

NEW YORK SUPREME COURT,

New York County.

MARY E. COOLIDGE, as Administratrix
of the goods, chattels and credits
of Erwin L. Coolidge, deceased,

Plaintiff and Respondent,

against

The City of New York, Joseph G.
Miller and Charles E. Holme, doing
business under the firm name and
style of J. G. Miller & Co.,

Defendants and Appellants.

Upon the annexed affidavit of William B. Waring, veri-
fied the 27th day of May, 1905, let the defendant show cause

2 before this Court at a Special Term thereof appointed to be
held in and for the County of New York at the County Court
House in the County of New York on the 31st day of May,
1905, at the opening of Court on said day or as soon there-
after as counsel can be heard:

First: Why the above entitled action should not be
revived and continued pursuant to the provisions of the Code
of Civil Procedure in such case made and provided;

3 Second: Why William J. Parks, as the representative
and successor of Mary E. Coolidge, deceased, should not be
empowered, authorized and appointed to continue said action
as Administrator de bonis non of the goods, chattels and
credits of Erwin L. Coolidge left unadministered by Mary E.
Coolidge, Administratrix, deceased, of said Erwin L. Coolidge;

Third: Why said action should not be revived and continued for the benefit of the heirs and next of kin of said Erwin L. Coolidge by the said William J. Parks, as Administrator de bonis non of the Estate of said Erwin L. Coolidge, deceased; plaintiff and respondent;

4 Fourth: Why the summons and complaint and the title to all subsequent proceedings in said action should not be amended so as to read "William J. Parks as Administrator de bonis non of the goods chattels and credits of Erwin L. Coolidge, deceased, " against the above named defendants in the place and stead of "Mary E. Coolidge as Administratrix of the goods, chattels and credits of Erwin L. Coolidge, deceased, plaintiff";

5 Fifth; Why this action should not be set down for trial on the trial calendar of this Court at Trial Term Part VII thereof on the 12th day of June, 1905, and why such further and other relief should not be granted as to this Court may be deemed just.

And good and sufficient reason having been assigned satisfactory to this Court why an order returnable in less than five days should be granted herein, I hereby direct that service of a copy of this order and the affidavit upon which the same is granted on the Corporation Counsel and attorney for the said defendant The City of New York on or before the 29th day of May, 1905, shall be deemed sufficient notice of this motion.

Dated, New York, May 27, 1905.

P H Dugan
Justice of the
Supreme Court of the
State of New York

NEW YORK SUPREME COURT,

New York County.

MARY E. COOLIDGE, as Administratrix
of the goods, chattels and credits
of Erwin L. Coolidge, deceased,

Plaintiff and Respondent,

against

The City of New York, Joseph G.
Miller and Charles E. Holme, doing
business under the firm name and
style of J. G. Miller & Co.,

Defendants and Appellants.

County of New York, SS:

William B. Waring, being duly sworn, deposes and says:

2

FIRST. That he was the attorney for the above named
plaintiff Mary E. Coolidge as Administratrix of the goods,
chattels and credits of Erwin L. Coolidge, deceased, against
the above named defendants.

SECOND. That this action was commenced on or about
the 23rd day of September, 1902, to recover damages for
the benefit of the heirs and next of kin of Erwin L. Coolidge,
pursuant to the provisions of the Code of Civil Procedure,
Sections 1902, 1903 and 1904.

3

THIRD. That said intestate Erwin L. Coolidge left him
surviving his widow, the said Mary E. Coolidge, and four
children under five years of age at the time of his death
on the 27th day of May, 1902.

FOURTH. That said action was duly tried before the

Honorable Aaron V. S. Cochrane, Justice, and a jury at a Trial Term of this Court in January, 1904, and judgment was duly entered upon the verdict of said Court and jury against the above named defendant on the 29th day of January, 1904, for the sum of \$24,888.21.

4 FIFTH. That an appeal was taken by the defendant the City of New York to the Appellate Division for the First Judicial Department and that said judgment in favor of the plaintiff and against the said defendant the City of New York was reversed by said Appellate Division and a new trial ordered.

SIXTH. That said order and judgment of reversal was duly entered in the office of the Clerk of the County of New York on the 17th day of March, 1905.

5 SEVENTH. That the aforesaid Administratrix and plaintiff Mary E. Coolidge died on the 20th day of April, 1905, pending said action and before said action had been set down for a re-trial upon the trial calendar of this Court pursuant to the order of said Appellate Division.

EIGHTH. That William J. Parks was duly appointed Administrator de bonis non of the goods, chattels and credits of Erwin L. Coolidge, deceased, left unadministered by said Mary E. Coolidge, the said Administratrix, deceased, by order of Honorable Frank T. Fitzgerald, one of the Justices of the Surrogate's Court of the County of New York, on the 26th day of May, 1905.

6

NINTH. That there are still surviving three children under eight years of age of said Erwin L. Coolidge, deceased.

TENTH. That it was the earnest desire and purpose of said Mary E. Coolidge as Administratrix to apply to this Court and have the said action set down for trial at as early a date as possible after the entry of said judgment and order of reversal, and that her purpose was frustrated by her death.

7

ELEVENTH. That said children are left without means for their maintenance and education and are now dependent upon for the charity and good will of the friends and relatives of the said Erwin L. Coolidge.

8

TWELFTH. That deponent has been retained to prosecute the said action on behalf of said next of kin by the said William J. Parks as Administrator de bonis non and that the said William J. Parks has requested and authorized this deponent to ask this Court in his name and stead that said action be revived and continued, that the title of the summons and complaint be amended so as to read that said William J. Parks shall appear as Administrator de bonis non of the goods, chattels and credits of Erwin L. Coolidge in lieu of the present title of the said action, and that this action should be set down upon the trial calendar of this Court at Trial Term Part VII thereof at as early a date as possible.

That an order is therefore asked to have this action continued and set down for trial on the 12th day of June, 1905, upon the trial calendar of this Court, Trial Term Part VII thereof; that otherwise it would be impossible to

9 avoid the long, tedious and unnecessary delay caused by
the interval of the summer recess, and that this continued
delay of four months would work a grievous hardship upon
the heirs and next of kin of said intestate and upon those
who have assumed the burden of their support and maintenance.

THIRTEENTH. This action is entitled to preference
and preference sought under the Code of Civil Procedure in
such case made and provided.

An order is therefore asked granting the relief herein
sought and this order is asked to be made returnable in
less than five days owing to the fact that a longer delay
may jeopardize the right and opportunity of the plaintiff to
proceed to trial at the June Trial Term of this Court.

10 That no previous application has been made for the re-
lief herein sought.

Sworn to before me this :

27th day of May, 1905. :

Wm. B. Waring.

Carleton Sprague Cooke,
Notary Public,
N. Y. County.

N. Y. SUPREME COURT,

N. Y. County.

MARY E. COOLIDGE, as Admx. &c.
of Erwin L. Coolidge, dec'd,

Plaintiff,

against

The City of New York, Joseph
G. Miller and Charles E. Holme
doing business under the firm
name and style of J. G. Miller
& Co.,

Defendants.

Copy

AFFIDAVIT and
ORDER TO SHOW CAUSE.

WILLIAM B. WARING,
Attorney for Plaintiff,
80 William Street,
New York City.

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OFFICE OF CORPORATION
COUNSEL