

Tafterson County Circuit Court

Case File - Civil

November 1868, #209

Herbert, Charles W.
Herbert, Mary

vs

Wyatt, W. J.

Set aside dead

40 acres in S5T39R5E

Box

22 Folder 19

Charles W. Herbert and
Mary M. Herbert, Plaintiffs
vs
W. J. Wyatt, Defendant

In the Jefferson
Circuit Court.
Nov Dec 1868.

Plaintiffs state that on the 12th day of March 1867 Mary M. Herbert was the owner of the following real estate situate in Jefferson County Mo viz. The East half of Lot No 24 of the NW 1/4 of Section five and the E 1/2 of Lot No 34 of the North East qr. Section five Township thirty nine Range five East containing eighty acres and that on or about that time one W. J. Wyatt, the above named defendant was acting as agent of Chas. B. Orris in the sale of what purported to be a patent known as the "Orris Fitter" used in and for the purpose of fittering cane juice so as to make and refine sugar & syrup therefrom. That at the date aforesaid the said Defendant as agent of said Orris offered to sell the said Fitter for Jefferson County to Mary M. Herbert the wife of Charles W. Herbert for one thousand and eighty dollars. That said Wyatt at the time warranted that said Fitter would refine cane juice so as to make sugar in such quantities as would remunerate

ate the manufacture: That the said Mary M. Herbert offered to convey to said Wyatt the above described land in consideration of the house to her ~~the sum~~ of the said patent Hitter for Jefferson County as aforesaid, the said land being then reasonably worth one thousand and eighty dollars & that said Wyatt accepted her offer, whereupon the said Plaintiffs Mary M. Herbert and Charles M. Herbert conveyed to said W. J. Wyatt the aforesaid land for no other consideration than the house to Mrs. Herbert of the said Patent Hitter for Jefferson County which was then made by said Wyatt as agent of said Davis.

Plaintiffs state that said Hitter was utterly worthless, being entirely unfit for the purposes for which it was sold and for which it was recommended by said Wyatt: ~~that at the~~ less that it would not "fitter conjure" so as to make and refine sugar and syrup therefrom: That the fact of the worthlessness of said Hitter was unknown to said Plaintiffs at the time they conveyed said land to said Wyatt, but was well known by said Wyatt.

Plaintiffs therefore say that the consideration which said Wyatt pretended to pay them for said

land has utterly and entirely failed and that it would be against equity and good conscience for him to retain the title thereto.

They ~~offer~~ then ~~assert~~ aver that said Wyatt on the 21st March 1867 sold and conveyed the East half of lot six Sec. five Township Thirg Nine Range five East containing forty acres to one D.C. Mitchell without any consideration.

Plaintiffs pray the Court to set aside the deed executed by them to W. J. Wyatt, dated the 12th day of March 1867 for the reasons set forth in this petition and to vest the title to the East-half of lot ^{NO 4} four, Section five, Township Thirg Nine Range five East containing forty acres absolutely in the Plaintiffs ^{May M. Herbert} and for other proper relief.

John L. Thomas
Atty for Plaintiffs

John L. Thomas makes oath & says that he believes the above petition and the matters therein stated are true and that the said Defendant is a non-resident of Missouri.

Sworn to & subscribed

Before me Sept 14th 1868

Elias H. Honey clo

Bar Ohio Morine Dept,

John L. Thomas.

No 209

2218

C. W. Herbert et al

vs

B. J. Wyatt

Petition set aside
and.

Filed Sept. 14th 1868.

E. D. Honey Clerk

By C. W. Herbert et al

Order of Publication.

In the Jefferson Circuit Court, in vacation September 15th, 1868. Charles W. Herbert and Mary M. Herbert, plaintiffs, versus W. J. Wyatt.

NOW at this day comes said Charles W. Herbert and Mary M. Herbert, plaintiffs in the above entitled cause, by their attorney, and files in the office of the undersigned Clerk of the Circuit Court of Jefferson County, in vacation, their petition and affidavit stating, among other things, that the above named defendant, W. J. Wyatt, is a non resident of the State of Missouri: It is thereupon ordered by the Clerk aforesaid in vacation that publication be made notifying him that an action has been commenced against him by petition in the Circuit Court of Jefferson County, in the State of Missouri, the object and general nature of which is to set aside a deed executed by plaintiffs to defendant, W. J. Wyatt, dated the 12th day of March, 1867, and to vest the title to the east half of lot four, section five, township thirty-nine, range five east, containing forty acres, absolutely in the plaintiffs, and that unless he be and appear at the next term of said Court, to be holden at the Court House in Hillsboro, within the County of Jefferson, on the 16th day of November, A. D. 1868, and on or before the sixth day of said term and answer or demur to said petition, the same will be taken as confessed, and judgment rendered accordingly. It is further ordered that a copy hereof be published in the Jefferson County Leader, a newspaper published in said county of Jefferson, for four weeks successively. the last insertion to be at least four weeks before the commencement of the next term of said Court.

A true copy from the record:

Witness my hand and the seal of
[SEAL.] said Court at office this the 15th
day of September, A. D. 1868.

ELIAS F. HONEY, Clerk,

38

By C. Tho. Horine, Dep'y.

WANTED-AGENTS.

\$175 PER MONTH to sell the National Family Sewing Machine. This Machine is equal to the standard machines in every respect and is sold at the low price of \$20. Address NATIONAL SEWING MACHINE CO., Pittsburg, Pa.

1868

C. W. Herbert and
Mary M. Herbert
Plaintiffs

v.
R. J. Wyatt, Defendant

Left Jefferson
Circuit
Court.
Nov Term
1868.

John L. Thomas, makes oath &
says he saw an advertisement in
the above entitled Cause, a copy
of which is hereto attached inserted
in the Jefferson County Advertiser
news paper published in Jefferson
County, ^{consecutive} four times, the last inser-
tion being at least four weeks
before the 16th day of November
1868.

Sworn to & subscribed } John L. Thomas
before me Nov. 27. 1868.

Eliza A. Horney Clerk

Es. 73- By C. D. Horney Deft

2218

Herbert et al

vs
H. J. Wyatt

Proof of Publica
tion

Filed Nov 27 1868.
E. A. Humey Co

1195-	21,112-
580	208
298	11,161
1195	19417
1195	
1300	
1199	

Order of Publication
In the Jefferson Circuit Court, in vacation
September 15th, 1868. Charles W. Her-
bert and Mary M. Herbert, plaintiffs, versus
W. J. Wyatt.

NOW at this day comes said Charles W.
Herbert and Mary M. Herbert, plain-
tiffs in the above entitled cause, by their at-
torney, and files in the office of the under-
signed Clerk of the Circuit Court of Jeffer-
son County, in vacation, their petition and
affidavit stating, among other things, that
the above named defendant, W. J. Wyatt, is
a non resident of the State of Missouri: It
is thereupon ordered by the Clerk aforesaid
in vacation that publication be made noti-
fying him that an action has been com-
menced against him by petition in the
Circuit Court of Jefferson County, in the
State of Missouri, the object and general
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solutely in the plaintiffs, and that unless he
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on the 16th day of November, A. D. 1868,
and on or before the sixth day of said term
and answer or demur to said petition, the
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ordered that a copy hereof be published in
the Jefferson County Leader, a newspaper
published in said county of Jefferson, for
four weeks successively. the last insertion
to be at least four weeks before the com-
mencement of the next term of said Court.

A true copy from the record:

Witness my hand and the seal of
[SEAL.] said Court at office this the 15th
day of September, A. D. 1868.

ELIAS F. HONEY, Clerk,

By C. Tho. Horine, Dep'y.

State of Missouri, COUNTY OF JEFFERSON.

Be it Remembered, That on this... 21. day of... *November*... A. D. 1868, before me, the undersigned Clerk of the... *County*... Court of Jefferson county, came Chas. A. *Clark*, who being by me duly sworn, says that the annexed advertisement was published in the JEFFERSON COUNTY LEADER, a newspaper printed and published in the town of Hillsboro, in said county, of which he is printer, for... 2... times, the first insertion being on the... 18... day of... *September*... 1868, and the last on the... 16... day of... *October*... 1868, as follows, to-wit:

In No. 38,	<i>September</i>	1868.
In No. 39,	"	25 1868.
In No. 40,	<i>October</i>	2 1868.
In No. 41,	"	9 1868.
In No. 42,	"	16 1868.
In No. ,		186..

Charles R. R. R.

Sworn to and subscribed before me, this... 21... day of... *November*... 1868.

Wm. M. W.

Printer's fee... 13-00 Received Payment... 13-00

250

10

13, 12

Cont. 2218

Manion vs ~~Thademan~~ \$7.50

Herbert,

vs

Wyatt