Platte County Circuit Court
Circuit Court
March Term 1866 No. 1290

Box 69 File 21

Callahan, Henry B.
Guthrie, Addison T.) dba Callahan & Guthrie

vs

Boyd, Charles M.

Debt

- Debt, $ 382.00
- Def. hired as agent + attorney to collect on accounts owed to plaintiffs. Def. never turned over money
- Def. denies he owes money. Counters that purchased a $640 note pltfs made to Delph (a woman of color) which has not been repaid

46

1291

74

Callahan & Guthrie

vs

C M Boyd

Jno R Swain

63

Transferred to the

Probate Court

at October Term

1868.

The State of Missouri
Platte County
In the Circuit Court
Platte County Missouri
March Term 1866

Henry B Callahan &
Addison F Guthrie Partners as
Callahan & Guthrie Plaintiffs
vs
Charles M Boyd Defendant

Plaintiffs allege that on or about the 12th day of June 1864 they by the said firm name were the owners and holders of certain Notes and accounts (hereinafter described) against divers and sundry persons, and desiring to collect the same, Employed them with said defendant, and the said by said firm name then and there, Employed him as their agent and attorney, at their request ~~of said defendant~~, and for a reward, to be collected by said defendant for Plaintiffs.

In consideration of the premises, the defendant then promised Plaintiffs, that he would collect the same, and render a true account of the

monies arising from said
notes and accounts when collected,
when requested, within a reason-
able time after said collections
could be made,

The Defendant afterwards
on the [illegible] day of [illegible] stated
said notes and accounts collected
owing to Hamtt, aforesaid, that
it is today on the

Sept 1st 1864	he collected from		
	for		$3.00
July 18 1864	"	" " Hamet Hinson	2.25
July 1st "	an acct on	Mrs Mary Stone	9.57
Oct 10 1864	"	" Estate Walkam Rector	46.89
June 30 "	"	" on Mrs Timothy Dowling	8.00
July 11th "	"	" " Geo H Corbarger	1.00
Sept 1st "	"	" " E J Phillips	3.25
June 30 "	"	" on Absolem Hayden Estate	35.85
"	"	" on Virgate Estate	7.40
July 21 "	"	" " Baldwin Bane Estate	51.52
Oct 1st "	"	" on Isaac Dell	1.00
Jan 10 1865	promissory note on	Robert B. Ellegood	2.70
	Interest on same		3.60
Jan 21, 1865	Prom note on	Riley Cooper	10.00
	Interest on same		2.06
April 1st "	Prom note on	James H Connelly	26.00
	Int on same		2.28

Aug 18 1864	From note on John G Cooper	68.25
	Int on same	6.53
January 1865	From note on Morgan Kay	6.95
	Int on same	.67
July 1st 1865	From note on Sam White	55.25
	Int on same	10.15
Dec 1864	Balance on note of Aaron Masters	2.50
In the aggregate Amounting To		$382,21/100

The Plaintiffs allege that after a reasonable time had elapsed from said collection Court on the 1st day of July 1865 they requested the said Defendant to pay over the monies collected on said note & accounts, as aforesaid, to them the said Plaintiffs, and that said Defendant though often, before that time and since requested to pay them the said Plaintiffs said sum & sums of money, has refused & still refuses to do so Plaintiffs therefore pray for judgment for the said sum of Three hundred & eighty two, dollars, and for interest on same from the said times ~~day of~~ When Collected as aforesaid to the conditions of Judgment herein

Henry B Callahan &
Addison J Guthrie
by Black & Wilson, attorneys

H. B. Callahan
A. J. Guthrie, Sup
by
C. M. Boyd Dept

The Clerk of Circuit Court will plead issue
Clark & Wilson

Ogdens Costs 1.50

Filed February 15 a.d. 1866.
Geo W. Belt
Clerk.

Adrian Phillips and Plaintiff for his Cr Plaintiff
Amy Sorrin on oath State, that the above
Petition is true
to the best of Affiants
knowl & belief
Adrian Phillips
Sworn & subscribed to before me this
15th day of February 1866
Geo W. Belt Clerk

STATE OF MISSOURI, } SCT.
COUNTY OF PLATTE.

The State of Missouri to the Sheriff of Platte **County, Greeting:**

You are hereby commanded to summon Charles M. Boyd

---

that he be and appear before the Judge of our Platte Circuit Court, in and for said County, on the first day of the next term thereof, to be holden at the Court House in Platte City, on Monday, the 5th *day of* March *next, then and there to answer to the petition of* Henry B. Callahan et al

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Wherein fail not, and have you then and there this writ.

Witness, **GEO. W. BELT,** Clerk of said Circuit Court, with the seal thereof affixed, at Platte City, this 15 day of February A. D., 1866

Geo W Belt CLERK.

Served the within by delivering a true Copy of the same to the within Named Charles M. Boyd in Platte County Mo. on this 16th day of February 1866.

N P Ogden Shff

Henry B Callahan &
Addison T Guthrie Reffs
&
Charles M Boyce } Demurrer Plea Covenant Cont
Deft

Defendant for answer
to the petition of Reffs. says that he admits
that Reffs left with him for collection &
settlement the list of notes set forth in the
petition of Reffs. He admits that he promised
Reffs that he would collect the same and render
a true account of the monies arrising
from said notes & accounts when collected,
But defendant denies that he collected said
notes, but admits that he collected a
part of them, and especially does he deny
that he collected the debt on Harriet Johnson
for $2,25, He denies he collected the debt on Mary
Stone for $9,59, He denies he collected the debt
of Ed Coolbaugh for $1-00, He denies he collected
the debt of Isaac Odell for $1-00, He denies he
collected the note of R P Ely for $22,75 or the
interest $3,60, He denies that he collected the
note on John G Cooper for $68,25 or the
interest $6,55, And especially does he
charge the fact that at the request of Reff
Callahan ~~dis~~ he gave the note to Shelton Johnston to hold as collateral security and
to collect to pay a debt which Shelton Coolbaugh

ainia Johnston, and said debt did not
go into the hands of Deft except as stated
above and he never received one cent of
it. He denies he executed the note on $ 7 which is for $50.25 - na
Defendant here tenders and
account between him and Peffs and stds
that long since he settled with Peffs and
took up his Deft which he gave for the
debt, all mutual was settled and adjusted
between them,

And he pleads said
settlement as a bar to Peffs right of recovery
and files the Deft he gave Peff for the
debt set forth in the Petition and prays
judgt for a dismissal of this suit and
for all proper relief,

Defendant especially
denies any defalt on his part, or that def
ever failed to pay any monies in his hand
of Peff. when demanded -

Deft for plea & offsets the following
account which Peff & partners in the
name & style of Callahan & Guthrie owe him
and refers to the account marked A
and makes the same a part of this answer
and prays judgt against Peff for the
sum of $ 2.69.30 with interest on the same
for the same was due -

Defendant for further answer states
that the Deft Henry B Callahan is a

is a non resident of the State of Missouri and herein is insolvent, but that the partnership firm of Callahan & Guthrie is not indebted and is solvent, And that Deft Henry B Callahan long before the institution of this suit made exhibited and delivered his promissory note to Delph (a woman of color) dated 10th April 1863 for the sum of Sixty four dollars and 12 Months after date with 10 pr cent int from and till paid. Defendant avers that in September 1865 he purchased said note & paid for, and he is the bona fide holder & owner of the same; That said debt has never been paid by Callahan _ and is now due Deft, Deft says that he does not believe that he owes Plffs any thing, but that in his own defence he prays that it may be allowed against the Deft Callahan - for if Callahan were to by advantage. unfair settlement against Deft and this note were not allowed he never could collect one cent from him, He therefore plays this ~~cost~~ note in this suit and prays Judgt against Callahan for the sum

And finally he prays Judgt for the amount set forth & for a dismissal of Plffs suit and for all just relief

Newman Porter & Deft

C. M. Boyd, the above named defendant makes oath & says the matters & things as stated in foregoing ~~petition~~ answer are true, to the best of his knowledge & belief

C. M. Boyd

Subscribed & Sworn to before me this 5 day of March 1866.

Geo M Peet Clk

No 1290
Callahan & Guthrie
vs
C. M. Boyd
Answer &
Affidavit.

Filed March 6. A.D. 1866
Geo M Peet
Clerk

$64 00

Twelve Months after date I promise to pay Delph (a woman of Colour) Sixty four dollars for value recvd negotiable and payable without defaulcation or discount with 10 per Ct from due

April 10th 1863

A, B, Callahan

$75.09

Platte City, Mo.

September 7th 1865.

For value received I assign, transfer & make over to C. M. Boyd, the within Note.

Attest. Squire his X Anderson
Michael Hartmen mark

Off=Sett.

Henry B. Callahan and Addison
T. Guthrie To
Charles M. Boyd, Dr.

For taking Notes on accounts for 998 ^{45} in small amts from $8.10 upwards @ 5	38.90
For shortening up & squaring Books	25.00
Drawing of Accounts	15.00
Postage Stamps	3.50
Revenue Stamps	3.50
Attachment suit vs Wm Finches	15.00
Amt of Money paid Plff	63.20
" " " " "	67.20
Per cent on Collections	40.00
Total	269.30

Exhibit "A."

C. M. Boyd, Defendant, on oath states that the above account and the matters & items therein as stated are justly due & owing Defendant.

C. M. Boyd.

Sworn & Subscribed to before me this 5 day of March, 1866.

Geo. W. Peet Clk

Henry B Callahan
Addison P Guthrie partners as
Callahan & Guthrie

vs

Charles W Boyd

In the Platte Circuit
Court March Term 1866

Now come said Plaintiffs by
their attorney and move
the Court to strike out from
Defendants Answer & set off
the following towit —

All of said Answer contained
between the words "And Especially
does he," to be found on the 5th line
of the 1st page of said Answer, rec=
oning from the bottom of the page,
and "he never received one cent"
To be found on in the 3d Line, recon=
ing from the Top of the Second page
of said Answer,

1st Because the same is irrelevant
and has no relation to the contro=
versy between the parties to this action
and do not tend to constitute a
defence.

And all of said Answer between
the words "Defendant Here renders

to be found on the 4th line
from the top of the 2d page
of said Answer, and the
words "for all proper relief"
to be found on the 5th line
of 2d page of same

1st Because the same is irrel-
evant, and does not
tend to constitute any defence
to Plaintiff's demand.

And also of said answer to be
found between the words "Defe-
endant here pleads an offset" to be
found on the 19th line from the
top of 2d page of said Answer,
to the words "was due" — to be
found on the 3d line thereof from
the bottom of said page.

1st Because it does not
constitute an offset, in
the facts stated, to Plaintiff's
demand.

And all of said Answer con-
tained between the words
"Defendant for further Answer"
to be found on the 2d line from
the bottom of 2d page to the
words "payment against

Callahan for the same" To
be bound on the 4th line
from the bottom of the
3d page of said Answer.

5th Because the ~~said Petition~~
~~set up~~ allegations therein
contained are irrelevant,
and do not
and Constitute a Legal Demand
against Plaintiffs

2d - Because — Defendant
does not show therein
any right to said note.

3d Because — It does not
appear therein, that the
said note was Ever at
anytime a valid and
Subsisting obligation
against any one, inasmuch
as it does not appear that
"Nesh" the woman of Color
was a Freewoman of Color
at the time of the Execution
of said Note.

4th Because — It, the said
note, is not the proper sub-
ject of Set off or Counter
claim against Plaintiffs
Callahan & Guthrie
as Such
Clerk of Election
for Plaintiffs

No 1290

Callahan & Guthrie

vs

C M Boyd

Motion to
strike out parts
of Answer & Cross Bill

Filed March 14 1866
G H Gibbs
Clk

State of Missouri, } Sct.
County of Platte,

The State of Missouri, To W M Paxton, R D Johnston
A G Brown & E J Phillips

You are hereby commanded to be and appear before the Judge of our Platte Circuit Court at the court house in Platte City, on the 19 day of Nov 1866, to give evidence between Woodham & Guthrie

Plaintiff and C M Boyd

Defendant, on the part of the Plaintiff

Fail not at your peril.

WITNESS, **GEO. W. BELT**, *Clerk of said Circuit Court, with the* SEAL *thereof affixed at Platte City, this* 7 *day of* Nov *A. D.* 1866

Geo W Belt clerk

1290

Callahan et al

v

C M Boyd

Sub

Jno M Paxton 10
R D Johnston 10
A G Brown 10
E J Phillips 15

Jur Pffs

Served the within by reading the same to Paxton Johnston Brown & Phillips Nov 12/66

Fee 1.40 A P Ogden Shff

State of Missouri, } Sct.
County of Platte,

The State of Missouri, To Mrs Martha A Ivy, Morgan Kay
Thomas O Roriett, Jeremiah Ivy

You are hereby commanded to be and appear before the Judge of our Platte Circuit Court at the court house in Platte City, on the 19 day of Nov 1866, to give evidence between Callahan & Guthrie

Plaintiff and C M & Boyd

Defendant, on the part of the Plaintiffs

Fail not at your peril.

WITNESS, **GEO. W. BELT**, *Clerk of said Circuit Court, with the* SEAL *thereof affixed at Platte City, this* 7 *day of* Nov *A. D.* 1866

Geo W. Belt Clerk

1290

Callahan et al

vs

C M Boyd

Subs

Mrs Martha Kay.

Morgan Kay

Thomas O Rorick

Jeremiah Berry 10

for Plff

Served the within by reading the same to Berry Nov 10/66

the within Martha Kay Morgan Kay & O Rorick on Nov 22/66

A P Ogden Shff

Fee 2 50

State of Missouri, } Sct.
County of Platte,

The State of Missouri, To Samuel White, John J Coopers, James H Connelly, & John B Cain

You are hereby commanded to be and appear before the Judge of our Platte Circuit Court at the court house in Platte City, on the 19 day of Nov 1866, to give evidence between Callahan & Guthrie

Plaintiff and C M Boyd

Defendant, on the part of the Plaintiff

Fail not at your peril.

WITNESS, **GEO. W. BELT**, *Clerk of said Circuit Court, with the* SEAL *thereof affixed at Platte City, this* 7 *day of* Nov *A. D.* 1866

Geo W. Belt Clk

1290

Callahan & Guthrie
vs
C M Boyd

Sub

Samuel White
John J Cooper
James H Connelly 12
John B Cain 10

for Plff

Served the within by
reading the same
N. P Goldsmith
Fee 2 00

Henry B. Callaham and
Addison T. Guthrie / partners, by the name
& Style of Callaham & Guthrie Plaintiffs
against &c Petition
Charles M Boyd Defendant
In the Circuit Court of Platte
County Missouri

Plaintiffs / partners, doing business under
the name & Style of Callaham & Guthrie, State
that the Defendant owes and is indebted
to them by the Said firm name in sundry & divers Sums of Money
by the Said Defendant (being an Attorney
at Law) Collected for Plffs & received from divers
persons, owning the Said Plaintiffs and which
Said Sums of Money, the Defendant, failed
& refused to pay over to Plffs, & withholds from
them, although the Same was Specially
demanded at divers times to wit on or
about the day of 18. All of which
will be fully Shown & Set forth, in the
following list or Statement. as follows
To wit

From	Thos John Cannon	on the	31st in instant May	1865 $2.45
"	Thomas O'Rourke	25th	May	65 " 3.30
"	Thos Gray Stone	25	May	64 " 11.91
"	R P S Ely		Dec	64 28.32
"	Estate of Wm Rector		Oct	64 52.27
"	Thos Dowden		Oct	" 9.20
"	Morgan Kay		Oct	" 7.75
"	E J Phillips		Sept	" 3.57
"	William Mellott		Sept	" 2.25
"	James H Cosby		Dec	" 29.69
"	Estate of E Fugate		June	15 " 8.19

From	Estate of A Heayter	he received June 15	64	39.43
"	John G Cooper	Nov	"	74.48
"	Riley Cooper	Janry	65	12.68
"	J Odell	Nov	64	1.00
"	Estate of Baldwin Bane	Oct	64	39.41
"	George Brobanger	June	"	1.00
"	Samuel White	Nov	64	56.00

Amounting in all to the sum of four hundred and three dollars and which sum of Money so collected by Dept as aforesaid he is liable to pay over to plaintiffs & having failed & refused as aforesaid, the said Defendant became & is indebted to plaintiffs in the said Sum of four hundred and three dollars with interest thereon at the rate of Six per Cent per annum from the said day of 18 and for which plaintiffs ask judgment

Henry B Callahan
Addison J Guthrie
By R A Clark Attys for Plffs

Addison J Guthrie one of the above Plaintiffs and Agent for his Co-Plaintiffs being sworn on oath states, that the above Petition & the Matters therein stated, he believes to be true as stated

Addison J. Guthrie

Sworn and Subscribed to before me this 12th day of March 1867

F. M. Tufts Clerk

Callahan & Guthrie
Pltff
vs
C M Boyd Deft

Petition to supply
lost papers in pursuance
to order of Court had
& obtained
Callahan & Pltff

Filed March 12th A.D. 1867.
F. McGuire Clerk

State of Missouri, } ss.
COUNTY OF PLATTE,

THE STATE OF MISSOURI, TO:

William Malat Joseph H Brandy
Wm M Paxton

You are hereby Commanded, That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the town of Platte City, within and for the said County of Platte, on Saturday the 16th day of November, then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein Callahan & Guthrie Plaintiff, and C M Boyer Defendant, on the part of said Plaintiff; and this you shall in nowise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Circuit Court, at my office, in Platte City, Mo., this 6th day of November A. D. 186 7.

F M Tufts, CLERK.

BY L. D. Carbaugh, D. C.

1292

No. 96.

PLATTE CIRCUIT COURT.

November Term, 186 7

Callahan & Guthrie

vs Subpœna.

E M Boyd

Pl'tffs, } Witnesses.
~~Def'ts.~~ }

Day of Trial Saturday 16

William Malott 12

Joseph H Cauly

Wm M Paxton 7

Served the within by reading the same to Wm Malott & Wm M Paxton Nov 12/67

J H Cauly not found

Fee 1.50 H. P. Ogden Sh'ff

State of Missouri. } ss.
COUNTY OF PLATTE.

THE STATE OF MISSOURI, TO:

Mrs John Cannon Mrs Mary Stone
A G Brown

You are hereby Commanded, That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the town of Platte City, within and for the said County of Platte, on Saturday the 16th day of November, then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein Callahan & Guthrie Plaintiff, and C M Boyd Defendant, on the part of said Plaintiffs; and this you shall in nowise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Circuit Court, at my office, in Platte City, Mo., this 6 day of November A. D. 1867.

F M Lufts, CLERK.

By J Plantenght, D. C.

1292

No. 96

PLATTE CIRCUIT COURT.

November Term, 1867

Callahan & Guthrie

vs Subpœna.

Charles M Boyd

Pl'tffs, } Witnesses.
~~Def'ts.~~ }

Day of Trial Saturday 16th

Wm John Cannon &

Wm Mary Stone &

A G Brown &

Send the within by reading the same to the within named Wm 8/67 N P Ogden Shff

Fee 1.50

State of Missouri, } ss.
COUNTY OF PLATTE,

THE STATE OF MISSOURI, TO:

Mrs Eliza Fry Morgan Kay

E J Phillips

You are hereby Commanded, That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the town of Platte City, within and for the said County of Platte, on Saturday the 16 day of November, then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein Callahan & Guthrie Plaintiff, and C M Boyle Defendant, on the part of said Plaintiff; and this you shall in nowise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Circuit Court, at my office, in Platte City, Mo., this 6 day of Nov A. D. 1867.

F M Tufts, CLERK.

BY D P Cartwright, D. C.

1298

No. 96

PLATTE CIRCUIT COURT.

November Term, 1867

Callahan & Gatheni

vs Subpœna.

6 M Boyd

Pl'tffs, } Witnesses.
~~Def'ts,~~ }

Day of Trial Saturday 16th

Mrs Eliza Fry N.L.

Morgan & Kay

E J Phillips

Alf Ogden Jan 15th

Received the within Subpœna for Morgan Kay and E J Phillips this 7th day of Jan 1867

R P Oglesby Sh'ff

State of Missouri, } ss.
COUNTY OF PLATTE,

THE STATE OF MISSOURI, TO:

John Y Cooper Jeremiah Beeny
Isaac Odell

You are hereby Commanded, That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the town of Platte City, within and for the said County of Platte, on Saturday the 16th day of November, then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein Callahan & Guthrie &c Plaintiff, and C M Boyd et Defendant, on the part of said Plaintiff; and this you shall in nowise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Circuit Court, at my office, in Platte City, Mo., this 6th day of November A. D. 1867.

F M Tufts, CLERK.

BY D Clarkemyer, D. C.

1290

No. 96.

PLATTE CIRCUIT COURT.

November Term, 1867

Callahan & Guthrie

vs Subpœna.

C M Boyce

Pl'tffs, } Witnesses.
~~Def'ts.~~ }

Day of Trial Saturday 16

John Y Cooper

Jeremiah Berry

Isaac Odell

Served the within by reading the same to the within Nov 23/67

Fee 1.50 N P Ogden Shff

State of Missouri, } ss.
COUNTY OF PLATTE.

THE STATE OF MISSOURI, TO:

R D Johnston George Crowbarger
Samuel White

You are hereby Commanded, That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the town of Platte City, within and for the said County of Platte, on Saturday the 16th day of November, then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein Callahan & Guthrie Plaintiff, and C M Boyd Defendant, on the part of said Plaintiff; and this you shall in nowise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Circuit Court, at my office, in Platte City, Mo., this 6 day of November A. D. 1867.

P M Tufts, CLERK.

BY D Partaugher, D. C.

1290

No. 96

PLATTE CIRCUIT COURT.

November Term, 1867

Callahan & Guthrie

vs Subpœna.

C M. Boyd

Pl'tffs, } Witnesses.
~~Def'ts.~~ }

Day of Trial Saturday 16th

R D Johnston

George Crowbarger

Samuel White

Served the within Spœna
the 14th day of Nov 1867
by reading the same
to Geo Crowbarger
and Samuel White
W P Ogle
Sh'ff

Cost 15

Henry B. Callahan &
Addison S. Guthrie, Plaintiffs
vs.
Charles M. Boyd, Defendant.
In the Circuit Court of Platte
County. Missouri.

Defendant for answer to Plaintiffs Petition says that he admits that Plaintiffs left with him for collection & Settlement the Lists of Notes set forth in the petition of Plaintiff. He admits that he promised Plaintiffs that he would collect the same and render a true account of the moneys arising from said Notes & accounts when collected. But defendant denies that he collected ~~any part of them~~ said Notes, but admits that he collected a part of them. And especially does he deny that he collected the debt on Mrs John Cannon for $2.25. He denies that he collected the debt on Mary Stone for $11.91. He denies that he collected the debt of R. P. S. Elley for $28.32. He denies that he collected the debt of Isaac Odell for $100. He denies that he collected the debt of George W. Corbaugen for $1.00. He denies that he collected the Note on Samuel White for $56.00 but admits that he collected a note for some $7 or 8.00.

Especially does Defendant deny that he collected the Note on John Y. Corzen for $74.48 and especially does he charge the fact that at the request of Plaintiff Callahan he gave the Note to Stephen Johnston to hold

as collateral security and to collect and pay a debt which said Callahan owed said Johnston, and said debt did not go into the hands of Defendant Except as stated above & he never received One Cent of it.

Defendant here renders an account between him & Plaintiff and states that long since he settled with plaintiff and took up his Receipts which he gave for the debt, all matters were settled & adjusted between them And he pleads said settlement as a bar to Plaintiffs right of recovery & files the Receipts he gave Plaintiff for the debts set forth in the petition and prays Judgment for a dismissal of the suit and for all proper relief.

Defendant Especially denies any default on his part, or that Defendant ever failed to pay any monies in his hands of Plaintiff when demanded.

Defendant here pleads as Offset the following Apec which Plaintiff as partners in the name & style of Callahan & Guthrie owe him and refers to the account marked "A" & makes the same a part of this answer and prays Judgment against Plaintiff for the sum of $26.93 with interest on the same from the time same was due.

Defendant for further answer states that the Plaintiff Henry B. Callahan is a Non-Resident of the State of Missouri

and besides is insolvent. But that the partnership firm of Callahan & Guthrie is not in debt and is Solvent. And that Plaintiff Henry B. Callahan long before the institution of this suit made Executed and delivered his promissory Note to Delph (a norman of Colo.) dated 10th April 1863 for the sum of Sixty Four Dollars due 12 months after date with 10 per cent interest from due till paid. Defendant avers that in September, 1865 he purchased said Note & paid for & he is the beneficial holder & owner of the same, that said debt has never been paid by Callahan and is now due defendant. Defendant says that he does not believe that he owes Plaintiff anything but that in his own defence he prays that it may be allowed against defendant Callahan, for if Callahan were to, by adoantage of unfair settlement against defendant & this Note were not allowed he never could collect One Cent from him. He therefore pleads this Note in this suit & prays Judgment against Callahan for the same. And finally he prays Judgment for the amounts set forth & for a dismissal of Plaintiffs suit and for all proper relief.

Joseph E. Merryman Atty
for defendant.

C. M. Boyd the above named defendant makes oath & says the matters & things as stated in the foregoing answer are

true, to the best of his Knowledge & belief.

C. W. Boyd.

Subscribed & Sworn to before me
this 12 day of November 1867.

F. M. Pugh clerk
By D. P. Cartwright Dc

"A"

Set to Off.

Henry B. Callahan and
Addison J. Guthrie To

1864 & '65 C. M. Boyd, Dr.

To taking Notes on accounts for
$7785 in small amts from $10 upwards $ 38.90
To shortening up & squaring Books 25.00
To drawing off Accounts 15.00
Postage Stamps 2.50
Revenue Stamps 2.50
Attachment suit to Wm Fincher 15.00
Amount of money Paid Plaintiff 63.20
" " " " " 67.20
Per Cent on Collections [illegible]
$ 269.30

C. M. Boyd the defendant, makes oath & states that the above account and the matters & items therein as stated are justly due & owing defendant.

C. M. Boyd.

Subscribed & Sworn to Before me this 12th day of November 1867

J. M. Pyle Clerk
By L. B. Cartwright D.C.

Copy of Note.

$64 00

One month after date I promise to pay Delph (a woman of Color) Sixty Four Dollars for value received, negotiable & payable without defalcation or discount with 10 per cent from due.

April 10th 1863.

H. B. Callahan.

Endorsed on Back.

Platte City, Mo.

September 7th 1865.

For value received I assign, transfer and make over to C. M. Boyd the within Note.

his
Sqnire X Anderson
mark

attest
Michael Hartman.

C. M. Boyd on oath states that the above is a true & perfect Copy of Note and Endorsement thereon, as taken from entry on his Books, that original Note was filed with the papers in the Cause which have since been Lost, mislaid or destroyed.

C. M. Boyd.

Subscribed & sworn to Before me this 12th day of November 1867.

F. M. Pults clerk
By L. P. Williamson DC

No 96.

Callahan

Vs

Boyd

Answer

Filed Nov 12th 1867

F. M. Lufts

Clerk

Henry B Callahan &
Addison J Guthrie Plaintiffs
vs
Charles M Boyd Dependent
In the Circuit Court of
Platte County Missouri

Plaintiffs for his replication to
the answer of Defendant hereto filed
in this Cause States, that he affirming
all & Several the Statements and
Charges Contained in his Said petition
he denies the items each & every of them
as set forth in the account Marked A,
& mentioned in Said answer and Set
forth as account Marked A, and they
deny that they owe defendant the Sum
of $269.30, with interest thereon as
Set forth in Said answer or any
part thereof. Plaintiffs deny that they
owe defendant any of the following
items Set forth in Said answer towit
$64.65 "To taking Notes on accounts
for $778.45 in Small amts from $1.00 upwards
$3.90.

"To Straitening up & Squaring Books $25.00
" to drawing off accounts 15.00
" Postage & Stamps 2.50
" Revenue Stamps 2.50
" attachment suit for Wm Fincher 15.00

" amount of Money Said Plaintiff 63.20
" " " " 67.20
Per cent on Collections 20.00
each & all & every part thereof is denied
by the Plaintiffs - Plaintiffs deny that
Plaintiff Callahan is insolvent as stated
by Defts and they deny Said Callahan
made, executed and delivered his certain
promissory note to Delph a woman of Color
as stated in Said answer, for the
Sum of Six hundred dollars due 12 months
after date with interest as Stated,
Plffs deny that Said Callahan ever ex
ecuted Said Note as Stated or ever
owned Said Delph Said Note or any
part thereof or at this time owns Said
Note or any part thereof Plffs deny
that Defts ever purchased Said note
as Stated or that he is the owner
thereof or holder thereof as Stated by
Defts, Plffs deny that Said note is
now due & owing to Defts or any part
thereof - Plffs deny that Said note
this Set off as offsett in this Cause
can be set off in this Cause, the demand
Sued on being a partnership ~~debt~~ demand of
and the, deny that if Defts failed in
this Cause to obtain the amount

of said note as set off he never could collect the same as is by him stated & Plaintiffs deny that Deft should recover against him either the judgment of $269-30 as prayed for in his said off-Sett or the amount of said Note as prayed for as that he should recover against them any judgment whatever—

W H B Callahan
Addison J Guthrie
By Clark their attorney

I Addison J Guthrie one of the above Plaintiffs and agent for his Co-plaintiffs Makes oath and says that the matters Stated in the above Replication he believes to be true as Stated therein

Addison J Guthrie

Sworn and Subscribed before me this 13th day of November 1867

D M Tufts Clerk
By L P Cartwright D C

A Replication to defendants answer or Statement of set off—

H. B. Callahan
& J. Guthrie
vs Pltffs
C. M. Boyd

Replication

Filed in open Court
Nov 14th 1867
F. M. Lufton
Clerk

H. B. Callahan &
A. J. Guthrie, Plffs.

vs.

C. M. Boyd, Deft.

C. M. Boyd the defendant makes oath & says that he cannot safely proceed to trial in this cause on account of the absence of a material Witness. That he has used due diligence to obtain the same. That he knows of no one else by whom he can prove the same facts. That he is not absent by his consent or consent & that he expects if a continuance is granted to be able to obtain the testimony by the next term of this Court. That this application is not made for vexation or delay but that he may have a fair trial. That he does not mention the exact whereabouts of Witness but has been informed that he resides in Western part of Kansas. That he resided in this county since the institution of this suit. Affiant thinks that he will be able to ascertain the same before the next term of this Court.

C. M. Boyd.

Subscribed & Sworn to Before me this 20 day of November 1867.

F. M. Tuttle
Clerk

Filed Nov 25th 1867

F. McTufts

Clerk

STATE OF MISSOURI, } SCT.
COUNTY OF PLATTE,

The State of Missouri, to:

Mrs John Cannon, Mrs Martha A. Fry and Samuel White

YOU ARE HEREBY COMMANDED, *That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the town of Platte City, within and for the said County of Platte, on* Friday *the* 4th *day of* October 1868, *then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein*

Callahan & Guthrie &c *Plaintiff,*

and John R. Swain &c *Defendant,*

on the part of said Plaintiff; *and this you shall in no wise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.*

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Circuit Court, at my Office, in Platte City, Missouri, this 2nd *day of* October *A. D. 1868.*

F. M. Tufts, *Clerk.*

By ....., *D. C.*

No. 1290

PLATTE CIRCUIT COURT.

October Term, 186 8

Callahan & Guthrie

vs Subpœna

John R. Swain adm

Plaintiffs,
~~Defendants,~~ } Witnesses.

Day of Trial Friday Oct. 9.

3 Mrs John Cannon
3 Mrs Martha A Fry
3 Samuel White

Send the writing by reading
Oct 3 /68

N P Ogden
Atty

Fee 1.50

STATE OF MISSOURI, } SCT.
COUNTY OF PLATTE,

The State of Missouri, to: Thomas O. Rorick, Mrs Mary Stone, Jeremiah Beery, Morgan Kay, E. J. Phillips, William Malott, James H. Connolly, John Y. Cooper, Isaac Odell, R. D. Johnston, & George Ecobarger W. M. Paxton & a. 9, Brown

YOU ARE HEREBY COMMANDED, *That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the town of Platte City, within and for the said County of Platte, on* Friday *the* 9th *day of* October 1868, *then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein*

Callahan & Guthrie *Plaintiff,*
and John R. Swain Administrator *Defendant,*
on the part of said Plaintiff; *and this you shall in no wise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.*

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Circuit Court, at my Office, in Platte City, Missouri, this 2nd *day of* October *A. D. 1868.*

F. M. Tufts, *Clerk.*

By ....., *D. C.*

No. 1290

PLATTE CIRCUIT COURT.

October Term, 1868.

Callahan & Guthrie

vs. Subpœna

John R. Swain Admr

Sheriff Ogden Fees 6.50

Plaintiffs, } Witnesses.
~~Defendants.~~ }

Day of Trial Friday Oct. 9th

3 Thomas O. Rorick
3 Mrs Mary Stone
2 Jeremiah Beery
5 Morgan Kay
6 E. J. Phillips
8 William Malott
2 James H. Connolly
5 John Y. Cooper
6 Isaac Odell
6 R. D. Johnston
5 George Crobarger
6 W. M. Paxton

A. G. Brown

Served the within subpœna by reading the same to the within named witnesses except Jno. R. Swain Admr & the notification to him

Fees 6.50

Sheriff's Office Platte Co. Mo. Oct 8, 1868

T. POSEY Sheriff

STATE OF MISSOURI, } ss.
COUNTY OF PLATTE,

The State of Missouri, to:

William Malott

YOU ARE HEREBY COMMANDED, *That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the town of Platte City, within and for the said County of Platte, on* Friday *the* 9th *day of* Oct *1868, then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein*

Callahan & Guthrie *Plaintiff,*
and John R Swain admr & C M Byrd & Co *Defendant,*
on the part of said Plaintiff *; and this you shall in no wise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying his return thereon.*

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said Circuit Court, at my Office, in Platte City, Missouri, this 8th *day of* October *A. D. 1868.*

F M Smith, *Clerk.*

By ....., *D. C.*

No

PLATTE CIRCUIT COURT.

October Term 1868

Callahan & Guthrie

vs

Subpœna

John R Swain admr

of C M Boyd dec'd

Plaintiffs,
~~Defendants,~~ } Witnesses.

Day of Trial Friday Oct 9.

Mrs. Malott

Served by reading the
same to the within Mrs
Malott Oct 8/68

N. P. Ogden
Shff