

Jefferson County Circuit Court
Case File - Civil

Box

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May 1869, NO. 275

Vinyard, Charles M.S.

VS

Gibbons, Ellen

Gibbons, William M.

Set aside dead

80 acres in S1T 39 12 4E

Charles W. S. Vinyard, - Plaintiff } In the Circuit
 Against } Court of Jef-
 Ellen Gibbons, and } ferson County
 William M. Gibbons, } Defendants } Missouri
 } May Term 1867

The Plaintiff states that, on the 13th day of July 1867, he presented to the County Court of Jefferson County, Missouri, two claims against the Estate of Thomas Gibbons, deceased, based on two promissory notes given by said deceased in his life time, after notice had been duly given to Ellen Gibbons, Administratrix of said Estate, and that the Court allowed said claims, and entered of record judgments in favor of Plaintiff against said Estate for sixty eight dollars and forty seven cents, as the aggregate due on both of said notes, that Plaintiff afterwards demanded payment of said allowances from said Administratrix, but she refused, and still refuses to pay the same, or any part of them, - and that there are no personal assets belonging to ^{said} Estate, to enable Plaintiff to enforce payment of the same as against ^{said} Administratrix.

Plaintiff states that said Thomas Gibbons a short time before his death, to wit, on the first day of April 1861, in order to cheat, defraud, hinder, and delay his creditors in the collection of their debts and demands against him, fraudulently and

and voluntarily conveyed to William M. Gibbons for the sole and separate use and benefit of Ellen Gibbons, wife of the said Thomas Gibbons, the following described Tracts of Land, situate in Jefferson County Missouri, To wit, the East half of Lots, numbers, Four, and Five, of the North East quarter of Section No. One, in Township No. Thirty nine North of Range No. Four East, Containing Eighty acres. And Plaintiff states that said deed was made and contrived by said Thomas Gibbons with the intent to hinder, delay, and defraud his creditors of their lawful actions, damages, and forfeitures, debts, and demands ^{against him}, and that the said Ellen Gibbons, his wife, and the said William M. Gibbons were parties and privies to the fraud intended, - and that said deed is therefore utterly void against the creditors of said Thomas Gibbons. And Plaintiff states that he was a creditor of said Thomas Gibbons at the time said fraudulent deed was made, - that said Promissory Notes were due and unpaid on the 10th day of September 1858, and having been allowed by the Court, since the death of said Thomas Gibbons, they still remain unpaid. Plaintiff states that said Thomas Gibbons was largely in debt, and in insolvent and embarrassed circumstances when said fraudulent deed was made. And Plaintiff states that ^{said} deed was purely voluntary, - that no valuable consideration whatever

was paid by said William M. Gibbons, or said Ellen Gibbons for said Land. Plaintiff therefore states there is a resulting trust in favor of the Creditors of said Thomas Gibbons, in and to, the lands aforesaid, and ^{that} in law and Equity, said William M. Gibbons and Ellen Gibbons hold said Land in trust for the use and benefit of said Creditors.

Plaintiff in consideration of the premises, asks the Court to declare the said Deed from Thomas Gibbons to William M. Gibbons, to the separate use and benefit of said Ellen Gibbons, fraudulent and void, and that the same be set aside & vacated by decree of the Court, and to order, adjudge and decree that the Lands herein above described be made subject to the payment of the debts and allowances against the Estate of said Thomas Gibbons, dec'd, and that the Defendants be divested of all title to said lands, and to order a sale of the same, and that the proceeds thereof, be applied to the payment of Plaintiff's Judgment aforesaid, amounting to the sum of sixty eight dollars and forty seven cents, with the interest accruing thereon, and for such other relief as may be consistent with Equity. - A copy of said judgments & allowances is herewith filed.

Abner Green
Attorney for the Plaintiff

In Circuit Court of
Jefferson County

Charles W. S. Vinyard

vs.

William M. Gibbons

& Ellen Gibbons

Petition

Let summons issue
against defendants

A Green
For Plff.

Filed March 13 1869
Elias J. Healey clerk

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 *Ellen Gibbons*
and *William Gibbons*

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 *March* ~~next~~, then and there to answer unto
Charles W. Stinyard

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

Witness, ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, at office in Hillsboro, this
thirteenth day of *March* A.D. 1869

Elias F. Honey
Clerk Circuit Court.
By *L. H. Ayers D.C.*

and. The within was served by Delivering a true Copy thereof to the within
William Gibbons, at Jefferson County Mo on or about 29th May 1869

and if was also served by Delivering a true Copy thereof, and of the
Petition to the ^{nearest} ^{from the} ^{Part of} ^{of the} ^{County} ^{of} ^{the} ^{State} ^{of} ^{Missouri} ^{to} ^{the} ^{within} ^{named} ^{Ellen} ^{Gibbons} on the 29th Day of
March A D 1869, at Jefferson County Mo

Test Subscribed & sworn to
her Office of Clerk

Deputy

Wm. L. C.

No 275

TO 2730

JEFFERSON CIRCUIT COURT.

May Term, 1869

C. W. S. Vinyard

vs } summons.

Ellen Gibbons and

William Gibbons

(original)

Charles W. S. Vandyand In the Circuit
vs Court of Jefferson
Ellen Gibbons & County
W. M. Gibbons Missouri

Now at this come the Defendants
& for joint answer to Plaintiffs
petition aver that neither they or
either of them have any knowledge
or information sufficient to form a
belief as to whether the plaintiff
did or not on the 15th day of July
1867 present to the County Court of
Jefferson County Missouri two
claims against the Estate of Thomas
Gibbons deceased, based on two
promissory notes given by said
Thomas in his life time but they,
& each of them deny that said Plaintiff
did on that or any day prior thereto
or since present such demand
based on any such notes to said
Court after notice had been given
to Ellen Gibbons Administratrix
of said Estate, Defendants and
each of them deny that any legal
or valid judgment or judgments
was ever rendered in or by said
County Court or entered of Record therein
or that such claims or either of them
was ever ^{legally} allowed by such Court in
favor of plaintiff & against the Estate
of said Thomas Gibbons either for the
~~the sum of~~ either for the aggregat-
ion of \$68.47 as the amount due

on both such notes as stated in Plaintiff's
petition or otherwise and deny that said
described notes or either of them was ever
allowed by said County Court on that
any judgment or judgments has ever
rendered in or by said County Court on
or for said described notes or either of
them or for any amount due on them
on either of them or appearing to be
due on them or either of them, against
the Estate of said Thomas Gibbons in
pursuance of the forms of Law in
such cases made and provided
or upon any notice given the Admⁿ
inistratee of said Estate that
such notes or either of such notes
would be presented to such,
County Court for allowance against
said Estate, and defendants deny
that said Plaintiff had on the
15th day of July 1867 or at the time this
suit was instituted any note or
notes due to him by the Estate of
said Thomas Gibbons which by
Law said Estate was bound to pay.
~~XXXXXXXXXXXXX~~
~~Defendants say that said notes,~~
~~mentioned and described by Plaintiff~~
~~in his petition and each of them~~
~~were executed more than ten~~
~~years before the said 15th of July 1867~~
~~and more than ten years before~~
~~the institution of this suit.~~
~~XXXXXXXXXXXXX~~

for Defendants aver that neither
said Promissory notes nor either
of them, ^{as described in plaintiffs' petition} was made, signed or
executed by said Thomas Gibbons
within ten years next before the said
15th day of July 1867 or within ten
years next before the institution of
this suit and therefore Defendants
say that said notes and each of them
as mentioned & described in the
petition of Plaintiff, were barred by
the Statute of Limitations long
before the 15th of July 1867 the day
on which Plaintiff avers that
they were allowed as demands against
against the estate of said Thomas
and that they & each of them
were barred by the Statute of
Limitations long before the day
of the institution of this suit and
that therefore neither said notes or
either of them constitute and
Legal demand or valid claim against
the estate of said Thomas Gibbons
or any claim or demand legal or
Equitable for the relief prayed
for in plaintiffs petition as
against these Defendants or either
of them.

Defendants admit that said
Thomas Gibbons conveyed the Land
described in plaintiffs petition to
the Defendant William M. Gibbons
for the sole use & benefit of the

Defendant Ellen about the time, as
stated in said petition but they &
each of them deny that such conveyance
was made in ~~or~~ order to cheat defraud
hinder or delay the Creditors of said
Thomas in the collection of any debts,
or demands against him, and
deny that said conveyance was made
either fraudulently or voluntarily, and
deny that said deed was made with
the intent to hinder, delay and defraud
his Creditors of any lawful actions
damages, and forfeitures, or debts or
demands, against him the said
Thomas, and deny that the said,
Ellen & William M. Gibbons or either
of them, were parties or privies to
any such fraud intent or that
any fraud was in fact intended,
and deny that said deed is void as
against any creditor or creditors of
said Thomas. Defendants aver that
they have no knowledge or information
sufficient to form a belief as to
whether Plaintiff was a creditor
of said Thomas at the time said
deed was made or not, defendants
deny that said Thomas Gibbons was
largely in debt and deny that he
was in insolvent & embarrassed
circumstances when said deed
was made, and deny that said
deed was purely voluntary, & deny

the allegation that no valuable Consideration whatever was paid by said Wm M. Gibbons or Ellen Gibbons for said Land but even that said Conveyance was made upon a sufficient & valuable Consideration, and Defendants deny the Conclusion of Law arrived at by Plaintiff, deny that there is a resulting trust in favor of any creditors of said Thomas in and to said Lands, or that said William M. & Ellen hold said Land in trust for any creditors and Defendants deny that said Plaintiff is entitled to have said deed declared ^{fraudulent} void by this Court or to have the same set aside or vacated by a decree of this Court or to have said Lands made subject to the payment of any debts of said Thomas or ^{any} allowances against his Estate or to have a decree divesting Defendants of title to the Land, or for the sale of the same, or to have the proceeds of such sale applied to the payment of any judgment or judgments of Plaintiff either of the sum of \$68.47 or any other sum & deny that Plaintiff has any valid judgment against said Estate, or any valid subsisting claim against it, or that his Petition contains any Equity or any Statement of facts which if true could warrant this Court in granting the relief prayed & Defendants pray judgment for costs

Jos. J. Williams
Atty. for Defendants

D. W. A. Strong and

Ellen Gilstone
B. al.

~~First~~ answer of
Sipensanti

W. M. J. Hayward
as
Wm. Whitcomb
Shel., Cal.

Answer of
Respondents

Filed Oct 22 1869
Alfred J. Henry vs
Wm. J. H. Adams &c

Jefferson County to
the use of School
Township No. nine,
in said County Plaintiffs
vs

Mary Smith
John T. McMullin &
Jacob Smith
Defendants

In the
Circuit
Court of
Jefferson
County
Missouri

Now at this

Charles M. Springand, Plaintiff } In the Circuit
 Against } Court of Jef-
 Ellen Gibbons and } ferson County
 William M. Gibbons } Defendants } Missouri

To the above named defendants, Ellen
 Gibbons and William M. Gibbons;

You and each of you, are hereby notified
 to produce and have to be read in evidence
 on the trial of the above entitled cause, in
 the Circuit Court of Jefferson County, Missouri,
 at the adjourned Term thereof, to be held at
 the Court House in said County, on the
 first day of February 1870, a certain
 Deed made by Thomas Gibbons on the
 first day of April 1861, conveying the
 Lands described in Plaintiff's petition
 to said Ellen Gibbons for life, with remain-
 der in fee to William M. Gibbons and the
 other heirs of Thomas Gibbons deceased,

Abner Green
 Dec^r 21st - 1869, } Attorney for Plaintiff

La Jefferson Circuit
Court, Feb, Term 1870

C. W. S. Vinyard
vs,

Edw Gibbons &

Wm
" M. Gibbons

Notice

Charles W. S. Virginia, Plaintiff } In the Circuit
 Against } Court of Jef=
 Ellen Gibbons and } ferson County
 William M. Gibbons } Defendants } Missouri

To the above named defendants
 Ellen Gibbons and William M. Gibbons;

You and each of you, are hereby notified
 to produce and have to be read in evidence
 on the trial of the above entitled cause, in
 the Circuit Court of Jefferson County, Mis=
 souri at the adjourned term thereof, to be
 held at the Court House in said County
 on the first day of February 1870, a cer=
 tain deed made by Thomas Gibbons
 on the first day of April 1861, conveying
 the Lands described in Plaintiff's petition
 to said Ellen Gibbons for life, with remainder
 in fee to William M. Gibbons and the other
 heirs of Thomas Gibbons deceased,

See Ex D¹ 1869, } Abner Green
 } Attorney for Plaintiff

In Jefferson Circuit
Court, Feb, Term 1870

C. W. S. Virginia
vs,

Ellen Gibbons

Wm M. Gibbons

Notice

Served the within Notice this 29th day of December
1869 by leaving a copy with the within named
Ellen Gibbons at Jefferson County Mo. The within
named William M. Gibbons can not be found
in my County. Served such lawyer or sheriff
as well as the within
decs \$100
Deposits

Ellen Gibbons

C. F. Honey, Copy Oct. 1850

ans 7 @ plus 1.²⁰ plus 15 Drcks 15 Indx.²⁰ ans 25.

Ord 35. Dis 20 The Bird Co

Graklmaya Lendy

480

200

8660

1900

14

111

Vinyard

^{is}
Gibbs

Hubb
& Co