseph
J. Williams Attorney for the
Defendant James W. Kennett
and on his oath says that
the Defendant James W.
Kennett did not execute the
note sued on, this Cause as
this official verily believes

Sworn to and } Jos. J. Williams
Subscribed }
before me this }
2nd day of May 1870
Samuel Eaker
Justice of the peace

Frank. Whistler & Co

By

J. W. Bennett

22nd

affidavit

filed this 21st day
may 1870

Samuel E. Cox

J. W.

Fiske, Knight & Co Before
J. W. Kennett & Samuel Baker
W. S. Stiver Justice of the
Peace,

We J. W. Kennett as principal and
Julia Kennett and F. B. Kennett
as securities acknowledge ourselves
~~acknowled~~ indebted unto James P.
Fiske, Augustus Knight, Oliver
Bennett and William B. Garritt,
composing the firm of Fiske, Knight
& Co, in the sum of Two hundred and
Twenty five Dollars to be void upon
this Condition Whereas James W.
Kennett has appealed from the
Judgment of Samuel Baker, a
Justice of the Peace in an action
between Fiske, Knight & Co, a
firm composed of said James P.
Fiske, Augustus Knight, Oliver
Bennett & William B. Garritt
Plaintiffs and James W. Kennett
and W. S. Stiver Defendants, now
if on such appeal the Judgment
of the Justice be affirmed or
if on a trial and in the
appellate Court Judgment be

given against the appellant
and he shall satisfy such
judgment or if his appeal
shall be dismissed and he
shall pay the judgment of the
Justice together with the costs
of the appeal then this Recognizance
shall be void

Sign here J. W. Kennett

Julia Kennett
Jas. B. Kennett

Approved this
27 day of May
1870

Samuel Eaker
Justice of the Peace

Stoke, Knight
& Co,

^{no}
J. W. Bennett
Bail

Bond for an
Appeal

Filed & approved
this 27th day of May
1876,
Samuel Eaker
Justice of the peace

Fisk, Knight & Co a firm Composed of James P. Fiske Augustus Knight, Oliver Bennett & William B. Garritt, ^{vs} William S. Stearns & James W. Kennett	}	Before Samuel Eaken Justice of the Peace
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This affiant Joseph J. Williams
attorney for the Defendant James
W. Kennett - for said Defendant
James W. Kennett on his oath
says that the application for
an appeal on the part of
said Defendant is not made
for vexation or delay but
because this affiant believes
said Defendant is injured and
aggrieved by the judgment
of the Justice in this cause
rendered

Jos. J. Williams

Sworn to and
Subscribed before
the May 21st 1870
Samuel Eaken
Justice of the Peace

Little Knives

also on

J. M. Bennett

Shel

affidavit for

affidavit

held this way

21st 1870

Samuel Baker

J P

Attest Jan 24th 1870

D. D. Henry

Seal

James p firk Augustus Knight Oliver Bennett
+ William B. Garrett plaintiffs
V. S.

Siren & Kenneth Defendants

plaintiffs filed March 2nd 1870 for suit
a note of hand for one hundred and thirty
dollars and nineteen cents dated September
2 1861 and day after date with ten per cent
interest per annum from date til paid and
directed a Summons to issue which was done
and delivered to J. G. Johnson Constable and made
returnable 19th day of March 1870 my regular
law day Samuel Eaker J. p.

March 19th 1870 the above cause stands contin-
ued until the 16th day of April 1870 by The Justice
Samuel Eaker J. p.

April 16th 1870 the above cause ^{stands} continued until
the 21st day of May 1870 by consent of partys
Samuel Eaker J. p.

May 21st 1870 the Summons issued in this cause
is returned executed as the law direct, and the
cause coming on to be heard and the partys
being present by there attorneys and the plaintiffs
having established his demand it is there found
ordered by the Justice that plaintiff have Judgment
for the sum of \$ 2 43 $\frac{48}{100}$ for his debt and also
2.25 cents for his cost } Debt

\$ 2 43 $\frac{48}{100}$
1 65
60
50

Justice per
Constable per
Witnesses

and that plaintiff have execution therefor

Samuel Eaker J. p.

May 26th 1870 The above Judgment is set aside
and a new trial granted by an appeal to
the next term of the circuit court which
will be begun and held on the first Monday
of September 1870 in the Town of Hillsboro
Jefferson county by the Defendant which has
filed his affidavit and bond as the law
directs

Samuel Eaker J. p.

State of Missouri

County of Jefferson

James p Kirk Knight & co
plaintiffs against
Given & Kerrett Defendants

I Samuel Eaker a Justice of the peace within
and for the Township of Joachim in the county
aforesaid hereby certify that the above and foregoing
is a full true and complete transcript of all the
entries made in my docket relating to said case
of James p Kirk Knight & co plaintiffs against Given
& Kerrett defendants and that such transcript as
accompanied by all the process and other papers
filed with the Justice relating to such suit
given under my hand this 31st day of
May 1870 Samuel Eaker

Justice of the peace

for Justice per for the

above

30.

Samuel Eaker

J. p.

James P. Kirk Knight

& Co

W S

GIVEN Knecht

an appeal

41 Knapp's
W. J. Bennett

Black Street 1786
E. H. H. H.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

Deft

Term, 1870

Knight
vs
Kennett.
for Deft

F. B. Kennett
Dr John Watt & J.
Deadrick

As such the within I certify on or the
within named by John Watt & J.
of Deadrick & reading the same
in their presence and hearing at the
County of Jefferson on the 29 day
of August 1870
 fees \$1.50

Read the within & certify
by J. E. Johnson Secy

Fiske, Knight & Co,
a firm composed of
James P. Fiske, Augustus
Knight, Oliver Bennett &
William B. Garritt, Plaintiffs

In the
Circuit Court
of Jefferson
County
Missouri

^{vs}
James W. Kennett, Defendant

To the above named Plaintiffs
You and each of you are hereby notified
that Depositions of witnesses to be read
in evidence on the part of Defendant on the
Trial of the above entitled Cause will
be taken at the office of C. Harlan a
Notary Public in Wiggins' Block, ^{in the Town of} Bunker
Hill, Illinois between the hours of eight
o'clock in the forenoon and six o'clock in
the afternoon on ^{the twenty-seventh} ~~the~~ day of August
1870 and that the taking of such
depositions if not completed on that
day will be continued from day
to day at the same place and
between the same hours till
completed

James W. Kennett
Defendant
By Jos. J. Williams his
Attorney,

I acknowledge notice of the within notice
and waive the ~~same~~ ~~service~~ service of the
same on me by an officer and also
waive the necessity of the serving of
a commission to the clerical Public within
named or other officer in the State of
Illinois authorizing such officer to act
in the taking of the Depositions within
mentioned and refers to, August 17th 1870,
and agree to the taking of said
Depositions on August 23rd 1870
this August 17th 1870 —

John L. Thomas

Atty for Plaintiff.

Triske, Knight & Co.

14

J. W. Bennett

Notice to take
Depositions

Fiske, Knight & Co.
a firm composed of
James P. Fiske, Augustus
Knight, Oliver Bennett, &
William B. Garritt
Plaintiffs

Against
James W. Kennett, Defendant,

In the Circuit
Court of
Jefferson
County,
Missouri

Depositions of witnesses produced sworn and examined
on the 27th day of August in the Year of our
Lord 1870 between the hours of eight o'clock in the
forenoon and six o'clock in the afternoon of that day
at the Office of E. Harlan a Notary Public in
Wiggins' Block in the Town ofunker Hill, ~~Illinois~~
State of Illinois, before me E. Harlan a Notary Public
in a certain Cause now depending in the Circuit
Court of Jefferson County in the State of Missouri
between, Fiske, Knight & Co, a firm composed of
James P. Fiske, Augustus Knight, Oliver Bennett and
William B. Garritt, Plaintiffs and James W.
Kennett, Defendant, on the part of the
Defendant, —

William S. Shwin of Lawful are being
produced sworn and examined on the part of
the Defendant deposes and saith

Question 1st What is Your name ?

Answer William J. Nivin

Question 2^d Where do You now reside, in what County and State?

Answer Macoupin County and State of Illinois

Question 3^d Are You acquainted with the Defendant and if so how long have You known him?

Answer I am, Thirteen years

Question 4th Were You ever at any time engaged in business with the Defendant and if so what was the business You and he were engaged in ~~and~~ ^{and} ~~when did it commence and when was it terminated?~~

Answer I was engaged, ^{with him} in general merchandising

Question 5th In what Capacity did You and the Defendant sell goods, were You or were You not Partners?

Equal Partners.

Answer Yes

Question 6th When did You and he enter into Partnership and began to sell goods?

Answer First of January 1859

Question 7th Where was Your place of business situated?

Answer Cliffdale near Selma Jefferson County Missouri

Question 8 Has your Partnership with the Defendant of which you have just been speaking ever been dissolved and if so when?

Answer It was dissolved the first of January 1860

Question 9 Do you remember whether or not any notice was published of the dissolution of said Partnership and if any was published, when was it done and in what paper?

Answer I do not now remember

Question 10 Did you and the Defendant while you and he were in Partnership in selling goods in Jefferson County Missouri contract any Partnership debt with the firm of Liske, Knight and Company of the City of St. Louis?

Answer We contracted a debt as a firm

Question 11 Did you or not at any time execute a note to the firm of Liske, Knight & Co, for a debt contracted by the firm of Swan & Bennett, that is the firm which was composed as you have above stated of your self and the

Defendant James W. Kennett ?

Answer I did

Question 12 Did you sign the name of Kennett to the note as well as your own, if so please state to the best of your recollection how the note was signed ?

Answer, It was signed Nivin & Kennett in Liquidation by W. S. Nivin

Question 13 Did you ever at any time execute more than one note to the firm of Fiske, Knight & Co, signed "Nivin & Kennett" or more than one with Mr. Kennett's name to it ?

Answer I do not remember I remember giving one note signed as above
Question 14 When was the note you have just spoken of as having been given by you to Fiske, Knight & Co, Executed ?

Answer September 2nd 1861

Question 15 Did you have any dealings with Fiske, Knight & Co, after you & Mr. Kennett dissolved Partnership and before the giving of the note to them by you signed Nivin & Kennett as you have just stated

Answer I did

Question 16 Had you or had you not communicated to Fiske, Knight & Co, before you gave them

the note signed by you "Nevin & Kennett in Liquidation" the fact that you and Mr. Kennett had dissolved partnership

Answer I had

Question 17 Are you ~~sure~~ sure then that they knew when they received said note that you and Mr. Kennett were not partners?

Answer I am sure

Question 18 On the day you gave Fiske, Knight & Co. the note you have been speaking of did you or not give them also a note for goods signed with your individual name alone?

Answer I did give them a note signed ~~with~~ Nevin

Question 19 Did Mr. J. W. Kennett at any time direct you to sign his name to ~~the~~ ^{any} note to Fiske, Knight & Co. that is the old firm name of Nevin & Kennett?

Answer He did not

Question 20 When you and Kennett dissolved partnership were there any arrangements made as to who should ~~should~~ assume the outstanding liabilities of the old firm & retain the goods on hand?

Answer

Question 21 ^{when we dissolved - an arrangement was made between Kennett's father & myself for me to assume the selling of the ~~business~~ ^{business} of the firm} by whom were the liabilities to be paid and with whom & under what circumstances was this arrangement made?

Answer Liabilities to be paid by William S. Nevin, and ~~this~~ arrangement made with Kennett's father

over

~~Question~~

~~do you know anything else which
is likely to be of advantage to the parties~~

Cross Examination

1 At what time did you enter into business with the above named defendant James W. Kennett, as a copartner therein

Answer on the first day of January 1st 1859

2nd At what time was the copartnership dissolved?

Ans on the first day of January 1860

3^d In your examination in chief you say that you did contract indebtedness with the firm of Fiske, Knight & Co of St Louis, who are the plaintiffs in this suit. Will you now state the nature of the indebtedness when created, when it became due and ~~for~~ⁱⁿ what amount.

Ans The indebtedness was for goods purchased by Brown & Kennett from the said Fiske Knight & Co at several different times, between January 1st 1859 and January 1st 1860 - I think it was for purchases made in the latter months of the year 1859, the whole amount ~~was about~~ I am now unable to give except in this way I know the amount was the amount mentioned in a note given by the firm of Brown & Kennett to Fiske,

Knight & Co which I have before
spoken of. These accounts were
all due on the day of the date of
the note and may have then been
due for some days or ~~se~~ months
I cannot now remember distinctly

21th

Were you not authorized by the
said James W Kennett to close
up the business of the firm of
Twinn & Kennett at the time of
the dissolution of said firm
of you already spoken of?

Answer All of the details of settling up the
business of the said firm was talked
over between Fred Kennett the
father of my partner, the said James
W Kennett, and myself from
which it was understood and
agreed that I was to close up the
business of the firm and I was
to do every thing necessary to a
complete settlement of the business
of the firm. The said James W Kennett
after the understanding so had ac-
cused the elder Kennett and myself
came to me and said "Bill, you'll
fix that matter all up now, will
you?" I replied "Yes I will fix it all

up. James W Kennett never gave me
any express authority to sign the note
of me already spoken of

8th Will ^{not} James W Kennett know that
you had given the note to Fiske
Knight & Co, and did he not ap-
prove of your signing the note in
the firm name?

ans He did not that I can now re-
member.

6th Will you not inform him of
your books or of a report in
writing or of word of the manner
in which ~~you~~ had closed up the
business?

ans I did not

7th What was the date of the note?

ans I think it was September 2nd 1861.

sign Here, *Wm. S. Rivin*
sworn to and subscribed before me on the
day at the place, and within the hours
first aforesaid - Witness my
hand and Notarial Seal, -

Pub. Notarial
Seal Here

E. Harlan

Notary Public

State of Illinois
County of Macoupin

3
3

J. E. Harlan

a Notary Public within and for
the County of Macoupin in the
State of Illinois do Certify that in pursuance
of the within notice came before me at my office in Higgins
Block in the Town of Bunker Hill in the County
and State last aforesaid William S. Rivin who
was by me sworn to testify the whole truth of his
knowledge touching the ~~matter~~ matter in
Controversy aforesaid, that he was examined
and his examination ^{was} reduced to writing and
subscribed by him in my presence on the
day, between the hours, and at the place in
that behalf first aforesaid, and his said
Deposition is now herewith returned, and I
further Certify that said William S. Rivin
is a resident of the County of Macoupin
in the State of ~~Illinois~~ Illinois
In Testimony whereof I hereunto set my
hand and affix my Notarial Seal

at office as aforesaid this 27th day of
August 1870

E. Harlan

Notary Public

Place Notary's
seal here
& sign officially

2949

Wheeler, Knight & Co,

James M. Bennett

Depositions on the
part of the above and

Shuman and filed by
Order of Court this
Sept. 6th 1870

E. Harlan
Notary Public
by J. H. Crawford & Co.

Free for Depositions
H. 12.

7/13/187



152

The Court declares the Law to be
that- if Wm S. Minin signed
the name of the Defendant-
Kennett to the note sued on in
this case after the dissolution
of the partnership which had
therefore existed between
said Minin & Kennett and
without being specially authorized
by said Kennett to sign his name
to the same then in that event
said Kennett is not liable to pay
said note, ^{and if the Court so find} & the Court will
find for the Defendant.

Given

Filed Oct 8
1870

E. J. Henry

him

2nd The Court further declares the Law to be that- if the note in suit was signed with the names of the old partnership firm of Chivins & Kenneth and delivered to the plaintiffs after the firm of Chivins & Kenneth was dissolved and if plaintiffs had notice of the fact that said partnership had been dissolved when they received said note then the defendant Kenneth is not liable on said note and if the Court so find the Court will find the issues for the defendant.

Refused

Black & White 87570
Cottontail

Jiske, Knight & Co }
vs
J. W. Kennett }

The Court declares the law to be
that if Kennett & Nivin were partners
in the mercantile business in 1859 & 1860
and as such partners bought goods
of Plaintiffs to the value of \$130 $\frac{9}{10}$ and
that they dissolved partnership in
1860 and at the time of the dissolution
of such partnership W. S. Nivin
one of the partners had full authority
to settle up the partnership debts
and in settlement of the account
due Plaintiffs the said Nivin gave
the note sued on then the Plaintiffs
are entitled to recover in this action.

Refused

Filed Sept 8 1870
Elias J. Hamer *clerk*

Dick Knight & Co, } Before S Eastin Justice
 J W Kennell } Appointed to Circuit Court,

Eastin Justice fees, \$ 1.95-
 Constables Fees 60 J G Johnston
 Witness Fees, 50 -

E A Henev filing 10 papers ⁵⁰ 1 sp. ⁵⁰ 1.00
 Doc ⁵ sub ⁵⁰ Judgt ⁵⁰ ord ³⁵ 1.25-
 ord rescinding Judgt. ³⁰ now quit ³⁰ Judgt for costs ⁵⁰ 1.20
 ord ³⁵ 35-

W. J. Boyce Clerk making costs ³⁰ no ¹⁰ due to Judgt, ¹⁰ 50

E Harlan Notary Pub for Dep & c ~~4.12~~

St Luchtemeyer Sheriff for 2 sp. 1.10

John Wiatt wit. 1 day 12 miles 1.96

Miss Muriel & Co.
as
J. M. Bennett
Jas. Reid

