

Jefferson County Circuit Court
Case Files - Civil
July 1836

Box 3 File 4

Hyatt, Eli

vs.

Withington, John

Appeal

Defendant appealed from JP
Joshua F. Smith on \$90 account
for labor, hire of oxen, and 250
cedar posts; defendant's land in
Franklin County levied on
attachment; defendant also
"Withington"

John Withinton

To Eli Hyatt - *Qm*

For work and labour done two months } - \$40.00
in and about cutting & halling logs }
For the hire and use of a yoke of
Oxen two months at \$5.00 per month } ... 10.00
For 200. Cedar posts at 12½ cents - 25.00
For other work and labour done - 15.00
April 1. day 1835. \$90.00

State of Missouri

Franklin County

Joshua Smith

To ~~James Jones~~ Esquire -

Eli Hyatt complains of John Withinton of a plea of trespass on the Case, for that whereas heretofore to wit. On the first day of April in the year of our Lord one thousand eight hundred and thirty five, The said John Withinton at the County of Franklin aforesaid was indebted to the said Eli in the sum of ninety dollars lawful money for and in consideration of the work and labour care and diligence of the said Eli before that time done and performed for the said John and at his special instance and request. And being so indebted he the said in consideration thereof afterwards to wit. On the same day and Year at the County aforesaid undertook and then and there faithfully promised the said Eli to pay him the said sum of ninety dollars when he the said John should be there unto after wards requested.

And whereas also afterwards, to wit. On the same day and year aforesaid at the County aforesaid the said John Withinton was indebted to the said Eli in the further sum of ninety dollars like lawful money for a large number of Cedar logs to wit. two hundred logs or posts before that time sold and delivered by the said Eli to the said John at his special instance and request. And being so indebted he the said John in consideration thereof afterwards to wit. On the same day and year aforesaid at the County aforesaid undertook and

then and there faithfully promised to pay the said Eli the said last mentioned sum of money at any time he the said John should be therunto afterwards requested.

And whereas also the said John Withinton afterwards to wit on the same day and year aforesaid at the County aforesaid was indebted to the said plaintiff Eli in the further sum of ninety dollars like lawful money for the work and labour care and diligence of the said Eli before that time done and performed for the said John at his special instance and request. And also for the hire use and labour of a certain yoke of oxen, and also for certain other cedar logs or posts before that time sold and delivered to the said John by the said Eli and at the special instance and request of the said defendant John - And the said John being so indebted in consideration thereof afterwards, that is to say, on the same day and year aforesaid at the County aforesaid undertook and then and there faithfully promised the said Eli to pay him the said last mentioned sum of money when he the said John should be therunto afterwards requested -

Yet the said plaintiff Eli in fact says that the said John Withinton not in the least regarding his said several promises and undertakings so by him made as aforesaid, but intending craftily and cunningly to deceive and defraud the said Eli in this behalf has not as yet paid him the said Eli the said several sums of money or any of them or any part thereof although often requested so to do, that is to say at the County aforesaid - But to pay him the said Eli the same or any part thereof he the said John has hitherto wholly neglected and refused, and still neglects and refuses to pay him the same or any part thereof to the damage of the said Eli ninety dollars and therefore he sues - &c -

Eli Hyatt

Joshua Smith
Esq. Notary Public.

Please to Summon the following
persons witnesses to prove the facts in the foregoing de-
claration. to wit. John J. Walton, Alfred Allen,
Samuel Whitworth; Sanford Whitworth. James Woodland,
Walker P. Broome, & H. D. Murie Eli Hyatt

Eli Hyatt.
Assumpsit.
Dams \$90.
John Whitton

Served the within Assumpsit
on John Whitton 27 Reading
it to him at his house in 30th Town
Shik Franklin County this 28 day
of December 1895
Lewis Dunn Court
Const for 25-County

The State of Missouri } To the Court of Probate
County of Franklin } which greeting you and being by
command to summons John W. Thompson to appear
before the undersigned one of the Justices of the Peace
within and for the said County on the second day
day in December next at my office held at my
North Star in said Townships between the hours of
ten o'clock and three o'clock of said day to answer to
the Writ in an action of Debt ^{set} damages an amount
given under my hand this 25 day of November
ad D 1835
Jacobus T. Smith J

I wish to see you before you leave the State
Yours V
Jacobus T. Smith

Served the within summons on
John Withinlow By reading it
to him at his house in Boles Township
Franklin County this 2^d day of December

1835-

Amos Hann Const
of Boles Township

Const fee 25 cents

W. Smith

As summons

John Withinlow

April the 14th 1836

We the undersigned John Wellington and
The Mayor and all Justice acknowledge our
debts indebted to Eli Hyatt in the sum
one hundred and fifty dollars to be raised upon
this condition whereas John Wellington has
advanced from the judgment of J^r Smith &
Justice of the Peace in an action of ~~the~~ ^{the} Tuncen. Eli
Hyatt plaintiff and John Wellington defendant
made it in such advance the judgment of the Justice
be affirmed as if on the trial and in the Circuit
Court judgment be given against the defendant
and he shall satisfy such judgment as if his
advance shall be dismissed and he shall pay the
judgment of the Justice together with the cost
of the advance the recognizance shall be received
at J^r Smith & Co.

John Wellington
and
The Mayor

Attest
John Wellington

Ricagnone
Smithington

Eli Hyatt
vs

} On an Assumpsit Banning date
April the 1: 1835 summons issued

} John Withington } & Remembred the 25th 1835 and
returned by the Constable as being duly served
by reading it to him and also reading the assumpsit
to him the said John Withington this 12 day of
December 1835 the parties appearing the case is
continued by mutual Consent to the 2^d Saturday
in January next Justices fees for issuing
summons and subpoenas 75 cents

Constables fees for serving summons and 6
subpoenas for the plaintiff & 5 ditto for the
witnesses fees in behalf of plaintiff

\$3.00

\$ D Musick 1 days attendance	50
John T Walton one ditto ditto	50
Walker P Braun 1 ditto ditto	50
witnesses fees in behalf of the defendant	
Johnathan Patts one days attendance	50
Samuel Read 1 ditto ditto	50
William Boyd 1 ditto ditto	50

January the 9th 1836 this being the day set for
the parties appearing the case is continued by
mutual Consent to the first Saturday in ^{my} Feb
1836 February the 6 this being the day set for
trial the parties appearing the defendant came
forwards and makes oath that he cannot safely
go in to trial for want of some material

E. Hyatt 223
dahn withing ton

At Cashy Room
my Pocket
J St Smith. J. O

Filed Aug 7 86
1837. A. B. B. A. B.
L. B. B. A. B.

Filed Aug 21 1836
O. B. B. A. B.
J. B. B. A. B.

testimony that he has used due diligence
to procure and that if the case be continued
to the 2^d day of April he will be able to
obtain in time for trial it is ordered that
the case be continued to the next Saturday
in April at the cost of the defendant
Justice fees for issuing one subpoena for
the defendants witnesses 18³/₄ Cents

To issuing one subpoena for the plaintiffs
witnesses 18³/₄ Cents & entering continuance
Constables fees for serving subpoenas on five
witnesses in favour of the defendant \$1.25
witnesses fees in favour of the plaintiff

Samuel Whitworth one days attendance 50 Cents 50

Samuel Whitworth 1 ditto ditto 50 Cents 50

J. D. Murdock 1 ditto ditto 50

James Macdonald 1 ditto ditto 50

Walker & Braun 1 ditto ditto 50

witnesses fees in favour of the defendant
Jonathan Potts one days attendance 50 Cents 50

Allen Tuntty 1 ditto ditto 50

James Macdonald 1 ditto ditto 50

William Baye 1 ditto ditto 50

April the 2^d 1836 this day being the day set
for trial the defendant not appearing the case
being considered by the Justice it is ordered
that Eli Byatt receive of John Withington by

default the sum of ninety dollars and also
the further sum of ~~ten dollars and fifty~~
~~Eight Cents for his Cost~~ Ten dollars and fifty
Eight Cents for his Cost

Justices fees for swearing 3 witnesses $14\frac{3}{4}$ Cents $14\frac{3}{4}$
to Entering up Judgement $37\frac{1}{2}$ Cents $37\frac{1}{2}$

~~Costs~~ Justices fees for serving subpoena
on 3 witnesses in favour of the defendant 75

witnesses in favour of the plaintiff

Saml Whitmanth one days attendance 50 Cents 50

Sanford Whitmanth 1 dito - dito - - - 50

Walker P Brown 1 dito - - - - - 50

witnesses for the defendant

C. S. Jeffries 1 days attendance 50 Cents - 50

Collin Twitty 1 dito dito - - - 50

Joshua F. Smith J P

April the 14th 1836 now on this day the defendant
moves for a new trial in the above case to
which the Justice replies J F. Smith

April the 11. 1836 now on this day John Withington
Came forward and pray an Appeal on the above
Judgement and it is granted by his Entering in to a
recognizance with Ben Bay & all Twitty
Securities

Joshua F. Smith J P

COUNTY OF JEFFERSON, SCT.

THE STATE OF MISSOURI,

To the Sheriff of *Jefferson*

County, — GREETING:

You are hereby commanded to summon

Alfred Allen

that, setting aside all manner of excuse and delay, he be and appear in proper person before the Judge of our Circuit Court, on the *Eighth* day of *August*, at the town of Her-
laneum, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *Eli Heyald* is plaintiff,
and *John Williamson* defendant;
on the part of the *plaintiffs*; and have you then there this writ.

WITNESS, HENRY P. BATES, Clerk of our said Circuit Court, at the town of Her-

culaneum, this

Third

day of *July*

in the year of our Lord one thousand eight hundred and

Eighty Six

Henry P. Bates CLERK, C. C.

The State of Missouri, At the request and request of the Plaintiff &
 County of St Louis To serve and return this writ upon
 the said John McCullough this 22nd day of July 1837
 Given under my hand this 22nd day of July 1837 J. H. McCullough J. D.

It having been of Merimee Township
 I do hereby certify that Alfred Allen acknowledges
 the service of the within S. C. Perry on the 24th day
 of July 1837 John McCullough J. C. M. J.
 The service of the within S. C. Perry on the 26th
 of July 1837 H. H. McCullough J. D.

Jefferson County Circuit
 Court August Term 1837.

Eli Hyatt

v. S. C. Perry

John Whitmore

Alfred Allen
 for Plaintiff

Justice fees 3 1/2
 Constable - 2 1/2

COUNTY OF JEFFERSON, SCT.

THE STATE OF MISSOURI,

To the Sheriff of Franklin County, — GREETING:

You are hereby commanded to summon

Whitworth, Gordon Bruce, James Woodland
and Richard Jeffers.

~~~~~

that, setting aside all manner of excuse and delay, he be and appear in proper person before the Judge of our Circuit Court, on the Eighth day of August, at the town of Her-  
lanum, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein Eli Hays is plaintiff and John Whitworth is defendant on the part of the

Witness, HENRY P. BATES, Clerk of our said Circuit Court, at the town of Her-  
culanum, this thirteen day of August 1881  
in the year of our Lord one thousand eight hundred and

Henry P. Bates  
CLERK, C. C.

Amos? the author of  
Richard Lippin and  
Garrison music by  
reading it in the  
Gleaner at N. H. Bay  
Gleaner  
for - 80.50

Amos? the author of  
Jas. Woodland and  
Whitworth and Lippin?  
Whitworth by Lippin  
a copy of the same  
at the same place  
of about with their  
spikes the above was  
all done before the  
29th of this inst -  
Amos? Bay  
Gleaner  
for - 80.75

Jefferson County Gleaner  
August 1887.

Edw. Lyall  
as J. Lippin  
John Whitworth

Charles Whitworth  
Charles Whitworth  
Dorson Bruce  
James Woodland &  
Richard Lippin.

for Lippin &  
D

COUNTY OF FRANKLIN, MO.

The State of Missouri,

TO THE SHERIFF OF SAID COUNTY--GREETING:

WE command you to summon *David Johnston David Whitcomb Alfred Allen*  
*vs* *Samuel H. Brown*  
that all excuses and delays set aside *They* be and appear before  
the Judge of our Franklin Circuit Court, on the *fifth* day of our next term to be holden at the  
Court House in Union, on the first Monday in *August* next, then and there to testify and  
the truth to speak on the part of *Eli Ayers* in *a* certain cause in  
our said Court now pending wherein *Eli Ayers* is *Plaintiff* and  
*John Whitcomb* is *defendant* herein *They are* not  
to fail, and fail not at your peril; and have you then and there this writ.

*C. H. Brown*  
Witness, ~~S. H. Brown~~, Clerk of our said Court, at office,

this *11* day of *July*  
in the year of our Lord, eighteen hundred and thirty *4th*

*C. H. Brown*  
*CHB*

Served the within on W P Brown in franklin  
county reading the same in his hearing July the 14  
and on H D Musick by leaving a copy of the same at his usual  
place of residence July 20<sup>th</sup>

Ch. Bryant

by  
Geo. W. Whitworth

Char

+ Geo. W. Whitworth 7

David Whitworth

- Geo. Allen

- H D Musick 23

- W P Brown 14

\$250

COUNTY OF FRANKLIN, MO.

THE State of Missouri,

TO THE SHERIFF OF SAID COUNTY--GREETING :

WE command you to summon

*Francis Dunning*

that all excuses and delays set aside

*he*

be and appear before

the Judge of our Franklin Circuit Court, on the

Court House in Union, on the first Monday in

the truth to speak on the part of

*Ed*

*day at*

in a certain cause in

our said Court now pending wherein

*Sand day at*

*is*

Plaintiff and

*John W. Thompson*

defendant herein

*he is*

not

to fail, and fail not at your peril; and have you then and there this writ.

*C. D. Dunning*

~~Witness, S. M. Dunning~~ Clerk of our said Court, at office,

this

*11*

day of

*July*

in the year of our Lord, eighteen hundred and thirty

*day at*

*C. D. Dunning*  
*J. W. Thompson*

Served the within summons on Francis Young  
in franklin county by leaving a copy of the same at  
his usual place of residence  
July 16. 1836

A. W. Jeffries sheriff by  
C. R. Jeffries Dpt shff

Ch. Hyatt  
Jas. Wilmington

Oppa

Francis Young

fees 30 cts

County of Franklin Ser

The State of New Jersey to the  
Sherriff of said County - Greeting He comend you to know  
that by virtue of a certain Order of the Court of Sessions  
of the County of Essex before the Judge of said County  
made now sitting on this day there and then to be  
testify and the said Order on the part of John  
Williamson Applicant and Edith Heygart of the  
same he is and to force and force not at your  
hand and from you there and then was

Tested At New York on the 5 day of August  
1836  
John Heygart  
Applicant

John Montgomery  
and  
Elizabet

then  
for

Allen Smith

COUNTY OF FRANKLIN, SCT.

The State of Missouri,

TO THE SHERIFF OF SAID COUNTY—GREETING:

WE command you to summon David Ford Whitworth & Angel Whitworth Alfred Allen H. S. Menick that all excuses and delays set aside they be and appear before the Judge of our Franklin Circuit Court, on the third day of our next term to be holden at the Court House in Union, on the first Monday in December next, then and there to testify and the truth to speak on the part of Ella Heyalk in a certain cause in our said Court now pending wherein David Heyalk Plaintiff and John Withings ton defendant herein they are not to fail, and fail not at your peril; and have you then and there this writ.

Witness, C. S. JEFFRIES, Clerk of our said Court, at office, this eighteenth day of October in the year of our Lord, eighteen hundred and thirty six

C. S. Jeffries  
CLERK.

G & cutted the within an Sanford Whitworth  
 Saml Whitworth Healers & Musicians  
 Alfred Allen by reading in the  
 being the same  
 p. 2. 00 A. B. Jefferys

Wm. Mason &  
 Wm. Hargreaves  
 Wm. Sanderson

Ed. Heyatt  
 vs. Jefferys  
 John H. Hargreaves  
 Sanford Whitworth  
 Saml Whitworth  
 Alfred Allen  
 Healers & Musicians

COUNTY OF FRANKLIN, SCT.

The State of Missouri,

TO THE SHERIFF OF SAID COUNTY—GREETING:

WE command you to summon *Walter Brown & Sonnes*  
*Living* — that all excuses and delays set aside *they*  
be and appear before the Judge of our Franklin Circuit Court, on the *third* —  
day of our next term to be holden at the Court House in Union, on the first Monday in  
*December* — next, then and there to testify and the truth to speak on the  
part of *Edy Hayatt* — in a certain cause in our said  
Court now pending wherein *Edw Hayatt* is — Plaintiff and  
*Edw Hayatt* is defendant herein *they* are not  
to fail, and fail not at your peril; and have you then and there this writ.

*Witness,* C. S. JEFFRIES, Clerk of our said  
Court, at office, this *Eighteenth* day  
of *October* — in the year of our  
Lord, eighteen hundred and thirty *six*

*C. S. Jeffries*  
CLERK.

Executed the within andacker P for  
-am & Francis Young in the Cou  
nty of Franklin on the 4<sup>th</sup> Nov 1836  
by reading in there hearing the same

A. R. Jeffries  
Jp

Ed Heyatt

~~John W. Young~~  
w. J. Young

John P. Brown

Francis Young

A. R. Jeffries  
Jp

COUNTY OF FRANKLIN, SCT.

The State of Missouri,

TO THE SHERIFF OF SAID COUNTY—GREETING :

WE command you to summon

*Alan Darity* that all excuses and delays set aside *he*

be and appear before the Judge of our Franklin Circuit Court, on the *third* day of our next term to be holden at the Court House in Union, on the first Monday in *December* next, then and there to testify and the truth to speak on the part of *John Withington* in a certain cause in our said Court now pending wherein *Edley At* Plaintiff and *John Withington* is defendant herein *he* is not to fail, and fail not at your peril; and have you then and there this writ.

*Miss*

C. S. JEFFRIES, Clerk of our said

Court, at office, this *Eighth* day of *October* in the year of our Lord, eighteen hundred and thirty *six*

*C. S. Jeffries*

CLERK.

4 entered the service on Allen Treaty in  
the Campaign of Fort Mifflin on the 17th day  
of Nov 1836 by Reading in which  
having the same

p 50 } H. H. P. H. H. H.  
10/2/36

Ed Heyatt  
vs {  
John Washington  
Allen Treaty

Eli Hyatt  
vs  
John Wittington

In the Circuit  
Court of the  
County of Franklin  
Dec. Term A.D. 1836

appeal

The said John Wittington states  
to the Court here that he believes  
that he cannot have a fair  
trial of this cause in this  
court on account that the  
Inhabitants of this Franklin  
County are prejudiced against  
him. The said petitioner he there-  
fore prays a change of venue  
in this cause to some other coun-  
ty

John Wittington

State of Missouri }  
Franklin County } ss

The above named petitioner  
John Wittington deposes and  
says that the facts stated  
in the above petition are true  
according to his best knowledge  
and belief

Sworn and subscribed to }  
in open Court Dec  
7 1836 C. Shaffer Ck

John Wittington

Elie Myatt

vs

John McWhirton

petition and affi-  
davit for change  
of venue -

St Louis 1896  
C. H. Johnson  
C. H.

State of Missouri } Do wit  
 County of Franklin } We A Remmembered that on  
 the twenty first day of July in the Year of our Lord  
 A.D. 1836 was filed in the office of the Clerk of the circuit  
 Court within and for the county aforesaid, a certain  
 transcript from the office of Joshua F Smith a Justice of the  
 peace within & for said County, Moles Township, in the  
 words & figures following, to wit:

Eli Hyatt } On an. aforesaid hearing date April  
 John Wittington } the 1<sup>st</sup> 1835. Summons issued November  
 the twenty fifth 1835 and returned by  
 the constable as being duly served by reading it  
 to him and also reading the aforesaid to him the  
 said John Wittington this 12<sup>th</sup> day of December 1835.  
 The parties appearing the case is continued by mutual  
 consent the 2<sup>d</sup> Saturday in January next.

|                                                      |          |  |
|------------------------------------------------------|----------|--|
| Justice fees for issuing summons and subpoenas       | 75 cents |  |
| Constable fees for serving summons and six subpoenas | 75       |  |
| for the plaintiff & 5 do. for the defendant          | 3.00     |  |
| He, D. Musick 1 days attendance                      | 50       |  |
| John S Walton 1 do do do                             | 50       |  |
| Walker P Brown do do do                              | 50       |  |
| Witnesses fees in behalf of defendant                |          |  |
| Jonathan Potts one days attendance                   | 50       |  |
| Daniel Reed do do do                                 | 50       |  |
| William Boyd do do do                                | 50       |  |

January the 9<sup>th</sup> 1836 this being the day set for  
~~trial~~ the parties appearing the case is continued  
 by mutual consent to the first Saturday in February  
 1836 February the 6<sup>th</sup> this being the day set for trial  
 the parties appearing the defendant comes forward  
 and makes oath that he cannot safely go in to  
 trial for want of some material testimony that  
 he has used due diligences to procure and that if  
 the case be continued to the 2<sup>d</sup> day of April he will  
 be able to obtain in time for trial. It is ordered  
 that the case be continued to the first Saturday  
 in April at the costs of the defendant.  
 Justice fees for issuing one subpoena for the  
 defendants witness, 1836, cents 1836

Transcript of Justice D. A. H. R.

To swearing one S. p. a. for the plaintiff witnesses 18 $\frac{3}{4}$  cents  
 & entering continuances ~~~~~ 31 $\frac{1}{4}$   
 Constables fees for serving subpoenas on five witnesses  
 in favour of the defendant ~~~~~ \$1.25

"Witness fees in favour of the plaintiff"  
 Samuel Whitworth one days attendance fifty cents 50  
 Sanford Whitworth " " " " 50  
 H. D. Murick " " " " 50  
 James Woodland ~~~~~ 50  
 Walker P Brown ~~~~~ 50

"Witness fees in favour of the defendant"  
 Jonathan Potts one days attendance ~~~~~ 50  
 Allen Lurthy " " " " 50  
 James Woodland ~~~~~ 50  
 William Boyd ~~~~~ 50

April the 21<sup>st</sup> 1836 this day being the day set  
 for trial the defendant not appearing, the case  
 being considered by the Justice it is ordered  
 that Eli Hyatt recover of John Withington by  
 default the sum of ninety dollars and also  
 the further sum of Ten dollars and fifty  
 eight cents for his costs

Justices fees for swearing 3 witnesses 18 $\frac{3}{4}$  cents ~ 18 $\frac{3}{4}$   
 To entering up judgment 37 $\frac{1}{2}$  cents ~ 37 $\frac{1}{2}$   
 Constables fees for serving subpoenas on 3 witnesses  
 in favour of the defendant ~~~~~ 95-

"Witnesses in favour of the plaintiff"  
 Samuel Whitworth one days attendance ~~~~~ 50  
 Sanford Whitworth 1 do ~~~~~ 50  
 Walker P Brown " " " " ~~~~~ 50

"Witnesses for the defendant"  
 C. S. Steffen one days attendance ~~~~~ 50  
 Allen Lurthy " " " " ~~~~~ 50

Joshua F. Smith J. P. —

April the 4<sup>th</sup> 1836 Now on this day the defend-  
-ant moves for a new trial in the above case  
to which the Justice refuses J. F. Smith.

April the 11<sup>th</sup> (1836) now on this day John  
Withington comes forward and pray an appeal  
on the the above ~~Proposition~~ and it is granted  
by his entering into a recognizance with  
Wm Bay & A M Turley securities  
J. F. Smith J. P.

And also the said Justice on the said 11<sup>th</sup> day of  
July 1836 filed in the office of said Clerk  
a statement of the case of action in the words &  
figures following To-wit-

John Withington

To Eli Hyatt. Dr.

|                                        |                 |
|----------------------------------------|-----------------|
| To work and Labour done two months     | \$ 40.00        |
| in and about cutting & hauling logs    |                 |
| For the hire and use of a Yoke of Oxen | 10.00           |
| two months at \$5 00 per month         |                 |
| For 200 Cedar posts at 12 1/2 cents    | 25.00           |
| For other work & Labour done           | 15.00           |
| April 1. day 1835                      | <u>\$ 90.00</u> |

Statement

Made of Mepoun { To Joshua F. Smith Esq  
Franklin County }

Eli Hyatt complains of  
John Withington of a plea of trespass on the  
case for that whereas heretofore to-wit on the  
first day of April in the Year of our  
Lord one thousand Eight hundred and thirty  
five the said John Withington at the County  
of Franklin aforesaid was indebted to the said  
Eli Hyatt in the sum of ninety dollars Lawful  
money for and in consideration of the work and  
Labour done and diligence of the said

Eli before that time done and performed for the said John and at his special instance and request, and being so indebted he the said in consideration thereof afterwards to wit on the same day and year at the County aforesaid undertook and then and there faithfully promised the said Eli to pay him the said sum of ninety dollars when he the said John should be thereunto afterwards requested. And whereas also afterwards to wit on the same day and year aforesaid at the County aforesaid the said John Withington was indebted to the said Eli in the further sum of ninety dollars like Lawful money for a large number of Cedar Logs to wit two hundred Logs or parts before that time sold and delivered by the said Eli Hyatt to the said John at his special instance and request. And being so indebted he the said John in consideration thereof afterwards to wit on the same day and year aforesaid at the County aforesaid undertook and then and there faithfully promised to pay the said Eli the said last mentioned sum of money at any time he the said John should be thereunto afterwards requested.

And whereas also the said John Withington afterwards to wit on the same day and year aforesaid at the County aforesaid was indebted to the said plaintiff Eli Hyatt in the further sum of ninety dollars like Lawful Money for the work and Labour care and diligence of the said Eli before that time done and performed for the said John at his special instance and request, and also for the hire use and Labour of a certain Yoke of Oxen and also for certain other Cedar Logs or parts before that time

Sold and delivered to the said John by the said Eli and at the special instance and request of the said defendant, John, And the said John being so indebted in consideration thereof afterwards. that is to say, On the same day and year aforesaid at the County aforesaid undertook and then and there faithfully promised the said Eli to pay him the said last mentioned sum of money when he the said John should be thereto afterwards requested. Yet the said plaintiff Eli in fact says that the said John Withington not in the least regarding his said several promises and undertakings so by him made as aforesaid but intending craftily and cunningly to deceive and defraud the said Eli in this behalf has not as yet paid him the said Eli the said several sums of money or any of them or any part thereof although often requested so to do. that is to say at the County aforesaid - ~~Refuse~~ to pay him the said Eli the same or any part thereof he the said John has hitherto wholly neglected and refused, and still neglects and refuses to pay him the same or any part thereof to the damage of the said Eli ninety dollars and therefore he sues ~~se~~

Eli Hyatt

"On the back of said statement the following appears:"

Served the within affidavit on John Withington by reading it to him at his house in 130th Township Iron River County this 20th day of December 1835.

Lewis Nunn Const.

And also the said Justices on the said 21<sup>st</sup> day  
of July 1836 filed in the office of said clerk  
a summons in words & figures following To wit:

The State of Missouri }  
County of Franklin } To the Constable of Roles  
Township Greeting You are hereby commanded  
to summon John Withington to appear before  
the undersigned one of the Justices of the peace  
within and for the said county on the second  
Saturday in December next at my office held  
at Wm North's Store in said Township Between  
the hours of ten o'clock and three of said day  
to answer to Eli Wyatt in an action of  
Debt founded on a promissory Note under  
my hand this 25<sup>th</sup> day of November A.D. 1835.  
Joshua A. Smith J.P.

Endorsed on said summons is the following  
Served the within summons on John  
Withington by reading it to him  
at his house in Roles Township  
Franklin County this 2<sup>nd</sup> day of Decem-  
ber 1835  
Leung A. Smith Const-  
of Roles Township

And also the said Justices on the said  
21<sup>st</sup> day of July 1836 filed in the office of  
said clerk a recognizance in words and  
figures following To wit:

April the 11<sup>th</sup> 1836.

We the undersigned John Withington and  
Wm Bay and A. M. Twitty acknowledge

ourselves Indebted to Eli Heyatt in the sum  
one hundred and fifty dollars to be void  
upon this condition Whereas John Withings  
has appealed from the Judgement of J. F. Smith  
a Justice of the peace in an action of debt  
between Eli Heyatt plaintiff and John Withings  
-gton defendant. now if on such appeal the  
Judgement of the Justice be affirmed or if  
on the trial anew in the circuit Court  
Judgement be given Against the appellant  
and he shall satisfy such Judgement or if  
his appeal shall be dismissed and he  
shall pay the Judgement of the Justice  
together with the costs of the appeal the recog-  
-nizance shall be void  
Test J. F. Smith J. P.

John Withington  
Att<sup>ty</sup> & Bay  
mark  
A. M. Twitty

State of Missouri }  
County of Franklin } Circuit Court  
August Term 1836.

Be it Remembered that on this first day of  
August in the Year of our Lord Eighteen  
hundred and thirty six personally appeared ~~the~~  
at the Court house in Meri in said County the  
place appointed for holding courts in and for said  
County The Honorable William Scott Judge of  
said Court and by his own Achilles W. Laffens  
Sheriff of said County opened court by  
making public proclamation thereof at  
the Court house door

Among the records of said Court on the  
first day of said Term is the following  
Court-

Eli Hyatt } Appeal from a Justice of  
 vs } the peace  
 John Withington } Continued -

And afterwards to wit at the December Term  
 of said Court 1838 among the records of  
 said Court is the following

Eli Hyatt } Appeal  
 vs }  
 John Withington Now at this day comes the  
 said John Withington and moves the Court for  
 a change of Venue in this cause, and files  
 here in Court his petition and affidavit as  
 required by Law. It is therefore ordered by  
 the Court that the Venue in this cause  
 be changed to the Circuit Court for the  
 County of Jefferson. The defendant having  
 waived notice of the application for a  
 change of Venue.

The following is a copy of the petition &  
 affidavit for a change of Venue

Eli Hyatt } In the Circuit Court of  
 vs } the County of Franklin  
 John Withington } Decr Term A.D. 1836  
 Appeal

The said John Withington states to the Court  
 here that he believes that he cannot have  
 a fair trial of this cause in this Court  
 on account that the Inhabitants of this  
 Franklin County are prejudiced against  
 him. The said petitioner he therefore prays  
 a change of <sup>the</sup> Venue in this cause to some

Petition & affidavit

other county - -

John Withington

State of Missouri }  
Franklin County }

§ The above named petitioner  
John Withington deposes and says.

that the facts stated in the above petition  
are true according to his best knowledge  
and belief.

Sworn to and subscribed  
before me in open court

Dec 7. 1834.

John Withington

C. S. Jeffries Clerk

State of Missouri }  
County of Franklin } § C. S. Jeffries Clerk of  
the Circuit Court within and for the County of  
Franklin Missouri, do hereby certify that  
the foregoing is full transcript of the record and  
proceedings in the above cause with all the  
original papers filed in the cause and  
forming a part of the record.

In testimony whereof I have hereunto  
set my hand and affixed the  
seal of said Circuit Court at  
office in the Town of Union  
this 4<sup>th</sup> day of March 1834.

C. S. Jeffries Clerk

File Bill -

Turn Over -

# Fee Bill

|                                    |             |
|------------------------------------|-------------|
| C. S. Jeffers Clerk fees           | \$ —        |
| To entering appeal & filing papers | 50          |
| " filing 8 papers                  | 4.00        |
| " continuance                      | .25         |
| " order for change of term         | 25          |
| " oath & filing petition           | 12 1/2      |
| Total Clerk fees                   | \$ 5.12 1/2 |

A. W. Jeffers Sheriff fees — 7.30

|                        |          |
|------------------------|----------|
| Fee before Justice     | 1.87 1/2 |
| Justice fees           | 4.25     |
| Court fees             | 1.00     |
| Witnesses 14 D. Musick | 50       |
| Geo T Walton           | 1.50     |
| W. P. Brown            | 1.00     |
| Jon Potts              | 1.00     |
| Wm Boyd                | 1.00     |
| Samuel Whitworth       | 1.00     |
| Samuel Whitworth       | 1.00     |
| Las. Woodland          | 1.00     |
| Allen Linty            | 1.00     |
| C. S. Jeffers          | 50       |
| Wm. P. Brown           | 4.10     |
| W. D. Musick           | 2.00     |
| Walker P Brown         | 34.15    |

I am by me

C. S. Jeffers Clerk



311

Ed. Mayall

vs  
Geo. W. Huntington

Casey of Record

Filed after 10<sup>th</sup> 1857

4/19/57

to be

COUNTY OF JEFFERSON, SCT.

THE STATE OF MISSOURI,

To the Sheriff of Franklin County, — GREETING.

You are hereby commanded to summon

John McWhorter, and Jonathan Pettit,



that, setting aside all manner of excuse and delay, he be and appear in proper person before the Judge of our Circuit Court, on the Eight day of August, at the town of Her-  
lanum, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein Edw. Smith is plaintiff, and John McWhorter is defendant, on the part of the defendant; and have you then there this writ.

WITNESSES, HENRY P. BATES, Clerk of our said Circuit Court, at the town of Her-  
culanum, this Thirtieth day of June,  
in the year of our Lord one thousand eight hundred and thirty Seven.

Henry P. Bates

CLERK, C. C.

Go outed The within an Paul Reed Sanford  
 Whitworth, Paul Whitworth Jonathan Polto  
 In the County of Grand Pine On the 27<sup>th</sup> day  
 of July 1837 by Reading In there hearing  
 the same

A. W. Jeffries Shff by R. A.  
 Jones Ch. pl. Shff.

Jefferson Grant  
 Circuit Court  
 August Term 1837.

Geo. Heath  
 W. J. Sanford  
 vs. Whitworth

Daniel Reed, 27  
 Sanford Whitworth  
 vs. Whitworth & 27  
 Jonathan Polto, 27  
 for Defendant

Shff by R. A.

COUNTY OF FRANKLIN, SCT.

The State of Missouri,

TO THE SHERIFF OF SAID COUNTY—GREETING:

WE command you to summon *William Johnson Allen* *Seely & Co*  
*I* *Ben Allen* that all excuses and delays set aside *they*  
be and appear before the Judge of ~~the~~ *the* ~~Circuit~~ *Circuit* Court, on the *1<sup>st</sup>*  
day of ~~the~~ *next* term to be holden at the Court House in ~~the~~ *the* ~~first~~ *first* Monday in  
*August* next, then and there to testify and the truth to speak on the  
part of *John Withington* in a certain cause in ~~the~~ *said*  
Court now pending wherein *Eda Hyatt* is Plaintiff and  
*Sarah Withington* is defendant herein *they* are not  
to fail, and fail not at your peril; and have you then and there this writ.

*Witness,* C. S. JEFFRIES, Clerk of our said  
Court, at office, this *fourteenth* day  
of *July* in the year of our  
Lord, eighteen hundred and thirty *seven*

*C. S. Jeffries*  
CLERK.

He enters The within An Ambrose Twitty. A L. Rick  
- or William Johnson In the County of  
Franklin On the 27<sup>th</sup> day of July 1838  
By Reading In their hearing The same  
A W. Officio Shff By  
R R Jones Esq

Ed. Mayall  
Wm. Mayall  
John Mayall

William Mayall

William Mayall

William Mayall

William Mayall

Shff. Dec 1838

Cher for 50

COUNTY OF FRANKLIN, SCT.

The State of Missouri,

TO THE SHERIFF OF SAID COUNTY—GREETING:

WE command you to summon

*Woodward* that all excuses and delays set aside *they*

be and appear before the Judge of ~~the~~ Circuit Court, on the *1st*

day of ~~the~~ next term to be holden at the Court House in ~~Union~~, on the first Monday in

*July* next, then and there to testify and the truth to speak on the

part of *John Withington* in a certain cause in our said

Court now pending wherein *Wm. H. Stegato* Plaintiff and

*John Withington* defendant herein *they* are not

to fail, and fail not at your peril; and have you then and there this writ.

Witness, C. S. JEFFRIES, Clerk of our said

Court, at office, this *fourteenth* day

of *July* in the year of our

Lord, eighteen hundred and thirty *seven*

*C. S. Jeffries*  
CLERK.

Executed the within on Sanford Whitworth &  
James Woodlan On the County of Franklin  
on the 27<sup>th</sup> day of July 1844 by my Reading  
In each of them hearing the same

Ab. Jeffries Sheriff

Ch. Hayatt

vs. Shaw

for the Wharfton

Attorneys

Sanford Whitworth

& James Woodlan

Shd. - Feb 1844

Ch. per 80

Eli Hatt

25

Jan<sup>y</sup> 18th 1861

Christ Church  
August Term 1857

I attended as a witness for Eli Hovatt  
one day and traveled 80 miles in going  
to and returning from Herculaneum 1.20  
Subscribed and Sworn Charles R. Laffoon 4.00  
to this 8<sup>th</sup> day of Aug 7 1837 85.00

14993 *Act. blanda*

Eli Hyatt.

John Witherben



August Term  
Ct - Court - 1837

I attended as a witness for Hyatt  
in the above case at the present  
term

seventy miles travel in going to  
returning from place of trial — \$1 — 3.50

Sworn & Subscribed to before me this 8<sup>th</sup> day of Aug. 1837  
his Samuel Whitworth  
A.P. Bates Clerk

I attended in the above case at  
the above term in behalf of  
plaintiff & deft — 1 day — \$1 —

seventy miles travel in going  
to & returning from place of trial — 3.50

Sworn & Subscribed to before me this 8<sup>th</sup> day of Aug. 1837  
his Sanford & Whitworth  
A.P. Bates Clerk

I also attended in the above case  
at the above term in behalf of Hyatt  
one day — \$1 —

seventy miles travel — 3.80

Sworn to this 8<sup>th</sup> day of Aug. 1837  
his J. D. Musick  
A.P. Bates Clerk

COUNTY OF JEFFERSON, SCT.

THE STATE OF MISSOURI,

To the Sheriff of Franklin

County, — GREETING:

You are hereby commanded to summon

Samuel Whitworth, Charles Whitworth,  
James Woodlawn & Richard Jeffries,

that, setting aside all manner of excuse and delay, he be and appear in proper person before the Judge of our  
Circuit Court, on the 19th day of December —, at the town of Her-  
lanewum, then and there to testify and the truth to say in a certain matter of controversy now pending in our said  
Court, wherein Eli Heyard vs. John B. Whitworth is plaintiff,  
and on the part of the defendant;

WITNESSES, HENRY P. BATES, Clerk of our said Circuit Court, at the town of Her-  
culanewum, this 19th day of October  
in the year of our Lord one thousand eight hundred and 39.

Henry P. Bates  
CLERK, C. C.

Dear the 2nd 1837 we acknowledge  
 the service of this subpoena on the  
 day aforesaid  
 Test per \$1.00

Sanford Whitworth  
 his  
 Samuel B Whitworth  
 mark

Jefferson Circuit Court  
 December Term 1837.

Eli Hyatt  
 vs. E. Suppe.  
 John Whitworth

Sanford Whitworth  
 Samuel Whitworth  
 Dorson Mearns  
 James Woodland  
 Richard Jeffries  
 for plaintiffs

Be it remembered that the within on the 2nd day of  
 December 1837 by reading the same  
 in the County of Franklin on the 28th  
 day of Nov 1837 by reading the same  
 the same  
 at \$1.00

County of Franklin set  
the State of Missouri  
To the Sheriff or constable of Sd County  
Greeting— you are hereby commanded to  
Summon A. L. Rucker— that, setting aside  
all manner of excuse and delay, he be and appear in proper  
person before the judge of our circuit court, on the  
12<sup>th</sup>— of December at the Town of Herculesburg,  
then and there to testify and the truth to say in a certain  
matter of controversy now depending in our said  
Court where Eli Hiatt is plaintiff  
and John Withington is — defendant  
on the part of the defendant — and have your  
then there this writ — witness, Henry A.  
Wilney my hand this 6<sup>th</sup> day of December  
in year of our Lord 1837

Jonathan Potts, J. P.

Filed May at  
~~Spring~~

Wm Rucker

This quit served  
November the 5<sup>th</sup> 1837  
by Copy in Caloy  
Township fees 2<sup>5</sup>

Samuel Boy  
Constable

Filed Dec 12<sup>th</sup>  
1837

Matthew  
C. W.

See Styall's appeals

as

John Nottingham  
Appellant

Appeal from Justice of Peace  
Exeter County Council  
December 1837  
the said Styall

moves the court to dismiss the appeal in this  
cause for the following reasons to-wit

1<sup>st</sup> Because there was no question made to the  
Justice to adversely the Sat above the Justices  
by appeal before the appeal for and  
granting the appeal by the justice

2<sup>nd</sup> Because no notice of the appeal has been  
given to the court  
as required by section 10 of the Act for appeals

all  
on  
Mention

File on Dec 12<sup>th</sup> 1883  
Mention  
to be

To Mr. Wiley

as Clerk

John Weatherington

December Term 1837

James Robertson's Claim his attendance in  
the above cause  
One days attendance out of the County  
at one dollar per day

Given to Dec 13<sup>th</sup>

1837.

Wm. Arthur Clerk

fee per

his  
James Robertson

ward

To the Hon. Mr. Justice in the Circuit Court  
at Newburgh, December Term 1837.

That the said claimant has attended in the  
above case two days attendance and of the  
counsel at the docket per day — \$3.00  
Twenty miles travel to and from the  
court House at 45¢ per mile — 9.00  
\$12.00

Given to Dec 13<sup>th</sup> 1837

Wm. A. M. Clerk

Wm. A. M. Clerk

per h. d.

Es. Wright

In the circuit court

vs John Heathington

December Term 1837

James Whitworth claims his attendance

as a juror in the above case

Two days attendance and of the court

at \$1.00 per day

\$2.00

Eight miles travel at 25. per mile.

\$2.00

Given to Decr 13<sup>th</sup> 1837

his

\$5.00

Wm. Thomas Clerk of the Court  
witness

Recd

To be together

In the Circuit Court

John Beathemington December Term 1837.

And for the Plaintiff Elaines this

attendance as a witness in the above case

Two days attendance out of the County

at one dollar per day \$2.00

plus miles charge to and from

the Court House

Up to Dec 13<sup>th</sup> 1837

David A. & W. A. A. A.

See p. 10

\$3.00  
\$5.00

STATE OF MISSOURI,

COUNTY OF JEFFERSON, SCT.

To the Sheriff of the County of ~~Jefferson~~ <sup>of Randolph</sup> GREETING.

WHEREAS,

at our Circuit Court, before our Judge

thereof, recovered against

*Wm. W. Witherington the sum of twenty five dollars  
damages, and costs by him in that behalf expended*

which to the said

were adjudged, as appears to

us of record: These are therefore to command you, that of the goods and chattels, lands and tenements of the said

*Wm. W. Witherington - wherever found in your bailwick, you cause to be made the aforesaid  
damages and costs; that you have the same before the Judge of our said court, on the 1st Monday of*

*April - next, to render to the said Wm. W. Witherington the officers of this*

*County & Witherington the damages and costs aforesaid. And for want of sufficient goods and chattels, lands and*

tenements, whereon to levy and make the same, we command you to take the said

be found in your bailwick, and safely keep, so that you have

said Monday of to satisfy the said

aforesaid costs, and that you certify to our said Judge how you execute this writ; and have you then and

there this writ.

*John C. McArthur*  
Clerk of our said Court, at HERCULANEUM, the

*20th* day of February in the year of our

Lord, one thousand eight hundred and thirty eight

*John C. McArthur* CLERK, C. C.

Union. Mo. 10<sup>th</sup> March 1838  
 Then R. & This Execution  
 A. W. Jeffries Sheriff

By W. G. Jeffries Sheriff  
 John Withington  
 Judgement Ren Decr. 13<sup>th</sup> 1837  
 Damages 25.00  
 Recd. in Franklin County 34.15  
 as per Transcript  
 Jefferson County  
 W. P. Bates & Co. Clerk 5.93 1/4  
 J. J. Matthews Clerk 2.30  
 Sheriff's Office 30  
 A. W. Jeffries Sheriff 5.00  
 J. J. Bay. Const. 2.25  
 Witnesses  
 James & Godwin 1.00  
 Saml. Whitworth 5.00  
 Sanderson & Whitworth 5.00  
 This Execution 83.93 1/4  
 Long Execution 1.00  
 A. W. Jeffries Sheriff  
 J. J. Bay. Const.

Served. This Execution on the 10<sup>th</sup> day March 1838  
 By signing upon all the Estate - Right, Title  
 Interest & Claim of the said Withington  
 of the and to the following Land Town  
 One Certain Tract, in Franklin  
 County Mo. Situate in The Merriamack  
 Bottom containing Two Thousand acres  
 more or less - Bounded on the East  
 By Cal. Woodland tract - By Land owned  
 by the said Withington & on the  
 north By said Withington, and not  
 having sufficient time to see the  
 same before the Return day of  
 this Execution - Therefore Return the  
 same not satisfied this the 5<sup>th</sup> of  
 April 1838  
 A. W. Jeffries Sheriff  
 of Franklin County

Eli Hozat

vs  
John Withington.

Fees Franklin County 34.15

W P Bates

Docketing case 1.00

Filing 15 papers 9  $\frac{3}{4}$

2 Continuances 50

5 Appearances — 2.50

5.93

J. Mather.

Submission 50

Filing 2 papers — 1.25

Swearing 6 W — 37

appearances — 30

~~Issue joined~~ — 25

1 Motion — 1.30

Sheriff M. Crustin

Calling Cause 10

Calling parties — 20

Sheriff Jeffries Fees

10 Summons — 5.00

J L Baylens — 2.25

2  
2.25  
5.00  
2.25  
2.25  
2.25  
2.25  
2.25

Witnesses over

19.27  
 3.80  
 41.55  
 3.70  
 1.21

1.21 *to the Staff of*

*Accounting*  
 1.63

50  
 50  
~~50~~

1.63

~~50~~

1.13

25

97

00

38

*Witnesses*

*San Whitworth*

2 days 6 miles } 5.00

*San Whitworth*

2 days 60 miles } 5.00

*James Wooland*

1 day ——— 1.00

1.63  
 1.13  
 25

15.50

1297.38

# Key att vs Withington

|                                                                                  |                                                                                                                                                                  |              |
|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| H. P. Bates 5 Subpoenas                                                          |                                                                                                                                                                  | 2.50         |
| A. W. Jeffries }<br>July 27 <sup>th</sup> 1837 }<br>Nov 28 <sup>th</sup> 1837, " | Subs. Daniel Reed Sanford Whitworth<br>Jonathan Potts<br>Ric <sup>d</sup> Jeffries James Woodland<br>W. D. Musick, Sam <sup>d</sup> & San <sup>d</sup> Whitworth | 1.50<br>2.50 |
| S. L. Bay. 50. 75. 125. 25                                                       |                                                                                                                                                                  | 2.50         |
| Charles R. Jeffries                                                              | Witness                                                                                                                                                          | 5.00         |
| Samuel Whitworth                                                                 |                                                                                                                                                                  | 9.50         |
| Sanford Whitworth                                                                |                                                                                                                                                                  | 9.50         |
| W. D. Musick                                                                     |                                                                                                                                                                  | 10.00        |
| James Woodland                                                                   |                                                                                                                                                                  | 1.00         |
| W. M. Cullock Justice St Louis County 31                                         |                                                                                                                                                                  | 35.00        |
| J. M. Cullock Dep Leons                                                          | 25                                                                                                                                                               | 50           |
|                                                                                  | off matters                                                                                                                                                      | 2.50         |
|                                                                                  | Damages                                                                                                                                                          | 25.          |
|                                                                                  | Jury in Franklin                                                                                                                                                 | 34.15        |
|                                                                                  | Executions & Levy                                                                                                                                                | 3.00         |
|                                                                                  | Bates Fees                                                                                                                                                       | 3.43         |
|                                                                                  |                                                                                                                                                                  | 112.48 3/4   |

# Sheffield vs Withington

|                                          |  |           |
|------------------------------------------|--|-----------|
| Debt                                     |  | 2.50      |
| Fees Taxed in Franklin County            |  | 47.45     |
| W. P. Bates 5 Summons 250. Fees 2.37 1/2 |  | 11.87 1/2 |
| J. M. Crivston Sheriff                   |  | 1.05      |
| A. W. Jeffries. 8 summons served         |  | 4.00      |
| James Brotherton. 1 summons              |  | .50       |
| S. L. Bay                                |  | 1.25      |
| Witnesses                                |  |           |
| Alden Warner 2:00                        |  | 2.00      |
| James Woodland 4.50. 4.50                |  | 9.00      |
| Allen Twitty 5.00                        |  | 5.00      |
| Thos Withington 4.00                     |  | 4.00      |
| Jonathan Potts 4.50                      |  | 4.50      |
| Executions & Levy                        |  | 3.00      |
| J. M. Cullock                            |  | 2.05      |
|                                          |  | 90.87     |