

Jefferson County Circuit Court
Case Files-Civil

Folder 1 of 2

Box 22 Folder 56

November 1868, No. 231

Wise, Laura

vs.

Wise, Angeline

Wise, Laura

Partition

Heirs of Jonathan Wise; 101 acres
in S 11, 14 T 42 R 3 E; survey map; bill
of exceptions

Laura Wise
vs
Angeline Wise &
Laura Wise

In the Circuit
Court of Jefferson
County Missouri

Mainiff states that Jonathan
Wise her husband departed
this life Testate in the year 186
that at the time of his death he
was seized in fee simple of the
following described Real Estate
situate in Jefferson County Missouri
to wit The North East fractional
quarter East of Big River of
Section Fourteen Township
Forty Two Range Three East Cont-
aining Forty six acres & $\frac{4}{100}$ of an
acre, also the South East
fractional quarter East of Big
River of Section Fourteen Town-
ship Forty Two Range Three
East containing Thirty six & $\frac{26}{100}$
acres, also the South East
fractional quarter East of Big
River of Section Eleven Township Forty
Two Range Three East containing
Nineteen acres, — that

Said Jonathan Wise by his
Last Will and Testament which
has since his death been duly
admitted to probate by the
County Court of said County
of Jefferson devised the undi-
vided one third part of said
Real Estate to ~~Plaintiff~~
Plaintiff in fee simple absol-
utely and the undivided
two thirds of said Real Estate
to the Defendants who are his
Grand Children in fee simple
absolutely so that Plaintiff avers
that she and Defendants are
Tenants in common in the Real
Estate aforesaid and that Plai-
ntiff is entitled in fee to the undi-
vided one third thereof and the
Defendants are jointly entitled to
the undivided two thirds of
said Real Estate - Plaintiff
also avers that Defendants are
minors under the age of eighteen
Years and Prays the Court that
a Guardian ad Litem be appoin-
ted for them to answer this petition

and Defend their interests herein
and in consideration of the
Premises Plaintiff Prays the Court
that Judgment of Partition and
Division of said Real Estate be made
between Plaintiff and Defendants
according to the respective rights and
interests of the Parties, that Commis-
sioners may be appointed to make division
of the Same, and that an order for
the Sale thereof be made if Partition
in kind can not be made without
Prejudice to the owners thereof, &
that the Court will make such
other & further orders touching the
Premises as may be just & proper

Williams & Johnston
Attys for Plaintiff

Jos. J. Williams one of the Attorneys for
Plaintiff on his oath says that the
foregoing Petition and the matters
therein as stated are True to the
best of his Knowledge and belief

Sworn to and Subscr-
ibed before me Oct. 19th 1868

Elias M. Hovey Clerk

By C. Shorttine Deputy

Jos. J. Williams

Laura Wise

vs

Angelina Wise &
Laura Wise

Petition for
Partition

Filed Oct. 21 1868,

E. J. Honey Clerk

Clert Issue Process
Williams & Johnston
Attys. for self.

By Edward Stone Secy

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

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson—Greeting:

We command you, that you summon *Angeline Wise*
and Laura Wise

if they be found in your County, that
they 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 ~~seventh~~ Monday after the
fourth Monday of September 1868 ~~and~~, then and there to answer unto
Laura Wise

upon her 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
twenty-first day of October A. D. 1868,

Elias F. Honey
Clerk Circuit Court.

By *Thos. Horine Deft*

1780
593
393

No 231

2815 TO
JEFFERSON CIRCUIT COURT.

Nov Term, 1865

Laurea Child

vs
Angelina Child

Laurea Child

Original

John Williams Sheriff
 fees 2.00

I executed this writ in Jefferson County Mo on the 29th day of October 1865 on Angelina ^{wife} ~~vs~~ delivering to her a true copy of this writ and petition and on Laurea wife on the same day by leaving her a true copy of this writ at her usual place of abode in Jefferson Co Mo with a free white person over the age of fifteen years

John Williams Sheriff
By M W Ferris Dep

Laura Wise Pla
vs
Angeline Wise &
Laura Wise Defts } In Jefferson Co Cir
Court Nov. Term 1868

Now at this day comes
the defendants Angeline Wise &
Laura Wise by their ~~att~~ guardian
ad Litem and for answer to
Pla. petition says the matters
and things as set forth in
plaintiffs petition are true and
they have no objections for parti-
tion to be made of the lands
as set forth in said petition
according to the interests set
forth in said petition

Angeline Wise &
Laura Wise
by W. H. Thomas Guardian
ad Litem

Laura Wise

D.S.

A + L. Wise

Answer of
Defendants

Filed Nov 28th 1868.
E. P. Honey C

State of Missouri } In the Jefferson Circuit Court,
County of Jefferson } November Term 1868,

Be it Remembered that in said circuit court on the 28th day of November 1868, among other proceedings therein had the following appears of record to wit:

Laura Wise,
-vs-
Angelina Wise and
Laura Wise, } In Partition
Order apply Commisary

Now at this day comes the plaintiff by her attorney and the said defendants by Wm H Thomas their guardian ad-litem and file their answer admitting that the matters and things as set forth in plaintiff's petition are just and true and have no objection to a partition of said lands in plaintiff's petition described and said cause coming on to be heard upon the petition and answer of said parties the court doth find that said plaintiff and Defendants are tenants and owners in common of the following described real estate situate in Jefferson County Missouri to wit: The North East fractional quarter East of Big River of Section Fourteen, Township Forty Two Range Three East containing Forty six acres & $\frac{4}{100}$ of an acre, also the South East fractional quarter East of Big River of Section Fourteen Township Forty Two Range Three East containing thirty six & $\frac{26}{100}$ acres, also the South East fractional quarter East of Big River of Section Eleven Township Forty Two Range Three East containing

nineteen acres, and the court proceeding to adjust and settle the rights and interests of said parties in and to said Real Estate doth declare the same as follows viz: That said plaintiff, Laura Wise is entitled in fee simple to the one undivided one third of said lands, and that said Defendants Angelina Wise and Laura Wise are jointly entitled to the undivided two thirds of said lands, It is therefore ordered adjudged and decreed by the court that partition and division of said Real Estate be made in accordance with the respective rights and interests herein set forth, and the court doth appoint Christopher Pyatt, John W. Miner and William Keensley commissioners resident householders of the County of Jefferson aforesaid to make partition so adjudged in accordance with the Statutes in such cases made and provided, and make a full and complete report of their proceedings to this court at its next term, which report shall be in manner and form as prescribed by the Statute in such cases,

True copy from the records,

Witness my hand and the seal of said Court hereunto affixed at office this 30th day of January 1869,

Elias F. Honey, Clerk
By Charles F. Horine Deft

as furnished to me by the Circuit Clerk

Served the within by leaving a true copy of the Order with
Ernie Pugh, and by reading the same to the within named
John H. Meier and William H. Coors by at Jefferson Co. on
on the 8th day of April a^d 1889

Fred Duddon Mayor Sheriff
per Ernest B. Umack

Deputy

To the Jefferson Circuit Court
May 1, 1869

Laura Wise
= vs = } In Partition

Angeline & Laura Wise

order appointing Commissioners

Chas Pyatt }
Jno. C. Winer } Commissioners
Wm. Newley }

Fee original & copy \$2.50

Laura Wise Plaintiff } In the Circuit
 Against } Court of Jefferson
 Laura Wise & } County Missouri
 Angeline Wise } Defendants

The Defendants by their Guardian
 ad litem, appointed by the Court, come and
 object to the Report of Christopher Pyatt, John
 W. Wines, and William Wenzel, the Commis-
 sioners appointed by the Court heretofore to di-
 vide & make partition of the Lands described
 in Plaintiff's petition, - and which Report
 was filed on the 10th day of May 1869, - And move
 the Court the Court to set-aside said Re-
 port for the following reasons:

- 1 - The said Report shows on its face that the
 Lands described in Plaintiff's petition & the
 order of the Court, have not been divided
 so as to give the said Defendants one-
 third each, of the whole lands sought to
 be divided, - and that said ~~Land~~ has not
 been divided, according to the decree of the
 Court, so as to give each of the Defendants
 their proper quantity, - that is, one third
 part of the whole land,
- 2 - By said Report, the Plaintiff gets forty
 one acres & a half for her share, - and the
 Defendants, only fifty nine & a half acres,
 jointly, - or $29 \frac{3}{4}$ acres each, - The Plain-
 tiff in such division getting $11 \frac{3}{4}$ acres more
 than each of the Defendants,
- 3, - The Report does not even state, as a reason
 why Defendants are assigned a less quantity
 of the land than one third, - that the land

assigned to each of them is more valuable in quality.

- 4 - The Land assigned to the Plaintiff is not only more than her proper share in quantity, but is far more than her share in quality, - as Defendants aver that Plaintiff's share of the Land is much greater in value, than each of the shares of Defendants.
5. - Defendants state that said Report utterly fails to make an equal division of said Land, - quantity, and quality relatively considered. That the Land assigned to Plaintiff is worth very nearly if not quite as much as both of the shares of the Defendants.

W. H. Thomas Guardian
ad litem of Defendants

Lama Wise

vs,

Angelina Wise &

Lama Wise

Objections
to Report of
Comrs

Filed May 11 1869

E. J. Henry clerk

Refiled May 18 1869

The State of Missouri,

COUNTY OF JEFFERSON.

TO

*Nathan Phelps and son vs
William McHenry*

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 *first week*

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 *Sammal Price*

Plaintiff, and

Margelina Samual Price are

Defendant, on the part of

Plantsiff

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 *17th* day of *May* A. D. 1869

Elias F. Honey Clerk.

2818

SUBPOENA.

To Jefferson Circuit Court.

May Term, 1869

Misc

vs
Misc

for Reff

Nathan Peppert
Lawrence Obrien
& Henry Kellerbrand

Served the within, on May 17th 1869, at Jefferson County Mo.
by reading the same, within the presence and hearing of the
within named Nathan Peppert, Lawrence Obrien and Henry
Kellerbrand

Geo Summenger Shury
for Fred Katterbach

Deputy

Laura Wise
vs
Angeline Wise &
Laura Wise } In the Circuit
Court of
Jefferson Co. (Mo.)

Commissioners fees
John H. Winer 3 days \$7.50
C. Dyath " " 7.50
Wm Hensley " " 7.50

Surveyor's fees
Jerome B. Dower Surveyor
Traveling & Surveying \$10.00

32.50

allowed J. H. Nail, Judge

Laura Wise, Plaintiff

vs

Laura Wise &

Angelina Wise, Defendants

In the Circuit

Court of Jefferson

County Missouri

John H.

Christopher Pyatt, ~~William H. Winer~~

& William Hensley Commissioners
heretofore appointed by the Circuit
Court of the County of Jefferson
to make partition and division
of certain Real Estate described
in the order of the said Court as
appears of Record in said Court in
the above entitled cause, on their
oath say that they will
honestly and impartially execute
the Trust reposed in them,

Sworn to and
Subscribed before
me this 22nd day
of April 1869

John H. Winer

Christopher Pyatt

William H. Hensley

Commissioners

Patrick Dunigan
Justice of the Peace

State of Mississipi } In the Jefferson Circuit Court
County of Jefferson } November Term 1868

Be it Remembered that in said circuit
court on the 28th day of November 1868, among
other proceedings therein had the following ap-
pears of record to wit:

Laura Wise
vs
Angelina Wise and
Laura Wise, } In Partition
order appty. Commissioners

Now at this day comes
the Plaintiff by her attorney, and the said defendants
by Wm. H. Thomas their guardians ad-litem and file
their answers admitting that the matters and things
as set forth in Plaintiff's petition are just and
true and have no objections to a partition of said
lands in Plaintiff's petition described, and said
cause coming on to be heard upon the petition and
answer of said parties the court doth find that
said plaintiff and Defendants are tenants and
owners in common of the following described
real estate situate in Jefferson County Mississipi
to wit: The North East fractional quarter East of
Big River of Section Fourteen, Township Forty two
Range three East containing Forty six acres & $\frac{4}{100}$
of an acre. Also the South East fractional quarter
East of Big River of Section Fourteen Township
Forty two Range three East containing thirty
six & $\frac{26}{100}$ acres, Also the South East fractional
quarter East of Big River of Section Eleven Town-
ship Forty two Range three East containing

nineteen acres, and the court proceeding to adjust and settle the rights and interests of said parties in and to said Real Estate doth declare the same as follows viz: That said plaintiff Laura Wise is entitled in fee simple to the one undivided one third of said lands, and that said Defendants, Angelina Wise and Laura Wise are jointly entitled to the undivided two thirds of said lands. It is therefore ordered adjudged and decreed by the court that partition and division of said Real Estate be made in accordance with the respective rights and interests herein set forth, and the court doth appoint Christopher Pyatt, John W Miner and William Keneley commissioners residents householders of the County of Jefferson aforesaid to make partition so adjudged in accordance with the Statutes in such cases made and provided, and make a full and complete report of their proceedings to this court at its next term, which report shall be in manner and form as prescribed by the Statute in such cases.

A true copy from the record

(LH) witness my hand and the seal of said court hereunto affixed at office this 30th day of January 1869

Elias P Honey Clerk

By Charles P. Koring Deft

Exhibit "B"

Copy

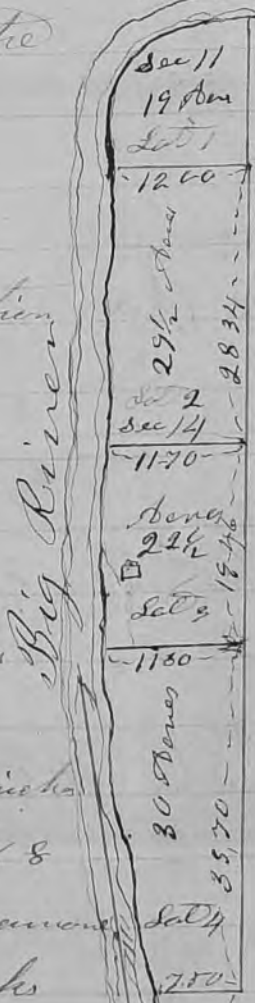
Wise

vs

Wise

Plat of The Subdivision
of Jonathan Wises Estate in
Sections 11 & 14 Township 42
Range 3 East of the
5th P. Mer.

Beginning at the
S. E. corner of Section
12 Thence North at
at 33 chains & 70 links
Set A Stake for the
S. E. corner of Lot 3
Thence West 11 chains
& 30 links to River
Bank A Hickory 6 inches
diameter bears N $7\frac{1}{2}$ W, 8
links distant & A sycamore
10 inches N $7\frac{1}{2}$ E 16 links
distant went back to S
E. corner of Lot 3 an Oak
11 inches N $7\frac{1}{2}$ W 17 links distant



Thence 18 1904

links A Redbud 8 inches bears
S 72 $\frac{1}{2}$ E 19 links distant ditto 11
inches bears N 73 $\frac{3}{4}$ E 26 $\frac{1}{2}$ links
distant Thence West 11 chains
& 70 links to River Bank A Black
Walnut 10 inches in diameter
bears S 83 E 16 links distant & an
Elm 12 inches S 47 W 20 $\frac{1}{2}$ links
distant Lat 3 contains 22 $\frac{1}{2}$ Acre

J. B. Dower
Deputy Co. Surveyor

Whisk "C"

We the undersigned Commissioners heretofore appointed by the Circuit Court of Jefferson County Missouri at its November Term 1868 to make partition between Laura Wise Plaintiff and Angelina Wise & Laura Wise Defendants, of a Tract of Land situate in Jefferson County Missouri viz, The North East Fractional Quarter East of Big River of section fourteen Township forty Two Range Three East containing forty six $\frac{4}{100}$ acres also the South East Fractional Quarter East of Big River of section fourteen Township forty Two Range Three East containing thirty six $\frac{26}{100}$ acres also the South East Fractional Quarter East of Big River of section eleven Township forty Two Range Three East containing nineteen acres respectfully report to the Court that we did on the 22nd day of April 1869 take and subscribe an affidavit honestly faithfully and impartially

As Agents the Trust reposed in us as
 such Commissioners a copy
 of which affidavit marked
 Exhibit "A" is hereto attached
 and made a part of this Report
 and having so taken and subscri-
 = igned such affidavit we did
 afterwards to wit, on the
 23rd day of April 1869 proceed
 to said Real Estate and after
 giving due notice to the parties
 interested in said Real Estate
 of our intention to proceed
 to divide and make partition
 of said Lands in accordance
 with the order of said Circuit
 Court a copy of which marked
 Exhibit "B" is hereto attached
 and made a part of this Report,
 and did on said 23rd day of April
 1869 proceed to make partition
 and division of said Lands
 between said parties as
~~follows~~ to wit. we so divided
 said Real Estate as to give to Laura
 Wise the plaintiff & widow of
 Jonathan Wise the tract of Land
 on which the mansion house

of Jonathan Wise her late husband
is situated it containing Twenty
Two acres & one half which we
had surveyed by Jerome B. Dorer
Deputy County Surveyor & which said
tract of Land is Bounded & described
as follows viz, beginning at the south
East corner of section 14 thence north
33 Chains & 70 links to a stake set by
said surveyor for the South East
corner of lot No. 3, thence running
west 11 Chains & 30 links to the
bank of Big River where a hickory
6 inches in diameter bears
N $17\frac{1}{2}$ W 8 links distant & a sycamore
10 inches N. 78 E 16 links distant thence
running back on said line to
the S. E. corner of lot 3, an over cut
oak 71 inches N $71\frac{1}{2}$ W 17 links
distant thence north 19 chains & 46
links a Red bud 8 inches bears S. $72\frac{1}{2}$
E 19 links distant ditto 11 inches
bears N $73\frac{3}{4}$ E $26\frac{1}{2}$ links distant
thence west 11 Chains & 70 links
to the bank of Big River, a black
walnut 10 inches in diameter
bears S. 83 E 16 links distant & an
Elm 18 inches S. 47 W $20\frac{1}{2}$ links
distant & bounded west by Big

River, we also set off and assigned to said Laura Wise the Plaintiff in addition to the aforesaid Tract of 22 acres & one half a Tract of Land containing nineteen acres it being the South East fractional quarter East of Big River of section Eleven Township Forty Two Range Three East, ^{which is designated on the plat as lot no. one} and we caused a plat of said Land (as surveyed) by said Surveyor to be made out by him which plat marked & titled "C" is hereto attached and made a part of this Report, & we not finding it convenient to make an equal division of said Land without laying it off into lots did lay the same off into lots as will appear by said plat, and we did set off and assign to the Defendants Angelina and Laura Wise jointly lot number 4 as shown by said plat & bounded as follows (viz),

beginning at the South West
Corner of section 14 thence
running East 7 Chains & fifty links
thence north 33 Chains & 70 links
thence West 11 Chains & 30 links
to Big River thence running with
said River in a southerly direction
to the place of beginning said
River forming the Western bound-
ery of said Lot containing thirty
acres, also we set off and
assigned to said Defendants
Laura & Angelina wife to them
Jointly lot No. 2 as shown by
said Plat bounded and described
as follows viz beginning at
the North West Corner of said
Lot No. three thence running
East 11 Chains & 70 links thence
North 28 Chains & 34 links to the
South East Corner of Lot No. one
thence West 12 Chains to Big
River thence with said River
South to the place of beginning
said River forming the Western
boundary line of said Lot
containing Twenty nine and
one half acres, and we
further report that

in making such Division
we took into consideration
the quality and quantity of said
several Tracts of Land, and
so divided the same between
said Plaintiff and Defendants
as aforesaid, as to give to the
Plaintiff one third of said
Land, and to the Defendants
jointly two thirds thereof
taking into consideration the
quality and quantity of the
several respective Tracts or
lots of Land, so allotted to said
respective Parties, we believing
such Division to be just and
Equitable according to the
respective rights of said
Parties,

Commissioners

John H. Winer
Christopher Hyatt
William Hendley

State of Missouri
County of Jefferson

Be it remembered
that on this 13th day of May

1869 before me the undersigned
a Justice of the peace within
and for the County of Jefferson
aforesaid came John H.
Winer, Christopher Pyeat
and William W. Hensley
each of whom are personally
known to me to be the
same persons whose
names are subscribed
to the foregoing instrument
of writing as parties thereto
and each severally acknowl-
edged that they and each of
them acknowledged the
contents the same and that
the same was their voluntary
act and deed for the purposes,
therein mentioned and contained
Given under my hand
at office in Merimack
Township in Jefferson
County Missouri the day
and date last aforesaid

(Samuel Medley)
Justice of the peace
in and for Merimack Township
in Jefferson County Missouri

22818

Leana Alice

na

Leana Alice &

Angelina Alice

Report of

Commissioners

Filed May 17th 1869

Elmer, P. Henry etc

By & beyond etc

Laura Wise
m
Laura Wise &
Angeline Wise } In Jefferson Circuit
Court
May Term 1869

Plaintiff moves the Court to Tax
the Cost which accrued at this Term,
of Court in consequence of objections
filed by Defendants to the report of
the Commissioners, ^{against Defendants} for the
following reasons to-wit,

1st Because said Defendants wholly
failed to make good their
said objections

Jos. J. Williams
atty for plaintiff.

Wise
As

Wise & wise

motion to
Tax Costs

Filed 21 May 1869
Elias & Henry H

Laura Wise, - Plaintiffs
Against
Angelina Wise }
and Laura Wise, } Defendants } In the Circuit Court
of Jefferson County
Missouri, -
November Term 1869.

Now at this day come the above Defendants, Angelina Wise, and Laura Wise, by their Guardian, ad litem, W. W. Thomas, and move the Court to vacate and set aside the decree of partition, made in said Cause on the 38th day of November 1868, and to set aside and vacate the order confirming the Report of John W. Winer, Christopher Pyatt, and William Hensley, who acted as Commissioners in dividing the Lands assessed in Plaintiff's petition, To wit, the following described Lands, situate in Jefferson County Missouri, To wit, the North East fractional quarter East of Big River, of Section fourteen, in Township Forty two, of Range Three East, containing Forty six acres, and $\frac{4}{100}$ of an acre; also, the South East fractional quarter East of Big River, of Section Fourteen, in Township Forty two, of Range Three East, containing Thirty six acres and $\frac{26}{100}$ of an acre; also, the South East fractional quarter East of Big River, of Section Eleven, in Township Forty two of Range Three East, containing Nineteen acres; for the following reasons;

- 1 - Because the proceedings of said Circuit Court, had on the 38th day of November 1868, making partition among said parties, (it being the return Term of the writ) was irregular and void.

- 2- The said decree of said Court, is irregular in other respects, as it does not declare the respective rights and interests of each of the Defendants to the Lands described in the Petition, - and does not direct the Commissioners appointed to make division, to divide and set apart the respective shares of each of the Defendants to the Lands described in the Petition:
- 3- The Petition of Plaintiff is defective, as it does not set out and describe the rights and interests of each of the Defendants to said Lands, - and hence no division has been made of the interests in the same of each of the Defendants.
- 4- The proceedings of the Commissioners in making division of said Lands, is irregular and void; - as the Affidavit made and annexed to the Report, shows that William W. Miner was sworn, but John W. Miner signed the affidavit, - and the Court appointed John W. Miner a Commissioner; - and that William Hensley was appointed Commissioner, yet William W. Hensley signed the affidavit, and William Hensley signed the Report,
- 5- The Report of the Commissioners, does not show that a proper and sufficient notice was given to the Defendants, or their Guardian, by the Commissioners, stating the day on which they would meet to make division of said Lands, as required by law,
- 6- The Commissioners utterly failed to make an equal and just division of said Lands, - but, on the contrary, they assigned the Plaintiff eight &

a half acres more than one third of the land, - and consequently, each of the defendants get eight and a half acres less than their share, - and the Report does not show, as a reason for this, that the Land allotted to the Plaintiff is inferior to that allotted to the Defendants.

7 - There is no estimate of the value of the lands so allotted, to show any reason why the Commissioners allotted to the Plaintiff Eight & a half acres more than her share.

8 - The portion of the land allotted to the Plaintiff is worth as much, if not more, than the land allotted to both of the Defendants.

9 - The Report does not conform to the decree of the Court; as, by the decree, the Defendants are entitled jointly to two-thirds of the Land, yet the share allotted to the Defendants by the Report is seventeen acres less than two-thirds of the land.

10 - The Commissioners unnecessarily and improperly divide the land into four parts, and yet fail to divide and set-apart the separate share of each of the Defendants, - and even fail to allot their joint share in one body, - but give them two small lots, separated by a Lot assigned to the Plaintiff.

11 - There is no partition or division of the Land, so far as the separate interest of each of the Defendants is concerned, - and hence there is no justice in making them pay two-thirds of the costs, for a partial division.

- which allots to Plaintiff more than her third of the land, and leaves the balance undivided.
- 12 - The Report does not describe the several Lots of Land, as divided by the Commissioners, with sufficient accuracy, - by proper notes and bounds, courses and distances.
- 13 - The Commissioners acted under a misapprehension of the law, respecting their duties, - under the erroneous idea that they were bound by law, to give to Plaintiff the Dwelling House & farm thereto attached, - and this false notion was induced by the improper influences of Plaintiff and her Agents.
- 14 - The division as made, by cutting up the land into so many small fractions, greatly diminishes the value thereof, and operates greatly to the prejudice of the owners thereof.
- 15 - The objections filed by the Guardian for the Defendants, to the Report of the Commissioners, was never heard and acted upon by the Court, - as Defendants witnesses through mistake failed to attend Court, and it was therefore irregular to confirm the Report without first passing upon and overruling the objections on file.

Angeline Wise &
Laura Wise By
W H Thomas
Guardian ad litem

In the Circuit Court
Jefferson County

Laura Wise

vs,

Angelina Wise

& Laura Wise

Motion,

to set-aside decree

of partition, & Report

of Comrs

Filed Nov 16 1869

Chas G Henry cts

Laura Wise, and
Angelina Wise, By
Catharine E. Wise, their
Guardian, Plaintiffs
Against
Laura Wise, Sr. - Defendant

In the Circuit Court
of Jefferson County, Missouri
November Term 1869,

To Laura Wise, Sr., widow of Jonathan Wise
deceased, Defendant;

You are hereby Notified that, at the next Term of
the Circuit Court of Jefferson County, Missouri, to be
held at the Court House at Hillsboro in said County,
on the fifteenth day of November 1869, and on the first
day of said Term, or so soon thereafter as Counsel can
be heard, we, the said Laura Wise and Angelina Wise,
minors, by our Guardian the said Catharine E. Wise, will
apply to said Court, by written Motion, for an Order
to vacate and set aside the order of said Court, made
at the May Term thereof 1869, Confirming the Report of
Christopher Pyatt, John H. Winer, & William W. Hensley,
Commissioners previously appointed by said Court, to
make partition and division ^{among said Parties} of the following described
Lands, situate in Jefferson County Missouri, to wit, the N.
E. fl. quarter East of Big River of Sec. 14. T. 42, of R. 3 E. Con-
taining $46 \frac{4}{100}$ acres, - also, the S. E. fl. q. of Big River of Sec. 14,
T. 42, R. 3 E. Containing $36 \frac{26}{100}$ acres, - also, the S. E. fl. q. E.
of Big River of Sec. 11. T. 42, of R. 3 E. Containing 19 acres,
- on the grounds that the proceedings of said Court in
decreasing partition among said Parties at the return term
of the court, and the proceedings of said Commissioners
in dividing said Lands, and in making their Report,
and the order of Court Confirming the same, are irregular
and void, and not done in conformity to law, - and that
the division of said Lands as Reported, is unequal and

In Circuit Court
Jefferson County

Laura & Angelina Wise
By Guardian
vs.
Laura Wise, Jr.

Notice
of motion

Filed Nov 16. 1869
E. J. Hiney cler.

Served on the 28th day of October a. D. 1869 at Jefferson in County
Mo., by reading the within, and being a copy thereof, to the within named
Laura Wise
Jesse S. Smith Sheriff
By Wm. W. Stamer
J. S. Stanger

might, and not made in conformity to law, and for other
irregularities in our nation's conduct, & when we observe,
you can attest if you see further.

Roscoe Wido and
Angelina Wido, by Barbara
E. Wido their Guardian

Laura Wise, - Plaintiff } In the Circuit
Against } Court of Jefferson
Angelina Wise, and } County Missouri
Laura Wise, - Defendants } November Term 1869.

To Joseph J. Williams, Attorney of record for
the above named Plaintiff;

You are hereby notified that, at the next Term
of the Circuit Court of Jefferson County Missouri,
to be begin and held at the Court House in said
County, on the fifteenth day of November 1869, and
on the first day of said Term, or so soon thereaf-
ter as Counsel can be heard, the above Defend-
ants by their Guardian, will present a written
motion to said Court, asking to have the de-
cree of the Court made on the 28th day of November
1868, and the Order confirming the report of the
Commissioners, dividing the Lands in partition
of the above Parties, vacated and set-aside, for
irregularities in decreeing partition at the re-
turn term of the said, and for other irregularities
in the said proceedings, and in confirming
said Report, which by said motion will more
fully appear.

Nov. 6th 1869

~~XXXXXXXXXXXX~~
Angelina & Laura Wise
By W. H. Thomas their
Guardian ad litem

I served the within Notice on Joseph J. Williams, At-
torney of record for the within named Plaintiff, Laura
Wise, in Jefferson County Missouri, on the eighth day of
November 1869, by delivering to him, a Copy of the within
Notice,

Abner Green

Subscribed & sworn to before me }
this 16th day of Nov 1869 }
Elias J. Honey Clerk on Ch }
By L. H. Alford D, C }

In Circuit Court
Jefferson County

Laura Wise's

vs.
Angelina Wise
& Laura Wise

Notice

of motion to set
aside Report of

filed Nov 16 1869
Elias J. Honey Clerk

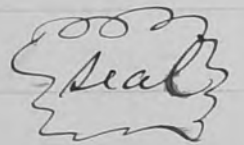
Laura Wise
vs
Laura Wise and
Angeline Wise } In the Circuit Court
of Jefferson County
Missouri

Be it remembered that
at the adjourned term of the Circuit
Court of Jefferson County Missouri
began and held on the first day
of February 1870 the motion of
the defendants which was filed
at the November Term, 1869, ^{of said court} to
set aside the Decree ascertaining
the rights of the Parties as well as
the Report of Commissioners
& also the final Decree approving
such report & Decree of Partition
~~which motion is as follows~~ coming
on to be heard the same being
in words and figures as follows
(here copy said motion) the Plaintiff
prayed leave of the Court to have the
affidavit of the Commissioners
amended by ^{correcting the names of the commissioners} ~~inserting~~ in the body
of such affidavit ~~the names of the~~
so as to correspond with their names
as signed at the bottom thereof
which leave was asked by the
Plaintiff before the Court decided

on the before mentioned motion and which leave so to amend said affidavit the Court refused, to Plaintiff to which action of the Court the Plaintiff at the time accepted, the Court then having heard and fully understood said motion of Defendants did sustain the same so far as to set aside the judgment of the Court heretofore rendered approving the report of the Commissioners and rendering final judgment of Partition thereon, and did also grant leave to the Defendants by their Guardian ad Litem to file objections to the Report of Commissioners which such judgment and order of the Court is as follows, to wit (Here copy same) to which action of the Court Plaintiff at the time accepted, Plaintiff did then in due time file a motion in said Court to set aside its finding and judgment of the Court rendered on such motion of Defendants as aforesaid and to grant a new trial or hearing of said motion

Which motion is as follows, viz,
(Here copy said motion) which motion
being fully understood by the Court
was by the Court overruled to which
action of the Court in overruling said
motion Plaintiff at the time excepted,
and here tenders her Bill of Exceptions
which she prays may be signed
sealed and made a part of the
Record which is done,

J. H. Vail. Judge



Wise
as
Wise &
Wise

Bill St.
receptions

Filed July 5th 1876
E. F. Honey c. K.

COUNTY OF JEFFERSON,

The State of Missouri.

To

Melvin

Wm. S. Dyer

v. Austin Melvin

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

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

Laura Mae

Plaintiff, and

Laura Angeline Mae

Defendant, on the part of

Doyle

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 24th day of

July A. D. 1870

E. F. Honey

Clerk.

Wm. S. Dyer

March Term 1870

Saura Thse

Saura ^{vs} Angelina Thse

For Deft

Wm Hensley Elyoh

Burgess & Austin

Williams

The within Supreme this 4th day of March A. D. 1870
by reading the same to the within named The Steady
Elijah Burgess & Edwin Wallace in those hearings
and presence of Jefferson Davis etc

Fees \$ 1,50

of Fred Luch Kemmer Schenk
By J. Nathan Deppner

John Dennis

The State of Missouri,
COUNTY OF JEFFERSON.

To

James B. Over

You are Herby Comanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 11th 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 *Laura Shae*

Plaintiff and

Laura v. Angeline Shae
Defendant, on the part of *Angeline Shae*; 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 *28* day of

February A. D. 187 *6*

Clay B. Howell
Sept 26 1876
Clerk.

Served the within Subjwms this 8th day of March 1870
by reading the same to the within named J. B. Dover in
his hearing and presence at Jefferson County Ala.

fees 50 15

By Fred Clark Sen or Sherriff
Fred W. Elmick

D. Spruill

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

MCh

Term, 1870

Laurakke

vs

Laura & Angelic Mch

for Relf

L B Jones

COUNTY OF JEFFERSON,

The State of Missouri

To *John T. Burgess* *Comptroller*
Walter Lane *Mrs. Byrne*

You are Hereby Comanded, That setting aside all manner of excuse and delay,

you appear before our Circuit Court for the County aforesaid, on the *11th day*

March *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

Laura *Shoe*

Plaintiff, and

Laura *Angelina* *Shoe*

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 *24th* day of

May *J. D.* *1870*

E. F. Honey Clerk.

J. H. Coffin *cl*

March Term 1870
Laura Wise
vs
Laura & Angelina Wise

for debt
John T. Burgess
George Kidd + R
Winton Dennis + Nels
Byms.

Served the within subpoena this 4th day of March 1870
by reading the same to the within named John T. Burgess
and George Kidd & Thornton James and Nels Byms in
their hearing and presence at Superior Courts Mrs

Fees \$ 2.00

Fred Such Lemay or Schmitt
By Nathan Deffen

vs
Edwards

COUNTY OF JEFFERSON,

The State of Missouri.

To

Julius Burgees *JM*

You are Hereby Comanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 11th 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

Laura Thae

Plaintiff, and

Laura & Angeline Thae

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 sigl therof hereto affixed, at office, this 24 day of

May A. D. 1870 *E. F. Honey* Clerk.

E. F. Honey Clerk.

The within Subscribed owes some of this 1st day of March
1870 by meeting the same to the within named ~~Eliza~~ ^{Eliza} Burgess
and J. W. Adams in their hearing and presence
at Jefferson County Ore

Yees \$ 100

Fred Duch Lemay or Sheriff
By Nathan Depper

In Deputis

March Tenn 1870

Laura M^{rs}

is

Laura Angeline M^{rs}

for def^t

Elias Burgess + 1^o

D. H. Sullens + 1^R

(H)

COUNTY OF JEFFERSON,

The State of Missouri.

To Mrs Pittick Juliana Younger
vs Jesse Lucas

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
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
Laura Mae

Plaintiff, and

Laura + Angeline Mae
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 24th day of
February A. D. 1870

Oliver T. Henry Clerk.
Wm. L. Reynolds Atty.

March Term 1870

2818

Laura Wise

Laura ¹⁰ & Angelina Wise

for Debt

Jesse Lucas + 62

William Frazier

Wm Bell's R + 64

Served the within subpoena this 4th day of March 1870
by reading the same to the within named Jesse Lucas
and Mr. B. W. in their hearing and presence
at Jefferson Barrens Va

Dees \$ 150

By Fred Suchlenmayer Sheriff
By J. C. Williams Deponent

Sp. Deponent

The State of Missouri,

COUNTY OF JEFFERSON.

Do

John Thomas, Plaintiff
Sam. Rothbard vs. Math. Bernard, and
Michael Charbono, Defendant

You are Herby 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

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

Laura Mee Plaintiff, and
Sarah Angeline Mee

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 28th day of

February, A. D. 1870

Wm. H. Honey Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

March Term, 1878

Laura Wood

v

Laura & Angelina Price

Mts for

Reft.

J. H. Miner Christopher

Pyatt. Sam Ketterbom

~~J. Thompson Whitworth~~

Bernard Crane

Michel Masters

Served the within subpoenaed Mrs 4th day of March 1870
by reading the same to the within named John B. Newson
and Elizabeth her Regal and some Hellebrand and
Bernhard Spame and Michael Masterson in there
hearing and presence at Jefferson County Mo

Fees \$ 2 50

Fred Luch Lemayer Scheriff
By ~~the~~ Nathan Popper

The State of Missouri,
COUNTY OF JEFFERSON.

To Henry Beckstrand Lawrence Davis
John Isaac Smith W. Whitcomb

You are hereby Comanded, That setting aside all manner of excuse and delay, you
appear before our Circuit Court, for the County aforesaid, on the 17th 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
Samuel Chase Plaintiff, and
Samuel Chase 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 17th day of
February, A. D. 1870

Wm. B. Honey Clerk.
Wm. H. Sanford

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

Wk

Term, 1870

Laura Wise

vs

Laura & Angelina Wise

for Debt

Henry Kuttelbrend + R

Laurence O'Brien

~~Jos Sale~~

Jos Sale

John Smith + R

Thomp Whitworth + R

The within happened was served this 1st day of March
1870 by reading the same to the within named
Jociny Holstead and Lawrence Brown and
John Sanrile and Thompson Whitworth in
their hearing and presence at Jefferson
County Or

fees \$ 2.00

Fred Suchlemayer Schenk's
By Nathan Deppes

Jno A Spruce

Laura Wise
vs
Laura Wise &
Angelina Wise } In the Circuit
Court of
Jefferson County
Missouri

Now at this day comes the Plaintiff
and moves the Court to set aside
the finding and judgment of the
Court at this adjourned Term
rendered setting aside the order
and judgment heretofore rendered
to approve the report of the
Commissioners and rendering
final judgment of partition on
motion filed by Defendants and
to grant Plaintiff a new hearing
of the motion of Plaintiff for
the following reasons viz,

1st Because the judgment and
order & finding of the Court in
sustaining said motion of the
Defendants is against the Law
& the evidence in said cause,

Jos. J. Williams,
Atty. for Plaintiff

Wise

vs

Wise

Motion for new
Trial on motion

filed July 5 1870

Henry CLK

Laura Wise, - Plaintiff } In the Circuit
 Against } Court of Jef=
 Angelina Wise and } ferson County
 Laura Wise, - Defendants } Missouri
 March Term 1870.

Now at this day Come the above
 named Defendants, Angelina Wise and Laura
 Wise, by William W. W. Thomas their Guardian
 ad litem, and by leave of the Court first had
 and obtained, make the following objections
 to the Report made by John W. Miner, Chris=
 topher Pyatt, and William Hensley, Commis=
 sioners previously appointed by the Court to make
 partition and division of the Lands, described
 in the Plaintiff's Petition and the order of the
 Court in said Cause, among the aforesaid Par=
 ties, - and which report was filed in said Cause
 on the 17th day of May 1869; - and move the
 Court to set aside the said Report as illegal
 and void, and to appoint new Commissioners
 to make such partition and division of said
 Lands, for the following reasons;

1 - The proceedings of said Commissioners, in ma=
 king division of said Lands is irregular and void,
 as they failed to make affidavit before pro=
 ceeding to make such division as required by
 law. The affidavit made and annexed to said
 Report, shows that William W. Miner was sworn,

but John W. Winer signed the affidavit, and yet the Court appointed neither, - as the Copy of the order annexed to the Report shows that John W. Winer was appointed a Commissioner, - and also, that William Hensley was appointed a Commissioner, yet William W. Hensley signed the Affidavit, - but William Hensley signed the Report.

3- The Report of the Commissioners does not show that any Notice was given to the Defendants or their Guardian, by the Commissioners, stating the day they had appointed to meet for the purpose of making partition and division of said Lands.

3, - The said Commissioners did not make an equal and just division of said Lands, as regards the quantity allotted to said Parties respectively; as they allotted to the Plaintiff Eight and a half acres, more than one third of the Land, - and consequently the Defendants get eight & a half acres less than ~~than~~ their proper share of said Lands, as regards the quantity assigned to them, - And the Report does not even allege as a reason for such inequality of division in regard to quantity, that the Land allotted ^{to} the Plaintiff is superior in quality to that allotted to the Defendants.

4. — The division of the land, as made and shown by the Report, not only gives to the Plaintiff eight acres & a half more than her proper share, in regard to quantity, — but it allots to Plaintiff Land greatly Superior to that assigned to Defendants, as it regards the quality of the land. — And hence, Defendants aver that the land allotted by the Commissioners to the Plaintiff, is actually worth as much, if not more, than the land allotted to both of the Defendants, — although by the decree of the Court, the Plaintiff is only entitled to one third of the Land.

5. — The Defendants state that the portion of the Land assigned to the Plaintiff is worth at least five hundred dollars more than the share of either of the Defendants. And Defendants therefore allege that the division of said Land as made by the Commissioners, is most palpably unequal & unjust.

6. — The Commissioners acted under a misapprehension of the law in regard to their duties, — under the erroneous impression that they were bound by law, to assign to Plaintiff the Dwelling House, and Farm thereto attached, — and this wrong impression on the Commissioners was induced by the improper & undue influence of the Plaintiff and her Agents.

7. — The Report does not describe the shares of the parties to said Land, and the several Lots assigned to each with sufficient accuracy, — neither the report nor the Plat of the land thereto attached, describes the courses and distances, metes, & boundaries of the several Lots of land, assigned to the Plaintiff, or the Defendants.

8. — The Report does not show any necessity for dividing the land into four Lots, in order to divide it into only two shares, — as the Defendants' shares were set-off to them jointly, — And such a division is not inconvenient, to the parties, but operates greatly to diminish the value of their respective shares. —

9. — There is really no division of the land so far as the separate interest of the Defendants are concerned, — and hence there is no justice in making them pay two-thirds of the Costs of a partition, which leaves their shares undivided.

Angeline Wise and
Laura Wise, By Wm^m
H. Thomas their
Guardian ad litem

In Jefferson Circuit
Court March Term 1870

Laura Wise

^{vs.}
Angelina Wise

& Laura Wise

Objections & Motion
to set aside Report
of Commissioners

Filed March 5th 1870
Elias P. Honey
at

Laura Wise
vs
Laura Wise &
Angeline Wise

In the Circuit
Court of Jefferson
County Missouri

Now at this day Comes the Plaintiff and moves the Court to strike out the objections filed by Defendants by their Guardian ad Litem to the Report of the Commissioners in this cause which objections were filed on the 5th day of March 1870 for the following Reasons, viz,

1st Because said objections were not filed within the time allowed by the order of this Court for the filing of the same

2nd Because said objections and the matters therein contained have been filed in this cause heretofore and adjudicated in this Court and upon a trial thereof have been overruled & therefore the same are not now open for further consideration,

Jos. J. Williams
Atty. for Plaintiff

Laura Wise

my
Wise & Wise

Motion to strike
out objections to
Rept. of Comrs

Jul 9 1870
E. H. H. at

Wise or Wise.

1 - The Court declares the law to be that if the Commissioners in making partition of the land in this case labored under the impression that they were compelled by law or the will of Jonathan Wise to set apart to Plaintiff the homestead of said Jonathan Wise, then ~~the~~ ^{the} report ~~should~~ of the Commissioners should be set aside.

Admiral

2 - If the Court find from the evidence that one of the Commissioners induced one or more of the Commissioners to sign the report making partition by telling them that he had witnessed the will of Jonathan Wise by the said will Plaintiff was entitled to the homestead of said Jonathan ~~provided the Court further find that said Commissioners~~ then said report should be set aside, provided the Court further find that said Commissioners would have made a different report in all probability, if they had not labored under such erroneous impressions.

Queen

Misc } Instructions
" }
Misc } Quin

Feld. Mch 1876
E. F. Kay