

McKany, William W. vs Overland Road Company

Oct 1 1863      b 25 F 92

#62

Damages for Personal Injury -

\$2,500.00

Change of venue  
to Greene Co.

2

Debit

Tuller, G M

Butterfield, —

Fisher, —

Tuller, —

Note: Stage coach overturned  
at Warsaw enroute from  
Smith City to Bolivar on March  
14, 1861

William W. McLoey Plaintiff

against

J. M. Fuller Butterfield Fisher

Fuller and all other persons Composing the Company known under the name and style of the Overland Mail Company Defendants

In the Polk County

Circuit Court, Civil

action

Plaintiff states that heretofore to wit  
On the 12<sup>th</sup> day of March 1861

the said J. M. Fuller Butterfield Fisher & Fuller and other persons whose names are not known to Plaintiff were owners and proprietors of a certain

Common Stage Coach for the carriage and conveyance of passengers from Smith City in the State of Missouri to the town of Bolivar in the State of Iowa for hire and reward to them the said Defendants in that behalf to wit at Smith City, and the said Defendants being such owners and proprietors of the said Coach as aforesaid therefore

heretofore to wit on the 11<sup>th</sup> day of March 1861 at said Smith City the said Plaintiff at the special instance and request of the said Defendants became and was an inside passenger upon said Coach to be safely and securely carried from said Smith City to the said town of Bolivar for a certain fare and reward to the said Defendants in that behalf and the said Defendants then and there received the

Plaintiff as an inside passenger and  
Deft as pay and consideration from Plaintiff  
to convey and carry him safely and securely  
in said Stage Coach from the said Smith  
City to the said Town of Bolivar the sum  
of six dollars and fifty cents but the said  
Defendants not regarding their duty in  
that behalf did not use due and proper  
Care that the said Plaintiff should be  
conveyed safely and securely to said  
Town of Bolivar from the said <sup>Smith</sup> City  
but wholly neglected & failed so to do and  
the said Defendants did on the 14<sup>th</sup> day of  
March 1841 near the City of Warsaw on the  
high way leading from there to Bolivar  
a <sup>horse</sup> by and through their agent <sup>agent</sup> then and  
then in the said Deft's employ as driver of  
said Stage Coach did suffer & permit said  
Stage Coach to be over turned there and  
there thereby causing Plaintiff to be  
greatly bruised <sup>and injured</sup> and <sup>his</sup> head <sup>and</sup> breast <sup>and</sup> <sup>part</sup> of which overturn  
ing of Stage Coach through <sup>the</sup> <sup>gross</sup>  
negligence of said agent <sup>agent</sup> then and there  
the agent <sup>agent</sup> in the employ of the driver of said  
Coach for said Defendants Plaintiff's life  
was endangered & he received great bodily harm  
and by means of which he was forced to  
suffer the sum of \$80 and also was  
detained at the City of Warsaw several  
days - and was thereby prevented from  
attending to his necessary business thereby  
losing gains & profits which otherwise  
he would have derived -  
Plaintiff therefore the proceeds of his  
business <sup>business</sup> suffering <sup>and</sup>

occasioned by the felonious act of the said  
agent of said Defendants says he is injured  
and sustained damage to the amount  
of two thousand five hundred dollars  
for which he asks judgment  
Dun W. Leonard  
Atty for Pltiff

Plaintiff makes oath and says  
the matters and facts as stated in  
the foregoing petition he believes  
to be true  
Signed and Subscribed W. M. Key  
before me this 2 day of  
April 1861  
James M. Jones Clerk  
By Josiah L. Linn D.C.

no 62

Prophet

W J Peltier

Carroll Smith

Wm. Grayson  
James D. Lewis  
of Smith & Lewis

The State of Missouri  
County of [redacted] To the Sheriff of [redacted]

Wm. [redacted] vs. [redacted]  
G. M. Fuller [redacted] Butcherfield  
Fisher [redacted] Fuller and all other persons  
composing the Company known as the  
Overland Mail Company by all and  
singular their lands and tenements goods  
chattels rights moneys credits evidences of  
debt and effects or so much thereof as  
shall be sufficient to satisfy the sum of  
Two thousand five hundred dollars with  
interest and costs of suit in whose posses-  
sion or over the same may be found in your  
County and that you summon the said  
G. M. Fuller — Butcherfield —  
Fisher — Fuller and all other persons

composing the Company known as the  
Overland Mail Company that they be  
and appear before your Circuit Court  
of the County of [redacted] on the first  
day of the next term thereof to be holden  
at the Court House in the town of [redacted]  
on the 5<sup>th</sup> Monday after the 2<sup>nd</sup> Monday  
in September next, to answer the Petition  
of W. W. McCoy wherein he asks judg-  
ment for the sum of Two thousand and  
Five hundred Dollars. And that  
you also summon all other persons that  
you shall find in the possession of goods  
money or effects of the Defendants not  
actually seized by you and all debtors  
of the Defendant and such other persons

as the Plaintiff or his attorney shall  
direct as of or in such to be and appear  
before on said Court at the time and  
place aforesaid then and there to answer  
such allegations and interrogatories  
as may be exhibited against them  
and have over them and their things that

Witness James M. Jones  
Clerk of said Circuit  
Court with the seal of  
said Court affixed  
at office in Bohemia  
May 2nd 1861

James M. Jones Clerk  
By Sarah Jones Secy

The State of Missouri  
To the Sheriff of Polk  
County Missouri

We Command you to  
attach of M Tuller Butterfield  
Fisher

Tuller and all other persons  
composing the Company known as the Over-  
land Mail Company by all and singular  
their Lands and tenements goods chattels rights  
money Credits evidences of Debt and effects  
or so much thereof as shall be sufficient to  
satisfy the sum of Two thousand Five  
Hundred Dollars with interest and costs  
of suit in whose possession so ever the same  
may be found in your County and that you  
summon the said M Tuller Butterfield  
Fisher

Tuller and all other persons  
composing the Company known as the Over-  
land Mail Company that they be and  
appear before our Circuit Court of the  
County of Polk on the first day of the  
next term thereof to be holden at the Court  
House in the town of Polwar in said County  
of Polk on the 15<sup>th</sup> Monday after the 2<sup>d</sup>  
Monday in September 1861 to them and  
there to answer the Petition of W W  
McKoy wherein he asks Judgment for  
the sum of Two thousand Five Hun-  
dred Dollars and that you also summon  
all other persons that you shall find in  
the possession of goods money or effects  
of the Defendants not actually seized by  
you and all Debtors of the Defend-  
ants and such other persons as the



Plaintiff or his attorney shall direct as  
permishes to be and appear before our said  
Court at the time and place aforesaid then  
and there to answer such allegations and  
interrogatories as may be exhibited against  
them And have you then and there  
this writ

Witness James M. Jones  
Clerk of said Circuit  
Court with the seal of said  
Court affixed at office  
on Bolivar May 2<sup>d</sup>  
AD 1861

James M. Jones Clk  
By Jewish Law 1861

State of Missouri  
County of Salt  
In the Circuit Court of  
Salt County Missouri  
on vacation May 2nd 1861

W W McKay Plaintiff

vs  
Butterfield

G M Fuller

Fisher

Fuller and all

other persons composing the  
Company known as the  
Overland Mail Company, Defts

Civil Action

Now at this day comes W W  
McKay the Plaintiff in the above entitled cause  
before the undersigned Clerk of the Circuit  
Court of Salt County and files his Petition  
and affidavit stating among other things  
that the above named Defendants are non-  
residents of this State - It is thereupon  
Ordered by the Clerk aforesaid on vacation that  
publication thereof be made notifying them that  
an action has been commenced against them  
by Petition founded upon an action of Dam-  
age for the sum of Two Thousand Five  
Hundred Dollars and that unless they be and  
appear before our said Circuit Court of  
Salt County at the next term thereof to be  
holden at the Court House in the town of  
Berthoud in said County of Salt and on  
the third day thereof (if the term shall so long  
continue and if not then before the end of  
the term) Judgment will be rendered a-

against them. It is further ordered that a copy hereof be published in the Springfield Mirror a newspaper published in the County of Groenoc for four weeks successively the last insertion to be at least four weeks before the commencement of the next term of said Court.

A true copy  
Attest

James M. Jones Clerk  
By Josiah Lane & Co

J. A. Connor atty for Plff

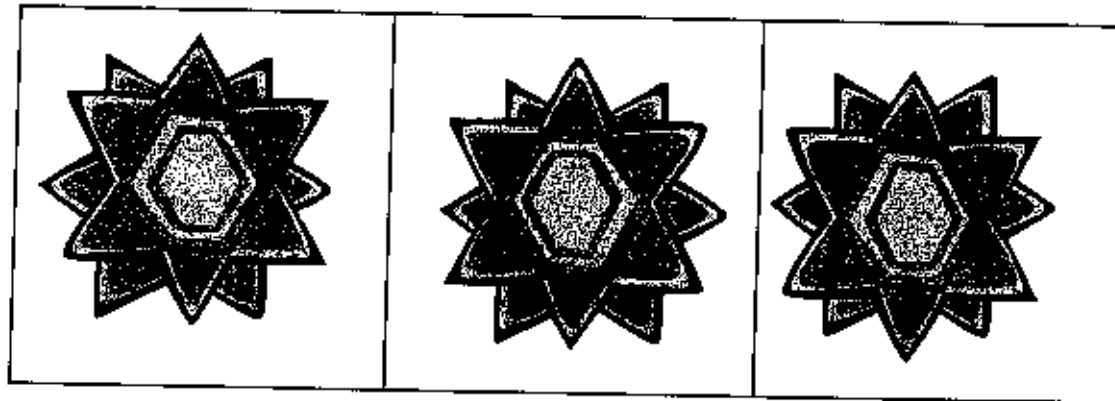
Dr. Dr. McK

Order of  
Publication

Overland Mail Co

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**CORRECTION**



**THE PRECEDING DOCUMENT  
HAS BEEN REFILMED TO  
ASSURE LEGIBILITY OR TO  
CORRECT A POSSIBLE  
ERROR.**

State of Missouri  
County of Salt  
In the Circuit Court of  
Salt County Missouri  
on vacation May 20<sup>th</sup> 1861

W W McKay Plaintiff

vs  
Butterfield  
& M Fuller  
Fisher

Civil Action

Fuller and all  
other persons composing the  
Company known as the  
Overland Mail Company Defs

Now at this day comes W W  
McKay the Plaintiff in the above entitled cause  
before the undersigned Clerk of the Circuit  
Court of Salt County and files his Petition  
and affidavit stating among other things  
that the above named Defendants are non-  
residents of this State - It is thereupon  
Ordered by the Clerk aforesaid in vacation that  
publication thereof be made notifying them that  
an action has been commenced against them  
by Petition founded upon an action of Dam-  
age for the sum of Two Thousand Five  
Hundred Dollars and that unless they be and  
appear before our said Circuit Court of  
Salt County at the next term thereof to be  
holden at the Court House in the town of  
Potosi in said County of Salt and on  
the third day thereof (if the term shall so long  
continue and if not then before the end of  
the term) Judgment will be rendered a-

against them. It is further ordered that a copy hereof be published in the Springfield Mirror a newspaper published in the County of Groves for four weeks successively the last insertion to be at least four weeks before the commencement of the next term of said Court.

A true copy

attest

James M. Jones Clerk

By Josiah Lane, D.C.

J. A. Conneron atty for P. H.

J. M. C. H.

Order of  
M. M. Publications

Overland Mail Co

William W. McTear Plaintiff

Against  
G. M. Fuller Butterfield & Fisher

Fuller and all other persons comprising the  
Company known under the name and style of the  
Overland Mail Company - Defendants

In the District Court of  
the Territory of Colorado

Civil Action

Plaintiff states that heretofore to-wit on  
the 13<sup>th</sup> day of March 1861 the said G. M. Fuller  
Butterfield & Fisher & Fuller  
and other persons whose names are not known  
to Plaintiff were owners and proprietors of a  
certain Common Stage Coach for the car-  
riage and conveyance of Passengers  
from Smith City in the State of Missouri  
to the town of Behar in the State aforesaid  
for hire and reward to them the said De-  
fendants on that behalf to-wit at Smith City  
and the said Defendants being such owners and  
Proprietors of the said Coach as aforesaid there-  
upon heretofore to-wit on the 13<sup>th</sup> day of March  
1861 at said Smith City the said Plaintiff  
at the special instance and request of the said  
Defendants became and was an inside  
Passenger upon said Coach to be safely  
and securely carried from Smith City to the  
said town of Behar for a certain fare and  
reward to the said Defendants on that be-  
half and the said Defendants then and  
there received the said Plaintiff as and  
inside Passenger and Defendants received

ed. as pay and consideration from Plaintiff to convey and carry him safely and securely in said Stage Coach from said Smith City to the said Town of Bolivar the sum of Six Dollars and Fifty Cents. Yet the said Defendants not regarding their duty on that behalf did not use due and proper care that the said Plaintiff should be conveyed safely and securely to said town of Bolivar from the said Smith City but wholly neglected and failed so to do and the said Defendants did on the 14<sup>th</sup> day of March 1861 near the City of Warsaw on the Highway leading from thence to Bolivar aforesaid by and through their agent to wit one Bush then and there in the said Defendants employ as driver of said Stage Coach did suffer and permit said Stage Coach to be overturned then and there thereby causing Plaintiff to be greatly bruised and injured to wit by a wound on his head and bruising and injuring his breast by reason of which overturning of said Stage Coach through and by the gross negligence of said agent Bush then and there the agent and in the employ as the driver of said Coach for said Defendants Plaintiffs life was endangered and he received great bodily harm and by means of which he was forced to expend the sum of \$500. and also was detained at the City of Warsaw seven days and was thereby prevented from attending to his necessary business thereby losing gains and profits which otherwise he would have derived.

Plaintiff therefore the premises considered




for his injuries suffering and necessary expenses  
occasioned by the felonious act of said of the said  
agent of said Defendants says he is injured  
and sustained damage to the amount of Two  
Thousand Five Hundred Dollars for which  
he asks Judgment

Burr H. Emerson

Attorney for Plaintiff

Plaintiff makes oath and says the matters and  
facts as stated in the foregoing Petition he believes  
to be true

Sworn to & Subscribed  W. W. McKay  
May 2<sup>nd</sup> 1861

Lawyer on Jury List  
By Josiah Lane

State of Missouri  
County of Shelby

I James M Jones Clerk of said  
Circuit Court within and for said County  
Do Certify that the foregoing is a true copy  
of the original Petition now on file  
in my said office

Given under my hand with  
the seal of said Court  
affixed at office in  
Shelby May 20<sup>th</sup> 1861

James M Jones Clk  
By Sarah Lane &c

The State of Missouri  
County of Greene Do the Sheriff of Polk

County Greeting We Command you to  
Summon G. M. Tuller Butterfield  
Fisher Tuller and all other persons com-  
prising the Company known under the name  
and Style of the Overland Mail Company  
to appear before the Judge of our  
Polk Circuit Court on the first day of the  
next term thereof to be holden at the Court House  
in the town of Bolivar on the 5<sup>th</sup> Monday  
after the 2<sup>nd</sup> Monday in September next  
to answer the Petition of William W. McHenry  
a Copy of which is hereto annexed and have  
you then and there show what

Witness James M. Jones Clerk  
of the said Circuit Court  
with the seal of said Court  
affixed at office in Bol-  
ivar on the 2<sup>nd</sup> May  
A.D. 1861

James M. Jones Clerk  
By Sarah Lane Clk

State of Missouri County of Palk  
I certify that I executed the within  
Petition and Writ By Delivering a  
Copy of the same to the within  
named Fisher he By the first serve  
and By Delivering a copy of the  
Writ to the within named J M =  
Fuller on the 21<sup>th</sup> day of May 1861

Fee \$2.00

W. B. Mitchell Shff  
By B. H. Bond Shff

Dr W. M. Key

M. J. Peltier

Overland Mail Co

Know all men by these presents  
that we William W. McKay as  
principal and C. P. Bodinhamer and  
Neil McKee as security  
are indebted to the State of Missouri  
in the sum of five thousand dollars  
for the payment whereof we bind  
our selves, our heirs administrators,  
and executors, jointly and severally  
firmly by these presents, sealed  
with our seals, and dated at  
Bolivar this 2<sup>nd</sup> day of May A.D.  
eighteen hundred and eighty and.  
The condition of this obligation  
is such, that whereas  
is about to institute a suit in the  
Circuit Court by attachment against  
H. M. Fuller - Butterfield -  
Fuller and other persons compe-  
sured the over-land mail company  
defendants, for the sum of twenty  
five hundred dollars.  
Now, if the said plaintiff, shall  
prosecute his action without  
delay, good with effect, and  
pay all damages that may accrue  
to the above named company, in  
consequence of any seizure, or detention  
of property, and liquidate all other  
damages that may accrue defend-  
ed or garnish, by means of any attach-  
ment, or any process, or proceeding  
in the suit, or by means of  
any judgment, or process.

thereon, than this obligation to be  
void, otherwise to remain in full  
force.

W. M. Hoy  
J. S. B. ...  
Rich. M. ...

Approved May 21<sup>st</sup> 1861

James M. Jones etc  
By Josiah Lane & Co

Dr W. M. Hoy

to Bond

Dowland Co

Filed May 21<sup>st</sup> 1861  
James M. Jones etc  
By Josiah Lane & Co

State of Missouri 3  
County of St. Louis 3

This affiant William W. McKoy makes oath and says that the plaintiff has a just demand against the defendants and the amount, which the affiant believes the plaintiff ought to receive after allowing all just debts or debts that he has of and against them to be believed and does believe that the defendants are non residents of the State of Missouri, second and that the defendants are a corporate body whose chief officer or place of business is out of this State, third defendants are about to remove their property or effects out of this State with intent to delay their creditors

I aver that the damages  
for which the action  
is brought are for  
injury arising from  
the Commission of a felony

That the damages for  
which the action is  
brought are for inju-  
ries arising from the Commis-  
sion of a misdemeanor.

W. N. McKay

Dever to & Subscribed

May 21<sup>st</sup> 1861

James M. Jones atty  
By J. J. Linn & Co

Filed May 21  
James M. Jones  
By J. J. Linn & Co



W. W. McKelvey

pd

Overland Mail Co

Registered Packages

Delivered at

Col. Form 1863

Box 30