

To Florence County Circuit Court
Case File - Civil

Box

21

Folder 25

May 1868, No. 131

Foster, Martin G.

vs

Pipkin, Philip

Recovery of Personal Property

One horse, \$50 damages,
depositions

Martin G. Foster Pltff) Circuit Court
 against)
 Philip Pipkin Def.) Jefferson Co. Mo
 term 1868

The Plaintiff states that he is the owner and lawfully entitled to the possession of the following ^{personal} specified property: viz. a certain bay mare, five years old about fourteen & a half hands high with a white star in the forehead and white spots on the back behind the shoulders, which said mare is a pacer and of the value of \$150. = ^{that said property was wrongfully taken & that his right of action accrued within one year} and the same has not been seized under any process execution or attachment against the property of the Plaintiff, but is wrongfully detained by the defendant, and that the Plaintiff will be in danger of losing the said property, unless it be taken out of the possession of the defendant, or otherwise secured:

Wherefore he asks judgment for the said mare and for fifty dollars damages for the wrongfull detention of the same.

M. G. Foster

Martin G. Foster the above named Plaintiff makes oath and says, the above petition and matters therein as stated he believes to be true.

Sworn to & subscribed

before me this 19th day of ~~Nov~~ ^{Nov} 1867
 C. R. Peck
 Notary Public

M. G. Foster

Martin G. Foster
Pltf

I. S.

Philip Perkins
Def.

Civil action for recovery of personal property

Plaintiffs Petition

Clerk Circuit Court Jefferson County
with please issue process forthwith

M. G. Foster

Filed for 20th day
E. D. Honey cut

Martin G. Foster Pltff. } In the Jefferson Circuit
-vs- } Court.

Philip Pickett Deft. , May Term 1868,

Now at this day comes said Plaintiff and files his petition and affidavit as required by law praying an order for the possession of the herein after described property whereupon it is ordered by the undersigned Clerk of said Court, that said Defendant deliver the property specified in the annexed petition to wit: A certain Bay mare, five years old about fourteen & a half hands high with a white star in the forehead and white spots on the back behind the shoulders, and that the Sheriff if the same should not be delivered to him, take the same from defendant, and deliver said property to the Plaintiff, on his complying with the statutes in such cases made and provided,

In Testimony whereof I Elias D. Honey
Clerk of said Circuit Court have
hereunto set my hand and official
seal at office this 20th 1868,

Elias D. Honey Clerk
By C. J. Bone Deft

Martin G. Foster Plff. } Bond in action for
 against } recovery of personal
 Philip Pipkin Def. } property

We Martin G. Foster as principal and
 James Lindsay. S. R. Peck
 and J. V. Logan =

as.

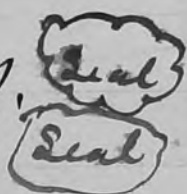
securities acknowledge ourselves to be indebted to
 Philip Pipkin in the sum of \$300. for the pay-
 ment whereof we bind ourselves, our heirs executors
 and administrators.

The condition of the above obligation is that whereas
 Martin G. Foster as Plff. is about to commence
 an action for the recovery of ^{certain to wit a certain bay mare} personal property in
 the Circuit Court of Jefferson County against
 Philip Pipkin Def. returnable to the next term thereof
 wherein the sum sued to is \$150. Now if the said
 Plaintiff shall prosecute his action without delay
 and with effect, return the property to the Def.
 if return thereof be adjudged and in default of
 such delivery pays the assessed value of such
 property and pays all damages for the taking
 and detention thereof and for all costs which
 may accrue in the action, then this obligation
 is to be void otherwise to remain in full force

Witness our hands & Seals this day of November 1847
 M. G. Foster Seal
 J. V. Logan Seal

Taken and approved by Me
This 14th day February 1868
John Williams Sheriff

James Lindsay
C. R. Peck



I hereby certify that the parties
whose names are set to the fore
going instrument of writing are
princeple & securities are respon
sible for the fulfilment of their
security

Dated at De Soto } John H. Fox
Nov 20th 1867 } Assessor 2^d Dist Mo

THE STATE OF MISSOURI, } SS.
COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson—Greeting:

We command you, that you summon

Philip Apples

if he be found in your County, that
he be and appear before the Hon. Judge of our Circuit Court, on the
first day of the next term thereof, to be begun and held at the town of Hillsboro,
within and for the County of Jefferson, on the *first* Monday after the
fourth Monday of *March* next, then and there to answer unto

Martin G. Foster

upon *his* original petition, a copy whereof is hereunto annexed and
accompanies this writ, and have you then there this writ.

Witness, ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, at office in Hillsboro, this
Tuesday day of *November* A. D. 1867

Elias F. Honey

Clerk Circuit Court.

J. D. Wims

I enclose this writ in Jefferson County Mo on the 14th
Day of October 1867 on Philip Dittin by leaving
the copy of this writ and return at his usual
place of school with a white person of his family
over the age of fifteen years
and further enclose this writ in Jefferson
County Missouri on the 17th Day of December 1868
by leaving the copy to Deborah in this
action from the possession of Philip Dittin
and returning the same to James Gordon

John Williams Sheriff
By A. W. Harris Depy

No 131

Jan 1868

2610

TO

JEFFERSON CIRCUIT COURT.

MAY Term, 1868,
M. G. Foster
vs.
Philip Pipkin

(original)

John Williams
Sherriff fee \$2.00

#3 no in Pelf

Taken 17 + Delivered 20th

Martin F. Foster In the Circuit
vs Court of Jefferson
Philip Pipkin County May 7. 1868.

Now comes the defendant and moves
the Court to require the plaintiff
to give additional upbwin bond
in this case because the bond
taken by the sheriff is insufficient
in this, that the sum secured
is stated in figures thus (\$300)
when it should have been in writing
and because the bond does not
secure any damage which the
defendant may sustain by
reason of any injury done
to the property replevied and
because said bond is in other respects
not in conformity to law.

P. Pipkin

M. G. Foster
is

P. Piskin

Motion to require
Plff to give add
itional bond —

Filed May 14 1868
E. J. Honey Cl,

Martin G. Foster } Circuit Court
vs } Jefferson Co. Mo.
Philip Pipkin } May Term 1888

The defendant for answer to plaintiff's petition ~~hereafter~~ filed in this cause denies that the plaintiff was or is the owner of the personal property specified in his petition to wit a certain bay mare five years old about fourteen hands high with a white star in the forehead and white spots on the neck behind the shoulders which mare is a pacer.

Defendant further denies that that said mare was wrongfully taken by the defendant or wrongfully detained by him from the possession of the plaintiff.

And defendant further denies that said mare is of the value of one hundred and fifty dollars.

Wherefore defendant asks judgment for costs
P. Pipkin

W. G. Foster

"

Chas. Perkins

W. G. Foster

W. G. Foster
Chas. Perkins

Martin G. Foster } In the Jefferson County
Philip Pipkin } Circuit Court.

To the above named Defendant
You are hereby
Notified that depositions of witnesses to be
read in evidence on the trial of the above
cause on the part of the defendant will
be taken at the office of David M. Fox
in the town of Fredericktown in the County
of Madison, in the State of Missouri, on
the 9th, day of November 1868, between
the hours of 8 in the forenoon and 6 in
the afternoon, and that the taking of said
depositions, if not completed on that day
will be continued from day to day at the
same place and between the same hours
until completed,

Philip Pipkin

I. acknowledge the service of the
written note this 26th of Oct. 1868

~~_____~~ Martin G. Foster

~~Recd of H. J. Hunt~~

The State of Missouri

To Samuel Collier

George W. Noyes, N. B. Allen, Benjamin &
Myrnes. Greeting

We Command you that all excuses
and delay be set aside, & you be and appear
before Daniel Peterson Judge of the Probate
Court of Madison County Missouri, at the office of
David M. Hays in Fredericktown in said
County & town on the 9th inst. to testify to
the truth of your knowledge in a certain
Cause now Pending in the Grant Court of
Jefferson County Missouri, wherein Martin
G. Foster is Plaintiff & Philip Septon
is defendant and on the part of said
defendant, & hereby fail not as you said

Witness my hand & Seal of said
Court at office in said County the
9th November 1868
D. Peterson Probate Judge

W. H. Higdon

York

100

John

Lebensdauer

Sept. Tribune

Depositions of Witnesses, produced, sworn &
Examined on the 9th day of November 1868, between
in the hours of 8 o'clock in the forenoon and 6
o'clock in the afternoon of that day at the office
of David In Hore in the town of Fredericktown
~~and State~~ in the County of Madison, in the
State of Missouri before me, Daniel Peterson
Judge of the Probate Court of Madison County
Missouri in a certain Cause, now pending in
the Circuit Court of Jefferson County Missouri
between Martin G. Foster Plaintiff and
Philip Pipkin Defendant on the part of the
Defendant,

Samuel C. Collier of lawful age being
produced sworn & Examined on the part of the
Defendant deposes & saith, I am forty three
years old, live about one half mile of
Fredericktown Madison County Mo.
I am a lawyer by profession
I know the parties, Martin G. Fos-
ter and Philip Pipkin, I knew
a little bay mare that was said
to have been taken from ^{Darius} ~~Harriet~~
J. G. Foster by said Pipkin. The first
time I ever saw said mare was in
the summer of 1866 in possession
of Darius G. Foster between here &
Ironton, probably in the latter part
of the summer,

The man was a fine traveler and we were speculating upon her qualities, and in the course of our conversation he James J. Foster said that he got the man of the old man Herrel, I saw her in his possession several times afterwards, some twelve months or probably more afterwards, From his using her and from his expressions in regard to the ownership of her I inferred that the man was his. I don't know that I ever saw Martin G. Foster riding her, I have no recollection of having heard Martin G. Foster claim the property of the mare before the bringing of the suit against James J. Foster by the said Pipkin in the Madison County Circuit Court,

Cross examination waived by Plaintiff.

Further this Deponent swears not

S. C. Collier

Sworn to and subscribed before me on ~~the 7th~~ ^{9th} day and at the place and within the hours first aforesaid

Daniel Peterson
Probate Judge

N B Allen of lawful age being
duly sworn on the part of the
defendant ~~said~~ deponent and
said, I am forty seven years old
live in Fredericktown Madison
county Missouri, I am a farmer
by occupation, I know the parties
of the said Martin G. Foster &
Philip Pipkin, I have seen the
mare which is the subject of the
controversy between the parties.
I first saw her in the summer
of 1866, shown to me by Col. James
T. Foster who said that she was
his fine mare, It was in the
livery stable in which Martin
G. Foster kept his horses, I saw
her in the possession of James T.
Foster occasionally up to the time
she was taken possession of by
Mr. Pipkin, she was taken by
the deputy sheriff from said J. T.
Foster in Sept. 1867, I never heard
Martin G. Foster claim any property
in said mare up to that time,

Cross examined by Plaintiff
Did you ever know of any buy-
ing and selling horses?
Witness - I did

And further this deponent saith
not.

W. B. Allen

Subscribed and sworn to before
me on the day and at the
place and within the hours first
aforesaid.

Samuel Peterson

Probate Judge

Benjamin F. Reynolds of Law-
ful age being duly sworn depo-
sith and saith, on the part of
the defendant, I am forty nine
years old, Live one half mile
West of Independence Madison
County Missouri, I am by occupa-
tion blacksmith and farmer,
I am acquainted with the
parties in this suit Martin G. Foster
and Philip Pipkin, I saw the
mare which is the subject of the
matter of controversy between the
parties one time, I was then
acting as Deput. Sheriff under R.
C. Cooper, it was in the fall of
1867, in October, In the evening
before I took possession of said
mare, Mr. Pipkin gave me a
reel for the delivery of personal
property, on the authority of

which I took the mare on the following morning and delivered her to said Pipkin, I found the mare in A. J. Seal's stable. Before I went to the stable, and while I was reading to J. J. Foster the ret, said Foster, J. J. Foster said that he could have saved the trouble of a ret, he could have given the mare to said Mr. Pipkin without that trouble, the ret was all unnecessary he could have delivered her without it. There was nothing said as to the ownership of the mare did not say that she belonged to ~~Mr~~ Martin G. Foster. After I got through reading the ret, he asked me where Mr. Pipkin was. I said I did not know, and said are you willing to deliver up the mare to me, He answered no, that he wanted to see Mr. Pipkin, that he thought the whole matter could be adjusted without that, He asked again if I could tell where Mr. Pipkin was, I said the last time I

Mr. Pipkin he was walking
towards Mr. Wernicke's store &
probably he might be there yet,
that I would go with him to
Mr. Wernicke's and see, if
he was there, We went and found
Pipkin there, I then went to the
stable, got the mare and deliv-
ered her to Mr. Pipkin, I saw
Martin G. Foster on the occasion
some hour or two afterwards
walking on the street, I heard
him set up no claim to the mare
Further his deponent saith not,
Cross examination waived by
Plaintiff, Benjamin F. Reynolds

Subscribed and sworn to before
me on the day at the place
and within the hours first
aforesaid,

Daniel Peterson
Probate Judge

George W. Nifory of lawful age
being sworn on oath deposeseth
and saith, on the part of the
defendant, I am forty six years
old, and reside in Fredericktown
Madison County Missouri

I am merchant by occupation
I am ~~known~~ acquainted with
the parties in this suit, Martin
G. Foster and Philip Pipkin,
I am acquainted with the little
bay mare which is the subject
of the controversy between the pa-
-ties, I never knew any one ex-
-cept J. F. Foster to own the
mare until after she was in
the possession of Philip Pipkin,
It was about one year ago this
fall that I saw said mare
in the possession of Mr. Pipkin
I saw his - Mr. Foster's daughter
ride said mare occasionally and
probably his son Henry also.
Cross examined by Plaintiff
Do you know what considera-
-tion was given to Herrel for
the mare?

Answer - I do not.

Further this deponent saith
not,

W. H. H. H.

Sworn to and subscribed before me on
the day at the place, and within the hours
first aforesaid,
10
Darius Peterson
Probate Judge

I Daniel Petersow, Probate Judge in and
for the County of Madison in the State of
Missouri, do certify that in pursuance to
the within notice came before me at the
office of David M. Fox in Fredericktown
Madison County Mo. Samuel C. Collier
N. B. Allen, Benjamin F. Reynolds &
Geo. W. Nifong, who were by me severally
sworn to testify the whole truth of their know-
-edge touching the matter in controversy af-
-foresaid; that they were examined and their
examination reduced to writing, and sub-
-scribed by them respectively in my pres-
ence, on the day, between the hours, and
in the place at that behalf first aforesaid,
and their said depositions are now herewith
-with returned. I further certify that
Samuel C. Collier, N. B. Allen, Benja-
-min F. Reynolds and Geo. W. Nifong
are residents of Madison County Mo.
as stated in their several affidavits.

Witness my hand and the offi-
-cial seal of the Probate Court
of Madison County Missouri,
this 9th day of Nov, 1868

Daniel Petersow
Probate Judge,

Martin G. Foster } On Jefferson County
 vs. Philip Ripkin } Circuit Court
 Defendant.

1868	To D. Peterson Dr.	
Nov 9	To issuing 4 subpoenas	\$1.40
"	" Writing depositions 1300 words	1.95
"	" signing an authenticating cause	.35
"	" two certificates & scale	1.00
"	" Sheriff serving 4 subpoenas	2.00
"	" Postage etc.	.20
	Total - -	<u>\$6.90</u>

M. G. Foster
vs
Philip Pipkin

Received by mail
opened and
Filed Nov 11 1868
Chas D Honey at
By Chas Honey Dep

Martin G. Foster, Plff.
vs.

Philip Pitkin Def.

In the Circuit
Court of Jefferson
County, Missouri

Take notice that on the 2nd day May
A.D. 1868, between the hours of Eight O'Clock in
the forenoon and Six O'Clock in afternoon of
that day at the Court House in the town of
Grounion in the County of Iron and State of Missouri
depositions will be taken to be used on the trial
of the above entitled cause, on behalf of the Plaintiff
and that the taking of said depositions, if not
completed will be continued from day to day
until completed, and at the same hour,

To the above named
Defendant.

James C. Foster
Atty for Plff

April 25th 1868

Served ~~at~~ the within notice by delivering a copy
to Phillip Tipton in Iron County Mo April 25th 1868
Shiff for 50^{cts} Wm Mac Shiff Iron County

Depositions of Witnesses produced, known & examined on the second 2nd day of May A.D. 1868, between the hours of eight O'clock in the forenoon and six O'clock in the afternoon of that day, at the Court House in Ironton in the County of Iron and State of Missouri, before me, Robert L. Lindsay Notary Public, within and for Iron County & State of Missouri, duly commissioned, and qualified according to Law in a certain cause, now depending in the Circuit Court of Jefferson County in the State of Missouri, between Martin G. Foster Plaintiff, and Philip Phipps Defendant.

Wm. B. Grigby of lawful age.

being produced, known and examined on the part of the Plaintiff, deposes & says:

Question. Where do you reside?

Ans. I reside in Iron County, Missouri.

Q. Are you acquainted with the plaintiff in this cause?

Ans. I am.

Q. Did you sell the plaintiff in the year 1863, a certain white-faced brown horse?

Ans. I sold him a white-faced horse. To best of my recollection it was a chestnut sorrel. I think it was in the year, 1865, or 1864.

Q. Do you know that plaintiff traded said horse off for a bay mare colt?

Ans.

He told me he traded said ^{horse} off to Mrs. Bessel. ^{Bessel} he told me he got the horse from Martin G. Foster. (Objected to by Atty-for defendant, because hearsay).

22

State what you know of Martin G. Foster owning a certain bay mare.

Ans.

He told me that he owned a certain bay mare. (Objected to by Atty-for deft. on grounds of hearsay) The bay mare I refer ^{to}

2.

~~but he states~~ is the one taken by the defendant, Mr. Cipkins.

Thos B. Briggsby,

x Subscribed and sworn to before me, on the day, at the place, and within the terms, first aforesaid.

Robert S. Lindsay
Notary Public.

x Not being able to complete the taking of said depositions, by reason of the arrival of the hour of six o'clock I hereby adjourn the further taking of the same until Monday May the 4th (tomorrow being Sunday) then to be continued at the same place and between the same hours mentioned in the annexed notice.

Robert S. Lindsay
Notary Public.

Pursuant to adjournment as above stated, on the 4th day of May, 1868, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon at the Court House in Trenton Iron County Missouri, I continued the taking of said depositions:-

James L. Foster of lawful age being produced Sworn and examined on the part of the Plaintiff deposes and saith,
I reside in Trenton Iron County Missouri and that Martin G. Foster Plaintiff, purchased a brown horse, with a white face, of Ho. B. Grigg in the Spring of 1865, and turned the horse over to his sisters Carrie & Laura Foster for a riding horse reserving the title in himself, as neither of them was old enough to hold property in their own right - they became dissatisfied with the horse, and the Plaintiff, consented to exchange or have the horse exchanged for one that would make a better riding horse for Ladies. The horse was exchanged for the hay made taken by Philip Phipps the Defendant with the approval of the Plaintiff Witness states that he had a suit pending in the Circuit Court in Madison County September term AD 1867, in which the Defendant was employed as attorney in the

case, and while such case was pending before said Court the said Attorney Philip Pipkin demanded fifty dollars in money, which was more than was due, and which sum Whitcup was not prepared at that time to pay, but which sum Whitcup proposed to secure to said Atty, but said Attorney said that he would surrender the papers and let the case go by default if the money was not paid then and there, as the case was ~~to~~ he tried on that day — Whitcup offered him a certain bay pony six years old, then in Bollinger County as security for the payment of fees to said Attorney, or to sell the horse provided the defendant would pay Whitcup the difference between his claim for services and the value of the horse, which defendant agreed to do — but insisted that until Whitcup could get the horse from Bollinger County, that Whitcup should give him a bill of sale to a certain bay mare, which bill of sale was to be ~~given up~~ returned to Whitcup together with the said mare on the delivery of said horse to the defendant, which Whitcup owned and was then in Bollinger County. Whitcup told the defendant more than once that he did not own said bay mare that she was not his property

that he could not give a title to the mare
but on being assured by the defendant
that no advantage of the bill of sale and
all should be done in good faith, the
witness then signed the bill of sale. Witness
further states that he offered and tendered
to the defendant the said hay from &
defendant refused to take the same, at
the amount of his alleged claim in
money, but sued out an attachment &
took the hay mare away and demanded
one hundred and fifty dollars before
he would deliver said mare to the
plaintiff. James I. Foster

Subscribed and sworn to before me
on the 4th day of May, A. D. 1868.
at the place and within the town
first aforesaid.

Robert S. Sinsay,
Notary Public.

James Sinsay of lawful age being
produced sworn and examined,
and the part of the Plaintiff de-
posed and sworn to.

Q

Where do you reside?

Ans

At Fronton in Iron County
Missouri.

Q

Are you acquainted with the

plaintiffs in this suit?

Ans. I am, and also with Philip
Cipkins the defendant,

2. State what you know about
the ownership of the bay mare
in controversy?

Ans. In August 1867, B. Graf Brown
was at my house, and wanted
to buy a good riding animal,
and he asked me if I knew
of one that he could buy. While
we were standing in front of
my barn James T. Foster rode
up on the bay mare in con-
traversion, when I remarked to
Mr. Brown that that was the
best riding nag I knew of. He
spoke with Mr. Foster about
the mare, and asked him if
he would sell her to him.
Mr. Foster answered by say-
ing, "she does not belong to
me. I cannot sell her, she is
a family animal." I have repeat-
edly refused to take two hun-
dred dollars for her, for the same
reason. Mr. Brown on the same
day bought a horse from Mr. Leane.

James Lindsay,

X
Sworn to and subscribed before
me, on the 4th day of May A.D.
1868, at the place, and within
the hours first aforesaid.

Robert S. Sindsey
Notary Public

X
Not being able to complete the taking
of said depositions, by reason of the
arrival of the hour of six o'clock, I
hereby adjourn the further taking
of the same until to-morrow, then
to be continued at the same place
and between the same hours
mentioned in the annexed
notice. Robert S. Sindsey,
Notary Public.

Pursuant to adjournment as above
stated, on the 5th day of May A.D. 1868,
between the hours of eight o'clock in the
forenoon and six o'clock in the after-
noon at the Court-house in Ironton
Iron County Missouri, I continued
the taking of said depositions as follows:

Henry C. Foster of lawful age, being
produced sworn and examined, on
the part of the plaintiff deposes and
swears. I reside at Ironton Missouri.

Q. Do you know the plaintiff.

Ans. I do.

Q. Do you know of him ~~buying~~^{quining} a
brown, white-faced horse from Thos.
B. Griestly.

Ans. He owned a horse of that description
when I came back from New York.
It was in August, 1865.

Q. Do you know of this said brown
horse being traded away.

Ans. It was traded to Mr. Hensell for
a bay filley, which was then about
three years old.

Q. Was that the same one the defendant
took?

Ans. It was.

Q. Do you know of the plaintiff at
any time trading away or sell-
ing said bay filley.

Ans. I do not. I always knew it to be
his.

Q. Do you remember at any time
when James J. Foster refused
to sell said mare, because he
could not give a title to her.
(Objected to as leading).

Ans. I do. He refused to sell her to a
Mr. Billings of St. Louis, Mo.

also J. W. Emerson of Ironton and
Gen. W. King of Bullinger County Mo.
(cross-examined by Atty-for defendant.)

Q The horse I referred to was a brown
white-faced gelding horse, about
seven years old.

Q ~~The horse.~~ What did Martin G.
Foster do with the horse.

Ans. It was used by plaintiff as a
family horse.

Q By whose family, was it used.

Ans. By the family of James T. Foster, at
Fredericktown, Missouri.

Q How long did the family continue
to use said horse.

Ans. As long as plaintiff continued
to ~~own~~ own it - a few months.

Q Who exchanged this said horse for
the animal in controversy.

Ans. I think it was James T. Foster, Henry
Roads, I ^{think} Martin G. Foster was
present, and he thought the mare
was too young.

Q I was not present when defendant
took the mare - was informed of
the words of the affair.

Q What has become of said mare.
Ans. She is now in our lot.

Q When did you next see the mare,
Ans About four Months ago. I
saw her here in Trouton in a
lot.

Q In whose lot was she, or in
whose possession was she when
you saw her.

Ans In the possession of Jas. T. Foster.

Q In whose possession has she been
since that time.

Ans Part of the time in possession
of Jas. T. Foster, and part of the
time Martin G. Foster had her.

Q How much or in what proportion
of time did each have her.

~~Ans.~~
~~Ans~~ James T. Foster I do not know.
Martin G. Foster never took her to
Fredericktown.

~~Q~~
When he had her in possession
it was at Fredericktown.

~~Q~~
~~Ans.~~ ^{do} How do you know he had her in his
possession at Fredericktown?

Ans I was told so. I only know what
Jas. T. Foster and Martin G. Foster told
me.

Q You say you do not know of M.
G. Foster having traded or sold
her. might he not have traded

her or sold her and you not know
it?

Ans. He might have done so.

2 State where the mare is now and
in whose possession.

Ans. In the possession of James T. Foster,
and is now at Travton, Mo.

Q. Where does Martin G. Foster reside
now - at Fredericktown - has been
there about three months.

H. C. Foster

Subscribed and sworn to before me on
this 3rd day of May, A. D. 1868, at the
place, and within the haunts first-
aforesaid. Robert S. Lindsay,
Notary Public

Q. Thos. B. Griesty, an ex-attor-
ney, being recalled by consent of
plaintiff, testified as follows: -
I saw Mr. Pipkin, during the Sep-
tember term of the Madison County Cir-
cuit Court. Have the animal
in controversy, about the time
he was preparing to leave Frede-
ricktown.

2 Do you know of any agreement
being entered into at that time

Ans.

by plaintiff and defendant.
At the time Mr. Pipkin was in the
act of leaving Fredericktown,
Martin G. Foster and Mr. Pip-
kin had some words about the
mare. Mr. Foster told him the
mare was his, but to settle the
difficulty he would give him
a hundred and twenty-five
dollars for the mare. Mr. Pip-
kin agreed to take it and both
parties called on me to witness
the agreement. On the agreement
Mr. Pipkin was to ride the mare
home to Jefferson County, and
the mare was to be delivered to
Mr. Foster when the money was
paid. I do not remember whether
the money was to be sent or at whose
expense the mare was to be return-
ed in the agreement. There was
such an agreement made but do
not remember the particulars.
When have you seen the mare
since.

Ans.

The next time I saw her, I saw
James T. Foster riding her in
Fronton

Anna

I have seen ~~her~~ riding her several times since, I do not remember having seen him with ^{her} for the last week or so. ~~Here in Iron County~~

Q Where does James T. Foster live?

Ans. In the town of Ironton, to best of my knowledge.

Q Where does Martin G. Foster reside,

Ans. At Fredericktown to best of my knowledge he is acting as deputy sheriff down there.

Cross-examination by Plaintiff.

Q Do you know that Martin G. Foster endeavored to get out the paper to replenish the mare before Pipkin left Fredericktown with her?

Ans. He spoke of doing it. (objected to as hearsay because recross one last witness.)

Q Did you not hear Martin G. Foster say that he was going to ^{replenish} ~~replenish~~ the mare. (objected to as leading and incompetent).

Ans. I did.

Q You say that Martin G. Foster told Pipkin the mare was his (Foster's) and in order to settle the matter he would give him

One Hundred and twenty-five dollars.
"for the mare". Do you not ~~know~~
mean that the \$123.⁰⁰ was to
be paid for his father, James
J. Foster, in place of the mare.

Ans.

I understood him to say that he
wished pay \$123.⁰⁰ for the mare
and settle the whole thing. I mean
the difficulty about the mare.

Q.

~~Did Mr. J. Foster tell you that the mare~~
This Martin G. Foster told me
he was going to pay Pipkin the
money for the mare. This oc-
curred afterwards.

Thomas B. Grigsby

Subscribed and sworn to before me, this
5th day of May, A. D. 1868, at the
place, and between the hours first-
of-foresaid.

Robert S. Simsbay
Notary Public.

By consent of parties the following
depositions were taken, and notices
received, on the part of the defendants.
John W. Emerson of lawful age being
produced sworn and examined

deposeth and saith:-

I know the animal in controversy between Martin G. Foster, & Philip Pipkin, about the latter part of June or first part of July 1867. Col. J. T. Foster had her in possession using her as his family animal and seemed to be exercising the usual acts of ownership over her. About the time mentioned Col. J. T. Foster put her in my possession as pledge or security for the loan of a small sum of money which I then made to him. He repeatedly spoke of her as his animal and I enquired of him particularly whether there were any claims or liens or other matter that would effect or disturb my title to her as such security he assured me that there was not.

I kept her a few weeks and he returned the money & took the animal away. I never saw Mr. G. Foster, know the animal in possession or exercise any ownership over her.

(Examined & Affirmed for Plaintiff)
Col. Jos. T. Foster also put another horse

in pledge at the same time, so I
really had two horses in pledge.
He was unwilling to sell the mare
in controversy, I believe Mrs.
Emerson was desirous of buying
her, but he declined to sell. of
course Martin G. Foster might
have had the mare in possession
or exercised acts of ownership
over her and I not known it.

I do not know as Col. Foster ever said positively
that the title to the mare was vested in him, but
that was my understanding from the circum-
stances and conversations.

John W. Emerson

Subscribed and sworn to before me this
3rd day of May, A.D. 1868, at the place
and within the hours first aforesaid,

Robert L. Simsbury,

Notary Public.

Not being able to complete the taking of said depo-
sitions, by reason of the arrival of the hour of
six o'clock, I hereby adjourn the further tak-
ing of the ~~taking~~ same until to-morrow,
then to be continued at the same place
and between the same hours mentioned
in the annexed notice. Robert L. Simsbury,
Notary Public.

Pursuant to adjournment as above stated,
on the 6th day of May, A. D. 1868, I was
at the place, all day between the hours
from eight o'clock in the forenoon
until six o'clock in the afternoon men-
tioned in the annexed notice, and no
further testimony being desired to
be taken, I hereby close the further
taking of the same under the an-
nexed notice.

Robert L. Lindsay
Notary Public

I, Robert L. Lindsay, a Notary Public
within and for Iron County in the
State of Missouri, do certify that
in pursuance of the annexed no-
tice, came before me, at the Court
House in the County and State last
aforesaid, Thomas B. Griegby, James
J. Foster, James Lindsay, Henry C.
Foster and John W. Emerson, who
were by me severally sworn to tes-
tify the whole truth of their knowl-
edge touching the matter in con-
troversy aforesaid, that they were ex-
amined, and their examination re-
duced to writing, and subscribed
by them respectively, in my pres-

ence on the day, between the hours,
and at the place in that behalf
first aforesaid, and their said
depositions are now herewith
returned, and I further certify
that said Thomas B. Griegby, James
F. Foster, James Lindsay, Henry L. Foster
and John W. Emerson are residents
of said County of Iron in the State
of Missouri.

Given at the Court-House in
the County of Iron and State of
Missouri, this 6th day of May,
1868. Robt S. Lindsay
Notary Public.

Iron

Goster
vs
Pipkin

Received per hands
of mrs Goster
opened & filed
Nov 19 1868
E. J. Honeywell

cup per. 25 20 35 20 35 20 35
 200 200 200 200 200 200
 100 for delivery copy 200 11.2.60

cup per. 25 20 35 20 35 20 35
and for delivery copy 200 11 2.60

copied notebook no. 110 with ~~the~~ ¹¹⁰ Motion for addl. bond ²⁰ 1.80

rule $\xrightarrow{20}$ comb, $\xrightarrow{20}$ ~~hedge~~, median & climber $\xrightarrow{20}$ hedge $\xrightarrow{20}$ down $\xrightarrow{10}$ 1, 25

ord²⁰ files ⁸⁵ marking each ²⁵ 418 10 and ¹⁵ and body 10 115

6.88

"One Million Pairs
\$200 2,000

The Grace Kelly Trust Co does not have - 50 50

2. Bellevue coat of tartan, 2 sh, 6, 90 6, 90

$$\frac{1}{16,208}$$

deductant postpaid

1