Platte County Circuit Court
Circuit Court
November Term 1867 No. 275

Box 74 File 20

Schlossner, Henry T.

vs

Ellinger, Morris

Debt

- Debt; $1,312.40 for goods & merchandise
- Case began before Weston Court of Common Pleas; moved by change of venue to Circuit Court
- Transcript refers to "negro man named Adam" who boarded at defendants

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Henry J Schlopner

vs

Morris Ellinger

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Transcript

Filed October 29th a.d. 1867

F. M. Tufts

clerk

Judgment

October Term 1868.

Book "L" 1868.

Page 171.

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State of Missouri
County of Platte } ss

Pleas.- At a term of the Weston Court of Common Pleas within the County of Platte and State of Missouri, begun and held at the Court Room in the City of Weston on Monday the 28th day of August 1865; The Honorable Henry. I. Wolf, being Sole Judge thereof, when and where, and at terms Subsequent thereto, the following proceedings were had, Be it remembered that heretofore, to wit, on the 4th day of March A.D 1865; there was filed in the office of the Clerk of our said Court, a certain Petition and Note, Wherein Henry T. Schlosser is Plaintiff and Morris Ellinger is defendent, Which said Petition is in words and figures as follows, to wit,

Petition

"In the Weston Court of Common Pleas in Platte County Missouri to August Term 1865;

Henry. T. Schlosser, Plaintiff
against
Morris Ellinger. Defendent

The Plaintiff states That the defendent owes and is indebted to him in the sum of Thirteen hundred, twelve & 40/100 ~~ndollars~~ dollars for goods wares and Merchandise Sold and delivered by Plaintiff to defendent, for Money loaned, and for Money of the Plaintiff Collected by the defendent and had and received to and for the use of the Plaintiff at his special instan=ce and request. the particulars of all which as also the Credits thereon fully appear by the account following namely

Morris Ellinger. To Henry

To Henry T. Schlosser Dr

1858.	For	Gold loaned defendent	$ 130.00
1859	"	Cash loaned him out of Bank	500.00
"	"	Cash loaned him out of Bank	250.00
"	"	1 Box Gass fixtures & Locks &c	75.00
"	"	1 lot of Gass light fixtures	10.00
"	"	Interest thereon at 6 per cent	347.40
		Amount	$ 1312.40

Plaintiff prays Judgment for said Sum of Thirteen hundred, twelve & 40/100 dollars, being the said amount due him,

The Plaintiff further states that the defendent owes and is indebted to him

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in the further sum of Eight hundred dollars, for so much Money Collected, had and received by defendent to and for the use of the Plaintiff the particulars of which, the same being entitled to no credits, will fully appear by the following account namely

Morris Ellinger

To. Henry. T. Schlosser Dr

1859. For Money due plaintiff. Collected by You and appropriated by You to your own use, without accounting therefor to plaintiff. and received on note and deed of trust of one Felix $. 800.00

Plaintiff prays Judgment for said sum of Eight hundred dollars, with interest thereon for the detention from Plaintiff; - Plaintiff further states that the defendent owes and is indebted to him in the sum of One hundred and Thirty eight dollars for warrants of the City of Weston, sold and delivered to the defendent by Plaintiff, the particulars of all which, the same being entitled to no credits, will appear by the account following namely

Morris Ellinger

To. Henry. T. Schlosser Dr

1858 For Warrants of the City of Weston $138.00

Plaintiff prays Judgment for said sum of One hundred & thirty eight dollars

With interest thereon since Jan. 1. 1858
for the detention of the same

Plaintiff further states that the
defendent owes and is indebted
to him in the sum of Seventeen
hundred dollars for so much money
had, received and collected by defend
=ent to and for the use of the Plaintiff.

For plaintiff says that he was the
owner and holder of a certain certif=
=icate of indebtedness of Weston Lodge
Nº 53 Ancient, Free and accepted
Masons, for one thousand dollars
issued and bearing date June 1, 1855,
due ten years after date with
ten per cent interest per annum
from its date. Which said certificate
was transferred by the Plaintiff to
the defendent for the purpose of
Collection, and which has been
converted to the use and benefit of
defendent, without having accounted
to Plaintiff therefor. Plaintiff
prays Judgment for said sum
of Seventeen hundred dollars, with
the interest thereon for its detention.

And the Plaintiff further states
that the defendent by his promissory
note herewith filed dated May 1, 1859
promissed for value received to pay
plaintiff by the name of Jh Shlosser

5 Five hundred dollars, one day after date with interest from maturity at the rate of ten per cent per annum. That the defendent has paid on said note at various times, by board of Plaintiff, the interest on said note up to July 1st 1861. That the whole amount of said note with interest thereon at ten per centum per annum since July 1, 1861. are yet due the plaintiff by the defendent and for which he prays judgment,

Plaintiff prays judgment for said several sums of money, and he says that payment of the same has been unlawfully and vexatiously withheld and he prays judgment for interest on said several sums so withheld

Doniphan, Carroll & Burnes
Attys for Plaintiff

H. T. Schlossner Plaintiff makes oath and says, he believes the above petition and the matters as therein stated are true

H. T. Schlossner

Sworn to and subscribed before me, this 3d day of March A.D. 1865.

L. R. Rings, J. P.

And which said Note is in words and figures as follows

Note

$500.00/100 Weston Mo May 1th 1859
One day after date I promise to pay to the order of Ph-Schlosser Five Hundred 00/100 Dollars, for value received, Negotiable and payable without defalcation or discount, with interest from Maturity at the rate of 10 per cent per annum — Due — Morris Ellinger "

And afterwards on the 8th day of March AD 1865. there was issued out of the office of the clerk of our said Court, a certain Writ of Summons, in words and figures as follows, to wit,

Summons

State of Missouri
County of Platte Set

U. States Int. Rev. 3 Cts

The State of Missouri
To the Marshal of the Weston Court of Common Pleas, in Platte County Greeting: You are hereby Commanded to Summon Morris Ellinger, that he be and appear before the Judge of our Weston Court of Common Pleas, on the first day

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of the term thereof; to be holden at the Court Room in the City of Weston and County aforesaid, on Monday the 28th day of August 1865. and there to answer unto the petition of Henry T. Schlossner, Wherein fail not, and have you there this writ. Witness E G Heriott Clerk of the Court of Common Pleas with the Seal thereof affixed. at Weston, on this 8th day of March 1865

Seal

E G Heriot. Clerk

Upon Which Writ of Summons was endorsed the following return

Return

Served this Writ and petition by delivering true Copies of the Same to the within named Morris Ellinger, in Weston Township Platte County Missouri on this 8th day of March 1865

N. H. Roney - Marshal of Weston Court of Common Pleas

[redacted]

And the following was entered of Record;

Record

"February term Saturday March 4th A.D. 1865

Henry T. Schlossner Plaintiff

vs

Morris Ellinger Defendent

Now here Comes the Plaintiff by his attorney and files his Petition herein

And afterwards the following was entered of Record

Record — February term, Saturday March 4th A.D 1865

Henry T. Schlosser Plff

vs

Morris Ellinger Deft

Now here comes the Plaintiff by his Attorney and on his application the clerk of this Court is ordered to issue a Summons,

Record — And afterwards the following was entered of Record.

"August term, Tuesday 29th August 1865

Henry T. Schlosser Plf

vs

Morris Ellinger Defd

Now at this time, the defendent by his attorney, files Motion to Rule the Plaintiff to security for costs.

Which said Motion is in word and figures as follows

Motion for Cost

Henry T. Schlosser

vs

Morris Ellinger

9 The defendent moves the Court to rule the plaintiff to give security for costs in this Case, because the said Plaintiff is totally insolvent

Merryman & Gilbert
Attys for defts

And afterwards the following was entered of Record "

"August term 2nd Tuesday 29th August 1865

Record Henry. F. Schlosser, Plf

vs

Morris Ellinger deft

Demurrer Now here comes the defendent by his attorney and files demurrer herein

Which said Demurrer is in words and figures as follows

Henry. F. Schlosser Plf

vs

Morris Ellinger, Def

The defendant demures to first count in the petition of the plaintiff, because it does not show that the cause of action accrued within five years before the commencement of this suit.

The defendant demurs to the second Count in the plaintiffs

Petition because it does not show that the cause of action accrued within five years before the commencement of this suit,

The defendent demurs to the Third Count in the Plaintiffs Petition because it does not show that the cause of action accrued within five years before the commencement of this suit.

The defendent demurs to the fourth Count in the Plaintiffs petition because it does not state the time when the said money was received and collected or the time when the said bond was converted to the use & benefit of defendent

Merryman & Gilbert, Atty's for Deft

And afterwards the following was entered of Record,

Record "August term Wednesday August 30th 1865-

Henry. T. Schlissner plf

vs

Morris Ellinger Def

Now at this time the motion to rule the plaintiff to security for cost, was taken up and the same is over-ruled by the Court;

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And afterwards the following was entered of Record

Record

"August term Friday September 1st 1865

Henry. T. Schlosser Plf

vs

Morris Ellinger Def

Now at this time the demurrer is taken up. argued. and the same is overruled by the Court.

And afterwards the following was entered of Record

Record

"August term Friday September 1st 1865

Henry T Schlosser Plf

vs

Morris Ellinger Def

Now here at this time the defendent by his attorney files answer. offset and counter claim

And which said answer. offset and counter claim are in words and figures as follows,

Answer

" In the Weston Court of Common Pleas in Platte County Missouri Aug Term 1865

Henry. T. Schlosser Plaintiff

vs

Morris Ellinger Defendent

The dependent for answer to the plaintiffs petition says, he denies that he owes the plaintiff thirteen hundred, twelve & 40/100 Dollars, or any other sum for goods, Wares and Merch=andize sold and delivered to him by the plaintiff, for money loaned and for money of the plaintiff collected by this dependent, and had and received to and for the use of the plaintiff, and denies each and every item of the plaintiffs said account.

The Defendent denies that he owes and is indebted to the plaintiff in the sum of Eight hundred dollars or any other sum, for so much money collected and received by this Defendent to and for the use of the plaintiff and denies that he owes the plaintiff Eight hundred dollars or any other sum for money due plaintiff and collected by this defendant, and received on note and deed of trust of one Felix, and denies that he owes any interest Thereon, or that he has ever unlawfully detained the same, The defendant denies that he owes, and is indebted to the plaintiff in the sum of One hundred and Thirty Eight dollars, or any other sum, for Warrants of the

City of Weston sold and delivered to defendant by the plaintiff, and denies that he owes any interest thereon or ever detained the same.

The defendant denies that he owes and is indebted to the plaintiff in the sum of Seventeen hundred dollars or any other sum for so much money had, received and collected by defendant to and for the use of the plaintiff and denies that the plaintiff ever transfered to him for collection a certain Certificate of indebtedness of Weston Lodge № 53 Ancient Free and Accepted Masons for one thousand dollars dated June 1. 1855. due ten Years after date with ten per cent interest from date, and says that the plaintiff on or about the day of transfered by endorsement and delivered to defendant the said certificate of indebtedness for value received, and that this defendant paid him for the same, that it is the property of the defendant, and That he has never received or collected any money whatever thereon from said Lodge or any one else, defendant also says that the Plaintiff long before the Commencement of this suit, transfered by endorsement

and delivered to this defendant for value received a certain note secured by deed of trust, and executed by one Felix Burran to said Plaintiff. That this defen=dant paid him for the same, and that it is the property of the defenda=nt. The defendant for further answer to the petition of the Plaintiff says that the plaintiff owes and is indebted to him in the sum of Fourteen hundred and Ninety $\frac{59}{100}$ dollars for Cash loaned, for goods, wares and merchandize sold and delivered to plaintiff, for money paid out at his instance and request and for his benefit, for board of Repro man Adam, and for board for himself, and for rent of Room, all done, paid & furnished for the plaintiff at his specia=l instance and request, for the partic=ulars and items of all of which the defendant refers to the account of the same herewith filed, marked Exhibit "A" and asked to be made a part of this answer. Defendant pleads the said account as an offset and a counter claim against the demand of the plaintiff and says that the plaintiff owes and is indebted to him in the sum of about Eight

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hundred dollars and for which together with his costs he asks a judgment, Defendant further says that he has never unlawfully and vexatiously withheld anything from said Plaintiff that was his due, that on the contrary he has been anxious for and has often sought a settlement with said defendt which he has always refused.

And defendant for further answer says the causes of action set forth in the 1st, 2d, 3d, 4th & 5th Counts of Plaintiffs petition did not accrue within five years of the date of the commencement of this suit.

Defendant having fully answered prays for judgment as aforesaid

Merryman & Gilbert
Attys for deft

Morris Ellinger the defendant on oath says the foregoing answer and the matters and things therein contained, he believes to be true

Morris Ellinger

Subscribed and sworn to before me the 1st Sept 1865

Saml A Gilbert N.P

Seal

"A"

N. P. Schlosser in Account with Morris Ellinger

1859.	July	18,	To Cash		$ 15,25
"	Aug	19.	" One Iron Hpt. Bbl.		3.00
"	Sept	14	" One Gl Whiskey		1.00
"	Oct	1.	" Cash		3,25
"	"	"	" Sundries		,30
"	"	26	" " Eggs		,55
"	Novbr	29.	" Morris to 1 Gl. Whiskey		1.60
"	Nov	24	" Eggs & Butter		,85
"	Dec	2	" Sundries		3.55
"	"	6	" dr. Sugar, Butter & Brandy		1.50
"	d	9	" d,		1.55
"	dr	10/15	" d,		1,85
"	d	17,	" Cash		2,00
"	"	"	" Sundries		1.45
"	"	20.	384 lbs of Pork (R. Hurd)		19.25
"	"	"	" Cash " " "		,50
"	"	21	" dr " " "		1.00
"	"	24	" Eggs &c " " "		1,35
1860	Jan	1.	" 1 Bl & Sundries		1.50
"	"	1	" Cash		5.00
"	"	7	" Provisions		2.05
"	"	14/20	" " "		3.05
"	"	24	" Sundries		6.40
"	Febr	8	" dr		1.50
"	"	11	" Cash		8.00
"	"	18	" Sundries		1.75
"	"	22/28	" dr		1.80
					$ 90.85

15

hundred dollars and for which together with his costs he asks a judgment; Defendant further says that he has never unlawfully and vexatiously withheld anything from said Plaintiff that was his due, that on the contrary he has been anxious for and has often sought a settlement with said defendt x which he has always refused.

And defendant for further answer says the causes of action set forth in the 1st, 2nd, 3d, 4th & 5th Counts of Plaintiffs petition did not accrue within five years of the date of the commencement of this suit.

Defendant having fully answered prays for judgment as aforesaid

Merryman & Gilbert
Attys for deft

Morris Ellinger The defendant on oath says the foregoing answer and the matters and things therein contained, he believes to be true

Morris Ellinger

Subscribed and sworn to before me the 1st Sept 1865

Saml A Gilbert N.P

Seal

To	Amount	Carried over		$90.85
1860.	Febr	28.	To Cash	2.00
"	"	29	Sundries	1.50
"	March	10	do	1.30
"	d	14.	d.	2.85
"	d.	23	d,	2.25
"	d	30/31	d,	4.45
"	d,	31	Cash, (P. Murphy)	3.00
"	April	1	To Sundries	.75
"	d,	13	d,	1.60
"	d	17	d,	.90
"	d	29	d	.95
"	do	"	do	.80
"	d	30	d,	1.15
"	May	8	d,	.55
"	"	11	do	.55
"	"	12	Cash for Order	4.50
"	"	15	Sundries	.40
"	"	21	d	1.85
"	"	26	Cash (for freight &c)	7.15
"	"	"	Sundries	1.80
"	"	"	McBaker (drugs) 31.90	.75
"	"	28	Sundries	1.10
"	June		d,	1.20
"	"	14	Cash	2.70
"	"	"	Sundries	.75
"	"	18	To Cash	4.25
"	"	"	40, 85; $1.2,50 3	3.75
				$145.65

			Brot over	$145.65
1860	June	28.	To; Sundries	$. 2.10
"	July	3	" do	1.90
"	"	"	" do	2.55
"	"	"	" do	7.25
"	"	16	" Cash	10.00
"	"	"	" do (wood)	1.25
"	"	"	" 1 Bbl 4C	75
"	"	"	" Cash (loaves)	11.25
"	"	"	" Whiskey	2.00
"	"	"	" Sundries	3.25
"	Aug 2		" Cashes	,50
"	"	"	" Sundries	1.65
"	"	14	" do	8.25
"	Sept.		" do	2.50
"	October		To Board from April 20. 60 until Oct 1860. 6. Months,	60.00
"			Sundries " " " "	2.65
"	Nov		do 1.35 = 20 33	1.45
"	Dec		do	1.35
"	"		do	5.35
"	"		Cash (Int B.R)	6.00
"	"	4	To Sundries	3.30
"	"	8	do	,80
"	"	10	Cash	110.00
"	"	"	Sundries	1.05
"	"	20	do	,90
1861	January	24	do	,70
				$394.40

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			To Amount Brought over	$394.40
1861	Febr	2	To Sundries	.75
"	"	9	" d,	1.50
"	"	10/28	" d,	4.20
"	"	21	Cash paid for him	6.25
"	"	23	d,	113.00
"	March	1	Sundries	8.95
"	April	4	Cash paid for him	6.25
"	"	16	Sundries	1.40
"	"	"	d,	4.95
"	"	"	d,	3.50
"	"	"	d,	8.10
"	June	1	To Sundries	3.25
"	"	"	d, + Cash	6.25
"	July	4	" d,	6.85
"	"	6	" Cash	2.50
"	"	9	" dr + Bar	5.00
"	"	10	" d,	1.50
"	"	20	" d,	2.50
"	"	"	" d,	2.50
"	"	"	Account Copied from the Slat 543 days	136.00
1865	March.		To Board for self from July 17th 1861. until to day. 44 Months at $16,	704.00
			To 6 Weeks board of Negro man Adam, from Aug 7th 1860. at 2.50 per week,	15.00
			To rent of room for 6 Months	24.00
				$1490.59

Morris Ellinger the defendent on Oath says. that the annexed account is Correct and just that the several items therein Mentioned are correctly stated and that he believes the said account & the matters therein stated are true

Morris Ellinger

Subscribed & Sworn to before me this 1st Sep 1865

Sand. A. Gilbert N. P

Seal

And afterwards the following was entered of Record

Record "August term Saturday September 2nd. 1865

Henry. T. Schlosser Plf

vs

Morris Ellinger Def

Now at this time the Plaintiff has leave to file replication to offset, within sixty days of the next term of This Court

And afterwards the following was entered of Record

21

Record "August term Saturday September 2d 1865-

Henry F. Schlosser Plf

vs

Morris Ellinger Def

Now here at this time on applica=tion of the Plaintiff by his Attorney this Cause is continued to the next term of this Court "

And afterwards the following was entered of Record

Record Febmay term, Wednesday March 28th 1866

Henry F. Schlosser Plaintiff

vs

Morris Ellinger defendant

Now here at this time on application of the plaintiff by his Attorney, this cause is placed at the foot of to days Docket

And afterwards the following was entered of Record

Record "Febmary term Wednesday March 28th 1866

Henry F. Schlosser, Plaintiff

vs

Morris Ellinger Defendant

Now at this time on application of the Plaintiff by his Attorney this cause is Continued to the next Term of this Court.

And afterwards the following was entered of Record

Record

"August Term Tuesday November 27th 1866

Henry. F. Schlosser, Plaintiff

vs

Morris Ellinger, Defendent

Now here at this time the Plaintiff by his attorney files substitute Replication,

Which said Replication is in words and figures as follows, to wit,

Replication

"In the Boston Court of Common Pleas

H. F. Schlosser

vs

On. Ellinger

The plaintiff denies the items of offsett claimed by the defendent, each and every one seperately, for he states, that on the first

day of October 1860, the defendant rendered to him a bill or account for $260, it being the amount of boarding, acpts at the bar & from the slate to date he afterwards paid boarding to Oct 17th $12, to 31st $12, Dec 3rd $12, Jan 1st 1861, $12, on July 17th 1861, he pd boarding to date and from July 17 1861 to May 2nd 1862 he settled for the board and from May 2nd 1862 to March 8th 1862. he boarded with Ellinger for the interest due to him from Ellinger for the amount Ellinger owed to him by an agreement between the parties, all of which is shown by the a copy of the Memorandum of the account kept at the time by Plaintiff, he denies all the items of the offset except as above stated, many of the items charged, he obtained but the same were settled from time to time between the parties, by payments made by plaintiff to defendant, he alleges that defendant is still indebted to him in the sum of over five Thousand dollars, He admits that a negro man named Adam boarded at defendants, but he

States. he worked there, & his work was worth at the sum of twenty five dollars per Month besides his board

Barnes & Denison

Attys

H. F. Schlosser Plaintiff makes Oath & says he believes this application is true as stated

H. F. Schlosser

Sworn & Subscribed. before me this Nov 27th 1866

O. F. Boeum, Clerk

Which said Memorandum of account is in words & figures as follows ——

Account

" H. F. Schlosser

Paid to Morris Elliger

1st day of October 1860

for Boarding and evertings. the Bill of 260 dollars

Agin. October 17 for Boarding 12

Oct 31 —— 12

Decb. 3 —— 12

1861 January 21st —— 12

Quit Boarding

Boarded by Held

from January the 4th 1861. to July 1861, Paid all of Gait,

25

Renn Boarding by M. Ellinger
July 17. 1861 and paid for it,
From May. 2, 1862. to March 8th 1865
taket Boarding for Intres—
Lins Marty 8 1863; I. board myself
H. F. Schlosser

And afterwards the following was
entered of Record

Record "August term Tuesday November 27th 1866
Henry. F. Schlosser Plaintiff
vs
Morris Ellinger defendant
Now here at this time on
application of the defendant by his
attorney. this cause is Continued
to the next term of this court, It.
is therefore considered by the Court
that the Plaintiff recover of and
from the defendant. his costs and
charges of this Continuance. and
have thereof Execution "

And afterwards the following
was entered of Record

Record Febmary term Wednesday Febmary 27th 1867
Henry F. Schlosser Plaintiff

vs

Morris Ellinger defendant

Now at this time. the Court having been of Counsel in this Cause, a Change of Venue is awarded to the Platte Circuit Court,

Statement of Fees as shown by Fee Book

Fees	Clerk Docket	6.50
	Do Recom	12.25
	Court Hall	2.00
	Sheriff Nagle	4.50
	Marshall Roney	18.00
	Do Hedges	3.35 — $46.60
	Makin Transcript Recom	$3.50
		$60.10

Incurred

Petition	1. 2. 3. 4. 5
Note	6.
Summons	6. 7.
Return	7
Record file Petition	7. 8.
Do Order to issue Summons	8.
Do file motion for cost	8
Motion for cost	8. 9
Record file Demurrer	9
Demurrer	9. 10
Record Motion for Cost Over Ruled	10. 11.
Do file and offset & Co Claim	11.
Answer	11. 12. 13. 14. 15

Affdt & Counter Claim		16. 17. 18. 19. 20
Recon	leave to file Replication	20.
do	Continuance	21
do	Foot of Docket	21.
do	Continuance	21. 22
do	file Sub Replication	22
Replication		22. 23 24
Account		24. 25
Recon	Continuance	25
do	Change of Venue	25. 26
Fees		26

State of Missouri }ss
County of Platte }

I W F Broom Clerk of the Weston Court of Common Pleas within the County and State aforesaid do hereby Certify that the within and foregoing Twenty Six Pages Contain a full true and complete Transcript of all the the Record and Proceedings had by the Court aforesaid in the foregoing entitled Cause as the Same remains now of Record and on file in my office

In testimony whereof I have hereunto set my hand and affixed the Seal of Said Court at office in Weston this 15th Oct 1867

W F Broom Clerk

275.

Henry J Schlosser
to
Morris Ellinger

Transcript

Filed Oct. 29th 1867.

F. M. Tufts
Clerk

[44] SUBPŒNA—Circuit Court —Printed and for sale by Winchell, Ebert & Marsh, Printers and Stationers, Hannibal, Mo.

State of Missouri, } *ss.*

COUNTY OF PLATTE,

THE STATE OF MISSOURI,

TO G. W. Bell, H. T. Schlossner

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 said County of Platte, on Wednesday the 20th day of November, then and there to testify and the truth to speak, in a certain matter o controversy now pending in our said Court, wherein H. T. Schlossner Plaintiff, and Louis Ellinger is 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.

Witness my hand and the seal of our said Court. Done at office in Platte City, in the County aforesaid, on this 6th day of Nov A. D. 1867.

P. M. Pugh Clerk.

By D. Plantenght De

Printed and for sale by Winchell, Ebert & Marsh, Hannibal, Mo.

No. 275

PLATTE CIRCUIT COURT.

Nov Term, 1867

Plaintiffs

Subpoena.

H. J. Schollmeier

vs M Eckinger

Pl'tff's. } Witnesses.
~~Def'ts.~~ }

Day of Trial, Nov 20/867

Gpr Bell &
Las Barnes &
H. J. Schlossmer &

Served the within Spa on the 8 day of Nov 1867 by reading the same to Gp Bell Jos H Barnes and H J Schlossmer

N. R. Ogan Shff

Ogan 150

State of Missouri, } ss.
COUNTY OF PLATTE.

THE STATE OF MISSOURI, TO:

John Schindler Robt Murdock
Phillip Egstaat

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 Wednesday the 20 day of Nov, then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein

Henry T Schlossner Plaintiff,

and Morris Ellinger Defendant,

on the part of said Defts; 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 11 day of Nov A. D. 186 7.

F M Lafe CLERK.

BY H Hartenger D. C.

No. 275

PLATTE CIRCUIT COURT.

Nov Term, 1867

Henry T Schlapner

vs Subpœna.

Morris Ellenger

Pl'ffs, } Witnesses.
Def'ts, }

Day of Trial 19th

13 John Schindler

16 Robert Murdock

Phillip Egetadt NE

Served the within by reading the same to John Schindler & Robt Murdock Nov 16/67

P Egetadt not found
Jan 1/68 N D Ogden

State of Missouri, } ss.
COUNTY OF PLATTE.

THE STATE OF MISSOURI, TO: John M. Morse Jacob Deutz
Wallace Vallandingham

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 Wednesday the 20th day of Nov, then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein

Henry T. Blodgett Plaintiff,

and Morris Ellinger Defendant,

on the part of said Defr; 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 11 day of Nov A. D. 1867.

F. M. Lofton, CLERK.

BY L. Partenheimer D. C.

No. 275

PLATTE CIRCUIT COURT.

November Term, 186 7

Henry T. Schlosser

vs

Subpœna.

Morris Ellinger

Pltffs,
Def'ts, } Witnesses.

Day of Trial

J. M. Morris non est

Jacob Deetz 1/2

13 Wallace Vallandingham

Served on Jacob Deetz
and Wallace Vallandingham
J. W. Morris is sick

N. P. Agee
Sheriff

Oct 1867

STATE OF MISSOURI, } SCT.
COUNTY OF PLATTE,

The State of Missouri, to:

J. M. Moies; Jacob Deats; Wallace Vallandingham;
John Schindler; Robert Murdock; Philip Ecstadt.

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* Thursday *the* 16th *day of* April, *then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein*

Henry T. Schlosser *is Plaintiff,*

and Morris Elliger *is Defendant,*

on the part of said Defendant; *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 1st *day of* April *A. D. 1868.*

F. M. Tufts, *Clerk.*

By ____, *D. C.*

√

No 275.

PLATTE CIRCUIT COURT.

April Term, 1868.

Henry T. Schlooner

vs. Subpœna.

Morris Ellenger

~~Plaintiff,~~
Defendants, } Witnesses.

Day of Trial Thursday 16th

4 John Schindler

4 Robert Murdock

2 Philip Ecstadt

2 D. M. Moise

4 Jacob Deitz

4 Wallace Vallandingham

Serve the within & ready
to Jno Schindler Robt Murdock
Jacob Deitz & Vallenghams
Ape 4/64 & Ecstadt &
D M Moise not found
Fee 3.00 N A Ogden Shff

STATE OF MISSOURI, } SCT.
COUNTY OF PLATTE,

The State of Missouri, to:

George W. Belt; James H. Burnes; and H. F. Schlossner

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* Thursday *the* 16th *day of* April, *then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein*

Henry F. Schlossner *c. Plaintiff,*

and Morrib Ellinger *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 1st *day of* April *A. D. 1868.*

F. M. Tufts, *Clerk.*

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

No. 275.

PLATTE CIRCUIT COURT.

April Term, 1868.

Henry T. Schlossner

vs. Subpœna.

Morris Ellinger

Plaintiffs,
~~Defendants.~~ } Witnesses.

Day of Trial Thursday 16th.

4 George W. Belt

4 James H. Barnes

4 H. T. Schlossner

Served the within & ready the same to the within

Apl 4/68 N P Ogden Shff

Fee 1.50

STATE OF MISSOURI, } SCT.
COUNTY OF PLATTE,

The State of Missouri, to:

D. P. Wallingford

W. H. Roney

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* Thursday *the* 16 *day of* April, *then and there to testify and the truth to speak in a certain matter of controversy now pending in our said Court, wherein*

Henry J. Schlosser *Plaintiff,*

and Morris Ellinger *Defendant,*

on the part of said pltff; *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 6th *day of* April *A. D. 1868.*

L. M. Tufts, *Clerk.*

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

No. 275

PLATTE CIRCUIT COURT.

April Term, 185 8

Henry J. Schlossen

vs

Subpœna.

Morris Ellings

Plaintiffs,
Defendants, } Witnesses,

Day of Trial Thursday 16th

D. P. Wallingford

W. H. Roney

Served the within Subpœna on the 7th of April 1858 by reading the same to D. P. Wallingford and W. H. Roney

N. P. Ogan Sheriff

N. P. Ogan $1.00

Henry J. Schlosser Plff.

vs.

Morris Ellinger Def.

The defendant on application for continuance of this cause says he can not safely proceed to trial herein because of the absence of witnesses whose evidence is material in this cause, viz: Robert Murdoak, Philip Ecstadt J. M. Moise, Jacob Fleitz and Wallace Vallandingham. That he has had a subpoena issued out of this Court for said witnesses and the same has been returned served on all but Ecstadt and Moise on the 4th day of this month. That all of said witnesses but said Ecstadt and Moise live in Platte County Missouri. That Ecstadt did live in Denton until a few months ago when he suddenly left without the knowledge of this defendant and defendant was informed to Leavenworth City, Kansas. That he has made inquiry of his whereabouts and has failed to find him in Leavenworth or elsewhere so as to get his deposition. That defendant expects to prove by said Ecstadt a large portion of his account which he has plead

as offset against the demand of the Plaintiff. And he also expects to prove the said account and that he sold and furnished the goods wares and merchandize to Plaintiff and paid him the amounts of each as they are charged in his said account by the said Testimony Murdock Diehl and Ballandingham and that he knows of no other witnesses by whom he can prove the same facts as fully as by them. And defendant says that the testimony of the said Moiey is very important to him. That he can prove by said Moiey that Plaintiff assigned and sold to the defendant each one of the debts for which the Plaintiff now sues except the note of this defendant and the account of the Plaintiff that said Moiey may present at the time of the sale and transfer to defendant of those debts and that this defendant paid him ~~the amounts~~ for the same. And that the said Plaintiff has at diverse times told said Moiey ~~this~~ his pretended cause of action accrued that this defendant ~~owed~~

owed him nothing. Defendant says
that ~~that~~ said Moier left Weston
Mo. some time before this suit was
brought and that since the commence-
ment of this suit he has made dili-
gent inquiry as to his whereabouts
and has only recently been informed
that the said Witness resides in Sacra-
mento California. That defendant
has not had time since he discov-
ered the whereabouts of said Moier
to procure legal notice and take his depo-
sition but that he now believes
that he can get his testimony by
the next term of this Court.
That none of said Witness are ab-
sent with the connivance or consent
of this defendant and that he
knows of no other Witness by whom
he can prove the same facts. That
this continuance is not asked
for vexation or delay but that

the plaintiff may have a fair Trial of this cause and that he believing he can have the testimony of all them witnesses at the next Term of this Court. Morris Ellenger

Subscribed & Sworn to before me this 16th day of April A.D. 1868

Geo W Belt
Notary Public

Schlosser
vs
Ellenger
Affidavit for
Continuance

Filed in Open Court
April 16, 1868.
F. M. Wright
Clerk

STATE OF MISSOURI, } SCT.
COUNTY OF PLATTE, }

The State of Missouri, to: George N. Bell, James N. Barnes, H. T. Schlossner, D. P. Wallingford W. H. Roney and S. D. Fulton.

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* Tuesday *the* 13th *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*

Henry T. Schlossner *Plaintiff,*

and Morris Ellinger *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 3rd *day of* October *A. D. 1868.*

F. M. Tufts, *Clerk.*

By _____, *D. C.*

No. 245.

PLATTE CIRCUIT COURT.

October Term, 186 8.

Henry T. Schlossner

vs. Subpœna

Morris Ellinger

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

Day of Trial Tuesday Oct. 13th

5 Geo. W. Belt

5 James M. Burnes

5 H. T. Schlossner

5 D. P. Wallingford

5 W. H. Roney

5 S. D. Fulton

Served by reading the
within to the within parties
Oct 8/68 N P Ogden
3 50 Shff

STATE OF MISSOURI, } SCT.
COUNTY OF PLATTE,

The State of Missouri, to: John Schindler, Robert Murdock, Philip Ecstadt, J. M. Moise, Jacob Deitz & Wallace Vallandingham

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* Tuesday *the* 13th *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*

Henry J. Schlossner *Plaintiff,*

and Morris Ellinger *Defendant,*

on the part of said Defendant; *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 3rd *day of* October *A. D. 1868.*

F. M. Tufts, *Clerk.*

By _____, *D. C.*

No 275

PLATTE CIRCUIT COURT.

October Term, 1868.

Henry T. Schlossner

Pl's. Subpœna

Morris Elliger

~~Plaintiffs~~,

Defendants, } Witnesses.

Day of Trial Tuesday Oct. 13th

5 John Schindler

10 Robert Murdock

NC Philip Ecstadt

NC J. M. Moize

5 Jacob Deitz

5 Wallace Vallandingham

Served Oct 1868 by reading W. W. Ogden

Ogden 300

1 David Bullock
2 Z. J. Flannery
3 Charles Loan
4 ~~P. N. Cumberford~~
5 James P. Lynch
6 Robt Johnson
7 Wiley Cooper
8 Jacob Baker
9 Joseph Todd
10 Wm H. Arnold
11 ~~James M. Hale~~
12 James F. Bradley
13 Patrick Henry
14 ~~C. P. Ashley~~
15 ~~W. F. Calliscutt~~
16 Stephen M. Crockett
17 ~~W. J. Brooks~~
18 ~~A. N. Burkhead~~

Henry J. Schlossman

vs

Morris Ellinger

Jury Panel

Filed Oct. 13th, 1868.

F. McJuffo

Clerk

Witnesses	Nov. T. 67 –	Apl T. 68 –	Oct T. 68.	Amt
George W. Beck	1 "	1 "	1 "	3 00
James H. Barnes	1-14 "	1-14 "	1-14 "	6 36
H. T. Schlosser	1-14 "	1-14 "	1-14 "	6 36
J. M. Moies	~	~	~	~
Jacob Deitz	1-14 "	1-14 "	1-14 "	6 36
Wallace Vallandingham	"	"	"	~ ~
John Schindler	1-14 "	1-14 "	1-14 "	6 36
Robert Murdock	"	"	"	~ ~
Philip Ecstat				~ ~
D. P. Wallingford	1-14 "	"		2 12
W. H. Roney	1-14 "	1-14 "		4 24
S. D. Fulton		"		2 12
John Whitton		1-14		2 12
				39 04
Jury Panel				12 00
F. M. Tufts				39 45
N. R. Ogden				21 75

142394
125000
173.94

11224
6010
200
174,34

Henry J. Schlossner

vs. Fee Bill

Morris Ellingen