

March Court - 1726 - 235 -

Whereupon the sd James Berry in his own proper person comes and defends the force and injury when he did and saith that he cannot gain say the action and nor but that he did assume upon himself in manner and form as the sd Jos. McCarter above against him hath complained nor can he say but that the sd Jos. McCarter hath sustained damage by reason of the non performance of his promise and assumption and to him hundred and sixty four pounds of Tob. and the same declaration in all the words before Expressly Cometh

Therefore it is considered that the sd Jos. McCarter recover against the sd James Berry as well the sum of Nine hundred and Sixty four pounds of Tob. his damages and by him in his debt above suggested as also the sum of three hundred & Seventeen pounds of Tob. for his costs and charges by him about his Suite in that part expended to of same Joseph by the Court here of his assent adjudged and the sd Debt in money is

By the same Command was given to the sherr of Southwett County if he should Edward Boyuter late of Southwett County Planter if he should be found in his Bailly with him should safe keep so if he might have his body before y^e Justice of this said sherr's County Court of Southwett to be held at Dividing Creek y^e third Tuesday of March the next to answer unto Joseph McCarter of a plea of Trespass upon y^e Case & that thereof he should not fail &c And the sd Joseph McCarter by Levin Gale his atty proceeded against the said Edward Boyuter in y^e plea as follows: Edward Boyuter late of Southwett County Planter was attached to answer unto Jos. McCarter of a plea of Trespass upon y^e Case &c And whereupon w^{ch} Jos. by Levin Gale his atty complains y^e whereas y^e sd Edward y^e first day of November anno dom: one thousand seven hundred & twenty six at Southwett County within y^e Jurisdiction of this Court was indebted unto y^e sd Jos. in four hundred & Seventy six y^e of Tob. as by an here unto annexed may in Court appear & being so there of indebted w^{ch} sd Edward in consideration thereof y^e day & year aforesaid and all y^e place aforesaid upon himselfe did assume & to y^e sd Jos. then & there did faithfully promise y^e he w^{ch} said Edward y^e four hundred & Seventy six y^e of Tob. to y^e sd Jos. Joseph when he should be there unto requested he would well & faithfully pay & content never the less y^e said Edward tho: often requested y^e four hundred & Seventy six pounds of Tob. to y^e sd Jos. hath not paid but y^e same to him hitherto to pay hath refused & still doth refuse & deny to pay of y^e sd Jos. of Nine hundred & fifty two y^e of Tob. & thereof he brings Suite &c

Edward Boyuter	121
1722 To 1 Serie a 121	121
To amercement at y ^e Suite Tho: Dashiell	30
1723 To 1 Serie a 140	140
1724 To 1 Ditto a 89	89
1725 To Interest	61
1726 To Ditto	35

Levin Gale Quer. y^e ledge & I Doe Rich^d the Contra

Saving Errors
J^s Jos. McCarter

Copy of foregoing Decⁿ sent to be served on w^{ch} sd Jos. Boyuter with y^e Writ in y^e plea aforesaid

(att)