

1852-008 SOUTHAMPTON COUNTY
CHANCERY PAPERS

SMITH VS. MOORE'S EXECUTRIX - a1
11/1852

other SURNAMES: Holland
Goodwin, Goodwyn, Pretlow,
Darden

24 25 26 27 28 29

Smith

to } Papers.

Moore's etc.

1852 November

Smith

v. } Stat. Rules

Morris exors

Henning T Smith
against

Elizabeth Moore Ex'x of James H. Moore dec' & Septima Darden M'ff.

1849 Dec. 3^d Bill filed & Injow: awarded

" " 11th Bond & security given & sp^a & Injow: issued.

1850. Jan'y Rules. sp^a & Injow ret^d? Executed on Darden. Moore no inhabitant.

" Feby " New sp^a & Injow: issued against Dft. Moore ex.

" March " sp^a & Injow. ret^d? Executed on Dft. Moore. Set for hearing as to
" Dft. Darden.

" May. T. Leave given Dft. to answer. & cont^d.

" May " Continued

1852 May . . Decree for account.

" Nov. . . Injunction dissolved

A copy of the judgment referred to in the bill is herewith
 filed marked and prayed to be taken as a part of this
 bill

Smith
 } Bill Supra:
 Moore vs
 1849 Dec. 11th bond \$2000000
 issued

December the 3^d 1849

An Injunction is awarded to restrain the Deft: Elizabeth Moore Exr of John H. Moore and
 all others concerned from any further proceeding upon the Deft of Elizabeth Moore Exr of said
 Mr: H. Moore against the Plaintiff, in the bill mentioned until the further order of the Court.

But the Plaintiff is not to have the benefit of this Injunction until he or some other person
 = the person for him shall have executed bond with good security and filed in the Clk,
 Office of the Civ: Sup: Ct of Law & Chancery for the County of Southampton in a
 bond equal to the amount of said Deft: with condition as the Law directs

To the Clk of the Civ: Sup: Ct
 of Law & Chy for the County of Southampton

W. W. Nash.

To The Honorable John W. Nash judge of the
circuit superior court of law and chancery for the town
of Petersburg in chancery sitting

Humbly complaining
your complainant Benjamin T. Smith of the county
of Southampton sheweth unto your Honor that he
became indebted to John H. Moore in the sum of
eight hundred and twenty dollars and seventy cents
for work and labor done by the surgeons of the
said Moore for him. That one B. F. Portlow the
agent for John H. Moore came to him with the
said account and demanded payment of the
same. That he represented to him that he was
away from home and would like to see what
amount he had paid the said Moore on account
of the said work as he had his receipts for the same
that finally it was agreed between your complainant
and the said Portlow that he should execute his
note to the said John H. Moore for the sum of
four hundred and eighteen dollars and three cents
the balance due upon the account as stated by
Moore with ^{the} express understanding that there were
some accounts against the said note which were to
be deducted therefrom and to correct all errors and
mistakes all of which will more fully appear by
reference to the said account and the note in the
said account signed by the said B. F. Portlow
which is herewith filed marked A and prayed to be
taken as a part of this bill

Your complainant further shews unto your Honor
that subsequent to the execution of his bond to Moore
upon an examination of his papers he has found
that he had made several payments to the said

Answer of
Capt. Maud -
Smith
to } answer
Moses 184

1850 June 14th

To The Hon^{ble}. Richard S. Baker Judge of the Circuit
Superior Court of Law & Chancery for the County
of Southampton.

Assue of Elizabeth Moore Executrix of Geo H.
Moore - and to a bill exhibited in this Court against her
by Henry J. Smith -

This respondent. saving &c. for answer says - that
she is Ex^{tr} of Geo H Moore - that a Judgt. had been
obtained by Geo H Moore in his lifetime against Henry
J. Smith for the sum of \$ and cents - That a
considerable portion of the Judgment had been paid -
and after the death of Moore - the Judgment was
renewed in the name of your respondent -
That she knows nothing of any mistake - which
occurred in the settlement between her Testator
& H. J. Smith - at the time of the execution of
the bond - or of the receipt which Smith pretends
was omitted in that settlement - and supposes
it is mistake - That she is informed the offset
which Smith alleges to - and which he states was
to be the subject of arbitration and not have any
allusion to the pretended claim of \$100 - referred to
in his bill - but consisted of a small charge for
Tools furnished the slaves of her Testator - such as
axes &c. - who were in the employment of Smith -
and of a charge for carrying the said slaves on
a Steamboat, from one place to another, to do
the work of the Plaintiff - This true account and

These charges, your respondent is still willing to submit to arbitration, & to credit whatever may be awarded on his execution, now required --

That the claim of \$100 - mentioned in the bill the known nothing about. and is advised that if the Plaintiff holds any such claim - he should have, filed his offer in the suit at Law. when such answer was properly exigent, That he has not even stated any reason why he did not appear the suit at Law. and offer his offer of \$100 --

That having answered the bill with the prayer your Honor to dispense the injunction awarded in this cause - and grant such other & general relief in the premises as Equity may dictate. as in and by lawed &c --

Elizabeth Moore Execⁿ.
of Thos. H. Moore.

by
Counsel -

Superior County Jc.

This day Elizabeth Moore Executrix of John H. Moore dec^d. ~~subscribed~~ ^{appeared} before me a Justice of the Peace for the County aforesaid and made oath that the facts stated in the within answer so far as stated on her own knowledge are true, and that so far as stated on the information of others she believes them to be true. Given under my hand this 14th day of May 1850 -

R. F. Dillan, J. P.

Smith }
i }
Moon }

To be entered

R. H. Baker.

May Co. '52.

1852 May Term

Moore
Smith

This day this cause came on. To be heard
on the bill, answer of the Defendant, replication
thereto exhibits and examination of witnesses, and
was argued by counsel. On consideration whereof
the Court doth adjudge order and decree that a
commissioners of this Court shall an account
of the transaction between Henning J Smith and
John H Moore and. and report the same to
Court

Smith

n } Co. Secured -

Moore's Co.

~~Aug. 16th~~

~~July 20th 1852~~

Left Court day - 1852

Southampton Circuit Court May 5th 1852.

Hemming T Smith

against

Plff

In Chancery

Elizabeth Moore Exr John H Moore dec^d & Septima Darden Plffs v. Defs

This day this cause came on to be heard on the bill, answer of the Defendant, replications thereto, exhibits and examination of witnesses and was argued by Counsel. On consideration the Court doth adjudge, order and decree that a Commissioner of this Court. settle an account of the transactions between Hemming T Smith and John H Moore dec^d. and report the same to Court.

At Copy

Teste. J. R. Edwards Cb

Smith

i } Com: Notice
Abord: Ex:

Execute this notice on

H. T. Smith, 10 days before

Sept Court day, and return

to Comm on that day

Comm:

Executed by ~~the~~ signing

T. Smith, September

2/1852 by delivering him a

Copy.

Attest chff.

Hemming & Smith

PLH

Elijah Clark Esq. J. H. Elmore & Jephtha Dorden Esq. Esq.

Pursuant to the decree of the Circuit Court for the
County of Loudoun, rendered at May Term 1852
the above parties are notified to attend at the Comm. office
in Jerusalem on the 20th day of September next, with the
inclosing papers to enable the Comm. to settle the account then
in regard -

M. S. Goodwyn Comm

Aug: 16th - 1852

Chff. fee 50¢

Nov. - Jan. 1852

Smith ~
i ~ Dec
Moore ~

To be entered

R H Baker

Nov. Co. 1852

Smith
i
Moore } Decr

This cause came on this day to be again heard on the papers formerly read and on the report of Commissioner Goodenough made and returned to court in pursuance of the decretal order entered at the May Term 1852, ^{to which there is no exceptions} and was argued by Counsel, on consideration whereof the Court confirming the said report doth adjudge order and decree that the injunction awarded the Plaintiff on the 3 day of December 1849 to injoin the Defendant from proceeding on the said judgment in the bill mentioned obtained in the circuit court for the county of Southampton in favor of the Defendant's estate against the Plaintiff be made perpetual except for the sum of \$70.55 with interest from the 20th day of June 1848, and that as to the said sum of \$70.55 with interest as aforesaid the said injunction be dissolved: and it is further ordered that each party pay their own costs

To enjoin the defendant Elizabeth Moore exx: of John H Moore
 and all others concerned from any further proceedings upon the judg-
 ment obtained in the Circuit Superior Court of Law and Chancery for
 Southampton County in favour of the said Elizabeth Moore exx: of
 John H Moore against the plaintiff for \$953.75/100 bonds to be dischar-
 ged by the payment of \$476.85/100 with interest from 20 December 1847
 till paid bonds. ^{justice take further order of the Court} The plaintiff having executed bond with good security
 conditioned according to Law.

Juste L.R. Edwards cto

of mch

2 Sp. & J. Jones

Moore Exx

1850 January 1st

Grant a an Lp the
 Dan em stff

Elizabeth Moore no Indt.

Wm. H. Dringston Stff
 of Joseph Dandoo Exx

10.5.6

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *Elizabeth Moore Executrix of*
John H. Moore dec'd *Stephen Darden Sheriff of South-*
ampton

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County
of Southampton, at the Rules to be holden for the said Court on the first Monday in *January*
next, to answer a Bill in Chancery exhibited against *them* in the said Court by

Henning F Smith

And unless *they* shall answer the said Bill within ^{*two*} ~~four~~ months thereafter, the Court will take
the same for confessed, and decree accordingly. And this *they* shall in no wise omit, under
the penalty of £ 100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk
of our said Court, at the Court-house, the *11th* day of *December* 18*79*, in the
74th year of the Commonwealth.

LR Edwards

[One Copy to be delivered each Defendant.]

To my on the Defendant Elizabeth Moore exx of John H Moore
 and all others concerned from any further proceedings upon the
 judgment obtained in the Circuit Superior Court of Law and Chancery
 for Southampton in favour of the said Elizabeth Moore Exx: ^P
 John H Moore against the plaintiff for \$953 74/100 Herts. to be
 discharged by the payment of \$476. 25/100 with interest from 20th
 December 1847 till paid \$fons. ^{Under the further order of the Court} The plaintiff having executed bond
 with good security conditioned according to Law.

Teste. L.R. Edwards Clk

10.56

Smith

3rd of August.

Moore Exx

1850 March Rules

Executed the 26th February 1852 by delivery
 a true copy to the defendant -
 J. H. Moore

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ^{Subsca} Southampton County, Greeting:

We command you that you summon

Elizabeth Moore executrix of
John B Moore decd

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in *March* next, to answer a Bill in Chancery exhibited against *her* ^{another} *Y* in the said Court by

Hemming T Smith

And unless *she* shall answer the said Bill within four months thereafter, the Court will take the same for confessed, and decree accordingly. And this *she* shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the *Li* day of *February* 18*50*, in the *74* year of the Commonwealth.

L. R. Edwards *cl*

[One Copy to be delivered each Defendant.]

Rec notice Church slip & open burys

Smith

is 3 Notice

Moore's Exec^{te}

To Elizabeth Moore exec^x of Jos Bellmore Dec^d

Take notice that
I shall on Tuesday the 15th of April next proceed in the
Town of Jerusalem at the office of William B Shanness
between the hours of sunrise and sunset to take the
deposition of William S Goodwyn to be read as
evidence in a certain suit now depending in the
circuit superior court of law and chancery for
the county of Southampton in which I am
plaintiff and you and Septha Darden are
defendants at which time and place you may
attend if you think fit

Yours
Hunting T Smith

Smith
as 3 Depositions
Moore's Estate

Filed Apr. 16. 1850.

Deposition of William S Goodwin Taken in The
Town of Jerusalem at the office of Wm B Shanas
between the hours of sunrise and sunset Pursuant
to notice duly given to be made as evidence in a
certain suit now depending in the circuit
superior court of law and chancery between
Hunting T Smith plaintiff and E. Moore Ex^{te}
of Jon B Moore dec^d and Septa Tardus shiff
This deponent having been first duly sworn on
the holy Evangelists of Almighty God deposes
and says as follows - That sometime since Messrs.
Pridley & Goodwyn were employed by H. T. Smith to defend
a suit brought on a bond executed by said Smith to John
H. Moore, believed to be the same bond referred to in the
plaintiffs bill. Smith claimed to have offsets against
the bond. When the case was called in court, a proposition
was submitted by J. R. Chambliss counsel for Moore, to
permit the judgment to go in the case and that he would
direct no execution to issue, until he had taken the papers
to Moore, when he had no doubt Moore would con-
sent to allow the offsets, and if so, they could be entered
as credit on the execution. The proposition was accepted
by Smith and his counsel and Moore obtained judgment.
Smiths set of offsets was placed in the hands of Mr. Cham-
bliss and this respondent supposed, until recently, that the
whole matter had been settled -

W. S. Goodwyn

The above deposition was taken, sworn to and subscribed
at the time and place mentioned in the caption. Given
under my hand this 16th April 1850 -

Levi P. Nicholson J. P.

Statement for
Com. an.

Statement of Anthony Holland to be read by counsel before the Commissioners in making up an account under an order of the Circuit Court in the suit of H T Smith & Moore's Exors

Mr. Holland states that he superintended the sawyers of Geo H Moore while they were at work for Smith, that he kept some memoranda of their work which he finds corresponds with a book kept by Smith, and that the annexed paper is a true extract from that book: that Geo H Moore had but two pairs of sawyers at work for Smith at any time that he knows of: Moore's sawyers left Smith sometime about the last of June 1848 - I do not know at what time they returned.

Anthony Holland

Smiths

2

} Conners: Report

Moore Ex:

1852 Oct 18'

Smith

25

Moore Ex:

Commissioner's office

Sept. 20th 1852

Pursuant to the decree of the Circuit Court of Southampton County, on the 5th May 1852, the undersigned Commissioner begs leave to submit the following report, showing the amount due the defendant, Elizabeth Moore Executrix of John Moore from the plaintiff Messrs J. Smith

1847. Decr: 30th By amt: judgement due E. Moore Exec- \$ 476.85-
" " Costs of suit 8.99

1844. Octo: 21st - To amt paid as p receipt \$ 100.00
" Int thenon to Decr: 30th 1847 17.16

1847. Decr: 30th - By bal: due E. Moore Exa- 366.68

485.84 - 485.84

" " By bal: due E. Moore but down - \$ 366.68
" Int thenon to June 20th 1848 10.39

1848. June 20th - To amt paid Chambliss & Mendenburg attys - \$ 306.52
By bal: due E. Moore 70.55-

377.07 - 377.07

" " - By bal: due E. Moore Executrix ac - \$ 70.55-
with Int thenon from this day till paid

Respectfully submitted

M. S. Goodwyn Comr.

Com: fee \$ 3.00

add to Executrix

Comr:

Sheriff's fee - .50

Comr:

Sept. 2nd of Moon Bill 1845-

4 2000 ft scantling 3 1/4 c 4/6 \$ 15.00

325 ft Nailing c/p - 3.25

\$ 18.25

Bill sent to Master \$ 18.00

Paid Jacob 25 \$ 18.25

amt. Jacobs ap-

\$ 4.42
25-

\$ 4.17 due M.

Sept. 2nd of Moon Bill 1845-

4 2190 ft. scantling 3 1/4 c 4/6 \$ 16.40

260 ft Nailing c/p

260
\$ 19.00

Bill sent to Master \$ 18.00

Paid Will c/p 1.00 \$ 19.00

amt. Will ap-

\$ 4.73
off 1.00

\$ 3.73 due M.

Receipt

Mr. H. Moore
of
St. J. Smith

3.62 1/2
3 1/2
\$3.25 00

Re^d from H & Hunt one
hundred dollars for my
OCT 21st 1844 Mrs H Moore

Wm H. Morse

Statement of W. H. Smith
acct
\$440.70

Exhibit A

Smith

Exhibit A with Bill

Morse Em

100

8

1. Part
2. Only
3. Part
4. Part
5. Part
6. Part
7. Part
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Capt. W. J. Smith

1844

In acct. with Jas At More Dr & Cr

Amount of Savings done by my Surgeons

(Jacob & Miles) according to your bill of

27. May.

Am't of bill 3 of Sept.

" " 26. Dec.

~~Int on 114~~ By Cash Recd 26. Dec.

Interest on 114 dollars (balance after deducting 100.) to July 20. 1846

1845.

Am't of bill June 30.

Am't. " 4th Sept. overcharged amount

" " 13 Dec.

By Cash Recd July

Int on 140. dollars (balance after deducting \$130.) to July 20. 1846

1846.

Am't of bill of 10 April (Jacob & Miles)

Am't of bill of 10 April (Miles)

Note of 20 dollars due 13 July 1844

Int. to 17. July 1844

Payment 17. July 1844

Int on balance (said note) upto 20 May/44

Payment 20. May. 1844.

Int on balance note upto 20. July. 1846

Int on 81¹³/₁₀₀ dollars (am't of Jacob & Miles bill) upto July 20. 1846.

Balance due July 20. 1846

by Robt Edwards recd.

P. Then is come up as this which is to be deducted from the Note now given & also all other errors & omission in matters. The above postscript acknowledged by me and noted for the above amount 113 & 67 1/2 Aug. 1846

\$	¢	\$	¢
88			
28			
98			
		100	100
10	73		
94			
100			36.00
96			
			750
500			
40			
41	13		
204			
1	13		
			80
1	90		
			50
10			
2	72		
820	70	380	10
440	70		
22	67		
18	03		

Smith

To } Injor: bond

Moore's exor

I know all men by these presents that we Henning J Smith, Fielding
J Mahone Mills & Sumner are held and firmly bound unto

Elizabeth Moore executrix of John H Moore deceased in the just and full sum of
One thousand and eighty four dollars and sixty eight cents
to be paid to the said Elizabeth Moore executrix as aforesaid her certain attorney her
executors, administrators or assigns. And the payment whereof well and truly to be made
we bind ourselves, our heirs, executors, & administrators jointly and severally firmly by
these presents. Sealed with our seals and dated this 11th day of December
1849.

The Condition of the above obligation is such that whereas the above
bound Henning J Smith hath obtained from the Judge of the Circuit Superior Court
of Law and Chancery for the Town of Petersburg an injunction to stay, until the further
order of the Court, all further proceedings on a judgment obtained in the Circuit
Superior Court of Law and Chancery for Southampton County by the above named
Elizabeth Moore executrix of John H Moore dec^d against the above bound Henning J Smith
and J R Williams for nine hundred and fifty three dollars seventy cents & costs. To be
discharged by the payment of four hundred & seventy five dollars eighty five cents with
interest thereon from 20th December 1847 till paid and the costs. Now if the above
bound Henning J Smith shall prosecute his said injunction with effect or shall pay
and satisfy the judgment aforesaid and all such damages and costs as shall be awarded
against him in case the injunction aforesaid shall be dissolved then the above obligation
to be void or else to remain in full force and virtue.

H. J. Smith (Seal)

J. P. Mahone (Seal)

M. D. Sumner (Seal)

Southampton Circuit Superior Court. Clerks Office December 11. 1849

This day Fielding J Mahone & Mills & Sumner. the Security to the
above bond make oath and swear that their estates after the payment of all their
just and lawful debts are worth One thousand & eighty four Dollars
penalty of the said bond

J. P. Mahone

M. D. Sumner

Subscribed and sworn to before me
this 11th day of December 1849.

J. R. Edwards