

Jefferson County Circuit Court  
Case Files-Civil  
October 1827

Box 1 Folder 36

Evans, James

vs.

Houts, Christopher G.

Replevin

Change of venue from Scott  
County; one 2-wheel carriage;  
depositions

James Evans  
vs

Christopher G. Hunt

Replevin in Circuit Court  
for the County of Scott in the  
State of Missouri term  
of February AD 1827

To the above named Plaintiff Sir Take notice  
that on the day after tomorrow or sooner if the  
Court will hear the motion I shall move the Court  
to quash the writ of Replevin in this case that  
a return of said <sup>two wheel</sup> carriage gig be adjudget to said defendant  
and that a writ of inquiry be awarded to said defendant  
to assess the damages in this case by reason of the  
premises according to the statute

and herein signs the following reasons -

- 1 The said writ of replevin was issued without the said plain-  
tiff having first made his affidavit required by law.
- 2 The plaintiff has not filed in the Clerk's office of said Court  
nor in any other place the affidavit required by law.
- 3 The plaintiff did not file in the office of the Clerk of said Court  
an affidavit stating that he plaintiff was lawfully possessed  
of the said property in the declaration mentioned and that the property  
there was unlawfully taken from his possession  
from his possession and without his consent within one  
year next preceding plaintiff's application for said writ and  
that he is then entitled to the possession thereof before said  
writ issued. For the defendant says that in fact the said  
writ is dated November 4 - 1826 and the affidavit  
of plaintiff in this case filed in said Clerk's office is dated  
November 14 - 1826.
- 4 The said plaintiff did not file in the office of the Clerk of the proper  
Court any affidavit in this case before said writ of replevin  
in this case was issued for he says said affidavit was not made  
by said plaintiff until nine or ten days after said writ had been  
issued by said Clerk.

I Ranney for de/pt

13<sup>th</sup> Feb 1827

1827

J. P. Smith

Filed Oct 21<sup>st</sup> 1827  
C. Smith

James Evans } Replevin In the Circuit Court  
for the County of Scott in State of  
Mo }  
C. G. Hout } Missouri Term of February 1827  
Jawit

And now the said defendant in Court  
depends the wrong and injury whereof and says that  
he said defendant did not take the said plaintiff's two wheel  
carriage of the said plaintiff mentioned as the said plaintiff  
in his declaration that he alleged and of this puts himself  
upon the Country for trial  
J. Ranney for de<sup>ft</sup>

And for further plea in this behalf avouching to the jury  
the statute in such case made and provided the said  
defendant saith that the said plaintiff ought not to have  
and maintain his aforesaid action thereof against said  
defendant because he saith that at the time when  
the taking of said two wheel carriage mentioned in  
the plaintiff's declaration is supposed to be the  
property of said two wheel carriage mentioned  
was then and there in the defendant C. G. Hout  
Jawit at said County and not in him said plaintiff  
as is alleged <sup>in said declaration</sup> all of which defendant is ready to verify  
wherefore defendant prays judgment and a return  
of said property two wheel carriage to be adjudged to  
this defendant &c. - J. Ranney for de<sup>ft</sup>

Dec 15<sup>th</sup> July.  
1827

J. P. Mather M

Filed Oct 24<sup>th</sup> 1827  
C. Smith M

James Evans

3 Action of Replevin

<sup>vs</sup>  
Christopher G. Houts

In the Scott Circuit Court

4<sup>th</sup> Judicial Circuit

To the Honourable the Judge of the said Circuit Court (in vacation) your petitioner James Evans the Plaintiff in the above cause fears that he will not receive a fair trial in this case in the said Circuit Court on account that the Judge is prejudiced against him, so that he cannot expect a fair trial; therefore your petitioner prays a change of venue in the above cause agreeable to the law in that case.

James Evans

James Evans the above Plaintiff makes oath that the facts stated in the above petition are true to the best of his knowledge & belief

James Evans

Sworn to and Subscribed before me  
Clairborne S. Thomas, a Justice of  
The Peace within and for the County  
of Cape Girardeau and State of  
Missouri this 10<sup>th</sup> day of April 1827

C. S. Thomas Jr.

Excess  
of  
of auto

Wm. D. May  
1897  
J. J. P. P.  
J. J. P. P.  
C. H.

Julie Oct 24th 1897  
C. Smith C. H.

State of Missouri 4<sup>th</sup> Judicial circuit

James Evans, having this day presented to me John D  
Cook judge of the circuit court for the circuit  
aforesaid, his petition verified by affidavit, stating  
that an action of <sup>Replevin</sup> ~~the common assumpsit~~ is now pending  
in the circuit of Scott county in said circuit wherein  
the said James Evans is plaintiff and C. G. Moutts is  
defendant, and praying a change of venue of said  
action, for the cause in said petition, shewn. It is  
ordered that the venue of said action be changed  
to the circuit court for the county of <sup>Jefferson</sup> in the third  
judicial circuit, for trial, and the clerk of the  
circuit court for said county of Scott is hereby  
directed to transmit the papers of said cause on  
file in his office, and a transcript of the proceedings  
had therein to the office of the clerk of the  
circuit court of the <sup>said</sup> county of Jefferson as the law directs  
requiring

Given under my hand at Jackson, in said circuit  
this 10<sup>th</sup> day of April A. D. 1827.

John D. Cook

James  
my  
Aunt

27.0 May 5<sup>th</sup>  
1894

J. J. Hunter, clerk

Rec'd Oct 24<sup>th</sup> 1894  
C. Smith, clerk

James Evans  
" " " " " "  
John Thomas & Son  
of Lebanon  
in the county of Lebanon

John. James Evans the above named plaintiff.

Sir, Take notice that I shall attend at the clerk's  
 office of the circuit court in the county of Scott in this  
 State on the nineteenth & twentieth days of this month  
 between the hour of ten of the clock in the forenoon  
 & in of the clock in the afternoon of those days then  
 there to take the deposition of witnesses to be read on  
 the trial of the above cause on the part of the said John  
 & when you may attend if you think proper.

John Thomas F. South 4  
atto? B. Allen

A copy of the written notice was left at the usual  
address of James Cairns, <sup>in the city of Albany</sup> with a white person  
one hundred years of age, a member of David Cairns'  
family, and who was in possession of the contents  
and present thereof. Oct. 2. 1872.

Admission \$1.00  
Stewards Cairns

Deposition of witness produced sworn and examined on the nineteenth day of October in the year of our Lord Eighteen hundred and twenty seven between the hours of ten of the clock in the forenoon and six of the clock in the afternoon of that day at the Clerk's office of the Circuit Court in the County of Scott in the State of Missouri before me Thomas Fletcher a Justice of the County Court within and for the County aforesaid in a certain cause now depending in the Circuit Court of the County of Jefferson in the State of Missouri between James Evans Plaintiff and Christopher G. Monts Defendant, on the part of the Defendant.

Charles Scavers of lawful age being produced <sup>on the part of Defendant</sup> sworn & examined, deposes and saith That some time in the month of October in the year Eighteen hundred and twenty six there came into my hands as constable of New Madrid Township in the County of New Madrid & State of Missouri an Execution issued by C. G. Monts a Justice of the Peace of said Township and County in favour of Francis St. Mary against James Evans issued on a Judgment on attachment against said Evans, and by virtue of said Execution I exposed to public sale as the property of said James Evans one Gig or two wheeled carriage and Christopher G. Monts being the last & highest bidder the said Gig or two wheeled carriage was cried off and sold to the said C. G. Monts for the price of fifteen dollars and seventy five cents and that in consideration of said sale I did deliver to the said C. G. Monts the said Gig or two wheeled carriage and further this deponent saith not

Charles Scavers  
Sworn and subscribed to before me on the day, at the place and within the hours first aforesaid. *Thos. P. Fletcher* Justice of the County Court of Scott County Missouri

I Thomas Fletcher a Justice of the County Court within and  
for the County of Scott in the State of Missouri do hereby  
Certify that Charles Seavers the deponent was by me sworn  
to testify the whole truth of his knowledge touching the  
matter in controversy aforesaid and that he was examined  
and his examination reduced to writing and by him  
subscribed in my presence on the day between the  
hours and at the place in that behalf first aforesaid

*Thomas Fletcher* Justice of the  
County Court Scott County  
Missouri  
a Justice of the County  
Court of the County  
of Scott

Examined }  
Month } Deposition.

Filed Oct<sup>r</sup> 25<sup>th</sup> 1887  
Chas Smith Clk