Jefferson County CIRCUIT COURT
Case Files – CIVIL
May 1868, No. 50

Box 21 Folder 67

Allen, Thomas
Allen, Ann R.
vs
Metz, Leonard

Trespass

Defendant allegedly cut down
$200 worth of trees in Survey #907;
Damages $600.

Thomas Allen and Ann R. Allen, Plaintiffs
vs
Leonard Metz
Defendant

} In the Jefferson Circuit Court. May Term 1868.

Plaintiff state that on or about the 1st day of September 1867 and on divers days prior thereto and since at the County of Jefferson County, defendant without leave and wrongfully entered upon United Survey No 907 of which Plaintiffs were then the owners and cut Timber of the value of two hundred dollars, the said defendant the time well knowing that he had no title to said land, by which acts of defendant Plaintiffs were damaged in the sum of Six hundred dollars, treble the value of said timber, for which they ask Judgment according to the form of the Statute in such case made and provided

John L. Thomas
Atty for Plaintiffs

Thomas Allen et al

vs

Leonard Metts.

Petition in Trespass

Filed Mar 12th 1868
E. F. Simes Clk

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 Leonard Metz

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 sixth *Monday after the fourth Monday of* March 1868 *then and there to answer unto*

Thomas R. Allen

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* Twelfth *day of* March *A. D.* 1868

Elias F. Honey
Clerk Circuit Court.

55
1225
2228

TO

JEFFERSON CIRCUIT COURT.

May Term, 1868

The Clerk of Said Court

Leonard Metz

Original

John Williams Sheriff

Fee $1.00

I Executed this Writ in Jefferson County Missouri on the 27th Day of March 1868 on Leonard Metz by Delivering to him a true copy of this Writ and Petition as furnished to me by the Clerk

John Williams Sheriff

Thomas Allen &
Ann E. Allen
vs
Leonard Metz

In the Circuit
Court of Jefferson
County Missouri

Now at this day Comes Leonard Metz the Defendant and for answer to the Plaintiffs Petition heretofore filed in this cause, Denies that he did on or about the first day of September 1867 and on divers days prior thereto and since or at any time at said County of Jefferson without leave and wrongfully enter upon United States survey No. 907 and Cut Timber of the value of Two hundred Dollars or any timber of any value whatever.

Defendant further answering avers that he has no Knowledge or information Sufficient to form a belief as to whether Plaintiffs are the owners of United States survey No. 907 described in their petition or not or any part thereof. Defendant further Denies that plaintiffs are Damaged by any act of Defendant in cutting timber on said land described in their petition in the sum of Six hundred Dollars ~~or~~ or any other sum whatever, ~~and~~

either as treble the value of Timber
cut on said Land by Defendants
or otherwise and Denies that said
Plaintiffs are entitled to recover from
Defendants any Sum of money
for Cutting Timber on said Land.

Jos. J. Williams
Atty. for Defendants

Thos. Allen & wife

vs

Leon. Metz

Answer of Defts

Filed Sept 2nd 1868.

E. J. Haney Clk

Thomas & Ann M Allen } In the Circuit
vs } Court of
Leonard Metz } Jefferson County
Missouri

Defendant for amended answer
to plaintiffs Petition Denies that
that he did on or about the 1st of
September 1867 or on any day prior
thereto or since (without) Leave or
(wrongfully) at the County of Jefferson
enter upon the Land described in
the petition of plaintiffs & Cut Timber
of the value of Two hundred Dollars
or any timber of any value,

Defendant avers that he has no
Knowledge or information Sufficient
= ient to form a belief as to whether
plaintiffs own the Land described
in their Petition or not Defendant
denies that plaintiffs are Damaged
by any act of Defendant in the
Sum of Six hundred Dollars for
treble Damages for timber cut on
Said Land or otherwise, &
Denies that plaintiffs are entitled
to recover Judgment against him
for any Sum for timber cut on
Said Land. For further
answer Defendant States that

in December 1865 Plaintiff
Thomas Allen he being the husb-
and of Ann R Allen his Co.
Plaintiff hired & Employed one
Russell Johnston who was in the
possession of the tract of Land
descrbed in the petition of
Plaintiff to Clear, fence & put in
Cultivation Twenty acres of
Land on Said Tract of Land &
agreed in Consideration thereof
to give him a Lease on the whole
Tract for A Sufficient number
of Years to Compensate him
therefor that the Twenty acres to
be cleared was agreed on by them
that Shortly after & before Defendant
Cut any timber on the Land Said
Johnston Commenced to Clear Said
Land that it was further agreed
between Allen & Johnston that
Johnston Should have all the timber
which Came off of said Land Except
Sufficient to fence it that Johnston
while Clearing the Land he was
So Employed to Clear for the
purpose of Clearing the same
agreed with D. Y. Davis that he
Should Cut & take off of the Land
being Cleared by Said Johnston

under Contract with Allen Some
Trees & that Davis Employed this
Defendant to cut the same & that
by virtue of Such Employment
by Davis Defendant cut Some
Trees on said Land so ~~being~~
being Cleared of the value of about
$ 30, as he had a right to do &
leaving more than sufficient timber on said
Land so being Cleared to balance of
That he did not at any time cut any
other timber Except as aforesaid

Jos. J. Williams
Atty for Defendant

Thos. Allen & wife

vs

Sen. Metz

amended Answer

Filed Nov 21st 1868.
E. D. Honey Clk.

Refiled May 17th 1869
Elias D. Honey clk

Tho. Allen & wife, Plaintiffs
vs
Leonard Metz, Defendant

In the Jefferson Circuit Court. Nov Term 1868.

Now at this day come the Plaintiffs and move the Court to strike out Defendant's amended answer filed Nov 21st 1868 for the following reasons:

1. Because said answer sets up two inconsistent defences.

2. Because the answer first denies the trespass and then afterwards undertakes to confess and avoid the trespass.

3. Because the Answer puts in issue the title to the land upon which the alleged trespass was committed and then afterwards admits title in Plaintiffs.

4. Because the answer is insufficient in law & is not if true any defence to the action.

John L. Thomas
Atty for the Plaintiffs

I. Allen et ux

vs

L. Metz

Motion to strike out amended answer

Filed Nov 21st 1868.
E. F. Honey Cl

COUNTY OF JEFFERSON.

The State of Missouri,

To J. Pipkin Wm Cook

John Williams

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 13th day of May 1869 at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein Thomas Allen suits

Plaintiff, and

Leonard Metts.

Defendant, on the part of Plaintiff and herein you are in no wise to fail.

Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office this 12 day of April A. D. 1869

E F Honey Clerk.

By J Hufford DC

SUBPOENA.

To Jefferson Circuit Court.

May Term, 1869

Thomas allen &c Pltf

vs

Leonard Wells

for Pltff

P. Pipkin & McCord & Co

John Williams

The within was served by reading the same to said P. Pipkin and Wm Cook and John McWilliams on the 27th day of April A.D. 1869. at Jefferson County Ky

May 1st 1869

Fees $1.50

Edw Schuyler Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To G. L. Johnston

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 13 day of May 1869 at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein Thos Allen Plaintiff, and, Leonard Motts, Defendant, on the part of Defendant and herein you are in no wise to fail.

Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office this 16 day of April A. D. 1869

Elias F. Honey Clerk.

By L Hayford D.C.

SUBPOENA.

To Jefferson Circuit Court.

May Term, 186

P. H. Allen

vs

Leonard Metts &c

Def'ts

G. F. F. Thuston

The within named Def't is hereby summoned to appear at the next regular term of the Jefferson Circuit Court, then and there to answer the within named Pl'ff's complaint.

Witness my hand this 5th day of June 1869.

Geo. Lunsford Jr. Clerk

By

D. Lynch

Thomas Allen &
Ann R. Allen
vs
Leonard Metz

In the Circuit
Court of
Jefferson County
Missouri

Now at this day comes the Defendant and Demurs to the Petition of Plaintiffs heretofore filed in this Cause for the following Reasons viz,

1st Because said Petition does not contain any Statment of any Cause of action in This that the same being an action for Trespass quare Clausum fregit Charging Defendant with Cutting timber on & Carrying the same away from the Land described in said Petition & which is therein stated to be the Land of Plaintiffs does not State that Plaintiffs or either of them had the possession of said Land or any part thereof at the time the said alleged

Trespass is charged to have been
committed

Jos. J. Williams
Atty. for Defendant

Tho. Allen Davis

vs

Lenard Metz

Demurrer

Filed May 13th 1869

Elias F Kinney Clk

By L H. Crawford D.C.

COUNTY OF JEFFERSON,

The State of Missouri,

To Philip Pipkin, McCourt & John Williams

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 18th day of Nov 1869 at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein Thomas Allen & wife Plaintiff, and Leonard Metz, Defendant, on the part of Plaintiff and herein you are in no wise to fail.

Witness, **ELIAS F. HONEY**, Clerk of our said Court, with the seal thereof hereto affixed, at office this 20 day of Oct A. D. 1869

Elias F Honey Clerk.

By L. H. Alford Dep.

Served on the 12th day of October as Jefferson County Mo by reading to the within named P. Pipkin, Wm Cook and John Williams

Fred Lin Weingartner Sheriff

Fees $1.50

Fred Voll Mayor Deputy

SUBPŒNA

To Jefferson Circuit Court.

T Allen

vs

Leonard Metz

for Pltf

P. Pipkin

Wm Cook

John Williams

Thomas Allen & wife Plaintiffs
vs
Leonard Metz, Defendant

In the Appeal
Circuit Court
Nov Term 1869.

Now at this day come said Plaintiffs and for replication to the new matter set up in Defendants amended answer, deny that in December 1868 or at any other time the Plaintiffs or either of them employed Russel Johnston to clear and fence known as the land said for and in consideration thereof they agreed to give him said Johnston the timber that might be cutten off of said land. They deny that they gave Defendant or said Johnston permission to cut timber on said land but they aver that they notified Deft not to cut timber on said land but he refused to do so & continued to cut timber thereon after being notified not to cut any more. They deny that they gave I. Y. Davis any permission to cut any timber on said land. They deny that Russel Johnston was in possession of that portion of said tract of land on which said timber was cut or that he is in such possession now.

Johnston Thomas for Plffs

Allen vs Wife

Leonard Metz

Replication.

Filed May 24 1869
E. H. Nunn Clk

Stamp

COUNTY OF JEFFERSON,

The State of Missouri.

To B F Broughton Charles E McCreery
J B Dover

You are Hereby Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 3rd day of Febuary 1870 at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein Thomas allen & wife Plaintiff, and Lemard Mettz, Defendant, on the part of Plaintiff and herein you are in no wise to fail.

WITNESS, Elias F. Honey, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 14 day of Jany A. D. 1870

Elias F Honey Clerk.

By L H. Dyer D.C.

Cir Court
Feb Term 1870
2902

Allen
vs
Mulz

Writ Reffs

B F Boughton
C E McCreary
J B Dover

Served the within by reading the same to the within named B. F. Boughton and C. E. McCraney and J. B. Dover in their hearing and presence this 12 day of February 1870 at Jeffersonville County Mo

Fees $1.50

Fred Luchtenmayer Sheriff
By
Jesse G Johnston

COUNTY OF JEFFERSON,

The State of Missouri.

To Philip Popkin John Williams (Stuff)
& William Cook

You are Hereby Commanded, *That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the* 3 day of Ja February 1870 *at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein* Thomas Allen & wife *Plaintiff, and* Leonard Metz

Defendant, on the part of Plaintiff *and herein you are in no wise to fail.*

WITNESS, Elias F. Honey, *Clerk of our said Court, with the seal thereof hereto affixed, at office, this* 14 *day of* Jany *A. D. 1870*

Elias F Honey *Clerk.*
By L H Affm Dp

Feby Term 1870

Allen rule

vs

Metz Leonard

On Petn.

P. Pipkin +

Wm Cook

John Williams +

Ex Shirk

Cook J. 10 – 1.80

Served the within this 21st day of January 1870 by reading the same to the within named Defendant and the said John Williams in their hearing and presence at Pipkins

Bunning Run

Fees $1.50

Ethel Lashbon actg Sheriff

By Geo. Dishman actg

Deputy

COUNTY OF JEFFERSON,

The State of Missouri.

To C. E. McCrery Thirfield Brighton & Jerome B. Owen

You are Hereby Commanded, *That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the* 9th *day of* March *at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy now pending in our said Court, wherein* Thomas Allen & wife

Plaintiff, and Leonard Metz

Defendant, on the part of Plaintiff *and herein you are in no wise to fail.*

WITNESS, Elias F. Honey, *Clerk of our said Court, with the seal thereof hereto affixed, at office, this* 22 *day of* July *A. D.* 1870

E. F. Honey *Clerk.*

By L. H. Alford D.C.

M Ch Jan 1870

Allen Webb
vs
Linard Wells
& Ref
C. E. McCreery
Mifflin Broughton
Jerome B Powers

Issued the within Subpoena on the within named C E McCreery and W. Broughton & reading the same in their presence and delivering at the County of Jefferson on the 4 day of March 1870

J. B. Powers

Fred. Lucas Sheriff
By J G Johnson Dty

Fees $ 1.50

COUNTY OF JEFFERSON,

The State of Missouri.

To W H H Thomas

You are Hereby Commanded, *That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the* 3rd day July 1876 *at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein* Thomas Allen use

Plaintiff, and Leonard Metz

Defendant, on the part of Reff *and herein you are in no wise to fail.*

WITNESS, Elias F. Honey, *Clerk of our said Court, with the seal thereof hereto affixed, at office, this* 14 *day of* Jany *A. D.* 1876 Elias F Honey *Clerk.*

By L H Alford Dep'y

Feby Term 1870

Allen et ux

vs

Leonard Metz

W. H. H. Thomas

Service the within by reading the same to the within named Wm. H. H. Thomas in the said County of Jefferson this 28 day of January 1870

At Jefferson County Ala

Fees $1.00 $1

Sheriff Leonard Metz by Geo Wilson D.S.

Dismissed

COUNTY OF JEFFERSON,

The State of Missouri.

To Philip Apkin, Wm Cook

John Williams former Sheriff

You are Hereby Commanded, *That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the* 9th *of* March *at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein*

Thomas Allmon wife

Plaintiff, and

Lenard Metz

Defendant, on the part of Plaintiff *and herein you are in no wise to fail.*

WITNESS, Elias F. Honey, *Clerk of our said Court, with the seal thereof hereto affixed, at office, this* 20 *day of* July *A. D. 1870*

E F Honey *Clerk.*

By L. H Wash DC

March 1870

Thomas Allen & wife
vs
Leonard Metz
for Deft

Philip Pipkin
Wm Cook & John
Williams X

Served the within Subpoena this 8th day of March 1870 by reading the same to the within named Philip Pipkin & Wm Cook & John Williams at the same time & at the request of Deft

Fees $1.50

Fred Fuhrmeyer Sheriff
By Fred Hollenbeck
Deputy

C. F. Chamberlin & Co., Printers, Stationers and Blank Book Manufacturers, 201 N. Main St., St. Louis, Mo.

The State of Missouri,
COUNTY OF JEFFERSON.

To Russell Johnston

You are Hereby Commanded, *That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the* Forthwith *, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy, now pending in our said Court, wherein* Thomas Allen wife *Plaintiff, and* Lenard Metz Dept *Defendant, on the part of* ; *and herein you are in no wise to fail.*

Witness, ELIAS F. HONEY, *Clerk of our said Court, with the seal thereof hereto affixed, at office, this* 21st *day of* March *A. D. 187* 0

Elias F Honey Clerk.

The within was served on the 22 th Day of March A D 1870, by offering to read the same to the within named Russel Johnston at Jeff Co Mo. Who run away before the service could be effected

Fees 50 Cts

Fred Leuhdemyer Sheriff

by H. H. Williams

Sp Depy

S. L. Williams

SUBPŒNA

RETURNABLE TO

JEFFERSON CIRCUIT COURT.

Term, 18

Allen
vs
Mehrz

Thomas Allen wife } March Term 1870
vs
Leonard Metz. } Sur Writ

E. F. Hovey clk Copy Pet 50ct & Writ 50ct 1,00
writ & Copy 1.10 Files 25ct Records 70ct 5 Cents 125= 3,30
Sams 50ct Demr 20ct Rep 20ct Sher 35ct Mil 20 1,45
Sums 9 days @ 2,25 Judgt 50 Sum Mile 35 @3,10= @8.85
John Williams former Sheriff
Serv Deft 1,00 Serv 3 writs 150 Calls 20ct 2,70 @ 2,70
F. Luchtmeyer Serv 12 writs 6,00 6.00
Calls Same 6ct ,60 60 6,60

Williams
Witnesses

Wm Cook 1 d 10 m 1,80 H Boughton. 4,12 5,92
G. J. Johnston. 6-12 6,96 John Williams 5.00 11,96
@36,03
Total,

H H Thomas 5 days. 5.00
@41 03
Total

Allen vs Neely

Fee Bill

$41.03