

Jefferson County Circuit Court
Case Files-Civil
May 1868, No. 138

Box 21 Folder 108

Allen, Thomas
Allen, Ann E.

^{vs.}
Johnston, Russell

Ejectment and injunction

640 acres in survey 90774124E;
enjoin cutting of timber; \$1,500
damages

Thomas and Ann R. Allen
Plaintiffs
Against
Russell Johnston,
Defendant

The Plaintiffs state that on the 25th day of August 1863, they were entitled to the possession of United States Survey No. 907, Township Forty one Range four East containing six hundred and forty acres, situate in Jefferson County Missouri and being so entitled to the possession thereof that the defendant afterwards on the 26th day of August

1863 entered into such premises and unlawfully withholds from the Plaintiffs the possession thereof to his damage in the sum of Five hundred dollars.

They further aver that the monthly value of the rents and profits of said premises is ten dollars per month.

They further aver that since said defendant entered into said premises as aforesaid, he has cut and taken therefrom timber of the value of one thousand dollars: that he is still chopping & threatening to chop & carry from said land more timber to the great and irreparable damage

to said lands and to Plaintiffs. Plaintiffs
further state that said defendant is in-
solvent so that an action at law against
him for said trespasses would be unavail-
ing. Therefore Plaintiffs demand
judgment for the recovery of the said
premises and five hundred dollar dama-
ges for the unlawfully withholding of the same
from Plaintiffs and one thousand
dollars damages for the timber so taken
away from said premises and also
ten dollars per month for monthly rents
and profits from the rendition of judgment
until the possession of the premises is
delivered to the Plaintiffs. ~~and for the~~

~~premises~~ Plaintiffs also pray the Court
to grant an order, in the nature of an
injunction to be directed to defendant
restraining and enjoining him said
defendant from cutting or taking
away any more timber from said premises.

John L. Thomas,
Atty for Plaintiffs.

To the Honorable the County Court
of Jefferson Co. Mo.
The undersigned petitioner would

respectfully state that ^{there} is no Circuit Court
in session in Jefferson Co. Mo. nor any
Judge of a Circuit Court resident therein.
They therefore respectfully pray your
Honorable Court to grant them a temporary
Injunction as prayed in the above
petition & make the same returnable
to the Circuit Court of said County.

Thomas & Ann R. Allen

By Jth L. Thomas

Moore & Smith, Allen

by

Russell Johnston

Orations in Richmond
& Newport

Filed July 6th 1868

Oliver P. Moore, etc

County of Jefferson, S. C. P.

The State of Missouri

To the Sheriff of Jefferson County, Greeting.

Whereas the County Court of Jefferson County State of Missouri, at a regular Term thereof begun and held on the third Monday of January 1865, and on the first day being the 27th day of said month, upon a petition of Thomas Allen & Ann T. Allen, a certified copy of which is hereto annexed, and upon the filing of a bond by said Thomas, & Ann T. Allen, with approved Security in accordance with the ^{requisitions of the} Statutes in such cases, has ordered and adjudged that the prayer in said petition be granted, and that a writ of injunction returnable to the May Term 1865 of the Circuit Court be issued enjoining and restraining Russell Johnston from cutting or taking away any more timber from the following described premises or Lands to wit; United States Survey No 907 Township Forty one Range Two East, containing six hundred and Forty acres, situate in Jefferson County Missouri; These are therefore to command you that you notify the said Russell Johnston that he is enjoined and restrained from cutting or taking away any more timber from said above described premises, We further command you that you summon the said Russell Johnston, that he be and appear before the

Hon^{ble} Judges of our Circuit Court on the first
day of the next term thereof, to be begun and
held at the town of Nilesboro within and for
the County of Jefferson, on the Sixth Monday
after the fourth Monday of March next
then and there to answer unto the said Thomas
Allen and Anna P. Allen upon their original
petition, a copy whereof is herewith annexed
and accompanies this writ, and have you
then serve this writ.

Witness Elias P. Noyes Clerk
of our said Circuit Court with
the seal thereof herewith affixed, at
office in Nilesboro this Sixth day
of February A.D. 1868,

Elias P. Noyes Clerk
By C. D. Noyes Deput

I executed this Writ in Jefferson County Mo
on the 12th day of February 1868 on G R
Johnston by leaving a true copy of
this Writ and Petition at his usual place
of abode with a white person of his family
over the age of fifteen years

John Williams
Sheriff

2908
Do the Jefferson Circuit Court
May Term 1868

Thomas Allen et al

Russell Johnston

original

John Williams
Sheriff

Served 12th February

State of Missouri } In the County Court
County of Jefferson } January 27th 1868,
The following proceeding was had, to wit,

Thomas and Ann Rallen } On Petition for Injunction
Russell }
Johnston } Now at this day come the plain-
tiffs by their Attorney, and present their petition stating
that on the 25th day of August 1863 they were entitled to
the possession of United States Survey No. 907 in Township
44 Range 4 East containing 640 Acres, situate in Jeffer-
son County Missouri, and that Defendant on the 26th day of
August 1863 entered into such premises and unlawfully
withholds from the plaintiffs the possession thereof to their
damages in the sum of five hundred dollars, That the monthly
value of the rents and profits of said premises is ten dollars
per month, That since said Defendant entered into said
premises he has cut and taken therefrom, timber of the value
of One Thousand Dollars, That he is still chopping and
threatening to chop & carry from said land, more timber
to the great and irreparable damage to said lands, and to
plaintiffs, That the Defendant is insolvent, so that an action
at law against him for trespasses would be unavailing, &
that there is now no Circuit Court in session in Jefferson
County, nor any Judge of a Circuit Court residing therein,
and prays for an injunction to restrain and enjoin said
Defendant, from cutting and removing any timber from said
land, and it appearing that notice of this application has been
duly served on Defendant, It is ordered by the Court, that upon
the plaintiffs filing bond in the sum of One Thousand Dollars

with conditions required by law, with good security the injunction be granted as desired by said petitioners and said bond being filed and approved by the Court. It is ordered That the Clerk of this Court, certify these proceedings to the Clerk of the Circuit Court, That said injunction be granted in accordance with this Order, returnable to the next term of said Court, as required by law.

A true copy of the Order,

Witness my hand and the Seal of said Court,
Hereunto affixed This 5th day of February AD, 1868,

Wm. McNeill Clerk

no 138
Thomas & Ann D. Allen

we
Rucool Johnston

Francis Johnson

File

Lyonsville car file 13th Aug 1902
order 30th copy Paid 1st 175
John Williams City man 130

Julius Mason

Chico July 31 1868,
B. D. Hower, Ct.

Thomas Allen & Ann R. Allen

against
Russell Johnston and
King Defendants

Plaintiffs

In the Jefferson
Circuit Court.

We Thomas Allen as principal and Sam. Coff-
& E. Knoble Senr & John L. Thomas.

as securities, acknowledge ourselves to be indebted
to Russell Johnston and King the above
named defendants in the sum of one thousand
dollars for the payment of which we bind ourselves
our heirs, & executors and administrators firmly by
these presents, ~~thenceforward~~ upon this condition
That whereas the said Thomas and Ann R. Allen
as Plaintiffs, have obtained an order from the
Jefferson County Court returnable to the May Term
of the Jefferson Circuit Court for 1868, directed
to Russell Johnston and King
the above named defendants, restraining
them from cutting timber on or taking
timber from United States Survey No
907, Township 41, R. 5, E. Now if the
said Plaintiffs will abide the decision which
the said Circuit Court may make in regard
to said order and pay all sums of money
damages and costs that shall be adjudged
against them, then this bond shall be void
otherwise the same shall remain in full force.
Witness our hands & seals Jan. 18th 1868.

Thos. Allen

Sam. Coff

E. Knoble Senr
John L. Thomas

Real
Estate
Bond

Thos Allen & Co
per
Russell Johnston

Filed July 6th 1868
Elias J. Moorey clerk

Thomas & Ann R. Allen, Plffs.

Against

Russell Johnston & James
King Defendants

In the Jefferson
Circuit Court.

To Russell Johnston & James King
the above named Defendants: You are
hereby notified that we shall apply to
the Jefferson County Court at the Court
house at Hillsboro in said County on
the 25th day of January 1868 for an order
to restrain ^{you} and each of you from
chopping timber on or taking timber from
United State Survey No 907, T. 41, R. 5-E.
Confirmed to Tabril Cobb.

Thomas Allen & Ann R. Allen
By John L. Thomas Atty.

I hereby this notice in Jefferson County Mo
on the 18th day of January 1868 by Deputies
to ~~the~~ G. H. Johnson as true copy of this
notice

John Williams Sheriff

Subscribed & sworn to before me

John A. Johnson

Notary Public

Allen & wife

by

Johnston & Co

notice for Exemption

John Williams

Sheriff fee 50

Filed July 6th 1868

Chas F Honey clk

Thomas Allen &
Ann W. Allen
vs
Russell Johnston

In the Circuit
Court of Jefferson
County Missouri

Now at this day comes the
Defendant and for answer to the
petition of plaintiffs ~~Denies that~~ Denies
that ~~he did~~ Plaintiffs were on the
25th day of August 1863 or at any other
time entitled to the possession of
the Real Estate described in the
petition of plaintiffs, and Defendant
denies that he did after that time
viz, on the 26th of August 1863 enter
into said premises and Denies that
Defendant now unlawfully and wrongfully
withholds from plaintiffs the possession
of said Real Estate. Defendant
Admits that he is in possession of
said Land and was at the commencement
of this suit but says that his possession
was rightful & lawful & that he is entitled
to retain such possession. Defendant
denies that plaintiffs are Damaged
five hundred dollars or any other
sum by reason of the possession
of said Land by Defendant, and Denies
that the rents & profits of said Land are
worth Ten dollars per month

Defendant denies that he has cut and taken from said Land Timber of the value of one Thousand Dollars, and denies that he has at any time cut or taken from said Land or caused the same to be done any timber that he did not have a good & legal right to cut and take from said Land, and denies that he is or was at the commencement of this suit Chopping or threatening to chop and carry away from said Land any timber to the ~~great~~ Great and irreparable Damage to said Lands and to Plaintiffs, and denies that he has committed any act of Trespass on said Land or cut any timber which he was not legally entitled to cut.

Defendant denies that Plaintiffs are the owners of the Land described in their petition and denies that they are entitled to the possession thereof or any part of it. Denies that Plaintiffs are entitled to recover from Defendant five hundred Dollars or any sum by way of Damages for the withholding of said premises from Plaintiffs by Defendant, or for one Thousand Dollars for Damages for timber taken away from said Land by Defendant or for any sum, ~~therefor~~ therefor, or for any

Sum for rents & profits, and
Defendant denies that Plaintiffs ought
to have or maintain an injunction
against Defendant to restrain him
from cutting or carrying away timber
from said Land or for any purpose
whatever,

Green Williams
Attorneys for Defendant

Thomas Allen
& wife

vs
Russell Johnston

Answer of Deft.

Filed Sept 7 1868.
E. J. Henry Cl.

Green Williams
Atty. for Deft.

COUNTY OF JEFFERSON.

The State of Missouri,

TO *W. L. Johnston, Sen. Mello, Mo. Meeo, & 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 *21st* day of *November 1868*, 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

Plaintiff, and

The Allen et sup is
Finell Johnston is

Defendant, on the part of

Spandank,

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 *13th* day of *October* A. D. 186*8*

Elias F. Honey Clerk.

By Wm. H. Honey

SUBPOENA.

To Jefferson Circuit Court.

Nov

Term, 1868.

Thos Allen et ux

vs

Russell Johnston

For Deft.

A. S. Johnston +

Len Meigs

Thos Moss,

John Cook

John Williams

Sheriff fee \$2.00

I served the within in Jefferson County Mo
on the 23rd day of September 1868 on
Johnston and Len Meigs by executing
the same to each of them

John Williams
Sheriff

Thomas R. Allen &
 Ann Allen, - } Plaintiffs } In the Circuit
 Against } Court, of Jef=
 Russell Johnson, - Defendant } ferson County
 } Missouri
 } Nov. Term 1868

The Defendant for amended Answer
 filed by leave of the Court to Plaintiffs petition,
 denies that Plaintiffs were on the 25th day of
 August 1863, or at any other time entitled to the
 possession of the ~~premises~~ ^{Lances} described in plain=
 tiffs petition, or any part thereof, and De=
 fendant denies that he on the 26th day
 of August 1863, entered into the possession
 of such premises, and denies that he un=
 lawfully withholds from the Plaintiffs
 the possession thereof, and denies that
 Plaintiffs are damaged five hundred
 dollars or any other sum, by reason of
 the possession of said Lances by the Defend=
 ant. And defendant denies that the rents
 and profits of said Lances are worth ten
 dollars, per month, And defendant denies
 that he has since he entered into the pos=
 session of said premises cut and taken
 therefrom timber of the value of one thou=
 sand dollars, and denies that he has

since he entered into possession of said premises cut and taken therefrom any timber that he did not have a legal right to cut and carry away, - and he denies that he ^{was at the commencement of this suit,} or is now chopping or threatening to chop and carry away from said Land any timber to the great damage to said Lands and to Plaintiffs, - and denies that he is threatening or about to cut and carry away any timber from said Lands, which he has not a legal right to cut & carry away, And Defendant denies that Plaintiffs are the owners of said Lands or any part of them, and denies that they are entitled to judgment for the recovery of the possession thereof, and denies that Plaintiffs are entitled to recover five hundred dollars, or any other sum from the Defendant for his withholding of said premises from Plaintiffs, - and denies that Plaintiffs ought to recover one thousand dollars or any other sum from defendant for timber cut and taken from said premises by Defendant, or to recover ten dollars for the monthly rents & profits of said premises, And Defendant denies that Plaintiffs have any legal or equitable right to have or maintain an injunction against Defendant to restrain him from cutting or carrying

ing timber from said Lands. Defendant admits that he was at the Commencement of this suit, and is now in the possession of said Lands, but he avers that his possession thereof is lawful and right.

For further Answer Defendant states, that in the year 1818, one Jesse Evans ^{then having about forty acres of cleared land} took possession of said Lands, and made improvements thereon, built a dwelling house and cleared some ten ^{acres} ~~years~~ in the second year, and cleared in all about ^{ten} ~~forty~~ acres, ^{occupying and} and he held the possession thereof adversely ^{& continuously} till he died in 1838, or 1839, leaving his wife in possession thereof, who held the same adversely till she died in 1845, leaving Mary Hunt in possession thereof, who held the same till 1859, and then delivered the possession thereof to J. S. Johnson, who delivered the possession thereof to Russell Johnson the Defendant, in 1860, - Defendant therefore states that he and his predecessors have held the adverse, ^{and continuous} notorious, possession of said Lands for upwards of forty ^{exercising acts of ownership over the same,} eight years, And Defendant denies that either the Plaintiffs, their ancestors, or predecessors, grantors, or persons under whom they claim, have been seized or possessed of said Lands or premises, or any part thereof.

within ten years before the commencement of this suit, nor within twenty years before the commencement of this suit. And Defendant ^{states that} if Plaintiffs ever had any right to the possession of said Lands, their claim has long since become barred by the statute of limitations. - and that Plaintiffs are barred by the statute of limitations from maintain^{ing} any action to recover the possession of said Lands, or any part of them.

And for further Answer Defendant states, that if Plaintiffs ever had any right to the Lands described in their petition, they by express agreement gave Defendant a license and privilege to cut timber on any part of said Lands not included in the improvements of Defendant, - and the Defendant avers that whatever timber he cut on said Lands was outside of said improvements, and was therefore cut and carried ^{away} by the express License and privilege given by Plaintiffs, the Defendant, and that therefore Defendant is not liable for any timber whatever that he cut & carried away from said Land, - and he avers that Plaintiffs are entitled to recover 1000 dollars, or any sum whatever for any timber Defendant

may have cut and ~~carried~~ away
from said Lands,

} J. J. Williams & A. Green
} Attorneys for Defendant

Thos. R. Allen
J Am Allen

23.

Russell Johnson

Amended
Answer

Filed Nov 23 1868
E F Hooley

COUNTY OF JEFFERSON,

The State of Missouri,

To

E. J. Shuckler the Master of the
Coast

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 *The Allen*

Plaintiff, and *vs*

Lucas J. Shuckler

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 J. H. Adams

SUBPOENA.

To Jefferson Circuit Court.

May Term, 1869

No. 1111

Russell R. Johnston
for deft.

G. J. Johnston vs
Moss & John Lee & Co.

The within was served on the 17th Day of April 1869 at Jefferson County, Mo., & reading the same to the within named G. J. Johnston, within his presence and hearing, and it was also served in the same manner as above stated to them they on the 28th Day of April and to John Lee & Co. in the same way as above on the 6th Day of May 1869.

Frederick Sturdivant Sheriff

per Fred W. Demott

Deputy

fees \$1.50

COUNTY OF JEFFERSON,

The State of Missouri,

To

J. P. Fiskin vs. Leont & John
Medicine

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

Allen et al vs. Sherman

Plaintiff, and

Reverell vs. Hughes

Defendant, on the part of

Wm. H. H. H.

and herein you are in no wise to

tail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this 13th day of May A. D. 1869

Wm. H. H.

Clerk.

By J. H. H. H.

SUBPOENA.

To Jefferson Circuit Court.

May Term, 1869

Thomas Allen et al
vs

Russell Johnston
for Plff

P. Perkins McCork
& John Williams

Served the within on the 23rd day of April a D 1869 at
Jefferson County Mo by reading the same to the said
Jefferson, Mrs Cook and John Williams
fees \$1.50

Frederick H. Emery Clerk
per

Deputy

Thomas & Ann R. Allen, Plaintiffs
vs
Russell Johnston Defendant } In the Jefferson
Circuit Court.
May Term 1869.

Now at this day Come the Plaintiffs &
move the Court to strike out the following
portion of Defendants Answer viz:

"And for further answer Defendant states that
if Plaintiffs ever had any right to the lands describ-
ed in their petition they by express agreement
gave Defendant a license and privilege to cut
timber on any part of said lands not included
in the improvements of Defendant and the
Defendant avers that whatever timber he
cut on said lands was outside of said
improvements and was therefore cut & carried
away by the express license and privilege
given by Plaintiffs to the Defendant and
that therefore Defendant is not liable
for any timber whatever that he cut and
carried away from said land and he
denies that Plaintiffs are entitled to recover 1000
dollars or any sum whatever for any timber
may have cut and carried away from said land
for the following reasons viz:

1. Because this portion of said answer is in-
consistent with the balance of the answer.
2. Because the first portion of said answer
denies Plaintiffs' right to the land sued for and

the above portion undertakes to confess and avoid the trespass.

3. Because the first portion of said answer denies and the above portion ^{undertakes} ~~confesses~~ and avoid the trespass.
4. Because the above portion of said answer undertakes to avoid the trespass without confessing it.
5. Because the above portion of said answer does not set up any agreement on the part of Plaintiffs and therefore no defence to this action.
6. Because this portion of the answer is inconsistent with the first answer filed in this Cause by Defendant.

John L. Thomas

Atty for Plaintiffs

Allen Quicke

2

Rumel Johnston

Motion & White out
Position of object
Anti Amended Motion

Filed May 12th 1869
Filed 3rd Dec 1869
By Attorney at Law

Thomas & A.R. Allen Plaintiffs } In the Jefferson
n } Circuit Court
Russell Johnston Defendant } May Term 1869.

Now at this day come Plaintiffs and
Answer to the Second Count in Defendants
answer for the following reasons.

1. Because said Court sets up no defense
to this action.
2. Because the Defendant does not allege
that those in possession of the land sued
for were in possession under claim
of title & were holding adverse to Plaintiffs.
3. It is not alleged that those occupying
said land at different periods held
under each other.
4. Because said Court is otherwise
defective, argumentative & void.

John H. Thomas
Atty for Plaintiffs.

Allen wife
21

Russell Johnston

Demurrer to Second
Count in Amended
Answer.

Filed May 12 1869
Elias P. Honyok
By S. Hayford & Co.

Thomas Allen &	}	In the Circuit
Ann W. Allen		Court of
^{vs} Russell Johnston		Jefferson County Missouri May Term 1863

Now at this day comes the Defendant
and for amended answer to the
petition of Plaintiffs heretofore
filed in this cause Denies
that Plaintiffs were on the 25th
day of August 1863 or at any
other time entitled to the
possession of the Real Estate
described in said petition of
the Plaintiffs and Defendant
Denies that he did on the 26th day
of August 1863 enter into the
possession of such premises
and Denies that now does
or did at the commencement
of this suit unlawfully
withhold the possession of,
said Real Estate from Plaintiffs
and Denies that Plaintiffs are
damaged in the sum of five
hundred Dollars or any other
sum by reason of any act of
this Defendant in withholding

The possession of said Land from
Plaintiffs and Defendant Denies
that the Rents and Profits of said
Land are worth Ten Dollars per month
and Defendant Denies that he has
since he entered into the possession
of said Land Cut and taken
therefrom Timber of the value of
one Thousand Dollars and
Denies that he did at any time
since he has ~~been~~ been in the
possession of said Land Cut
& taken therefrom any timber
that he did not have a legal
right to cut & carry away
and he denies that he was at
the time of the institution of this
suit or is now Chopping or
threatening to Chop and carry
away from said Land any
timber to the great damage
of plaintiffs or of said Land
& Denies that he is or was threat-
ening or about to cut or carry
away from said Land any
timber which he did not have
a right to cut & carry away
and Defendant Denies that he

Plaintiffs are the owners of said Land or any part thereof otherwise than as is hereinafter stated, and utterly denies that Plaintiffs are entitled in this action for Judgment for the possession of said Real Estate or any part thereof, and denies that Plaintiffs are entitled to recover \$500, or any other sum from Defendant for his withholding of said premises from Plaintiffs & denies that Plaintiffs ought to recover one thousand thousand Dollars or any other sum from the Defendant for timber cut & taken from said Land by Defendant or to recover \$10, for the monthly rents & profits of said premises, & Defendant denies that Plaintiffs have any legal or equitable right to have or maintain an Injunction against Defendant to restrain him from cutting or carrying timber from said Land, Defendant admits that when this suit was commenced he was & now is in possession of the said Land but avers that his possession thereof was & is lawful

and right. For further answer
Defendant avers that in the year
1818 one Jesse Evans took possession
of said Real Estate there being then
forty acres of Land ^{fenced} Cleared, & in
Cultivation on said Tract of Land
& made improvements thereon &
built a dwelling house on said Land
cleared & cultivated ^{said} Land, and in the
year after viz in the year
1819 Cleared Ten acres more
& he occupied, possessed, and
held said Fifty acres of Cleared &
Cultivated Land Claiming the same
as his own adversely & contin-
-ously till he died in the year
1838 or 1839 leaving his wife in the
possession thereof ^{and occupied} who held, ~~the~~ &
possessed ~~these~~ ^{same} Claiming the
same as ~~his~~ her own openly
notoriously & adversely to all the
world till her death in the year
1845 leaving her daughter Mary
Hunt in the possession thereof
that is to say in the possession
of such cleared fenced & cultivated
Land who, held occupied &
possessed the same till in the
year 1859 holding occupying

and possessing the same openly
notoriously & adversely to all the
world claiming the same as
her own & then delivered the
possession thereof to one
J. G. Johnston who held
occupied & possessed the same
claiming it as his own openly
notoriously and adversely to
all the world till the year
1860 when he sold & delivered the
same to this Defendant - The
Defendant says therefore that he
his predecessors & those under
whom he claims & holds the
possession of said cleared
fenced & cultivated Lands to
the extent of fifty acres of said
tract of Land as aforesaid
have had the continuous, open,
notorious, adverse occupancy
and possession of said
fifty acres of cleared fenced
& cultivated lands claiming
the same as their own to the
exclusion of all other persons
for more than forty eight
~~years~~ consecutive years
next before the institution of

this suit exercising acts of
ownership over it) and avers
that neither the plaintiffs or
either of them or their ancestors
or predecessors, or grantors or
predecessors or persons under
whom they or either of them
claim have been seized or
possessed of said Land
that is to say said fifty
acres of cleared fenced &
Cultivated Land or
any part thereof within Ten
Years before the commencem-
ent of this suit or within
Twenty Six years before
the Commencement of this
suit, so that Defendant avers
that if plaintiffs or either of
them, ^{or their ancestors, ~~they~~ or ^{grantors}} ever had any right to
the possession of said Land
their said claim was barred by
the Statute of Limitations long
before the institution of this suit,
and that plaintiffs are Barred
by the Statute of Limitations
from having or maintaining
any action to recover the

Possession of said fifty acres of
cleared & cultivated Land or any
part thereof

By way of further answer
Defendant avers that Ann B.
Allen who is the wife of said
Plaintiff Thomas Allen being the
owner of said portion of the
Tract of Land described in the
Petition of Plaintiff with the
Exception of the fifty acres of
cleared & cultivated Land afores-
aid said Thomas Allen who
was at the time her husband &
still is & who was & is a Tenant
of such Land by the Courtesy;
did about the 20th day of December

1865 enter into an
agreement with this Defendant
by which said Allen for himself
& wife employed this Defendant to
Clear 20 acres of new Land on
said Tract & to fence the same with
new Nails to be made by him
from the Timber to be cut
therefrom in clearing the same,
that by the Terms of said
agreement said Defendant
had the right and was entitled

Ag to Cut all the timber which
then was on said 20 acres
& was entitled to carry the same
away from said Land or to
do therewith as he pleased
reserving enough of said
timber to fence said Land
which he was bound
to use for that purpose
and Defendant avers that ~~the~~
he did about the 1 day of
November - 1865 proceed to
commence clearing & fencing
said Land with the view
of putting such 20 acres in
cultivation & did cause
some timber to be cut
down on said Land &
taken away not exceeding
in value thirty dollars
that all the timber ever
cut by him was cut down
on the said 20 acres which
was by Defendant being
cleared as aforesaid under
& by virtue of the contract
& agreement between
said Thomas Allen & this

Defendant for the clearing & fencing
of such new Land, so that
Defendant avers that in cutting
or causing such timber to be cut
he was not guilty of any trespass
or wrongful act there being
abundant good timber left
standing on said 20 acres
to make Nails to fence the
same,

& in consideration of the
premises Defendant prays
Judgment for his costs

Abner Green &
Jos. J. Williams
Attys. for Defendant

Thos. Allen &
Ann R. Allen
^{ms}
Russell Johnston

Amended Answer

Filed May 17 1869
Elias P. Honeywell
By S. H. Ayres DC

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach *Augustus*
Johnston, by taking his
body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *Franklin*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *Witness* in after being
duly Summoned to do so. Herein fail not, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,

with the seal thereof hereunto affixed, this *17th*

day of *May* A. D. 1869

Elias F. Honey
By *S. H. Alfred, Jr.* CLERK.

750
990
1770

TO THE CIRCUIT COURT OF
JEFFERSON COUNTY.

.....Term, 186

Augustus Johnston

360
300

244316
3655

The within named Augustus Johnston was not be
found in time of service

fees 50 lbs

Shed Clark Henry and Sheriff
by Sheret W. L. Mack

Deputy

COUNTRY OF JEFFERSON,

The State of Missouri,

To y^e Executive. The Most Obedt

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 17th day of June 1869 at Hillsboro, then and there to testify and the truth to say in a certain

Plaintiff, and
Richard Schuler

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 20 day of Dec A. D. 1869
John & Stephen St. Clerk.

SUBPOENA

To Jefferson Circuit Court,

Thomas Allen

vs
Ruiner Johnston

for debt

E. J. Johnston & X

James Moss &

John Lewis &

James

COUNTY OF JEFFERSON,

The State of Missouri,

To Philip Decker Mullock John Willard

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 11th day of June 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

Plaintiff, and

Russell Johnston,

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 10 day of October, A. D. 1869

Elias F. Honey
Clerk.

By J. H. Ayers & Co.

SUBPOENA

To Jefferson Circuit Court.

Thomas Allen

vs
Russell Johnston
for Peff
152

Philip Pappin

Wm Cook
John Williams

Served October 22

John Williams
William Cook

Pappin 11/12

Served the within on the 22^d Day of October 1852
by riding the same to the within named John Williams,
William Cook and Philip Pappin of Jefferson County Mo
per 150.

And due diligence being
used to reach
Fred Wellmack
Deputy

Thomas Allen &
Ann R. Allen
vs
Russell Johnston } In the Circuit
Court of Jefferson
County Missouri

Now at this day comes the
Defendant and moves the Court
to dissolve the injunction
heretofore issued in this cause
against Defendant by the
County Court of Jefferson
County Missouri and returned
to this Court. for the Reasons

1st That from the facts as set forth
in the answer of Defendant
to the original petition in said
Cause it appears that Plaintiff
is not entitled to have & maintain
his said injunction & that the
same ought to be dissolved

Green & Williams
Atty for Defendant

Thos. Allen & al

^{vs}
R. Johnston

Motion to
dissolve injunction

Filed Nov. 17/86
E. F. Kennedy

Thomas Allen & wife Plaintiffs
 v
 Russell Johnston, Defendant } In the Superior
 Circuit Court.
 Nov. 1869.

Now at this day come said Plaintiffs
 and for replication to the second and
 third Counts of defendant's amended
~~petition~~ answer filed May 17th 1869
 deny that in 1818 or at any other time
 one Jesse Evans entered into 50 acres
 of cleared land of the tract sued for
 by Plaintiffs and held the same adverse
 to Plaintiffs or those under whom
 they held or adverse to the true owner
 until his death in 1838 or 1839. or
 that after his death, his widow held said
 land or portion thereof adverse to
 Plaintiffs or those under whom they
 claim or adverse to the true owner.
 Plaintiffs deny that J. G. Johnston
 took possession of said land under the
 widow of Jesse Evans in 1859 and
 held the same adversely to Plaintiffs
 or any one else - or that in 1860
 the said Defendant came into the
 adverse possession of said land
 under said J. G. Johnston.

Plaintiffs say that Mrs Russell ^{who} formerly

owned said tract of land, permitted said
E van and after his death his widow to
occupy said land but they positively
allege that they never pretended to claim
title to said land but at all times
acknowledged their obligations and
gratitude to said Russell for his kindness
in permitting them to occupy said land
free of rent. And that many years
ago said Russell transferred said
land to Ann R. Allen wife of Thomas
Allen, who has owned said land
ever since: that she has allowed
the widow of said E van, through her
agency to remain on said land, who
~~never~~ pretended to deny her title or
to claim to hold said ^{land} adverse to him,
Plaintiffs deny that J. G. Johnston
or Defendant ever claimed title
or adverse possession of said land
until after this suit was brought but
at all times acknowledged Plaintiffs
title. Plaintiffs allege that they in
their kindness have permitted Defend-
ant & his brother to occupy their land
so long that they now regard them by
setting ^{up} their indulgence as a bar to their
title. Plaintiffs therefore deny

that the Defendant or those under whom he claims have been in the open, adverse, notorious and uninterrupted possession of said ^{land} more than ten years before this suit was brought or that he or they have had such possession for any other number of years.

Plaintiffs for further replication deny that Thomas Allen in Dec. 1865 or at any other time employed Defendant ~~entered into~~ an agreement with the Defendant by which he ~~employed~~ Defendant to clear 20 acres of said land or any other quantity or to fence the same with new rails. They deny that Defendant commenced to clear said 20 acres of land, but they aver that said Defendant chopped the timber off of about 30 acres of said land and sold the same to J. T. Davis for lumber, to be sawed into lumber, leaving the tree tops, under brush on the land, by which said land was damaged to the amount of \$ at least one thousand dollars.

~~Plaintiffs allege that one G. J. Johnston who is the father of Defendant, acted~~

[illegible]

More as
per Plain Off

Allen wife

21

Rune Johnston

Replication.

Filed Nov 24 1869
E. J. Hunt

COUNTY OF JEFFERSON,

The State of Missouri.

To

J. J. Buchanan, James M. Davis.

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

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

Plaintiff, and

Reuben Schubert

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

July 7th A. D. 1870

Leahman Clerk.

Edw. H. Cuyler

Sever by reciting to them within morn'g 8. 7. Johnston
Thomas also as ~~James~~ John Booth at
Hersden Co also on the day of March
at \$ 1870
per \$ 150

Free Quaker's Office
by James Hager
of Dept

Allen 2901
Johnston

for Dph
G. J. Johnston
Thomas Moss
John Cook

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, Greeting:

We command you to attach, *Jesse B Dover*
by his

body, and safely keep, so that you have *his* body before our Honorable
Circuit Court, *for which*

then and there to answer a contempt by *him* committed, in not attending said
Court as a *Witness* after being
duly Summoned to do so. Herein fail not, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, this, *3rd*
day of *February* A. D. 18*80*

E F Honey
By *L Honey* CLERK.

2901

TO THE CIRCUIT COURT OF

JEFFERSON COUNTY.

Wm. H. H. H.
Term, 186

2901

Wm. H. H. H.

J. H. H. H.

Allen Thomas

A. J. H. H.

Could not be found within time of service
fee 50

Fred L. H. H.

Thomas Allen and }
 Ann R. Allen, — Plaintiffs }
 Against }
 Russell Johnson, — Defendant }
 In the Circuit }
 Court of Jef- }
 ferson County }
 Missouri, }
 Feb. Adjourned Term 1870 }

Now at this day comes the Defendant,
 and moves the Court to quash the writ of
 Injunction issued on the 6th day of February 1868,
 in the above entitled cause, and served on the
 Defendant on the 18th day of February 1868, and
 to dismiss the proceedings thereon, for the
 following reasons;

- 1 - Because said writ of injunction was irreg-
 ularly and illegally issued.
- 2 - Said writ was ordered by the County Court
 of Jefferson County Missouri, on the 27th day of
 January 1868, being the first day of said
 Term of said Court, - whereas, the the Defenda-
 ant was notified that application would be
 made to said Court for said injunction on the
 25th day of January 1868,
- 3 - The Defendant was not therefore legally no-
 tified of the day on which said applica-
 tion would be made, - and Defendant
 not in fact any notice of such application,
- 4 The Bond given by Plaintiffs does not relate
 to the order of Court, as it recites that the
 order for the injunction was made on the
 18th January 1868, - and it is not approved by
 the Court,
- 5 - The Petition of the Plaintiff is not sworn
 to as required by law, - nor any affidavit

made, verifying the allegations of the petition
as required by the rules of Practice in such
Cases,

6 - The said writ having been irregularly and
illegally issued, the same should be quashed
and the Proceedings dismissed,

{ J. J. Williams &
A. Green, Attorneys
for Defendant,

In Circuit Court
Coffee County

Thomas Allen
& John R. Allen

vs,
Russell Johnson

Doct^r to
grash out of
Virginia

Filed July 27 1878
J. H. H. H.

Thomas Allen wife } July Term 1870
 vs. } Free Bill
 Russell Johnston.

Elias P Honey et al Circuit Court

Injunction order, 100 copy same @ \$7.5¢ \$1.75-
 11 files, 53¢ Dockets 25.¢ ans, 60. Motions 60. 2.00
 4 Cert. 1.00 ~~Index 1.00~~ 6 pas \$1.50 Indexes. 2.50
 20 dms 70.¢ 20 dms 30. Rule 20. Dams 25 1.45-
 4 attachments \$2.00 Maps 70
 \$2.70
 \$19.70

R M Mullin Co Clerk

John Williams in Court Ct
 Sene order injunction
 Sene 4 parts, 53¢ = 2.00

\$1.75-
 .50
 1.00
 2.00
 \$5.25-

F Suchlenmeyer Sheriff

May Term 1869 Sene 2 attachments 200. 6 parts. 50 = 300

Nov Term 1869 " 6 parts 50 = 300

calling parts, 6 parts 2 tens ch 60 Call parts 20

500
 300
 .70
 \$8.70

Witnesses, Nov. Term 1868.

Leonard Metz. 4 days 14 miles.

G. J. Johnston. 4 " 12 "

May Term 1869

G. J. Johnston. 6 days 24 Miles

Wm Cook 7 " 10 "

5.12

4.96

7.92

7.80

November 2nd 1889

~~J. H. Johnston~~,
William's Receipt 9 days 10 miles

\$49.90
\$30.05

Allen
R. Johnston
Lee Bill

Allen vs R Johnston } M^h Term 1870, Pres Bill

E J Honey etc

Copy Oct 16th 15th 6th 50th 110 = 2,25

Copy Nov. 100 copy 6th 150 11 plus 55th 20 = \$3.30

3aus 75th 3th 60th 5 Cents 125 order 70 = \$2.30

Issue 10 spars. \$2.50, Index 50th Rule 25th \$3.20

Demurr 25th, 4 ad. ch. 200. \$2,25 = 13.30

R H M'Nevin, Co etc

175 175

John Meers & Co Ct, 50th Sen. deft. 100 Sen. by order 100 2.50

Sen. 4 writs 200 minus 2 days 200 4.00 6.50

J Luchteneyr Sen. 16 writs 600 6.00

Sen. 2 writs 200 calls \$30. 2.30 8.30

Minutes

Sen. and Metz 5,12 G J Johnston 12,88 = \$18,00

McCook \$17,40 John Lewis 7,56 25.26

Total

\$43.11