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2-20-1799

### Judgment Book of the Rockingham County Superior Court, Vol. O, at 161–63, New Hampshire State Archives - Eastman v. Kelly,

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## Rockingham Js.

At the Superior Court of Judicature holden at Portsmouth within & for the County of Rockingham on the first Tuesday of February in the year of our Lord one thousand seven hundred & ninety-nine.

## Present.

The Honorable Simeon Olcott Esquire Chief Justice  
 The Honorable { Timothy Farrar }  
                       { Paine Wingate } Esq<sup>r</sup>. Justices.  
                       { Arthur Livermore }

A Commission was published appointing Hon<sup>ble</sup> Arthur Livermore Esquire a Justice of the Superior Court of Judicature

John P. Hale Esquire was admitted an Attorney of this Court and took the oath of office accordingly.

Returns of Grand Jurors

Bow	James Moore	Newmarket	Wentworth	Cheswill
Lanternbury	Joseph Ayers	Northfield	Charles	Glidden
Chichester	Edmund R. Seavitt	Northampton	W <sup>m</sup>	Godfrey
Concord	Isaac Dimond	Northwood	Levi	Mead.
Deersfield	Benjamin French	Nottingham	Greenleaf	Lilley
Epsom	James H. McClary	Pembroke		
Greenland	Samuel Hatch.	Pittsfield	William	Berry
Hampton	Josiah Marston	Portsmouth	Richard	Billings
Hampton falls	Nath <sup>l</sup> . Dodge	Rye	David	Locke.
Loudon	Samuel Piper	Sea brook	Blake	Locke.
Newington	Timothy Dame.			

Returns of Petit Jurors

	1 <sup>st</sup> week	2 <sup>d</sup> week
Bow	Joseph Baker	James Moore
Lanternbury	Laban Morrill	Jeremiah Clough.

that the said Ellison Fowler recover against the said —  
Moses Swett the sum of one hundred dollars Seventy cents  
damage and Costs of Courts taxed at twenty-six dollars eighteen cents

Eastman  
vs Kelly

Execution issued  
Feby. 20<sup>th</sup> 1799

Ephraim Eastman of Deerfield in the County of  
Rockingham husbandman, Plaintiff against Moses  
Kelly of Hopkinton in the County of Hillsborough —  
Esquire & Sheriff of said County, Defendant in a plea of  
debt for that the said Eastman by the consideration of the  
Justices of our Court of Common pleas holden at Exeter  
in & for our said County of Rockingham on the second  
Tuesday of August Anno Domini 1797, recovered Judgment  
against Nathaniel Ring of Weare in our said County of  
Hillsborough Blacksmith, for the sum of thirty dollars —  
& eight cents debt or damage, & fourteen dollars thirty four  
cents cost of the same suit, as by the record thereof remain-  
ing in the same Court appears, and afterwards, to wit,  
at said Exeter on the fifth day of September Anno Domini  
1797 sued out our writ of Execution thereupon in the  
form by law prescribed directed to the Sheriff of any  
County in this State or his Deputy and returnable  
into the same Court, then next to be holden at Portsmouth  
within & for said County of Rockingham on the first Tuesday  
of January Anno Domini 1798., and the said Ephraim  
thereafterwards, to wit, at said Exeter on the 20<sup>th</sup> day of  
November Anno Domini 1797, delivered said writ of  
Execution to one Moses Swett then & ever since one  
of the said Moses Kelly's Deputy Sheriffs in & for said  
County of Hillsborough, & for whose doings in said  
Office the said Moses Kelly is by law answerable, to  
be by the said Moses Swett duly executed and returned  
according to the command in said writ contained, and  
the said Swett thereafterwards at a place called Boscawen  
to wit, in Exeter aforesaid on the first day of January —  
Anno Domini 1798, by virtue of said writ of Execution

collected said Sums, together with Seventeen cents more for said writ & also his own fees, from the said King as in and by said writ he was commanded. — and the said Eastman, afterwards at a Place called Hopkinton, to wit, in Exeter — aforesaid on the eight day of June Anno Domini 1798 — demanded payment of the said Swett of the Sums aforesaid in said Execution contained amounting in all to forty four dollars & fifty-nine cents, but the said Swett in nowise regarding the duties of his said office utterly refused & neglected to pay the same, or hath the said Moses Kelly or any of his Deputies done it, whereby the said Eastman hath wholly lost the benefit of said Execution, by reason of all which a plea hath arisen & accrued to the said Eastman to demand have recover of the said Kelly the aforesaid Sum of forty four dollars & fifty-nine cents together with thirty per cent interest thereon from said eight day of June Anno Domini 1798 — Yet the said Kelly though requested has not paid the same but altogether refuses & neglects to do it. — To the damage of the said Ephraim Eastman, as he says, the sum of one hundred dollars. — This action was commenced by the said Ephraim Eastman against the said Moses Kelly, at the Court of Common pleas for said County of Rockingham August term 1798 & continued to January term 1799. — and the said Kelly, by Nathaniel Green Esquire his Attorney, comes & defends, when where & reserving liberty to waive this and make any other plea at the Superior Court, says the Plaintiff's writ & declaration are bad in law and this he is ready to verify & prays Judgment for his costs — and said Eastman, by William Plumer Esquire his Attorney, — consenting to said reservation, says his writ & declaration are good in law and prays Judgment for his damages & costs — Which pleas being heard & understood by the Court and it appearing that the Plaintiff's said writ and

...sation were good, Judgment was thereupon rendered that the said Ephraim Eastman recover against the said Moses Kelly the sum of fifty-one dollars twenty-seven cents damage and cost of suit taxed at eight dollars eighty-five cents. from which judgment the said Moses Kelly appealed to this Court and entered said appeal. — and now the said Moses Kelly being three times solemnly called doth not appear but makes default, and the Plaintiff appears & proves his declaration. It is therefore considered by the Court that the said Ephraim Eastman recover against the said Moses Kelly the sum of Fifty-four dollars fifty two — cents damage and costs of Court taxed at nineteen dollars & ninety-one cents. —

Thomas Fellows Deft<sup>t</sup> vs Joshua Shaw Plat<sup>t</sup>  
Dismissed.

John Miltimore App<sup>t</sup> vs John Brown App<sup>ee</sup>  
Continued to next term.

John Barker App<sup>t</sup> vs John Brown App<sup>ee</sup>  
Continued to next term.

Benjamin Graves App<sup>t</sup> vs John Moor Trus: App<sup>ee</sup>  
Continued to next term.

Benjamin Graves App<sup>t</sup> vs John Betton Trus: App<sup>ee</sup>  
Continued to next term.

Benjamin Graves App<sup>t</sup> vs W<sup>m</sup> Gilmore Trus: App<sup>ee</sup>  
Continued to next term.

John Davenport & up<sup>s</sup> App<sup>t</sup> vs Ebenezer Chadwick App<sup>ee</sup>  
Continued to next term.

Benjamin Libbey App<sup>t</sup> vs Daniel Todd Jun<sup>r</sup> App<sup>ee</sup>  
Continued to next term.

Bartholomew Berry of Portsmouth in the County of Rockingham Baker, Plaintiff against Henry Larroque of Portsmouth aforesaid Baker, Defendant in a plea of the case for that the said Henry at said Portsmouth on the third day of September instant being indebted to the

Berry  
vs Larroque  
Execution issued  
Feb 7. 19<sup>th</sup> 1799.