

Jefferson County Circuit Court
Case Files - CIVIL
Dec 1859 - No. 51

Box No.

12

Folder No.

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Willing, Cecelius

vs

Smith, George A.

Debt, note

Debt \$260; Plaintiff assignee
of George Smizer

Chas. 1860

\$2600

Three months from date I promise to pay to George Smiger,
or order, two hundred and sixty dollars, for value re-
ceived, negotiable and payable without defalcation or
discount.

protested for non payment
this October 24th 1854

October 24th, 1854.

G. A. Smith

Geo Sumner
J. P. K. Ligon

STATE OF MISSOURI, } ss.
COUNTY OF ST. LOUIS,

Be it Known, that on the day of the date hereof, at the request of *The Mechanics Bank* the Holder of the original *Note* a copy of which is on the reverse hereof written I, GERHARD O. KALB, Notary Public for the County of St. Louis, in the State of Missouri, duly commissioned and qualified, residing in the City of St. Louis, in said State, presented the same at divers and sundry places and to various persons and made diligent enquiries for *G. Smith* in order to demand of him payment but could learn no tidings of him in the City of St. Louis

Whereupon, I, the said Notary Public, at the request aforesaid, have PROTESTED, and do hereby solemnly PROTEST, against all persons and every party concerned therein, whether as Maker, Drawer, Drawee, Acceptor, Payer Endorser, Guarantee, Surety, or otherwise howsoever, against whom it is proper to protest, for all Exchange, Re-Exchange, Damages, Interest and Costs, accrued and to accrue, by reason of the non-payment thereof.

Of all which I have given due notice to the parties concerned, in manner following:
To *George Smizer* by Notice in writing under cover directed to him & deposited in the post office pre paid he residing in the County of St. Louis
To *J. P. Robison* by a similar Notice left at his Shop & delivered to the person in charge thereof

Thus Done and Protested, at the City of St. Louis aforesaid, this *Twenty seventh* day of *October* A. D. 1859

In Testimony Whereof, I, the said Notary, have herunto set my hand, and affixed my Notarial Seal, the day and year above written.

G. O. Kalb

NOTARY PUBLIC.

Recorded Book

Folio

399 Fee, \$ *1.80*

State of Missouri, } ss.
COUNTY OF ST. LOUIS,

Before the undersigned, a Notary Public within and for said County, came *G. O. Kalb* who, being by me duly sworn, on his oath says, that the facts set forth in the foregoing Certificate are true.

Sworn to and subscribed before me, this

28th day of *Oct.*

A. D. 18 *59*

A. E. Vermeulen

Notary Public, St. Louis County, Mo.

260 00

October 24th 1854

Five years from date I promise to pay to George Smizer
or order two hundred and sixty dollars for value received
negotiable and payable without defalcation or discount

Endorsed by
Geo Smizer
J P Robinson

G. A. Smith

2628
No. 2628

G. A. Smith

Indorsed for full payment

Due October 24th 1859

\$ 260 00

Due. Dec. 1. 80

262,35

G. O. KALB,

NOTARY PUBLIC,

OFFICE, 65 CHESTNUT STREET,

ST. LOUIS, MO.

Cecilus Welling Plaintiff
against

George A Smith Defendant.

In the Circuit Court.

Jefferson County Missouri

Plaintiff states that defendant, by his prom-
-issory note, herewith filed, dated the 24th day of October
1854, promised to pay me George Smizer, or order, Two
hundred and sixty dollars, five years after date for
value received,

Plaintiff says that said Smizer on the
said 24th day of October 1854, assigned by endorsement &
delivered said note to J P Robison who on the 10th day
of December 1855, assigned by endorsement and delivered
said note to plaintiff, which note and the interest
thereon are yet due plaintiff for which with damages
he asks judgment,

Witness for Plff

Thos L Metcher, attorney for Plaintiff on oath
states that the foregoing petition and the matters
therein as stated he believes to be true,

Signed & sworn to before
me Nov 12th 1859.

Thos L Metcher atty
witness my hand and notarial
seal at office in St Louis.

H Mason Robinson
Notary Public



Locilia Whiting
as

George A Smith.

Let me note.

Have yours?
McKim p. 21

Dec 14th 1859
Oliver A. Hoare

The State of Missouri, } ss.
COUNTY OF JEFFERSON.

To the Sheriff of the County of Jefferson--Greeting:

We command you, that you summon *George A. Smith*

if he be found in your County, that he
do and appear before the Hon. Judge of our Circuit Court, on the
first day of the next term thereof, to be begun and held at the town of
Hillsboro, within and for the County of Jefferson, on the second
Monday after the fourth Monday of November
next, then and there to answer unto *Cecelius Willing*

upon *his* original petition, a copy whereof is hereunto annexed and
accompanies this writ, and have you then there this writ.

Witness, **ELIAS F. HONEY**, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at office
in Hillsboro, this *Fifteenth*
day of *November* A. D. 1859

Elias F. Honey

Clerk Circuit Court.

I executed the within writ in the County of
Jefferson State of Missouri on George A Smith by
Delivering him A copy of this writ and annexed
petition as furnished me by the clerk on the 22^d
day of November AD 1859 - Oscar Dover Sheriff

No 51

Jefferson Circuit Court

December Term 1859

1749

Deedric Welling

vs
J. A. Amonson

George A. Smith

Sheriff fee \$1.00

Writ of

Subpoena 29th 1859

Oliver A. Horney Clerk

Dismissed by J. A. A.

June 26th 1860

Chad

Executors Willing, Plaintiffs } In the Circuit
George A. Smith's Depts. } Court of Jefferson
County, Missouri

Defendants, George A. Smith,
for answer to Plaintiffs' Petition, denies that
George Smizer, on the 24th day of October, 1854,
or ^{on} any other day, "assigned by endorsement and
delivered to J. P. Robinson," the Note mentioned
in Plaintiffs Petition; denies that the said
Robinson, on the 10th day of December, 1854, or
on any other day, "assigned by endorsement
and delivered ~~to~~ the said Note to the Plaintiff";
denies that the said Note is due to the Plaintiff,
or any part thereof, or any interest thereon; and
says that the Plaintiff has no legal or equitable
interest therein.

This Defendant, for further
answer to Plaintiffs' Petition, states, that the
said Note is the property of Mrs. Elizabeth Smith,
of which fact Plaintiff had notice;
that the same was fraudulently obtained, and is
so retained, from her; that the Plaintiff
received and obtains the said Note, fraudu-
lently, with a view to deprive the said
Elizabeth Smith, that this Defendant was,
on or about the 1st of May, 1856, so notified
and ordered not to pay the said ^{note} to any person
except the said Elizabeth Smith, unless with her
endorsement. This Defendant therefore prays
that the Court order the said ^{note} be delivered
to her; and give him judgment for his
Costs.

Piptain & Witham
Attys. for Depts.

Defendant, George A. Smith, on
his oath, says that the foregoing answer, and
the matters therein, as stated, he believes to
be true
sworn to before me June 18th 1860

Elias J. Honey
Clerk

George A. Smith

No. 51 Dec. 2, 1859.

William W. Smith

Answer.

P. P. Smith & W. W. Smith

Attys. for Defen.

Filed June 18th 1860

Elias J. Honey

State of Illinois
County of Jefferson

Lucius Melling

vs
Geo. A. Smith

In the Circuit Court

June Term 1860-

The petition of Mrs Elizabeth Smith states, that the note sued upon in this action is her property, that the same was executed for her sole use and benefit and placed in the hands of one Geo. M. Melling for the purpose stated. That suit is brought thereon against the maker by the plaintiff with the intent, to collect the same and to cheat and defraud her out of the same. That she is interested in the subject matter of the suit and should be allowed to be made a party defendant thereto.

Petitioner therefore prays the Court that she may be made a co-defendant with the said George A. Smith and permitted to plead to the action

Elizabeth Smith,

John T. Witham,

As Attorney, makes oath and says that the foregoing petition and the matters therein as stated he believes to be true,

Sworn to & subscribed

before me June 18th

1860

Elias D. Honey Clerk

John T. Witham

Deidun McLeary

"

Rev. J. Smith

Petition to be made
a party

Cecileus Willing 2
eqt.
George A. Smith 3

In the Jefferson Circuit Court.
June Term 1860

The Separate Answer, of Elizabeth Smith
co defendant herein, states, that on the 24th day of
October 1854, there was executed for her use and
benefit, by George A. Smith the above named defendant,
five certain promissory notes, at one, two, three, four
and five years after date respectively and payable to the
order of George Smizer, that the same were delivered on
the day of their execution to George W. Willing Sr. for the
benefit of this defendant; that on or about the 27th day
of February 1855, said George Willing Sr. returned to the
~~plaintiff~~ defendant three of said notes viz. at one
two and three years after date, that the said Willing
retained and refused to deliver to the defendant the two
last of the first mentioned notes, the one at four years
after date for two hundred and forty eight dollars, and
the one at five years, for two hundred and sixty dollars.
Defendant further says, that the note last named for two
hundred and sixty dollars is the same note sued upon
in this action.

Defendant further states, that upon
the first and third days of May 1855 she caused to be published
in the "Missouri Republican" newspaper in St Louis County
and advertisement of which the following is a true copy to wit,
"Caution"

All persons are forewarned not to receive purchase or trade for
two promissory notes drawn at four and five years after date
from October 24 1854 and made payable to Dr. George A.
Smith to George Smizer and placed in the hands of George
W. Willing Sr. for the benefit of Mrs Elizabeth Smith
and which notes said Willing refuses to surrender. The
payment of said notes has been stopped and assistance
to the same will be made to the collection of the same
without the endorsement of the aforesaid Mrs Elizabeth

Smith. She never having received one Cent Consideration for
the before mentioned notes" Elizabeth Smith

The defendant further states that the plaintiff is the son
of said George M. Willing and was under twenty one years
of age at the date of this notice, and both residents of
the City and County of St Louis, and were cognizant of
and read said notice immediately after its publication
that said note was in the possession of said George M. Willing
after the said publication was made and known to the
said Cicilius Willing, to whom it was delivered by his father
for the purpose of defrauding this defendant.
Defendant further states that the said George M. Willing is
insolvent, that he put said note out of his hands for
the purpose of cheating and defrauding this defendant
out of her just rights, and for the purpose of
converting the same to his own use.

Defendant therefore prays the Court to order the said
plaintiff to cause the said note to be delivered up
to the said defendant, or that the Court will order
and adjudge that the said George M. Willing pay over
to her the proceeds thereof, & for such other relief
as she may be entitled to, Pipkin & Witham for
Mrs Smith

John J. Witham
as Attorney. Makes oath and says that the
 foregoing answer and the matters therein as stated
believe to be true.

Sworn to & subscribed
before me June 18th
1860

John J. Witham

Elias J. Honey Clerk

E. Willing

to

Geo. W. Smith

Answer of Mrs E.
Smith to respondent.

Dated June 19th 1860
Geo W. Smith
Clerk