

Jefferson County  
Case Files - Civil  
November 1869

Circuit Court

Box

25 Folder 1

Evans, John  
vs

Walker, William A.

Debt, note

Debt \$300

May 9 1862

Mr John Brown

Dear Sir I will execute order of trust to you  
by your letting \$10000 to Maria have four hundred  
dollars when call upon to do so as we  
have time to do so now  
Yours Truly  
J. M. McKim

Received of on the above note two  
hundred dollars

At Davis May 9 1862

Wm A. Denison

John Evans Plaintiff

<sup>vs</sup>  
William G. Walker Defendant

In the Circuit Court of Jefferson  
County in the State of Missouri  
November Term thereof 1869—

Plaintiff avers that on the 9th day of May  
1862 the Defendant made signed &c—  
Cuted and caused to be delivered  
to this Plaintiff his {Defendants} certain  
instrument of writing hereto attached  
and herewith filed and which said  
writing ~~was~~ addressed to this  
Plaintiff and reads as follows  
to wit

May 9, 1862

Mr John Evans

Sir I will execute a deed of trust to  
you by your telling Mr H Davis  
have four hundred dollars when called  
upon to do so as we have time  
to do so now

Wm G. Walker

Plaintiff avers that he accepted said in-  
strument of writing and is the legal hold-  
er and owner thereof and entitled  
to all the money due thereon  
Plaintiff states that he did as requested

by Defendant in said instrument and  
for the use and on account of him  
the said Defendant - let the said  
Wm H. Davis have on said 9th day  
of May 1862 the sum of Two hun-  
dred dollars and on the 13th day  
May 1862 by reason of said writing &  
to use and on behalf of Defendant.  
This Plaintiff let said Wm H Davis  
have the sum of One hundred  
dollars and that Plaintiff was  
~~ready~~ and willing at the date  
of said instrument and in  
a reasonable time thereafter to  
let the said Wm H Davis have the  
other one hundred dollars making  
the said four hundred dollars, but  
Plaintiff avers that said Davis  
did not at the delivery of said  
instrument of writing nor in a rea-  
sonable time thereafter call on  
Plaintiff for or request or demand of  
Plaintiff the said last mentioned  
one hundred dollars.

Plaintiff avers that since the delivery  
and acceptance of said instru-  
ment of writing as aforesaid by this  
Plaintiff has often and at divers

times requested and demanded  
of the Defendant that he execute  
to this Plaintiff a Deed of Trust  
as he the said Defendant in said  
writing promised - but that the Defend-  
ant has hitherto failed neglected  
and refused and now refuses to  
execute his Deed of Trust to plain-  
tiff as he was in duty bound ac-  
cording to his said instrument  
of writing Wherefore Plaintiff avers  
that Defendant has become  
and is liable <sup>pay to</sup> to this plaintiff  
on said instrument of writing  
the sum of Three hundred dollars  
with interest thereon at the rate  
of Six per cent from and after the  
said 13th day of May 1862. And  
for which the said Three hun-  
dred dollars together with the interest  
due thereon plaintiff prays  
judgment and for all other  
and proper relief which the  
Louis. F. Downing  
Atty for Plaintiff

John Evans Plff  
vs  
Jm G Walbridge

action on Note

Filed Oct 26 1869  
E. F. Henry clk

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

Wm G Walker,

if he be found in your County, that he be and  
appear before the Hon. Judge of our Circuit Court, on the first day of the next term  
thereof, to be begun and held at the town of Hillsboro, within and for the County of  
Jefferson, on the ~~Seventh~~ Monday after the fourth Monday of ~~Sept~~ 1869  
next, and then and there to answer unto

John Evans

upon ~~his~~ original petition, a copy whereof is herewith annexed and accompa-  
nies this writ, and have you then there this writ.

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

with the seal thereof hereto affixed, at office in Hillsboro, this

26<sup>th</sup> day of Oct, A. D. 1869

Elias F. Honey

By L. H. Appleby, Clerk Circuit Court

The within was served this 27 Day of October A. D. 1869 in Jefferson County Missouri, by delivering a copy of the Writ and the within Petition (as furnished to me by the Clerk of the Circuit Court) to a white member of the family of the the within named Defendant Wm J. Walker at his usual place of abode, over the age of fifteen years.

Geo D. Ashkenazy or Sheriff

Dec 1st 1877

per  
J. M. Landon  
Deputy

10 years since Dec 27th 1869

385  
2941

To  
Jefferson Circuit Court  
Nov. Term 1869

John Evans  
vs  
Wm G. Walker?

Ex. recs. Nov 9 1870  
(original)

John Evans Plaintiff

Against

William G. Hacker Defendant

In the Circuit Court Jefferson County

Nov Term 1889.

The defendant by his attorney comes and demurs to the petition of plaintiff and for cause of demurrer states that said petition does not state facts sufficient to constitute a cause of action in this.

1<sup>st</sup> It does not state the legal effect of the writing sued on.

2<sup>nd</sup> It does not allege notice to the defendant of the acceptance by plaintiff of the proposition contained in the writing which plaintiff copies in his petition.

3<sup>rd</sup> It does allege a consideration to defendant.

4<sup>th</sup> No promise or undertaking on the part of defendant, is alleged whereby he could in law become liable to pay plaintiff anything.

5<sup>th</sup> The pretended instrument of writing, which is alleged to be copied in the petition, does not purport to contain any promise upon which an action can be had by the plaintiff against this defendant, but is void for uncertainty.

6<sup>th</sup> The statements of petition preclude the plaintiff from a recovery upon any promise by implication and from having or maintaining any

action against defendant growing out of the  
transaction to which said pretended writing  
refers.

Thos B Fletcher  
Atty for Deft.

v. No

John Evans.

vs  
Wm L Walker.

Denunciated &  
Petition

Filed November 17 1869  
E. F. May cert

John Evans Plaintiff

Against

William G. Walter Defendant.

In the Circuit Court of  
Jefferson County, Missouri.

The defendant for answer to plaintiffs petition denies most positively, that on the 9th day of May 1862, or at any other time, he made, signed, executed and caused to be delivered to plaintiff the instrument in writing recited in the plaintiffs petition.

He states that he has not sufficient knowledge to enable him to form a belief as to whether plaintiff accepted said instrument of writing and is the legal holder thereof. He denies that the plaintiff is entitled to any money from him on account thereof or that there is any money due thereon from him to the plaintiff. He states that he has not sufficient knowledge or information thereof to enable him to form a belief as to whether plaintiff did let the said Wm H. Deniar have on the 9th day of May 1862 the sum of two hundred dollars and on the 13th day of May 1862 the sum of one hundred dollars. But if he did let said Deniar have said sums the defendant denies that he did so at his request or on his account or for his

use or on his behalf. He denies that ever promised by writing or otherwise to execute to the plaintiff a deed of Trust on account of or for any debt of Derias to plaintiff or for any other purpose and admits that he has refused to do so. He denies that there is or ever was any legal obligation upon him to make a deed of Trust to plaintiff for money advanced by him to Derias or to pay plaintiff any money whatever on account of said pretended writing recited in his petition.

Defendant denies, that he is liable to pay plaintiff the sum of three hundred dollars with interest thereon, on said instrument of writing as stated in the plaintiffs petition or any other sum whatever on account of or by reason of said instrument of writing and prays to be hence discharged with his costs.

Thos C Fletcher  
Atty for Deft.

William L Walter the above named defendant being by me duly sworn, upon his oath states that the foregoing answer and the matters therein stated he believes to be true as therein averred and declared.  
Signed & sworn to

W L Walter

before me this 6<sup>th</sup> day  
of December AD 1869.

Henry Roberts

Justice of the peace  
for Valle Township  
Jefferson County, Missouri

No

John Evans.

vs.

Wm L Walker

Answer of Deft

Filed Dec 13<sup>th</sup> 1869

Elias F. Henry  
clerk

The State of Missouri,

COUNTY OF JEFFERSON.

Do George H. Reppert & John J. Munroe  
Attorneys for the Plaintiff, to the Clerk of the

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 19<sup>th</sup> day  
March

truth to say in a certain matter of controversy, now pending in our said Court, wherein  
John W. Warr

Plaintiff, and  
George Warr

Defendant, on the part of Plaintiff, Pleas; 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  
March A. D. 1870

George H. Reppert  
Clerk.

# SUBPOENA

RETURNABLE TO  
JEFFERSON CIRCUIT COURT.

March

Term, 1870

John Evans,

vs

Wm & Walker.

Sowed the within Subscribers this 16<sup>th</sup> day of March 1876  
by meeting the same to the within named George S. Reynolds  
and John S. Thomas, W. B. Bates and C. H. Henry  
and E. H. Fletcher at Jeffersons Land and

And each ten acres thereof  
by and to them and

Witness  
My hand

Dec 2, 50

The State of Missouri,

COUNTY OF JEFFERSON.

To Philip Capelin, Lewis J. Baustian  
Menaske, Metcalfe, McManaster

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 19<sup>th</sup> day of  
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  
John Linn

Plaintiff and  
Wm. Maister,

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, 16  
March A. D. 1870

Elias F. Honey Clerk.

2941

# SUBPOENA

RETURNABLE TO  
JEFFERSON CIRCUIT COURT

March

Term, 1870

John Evans  
vs

Wm A Walker

Served the within subpoenaed that 16<sup>th</sup> day of March 1890  
by reading the same to the within named Philip Caplan  
and Louis J. Rauh and Thomas L. Fletcher and  
the Lemmeters at Jefferson County Mo

Dec 20

Filed Such Return  
By Clerk of the Court

Attest  
J. J. J.

John Evans  
vs  
William G. Walker

In the Circuit  
Court of Jefferson  
County Missouri

Now at this day comes the Defendant in the cause above entitled in which judgment was rendered at the last Term of this Court against this Defendant, and moves the Court to set said judgment aside and to vacate and annul the same for the following reasons, To-wit,

1<sup>st</sup> Because said judgment was obtained by the Plaintiff and his attorney at against Defendant at a time when neither Defendant or his attorney was present in court and was rendered irregularly and erroneously in this that said judgment was rendered without proof or evidence of Plaintiffs demand although the same did not consist of any note or instrument of writing by which it purported to be ascertained

2<sup>nd</sup> Because said judgment was obtained by Plaintiff and his attorney

by the use of Fraudulent means  
(and representations in this that  
said Attorney on the ~~trial~~ ~~of~~  
hearing of said Cause read the  
Receipt of W. H. Derian for Two  
hundred Dollars appended to the  
instrument of writing which is  
attached to his petition as the ~~form~~  
foundation of his action which  
~~although incompetent~~ evidence read  
by the Court received ~~therein~~ as  
Evidence of Defendants indebtedness  
to Plaintiff in the sum of Two hundred  
Dollars <sup>and interest</sup> and judgment <sup>was</sup> rendered accord-  
ingly but Plaintiffs Attorney wrote out  
said judgment and furnished it  
to the clerk of the Court to be recorded  
for the sum of three hundred Dollars  
and interest notwithstanding that said  
Attorney well knew at the time that  
there was an answer of Defendant  
on file in the Cause <sup>denying</sup> specifically each  
and every allegation in said petition  
of Plaintiff touching Defendants indebted-  
ness to him, and that no proof had  
been introduced tending to prove any  
indebtedness of Defendant to Plaintiff  
in the sum of Three hundred Dollars,

and that no judgment had been or could legally be rendered for that ~~sum~~, or any so great a sum, and that the Court not being aware of said conduct of said Attorney in causing said judgment to be entered allowed the same to remain of record to the defendants great damage.

3<sup>rd</sup> Because the proceedings in said Cause are irregular and erroneous so much so as to render the judgment void in this that the petition is wholly insufficient in law to support the same in that no legal or sufficient cause of action is set out in said petition in that the instrument of writing as set out in said petition as the foundation of the plaintiffs action contains no promise or undertaking of defendant to pay any sum of money to plaintiff and is not stated in said petition to have been executed by defendant for value received or for any consideration nor does the same of its self show any obligation on the part of defendant to pay any money to plaintiff, nor are any facts alleged in said petition which show any legal

obligation on the part of Defendant to  
pay Plaintiff any sum of money,

Green & Williams  
Atty's for Defendant,

John Dean

17

Wm G. Walker

motion to set aside  
judgment

original

Filed Sept. 67870  
C. J. Hume

now known as legal

John Evans }  
Wm Walker } Dec 1 Bill

Henry O. B. copy Pet Bros 1.00 Mkt copy 110 Hds 15. 2.25-

Indices 15 and 25 Dinner 70 Lent 25- 80

2 shas 50<sup>th</sup> Ind 138 TB 25- 125-430

F Luchtmeyer Schiff Luederph 110 100

Line 6 Mts. 3.10 2 Am Ests 58<sup>th</sup> Callista 420 445. 548