

Jefferson County Circuit Court
Case File - Civil

November 1859,

Waters, Lewis R., Adm.

Johnston, Benjamin

vs.

Johnston, James L.

Appeal

Defendant appealed from JP Robert
Hunt on \$45.53 account on settlement
in County Court for money to be refunded
to Benjamin Johnston as defendant's
guardian

Box

11. Folder 70

James L. Johnston

To Lewis H. Water's Account

1857

Aug 13th

To Cash due Benj Johnston from open

on settlement in County Court as

per Guardian, ordered to be refunded

Sept 22nd 1858

\$45.33

Intell and Service from Sept 22nd 1858

To date 11th months a/c for same

2.47

\$48.06

S. R. Waters ad^{ms}
of B. Johnston Estab^{ts}

= 25 =
D. S. Johnston

Filed Aug^t 13th 1859
Robert Hunt Jura

2105-

Filed Aug^t 13 1859

State of Missouri } In the County Court
County of Jefferson } September 22nd 1858.

James S. Schuster Minor }
Benj. Schuster Guardian } Ordered by the Court, That
said Ward. Refund to said Guardian, the Amount of
Forty Five \$45.00 dollars, overpaid him by said Guardian.

A true Copy from the Record.

Witness my hand and official seal at
office this 18th November 1858.

Alfred J. DeFoe,
clerk Co. Ct.

State of Missouri } In the County Court
County of Jefferson } September 22nd 1858.

Stephen Johnston Minor }
Benj. Johnston Guardian } Ordered by the Court
That said Ward, refund to said Guardian, the Amount
of One \$1.00 dollar, overpaid him by said Guardian.

A true Copy from the Record.

Witness my hand and official seal
at office this 18th November 1858

Alfred J. DeFoe,
clerk Co. Ct.

260
120

Sign of Sec 12 & 23-



Order in the Court
for J. H. Johnston &
John Johnston
to pay over to his
guardian John Johnston
the sum of \$115.53
which was paid
second 80 160

Benjamin Johnston Esq

James L. Shnelton
to Louis H. Hales admr
of Benj Shnelton decd. Ad,
1859.

Aug 13. To amt over paid partly
paid deceased in settlement
of his interest in estate of
Benj Shnelton decd. \$45.53

THE STATE OF MISSOURI

To any Constable of ^{West} ~~St. Louis~~ Township, in ^{West} ~~St. Louis~~ County—GREETING:

We Command You to Summon Edward L. Dehnbauer

to appear before the undersigned, one of the Justices of the Peace of ^{West} ~~St. Louis~~ Township, in ^{West} ~~St. Louis~~ County, on the third (39) day of September 1859, at ten of the clock, in the forenoon, at his office in the same Township, to answer the complaint of

Louis H. Wallace ^{adversely} of the Estate of B. Stanton deceased

Given under my hand, this 13th — day of August 1859

Robert Hunt JUSTICE.

Served this writ by reading the return
to James L Johnston on the 16 day of
August 1859

Martin Swaney Const

1859

I warrant
L. B. Waters admin
of B Johnston

-VS-

James L. Johnston

Debt due \$ 45.53
interest . 343

Justice Fee 25
Const " 25

L. R. Waters adm^r of the Estate B. Johnston Plaintiff

Against
James S. Johnston Defendant

Seen before Robert Hunt
Justice of the peace within for
the County of Jefferson

Before the subscriber, a justice of the peace, Within
and for the said County, personally appeared the said
James S. Johnston Plaintiff who, being duly sworn, says,
that he believes he ~~can~~ has Evidence
to be a Material Witness for him on the trial of this
and that he can not go to trial without said testimony;
that he is informed and believes that the said testimony
(may) and that he hopes and expects, if this case is
continued, to be able to procure said testimony
and he further says to obtain a fair

and impartial trial;
sworn to and subscribed
before me this day of

1859
Robert Hunt Justice

J. T. S. Johnston

62
25-
25
1.70

J. H. Matis and

^{co} James D. Johnston

opinion for
conclusion

Exhibit Dec 25-

J. H. Waters administrator
of the Estate of W. Johnston Decedent Plaintiff

Against
James J. Johnston Defendant

Before Robert Hunt
Justice of the peace of
West Township in Dept. Co.

This Affiant states that the application for an
affidavit by James J. Johnston in the above
entitled cause, is not made for retaliation or
delay, but he causes this affidavit to be taken that
the applicant is injured by the conduct of
the Justice

James Johnston

Subscribed and sworn to before me this 19 day
of November 1849

Robert Hunt Justice

Affidavit of
Appeal

G. H. Waters comr of
B Johnston Estate

=05=

James L Johnston

Justice fee 25c

L.R. Waters Adm^r of the
 Estate of B. Johnston Dece^d Plaintiff }
 Against } Before Robert Hunt
 James S. Johnston Defendant } Justice of the peace of
 Rock Township in Eff. Co

We the undersigned James S. Johnston and William
 Fritts & Ch^s Goodenack acknowledge our Selves indebted to
 L.R. Waters Adm^r of B Johnston's ^{Estate} the Sum of Ninety two and $\frac{85}{100}$
 Dollars to be paid upon this condition whereas
 James S. Johnston has appealed from the judgment
 of Robert Hunt a justice of the peace in an action
 Between L.R. Waters Adm^r of B Johnston's ^{Estate} Plaintiff and James S.
 Johnston Defendant; now if on such appeal,
 the judgment of the Justice be affirmed or
 if on the new in the appellate court judg-
 -ment be given against the appellant.
 and he shall satisfy such judgment or
 if his appeal be dismissed and he shall pay
 the judgment of the Justice, together with the
 costs of the Appeal the Recognizance shall be void
 other wise to Remain in full force

James Johnston Dece^d
 William Fritts Dece^d
 Ch^s Goodenack Dece^d

Approved 13 day of November. 1859

Robert Hunt Justice

Alfred Vance,

Jr. Mateo. Adm^r of
N. Johnston Estate.

2095

James A. Johnston

Debit per 2500

September Term A.D. 1859

Louis R. Waters Administrator
of B Johnston Estate deceased Plaintiff

Against

James S. Johnston Defendant

Demand	\$45.53
interest	.2.53
Justice fee	.1.10
Constable fee	.25

Action of debt on account for \$45.53. with interest at six per Cent from date dated Septem^r ber 22^d 1858. Summons issued August 13th 1859 and delivered to Martin Sweeney Constable. Made Return on the 3^d day of September 1859 at 10-0 Clock A.M.

Said Constable Returned the Sum-

-mons duly served by Reading August-16th 1859.

Now on this 3^d day of Sept^r 1859 the Cause coming on to be heard and the parties present, and defendant claims a continuance and he was Required to make the affidavit the Law Requires and the 3^d defendant filed his affidavit stating he could not go to trial for want of Material Evidence and there upon the Cause is Continued till 5 day of November 1859 my Regular Law day, at the cost of the defendant and the cost is taxed at \$1.10. Now on this 5th day of November 1859 the parties appeared with their Counsels and Ready for Trial. and the Cause being Submitted to the Justice and After hearing the Evidence and arguments Entered there upon it is Considered by the Justice that the Plaintiff Recover of the defendant for the Sum of Forty Five and $\frac{53}{100}$ Dollars for his debt and for Two and $\frac{53}{100}$ Dollars for his Damages, and for one and $\frac{35}{100}$ Dollars for his cost of Suit. Now on this 5th day of November 1859 the defendant gave Notice that he would appeal 3^d Cause to the Circuit Court of Jeff Co. Mo-

Now on this 12 day of November 1859 James L.
Johnston there upon defendant tendered his affidavit
and Appeal Bond for \$92.85 of him self and Charles
Cadwallader and William Fitter as Security and
and paid an Appeal to the Circuit Court of
Jefferson County Mo from our ^{S^d} Judgment which
Being deemed sufficient it is ordered that an
Appeal as paid be allowed Defendant on the
12 day of November 1859.

Robert Hunt Justice

State of Missouri }
County of Jefferson }

I Robert Hunt a justice of the
Peace within and for Jefferson County do certify
the foregoing to be a full true and complete
Transcript of the entries and proceedings in
the Case of Louis R. Waters Adm^r of the Estate
B. Johnston Deceased vs James L. Johnston as
the same are of Record on my docket and that the
papers thereto attached are all the original
papers on file in my office.

Witness my hand this 13th day of November
A.D. 1859

Robert Hunt
Justice of the Peace

Transcript

Louis R. Waters Clerk
of H. Johnston Decade

185-

James L. Johnston

1670
Julian Fee \$1.10

Manis & Bond .45

Maniscript \$2.30

Maniscript .25

Robert Henry Jones

Decd Jan 29th 1859

Decd 21 Nov 1859

Decd

Decd by the Court

Jan 19th 1863

No 4 page 505

(ch)

Lewis P. Waters Adm^r
of B. Johnston, Deceased. } Appeal from J.P.
vs
James L. Johnston }

Now at this day comes said Defendant
moves the Court to dismiss the cause of
action filed before the Justice of the peace
for the following reasons,

1. Because the judgment before the County
Court against Defendant is void.
2. Because the County had no power to enter
an allowance against Defendant.
3. Because a Justice of the peace has
no jurisdiction according to the papers filed
as they purport to be a judgment by the
County Court.

Thomas
Att'y for Defendant.

J. T. Watson & Sons
vs.
James S. Johnston,
James S. Johnston,

Motion to dismiss
cause of action.

Filed June 13th 1860
Elias S. Hooper
Clerk

Sustained leave to amend
cause of action

Levis B. Waters Admr
of the Estate of B. Phrasston Dec'd
vs
James L. Johnston

In Jeff. Cir. Court
June Term 1860
Appeal from
J. P.

Be it remembered that on the
13th day of January 1860, it being the third
judicial day of the June Term of the Jefferson
Cir. Court for 1860, a motion was filed
in open Court by Defendant to dismiss the
cause of action in the above entitled cause
which motion is in words, & figures as follows
(here copy motion): that on the 16th day of
said month, Court on the 6th judicial
day of said Term of said Court, said motion
came up for argument whereupon the
Court ^{after deciding that the statement of Plaintiff's account}
~~declared said suit to be a nullity~~
^{does not show a good cause of action}
~~said cause of action~~ ^{with leave for}
Plaintiff to amend his account, to which
refusal of the Court in permitting Plaintiff
to amend his account the Defendant
objects & excepts & here in open Court tenders
this his bill of exceptions & prays that
it may be signed sealed & become
a part of the record in this cause.

John D. Stone

Deed

1860
Lewis & Clark
No. 3. Johnston died,
NY.

James S. Johnston

Bill of Exceptions

Filed June 16th 1860
Chas. S. Honey
Clerk