

Jefferson County Circuit Court
Case Files - Civil

January 1879

Box

38

Folio

14

Arnold, John H.

vs

Lee, Charles F., exx.

Ogle, Hannah D.

Appeal

Defendant appealed from Probate
Court on \$200 demand

Est of Hannah D Ogle
Chas F Lee Ex-
In the Probate Court of
Jeff. Co. Mo

Now comes John H. Arnold
devisee of said Hannah D Ogle and
prays the Court to order and direct
said Executor to pay to him the
sum of Two Hundred Dollars
being the amount of damages
paid to said Executor on a proceed-
ing of ad quod damnum by Estlin
and J. H. Hull, as being done to a
tract of land devised by said Ogle
to said Arnold

By Geo. McMullen
Atty. for J. H. Arnold

I waive the necessity of
process being served on
me by an officer
Dec. 23^d 1878 C. J. Lee

By John L. Thomas mm

Exhibits of
Jno. H. Arnold
as

Ernest Thomas & Co

Dec. 28th 1878
H. M. Arnold & Co

Filed
Ernest Thomas & Co

In the Matter of John H
Arnold

C. F. Lee Executor of the
Will of H O Ogle Dec 18

In the Probate Court of
Jefferson County

John L. Morris one of the attorneys
of C. F. Lee Executor of said Will makes
oath and says that an appeal is not
taken in the above entitled case or motion
or delay but because he believes
the ^{the appellant} defendant is oppressed by the
judgment of the Probate Court.

Subscribed and sworn to before

me Dec 31st 1878

John L. Morris
Judge of Probate

John L. Morris

State of Missouri,
County of Jefferson } In the Probate Court, the following
proceedings were had, to wit,

Monday December 23rd 1878

John H. Arnold
_{vs}

} An Ap.

Estate of Hannah D. Ogle decd.

Now at this day comes said plaintiff and presents a demand against said estate for two hundred dollars, damages awarded by the Circuit Court accrued to and willed to said Arnold by said decedent, by reason of a mill dam erected by Mull & Elders, and C. F. Lee appearing as Executor of said Hannah D. Ogle, and the matter in controversy being submitted to the Court on briefs or statements of facts, with the papers and records of the Circuit Court in the case as evidence, the Court doth find that after the request of the jury was filed, the plaintiffs - Mull & Elders - were permitted to file an amended petition, and that before the rendition of judgment by said Court, John H. Arnold was substituted as party to the proceedings in the plea and state of Hannah D. Ogle - who has deceased subsequent to the filing of the amended petition; and on these facts this Court does find ~~this~~ issue for the plaintiff John H. Arnold, and doth allow his claim against the estate of said Hannah D. Ogle, for the sum of two hundred dollars, and place the same in the 5th class of allowances against said estate.

Monday December 30th 1878

John H. Arnold
_{vs}

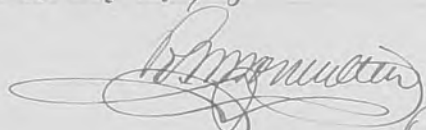
Estate of Hannah D. Ogle decd.

} Now at this day comes John L. Thomas
Atty for C. F. Lee, Executor of the last will and Testament of Hannah

D. Ogle deceased, and files an affidavit for appeal from the judgment of this Court rendered in this cause on the 23^d day of December 1878. The appeal is granted, and a transcript of the record ordered made out and transmitted with the papers filed in the cause, to the Circuit Court of Jefferson County Mo,

J. R. H. McMullen, Judge of Probate within and for the County of Jefferson in the State of Missouri, hereby certify that the above and foregoing is a true and correct transcript of the record of the Court in the case of John H. Arnold against the estate of Hannah D Ogle deceased, and that the papers hereunto returned and marked Exhibits A, B, C & D, are all the papers filed in said cause in said Probate Court of Jefferson County Mo,

In witness my hand, and the seal of said Court hereunto affixed, this 30th day of December A.D. 1878


Judge of Probate

John H. Arnold

or

C. F. Lu Executor of
the Will of Hannah
D. Ogden deceased

In the Circuit Court
Jefferson County Mo

3
Now at this day comes said
Executor, Defendant herein and
moves the Court to set aside
the finding and judgment of
the Court herein and grant
him a new trial

Because the finding and
judgment should have
been for Defendant instead
of Plaintiff.

John L. Mowatt
Atty, for Defendant

Journal

7

Dr. Hecaton

Motion for New
trial

FILED

JAN
17
1891

W. H. H. H. H.
CLERK

J. H. Arnold Plaintiff

C. F. Le Plante of
Will & Hancock D.
Clerk of Court
Defendant

John L. Mowbray one of
the attorneys of defendant
makes oath & says that an
appeal is not taken in the above
case for vacation or delay
but he claims he believes
defendant is aggrieved by
the judgment of this court.
Sworn to and signed John L. Mowbray
Subscribed before me

me Jan'y 27th 1879

C. Tho. Hoarne Cir. Clerk

J. H. Amos

or

C. F. Leaster

affidavit for

Appraisal

RECORDED

JAN
21
1879

Edw. H. Jones
CLERK

John H. Arnold Plaintiff

vs

C. F. Lu, Secutor of
the State of Missouri
D. Ogden Defendant

In the Jefferson Circuit
Court January Term 1879.

Be it remembered that on
the trial of this case the respective
parties submitted to the Court
on the following facts
viz:

At the Sept Term of this Court for
1878 J. W. Hull and Dr. Hull filed
their petition in this Court praying
for the issuance of a writ of ad
quod damnum directed to the
Sheriff of Jefferson County Mo
for the purpose of establishing a
right to erect a mill dam &
mill across or at foot of creek
in said County just below a farm
owned by Hannock D. Ogden: That
said writ issued to the Sheriff
summoned a jury according

who reported ^{the said} Mill & Elders
to law that they ought to have the
leone to erect said dam and
mill & that Mrs. Hannah D.
Ogle would sustain for damages
by reason of injury to her said
farm ^{by the erecting of said dam} in that upon said return
being made Mrs. Ogle filed excep-
tions to said report to the whole
proceeding as continued by
the Court till the January
Term of this Court 1878. That
in Dec. 1877 Mrs. Ogle died
leaving a will which was duly
probated on the 10th day of December
1877 by which will she devised to
Plaintiff J. H. Arnold the farm
to which the said for damages
aforesaid were accrued & she
bequeathed to other parties her
personal property & money. That
at the January Term of this Court
for 1878 J. H. Arnold & C. F.
Lee Executor of the will of
Hannah D. Ogle were
^{and substituted as objectors in the place of Hannah D. Ogle}
made parties to the ad quod
damnum proceedings &
thereupon the Court ^{by agreement of parties} made

the following order Motion (Then the Clerk will copy the final judgment rendered in that proceeding).

The question submitted to the Court under these facts was this.

Was Arnold the devisee of the farm or the executor of the will of H.D. Ogle entitled to the \$200 damages?

Whereupon the Court decided that Arnold was entitled to said money & gave judgment accordingly.

Defendant then filed his motion for a new trial as follows viz: (The Clerk will copy said motion) which the Court overruled to which defendant at the time excepted. There being thus his bill of exceptions in open Court & saying that the same may be signed & filed & made a part of the record herein which is accordingly done.

Louis F. Dunning Judge

J. H. Arnold

AL

Citizen Scientist
etc

Bill of
Captains

RECEIVED

JAN
21

1879

L. H. Moore
CHICAGO

Arnold
Agles Esq

BILL OF COSTS.

DOLLARS CENTS DOLLARS CENTS

6. Tho' Horine, Clerk,			
7 Files, 35/	Copies, 1/	Cert. and Seals 50/	85
Sum. and Copies 35/	Order 35/	Copy.	35
25/ Copy of Judg't.			15
Affd's 25/	Default	Judg't. 50/	75
		Dockets 25/	25
Fee Bill 10/	Making Costs 40/		50
motion 20/	rule 20/	Bill Exp 35/	75
Ent. Sat. 25/	Execution		25
			8 85

Sheriff

Sheriff

R. W. M. Mullin Probate Judge.
files 20/ index 15/ affd 25/ Judgt. 25/
order for appeal 25/ Trans. 2.00/

8 10

3 10

6 95

Paid Aug 4 1879