

1817-034

SOUTHAMPTON COUNTY
CHANCERY PAPERS

WHITNEY'S EXECUTOR

VS. WHITNEY

S/1817

Other SURNAMES: Langford

N^o 532.

Jesse Langford wor^t
of J. Whitney
vs^t Bill by or
Joshua Whitney jur
Daker p. 9.

May 19th 1817 Inj^t granted

To the worshipful the Justices of the County Court
of ~~Southampton~~ ^{Hambley} Complainings sheweth unto your
worships your Orator Jesse Langford that about the month of
last past, a certain Joshua Whitney junr, instituted ~~an~~
an action of debt in the said Court of the County aforesaid
against your Orator as the executor of Joshua Whitney decd and
at the next term of the said Court next succeeding the institu-
tion of the said suit, the said ~~said~~ Joshua Whitney junr
obtained a judgment against your Orator as aforesaid
for the sum of £ with interest and costs - your Orator states
that he could have proved that the sum of money for which
the said judgment was rendered had been paid and discharged
by his testator, in his life time, and for the purpose of
making a proper defence to the said suit, your Orator
spoke to and employed an attorney and directed him to file
such pleas as under the circumstances he should deem
necessary - that the said attorney advised your Orator that it
would not then be necessary further to attend to the said suit
and assured your Orator that he would file the pleas necessary
and proper for his defence - your Orator further states
that the said attorney employed in manner aforesaid, not-
withstanding his said promise & undertaking, failed to attend
the office judgment in the said suit by reason of which a
judgment was confirmed at March Court as aforesaid, and now
your Orator as executor as aforesaid to his great injury & oppression
is threatened by the said Joshua Whitney junr with an execution -
your Orator further states and avers that the judgment

affair was obtained in consequence of the mistake or
inattention of his said attorney and to the complete surprise
of your Orator. In Tunc Consideration whereof and
for as much as your Orator is remediless in the premises
except by the aid & assistance of a Court of equity where
matters of this kind are properly cognizable and relievable.

To the end therefore that the said Joshua Whitney just
is prayed to be made defendant hereto; may upon his personal knowledge or information of others he believes them to be
with full true & perfect assurance make to all & singular the true and correct - given under my hand this
allegations herein contained, as fully and unequivocally as if the
same were here again repeated, and he should more especia-
lly interrogated - that he, the said defendant may set forth
particularly, whether he did obtain a judgment as aforesaid
against your Orator and whether execution has been issued
by virtue of the said judgment - your Orator further prays
that your worship will injoin the said Joshua Whitney just &
all others from further proceedings in the said case, and that
you make such other or further order or decree in the premises
as may seem consistent with equity and good conscience &
as is only bound he will ever pray & your Orator prays
your worship to award to him the Com. th. mit. of subp. & direct
the Commanding J. C. -

Suborn to in open court
17th May 1817
Prochelle

Richd. H. B. Allen

Att. for Comp.

Southampton County Jc;

This day Jesse Langford appeared
a Justice of the peace for the County
aforesaid, and made oath that the allegations contained in the
aforesaid Bill, so far as they depend upon his own knowledge
and so far as they depend upon the
information of others he believes them to be
true and correct - given under my hand this
day of
May A. D. 1817.

Whitney
to Aus.
Lankford

Prolog

To the worshipful The County Court of Southampton
sittings in Chancery.

The Answer of Joshua Whitney
~~executor of Joshua Whitney dec'd~~ to the Bill of complaint
submitted against him in this worshipful Court by Jesse
Lankford. This respondent saving to himself the full
answer to the said Bill says that it is true he has
received a judgment against the said complainant or
he has stated, but as to the negligence & inattention
of the cause retained by the said complainant in not
defending the said suit this respondent knows nothing
of it & at any rate presumes this to be a matter ex-
clusively between the said complainant & his said cause.
That this respondent most positively denies that the
sum of money for which the said judgment was
rendered or any part thereof has ever been paid or in
any manner discharged to him either by the said com-
plainant or his attorney in his life time or the said com-
plainant himself since. And this respondent having
answered the said Bill prays that the said judgment
stated by the said complainant may be dissolved
by your worship & this respondent dismissett leave
with his reasonable costs in this behalf most
wrongfully expended. — Joshua Whitney.

This day personally appeared before me James Jones
a Justice of the peace for the County of
Southampton Joshua Whitney & made oath that
the facts stated in the above answer are true.
Given under my hand this 21st day of December
1888. —

James Jones J.P.

Saukford ^{2th} year } Injunct:
 ^{1st} } Subpo:
Whitney Jr

Excutis

Cur. & Buts, exp
ap^d H. P. Clements, atty

The Commonwealth of Virginia to the Sheriff of Southampton County
and to Joshua Whitney & his Councillors, Attornies and agents and every of
them, Greeting: Whereas it has been represented into the Court of the County
of Southampton in Chancery, on the part of Jeph Lankford Executor of
Joshua Whitney & decd. who hath prayed that he may have our writ
of injunction Subpoena, for to stay all further proceedings upon a
Judgment obtained at Common Law by the said Joshua Whitney & against
the said Jeph Lankford executor as aforesaid, till the hearing of the Cause
in Chancery upon a bill filed for that Purpose, we therefore in
Consideration of the Premises aforesaid, Strictly, enjoin and Command you
the said Sheriff and Joshua Whitney & absolutely to desist from all
further proceedings against the said Jeph Lankford Executor as aforesaid
upon the Judgment aforesaid, untill the hearing of the same in Chancery
as aforesaid, under the Penalty of £100 And have them there this mit
witness James Rochelle Clerk of our said Court at his office the 22^d day
of May 1819 In the 43rd year of our Independence

James Rochelle