

Case No. 9,264. MASSOLETTI v. MILLER.
[2 Cranch. C. C. 313.]¹

Circuit Court, District of Columbia.

May Term, 1822.

WITNESS—INTEREST—JOINT OWNER OF VESSEL—PASSAGE
MONEY—INDEMNITY GIVEN.

One of two joint owners of a vessel is a competent witness to prove a joint claim against a passenger in the vessel, for the passage-money, if the other joint owner has given credit in account for his share of the passage-money, and a release of a claim to recover it back in case he should not get it from the passenger.

This was an action for money had and received by the defendant, for goods of the plaintiff sold by the defendant on commission. The defendant claimed to set off the amount of passage-money due by the plaintiff to the defendant, and one Howland, who were joint owners of the brig Benefactor, for the plaintiff's passage from Marseilles; and to prove this set-off, the defendant offered the other joint owner, Howland, as a witness, the defendant having credited him in account with his share of the passage-money, and given him 2:25 PM 4/21/2011a release from all claims which he might have to recover it back from Howland, in case the defendant should fail to get it from the plaintiff.

THE COURT (THRUSTON, Circuit Judge, contra) decided that the witness was competent.

¹ [Reported by Hon. William Cranch, Chief Judge.]