

Jefferson County Circuit Court
Case Files - Civil
May 1870

Box 26 Folder 35

Whitehead, R.M.

vs.
Klenn, Theodore

Injunction

Enjoin removal of timber from
land in 529, 32739 R4E pending
outcome of ejectment suit

R M Whitehead Plaintiff } In the Jefferson
vs } Circuit Court,
Theodore Klemm Defendants }

Plaintiff states that he has a suit now pending in this Court against said defendant for the Recovery of the possession of the following described Real Estate Situated in Jefferson Co Mo Viz the E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec 29 and the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of Sec 32 T 39 R 4E. That the defendant has no title to said Land & is utterly insolvent so that an action against him at Law for trespass or damages would be wholly unavailing and that defendant has Chopped about fifty cords of wood about 5 Car Loads of axed tree timber and other timber on said Land and has removed a great portion thereof and is still removing it. Plaintiff states that defendant threatens to continue to chop the timber on said Land and remove and sell which would result in irreparable damage to plaintiff on account of the insolvency of said defendant. Plaintiff therefore prays the Court to grant

him with injunction to restrain and
enjoin Defendant from chopping and Remov-
ing any more timber from said Land
until the said Court in Discretion
be determined & then to make such further
order in the premises as may be equitable
and proper

R M Whitehead
By John S Thomas atty

John S Thomas Makes oath and
says, the above petition and the
facts as therein stated are true
and that defendant has no title to said
Land and he is insolvent so that,
an action at Law against
him would be utterly, unavailing
Sworn to & Subscribed John S. Thomas
before me Jan'y 18th } Atty for Plaintiff
1870.

To the Honorable the County Court
of Jefferson Co Mo.

There being No
Circuit Court in ~~the~~ session in
Jefferson County at this time nor
any Judge of said Circuit Court
Now in said County the plaintiff

in the above entitled Cause. pray
this Court. to grant him the function
asked for in the above petition and
make the same Returnable to
said Circuit Court

John L. Thomas,
Atty. for Plaintiff

Subscribed & sworn to before
me, June 1870
R. M. Mullin Clerk.

A true Copy of the original
Petition this 21st day of June
1870.

Elias D. H. Overton
Circuit Court of the County,

State of Missouri } In the Circuit Court of
County of Jefferson, } Jefferson County Mo
in Vacation ^{January} ~~Nov~~ 21st 1870

R M Whitehead Plff }
vs }
Theo Klemm Def. }

The State of Missouri
to the Sheriff of the County of Jefferson Greeting
Whereas the above named Plaintiff R M
Whitehead has this day filed in the office
of the Clerk of the Circuit Court, the
Petition of said plaintiff praying for an
injunction against said defendants
Theodore Klemm, and also an order
made by the County Court of said
County of Jefferson, State of said state
on the 18th day of January AD 1870, at its
January Term 1870 granting an injunction
against defendant and ordering that
the Clerk of the Circuit Court, issue
said injunction against Defendant
Theo Klemm,

You are hereby commanded
to give notice to said Defendant Theo Klemm,
that he is enjoined and restrained from
Chopping any more timber and from
Removing any that may be chopped
on the following land belonging to

R M Whithead the plaintiff does enter
as follows to wit

The $E\frac{1}{2}$ of $SE\frac{1}{4}$
Sec 29 + $NE\frac{1}{4}$ of $SE\frac{1}{4}$ + the $NE\frac{1}{4}$
Sec 32 7. 39 R 4 E. until further
orders are had and obtained
from said Circuit Court, after said
at ~~Ym~~ ^{this} Penill

You are further commanded
that you return this writ to our
said Circuit Court, on the
first day of the next term
thereof to be held in Hillsboro on
the seventh Monday after the
fourth Monday of March 1870
that you certify herofore
Execute this writ.

(S)

Witness the hand of Henry
Clerk Circuit Court with the
seal thereof hereunto affixed this
2nd day of Jan'y 1870

Chas. D. Honeyaker

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

THE STATE OF MISSOURI,

TO THE SHERIFF OF THE COUNTY OF JEFFERSON—GREETING:

We command you, that you summon

Theodore Klesner

*if he be found in your County, that he be and appear before the Honorable
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*

R M Whitehead

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.

LD

at office in Hillsboro, this, Twenty-first
day of January A. D. 1870

Elias F Honey Clerk Circuit Court.

By *L. H. Ayers* Deputy.

3073 ✓

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

May Term, 1870

R M Mullock

Plaintiff

AGAINST

Merline Atwood

Defendant

Onguard

Served the within this 24th day of January A.D. 1869
by delivering a copy thereof and of the annexed Petition (as was
furnished to me by the Clerk of the Circuit Court of Jefferson
County Mo) to a white member of the family of the
Defendant Theodore Klean at Jefferson County Mo and at
the usual place of abode of the Defendant

fees \$1.50.

Fred Lichtenmayer, Sheriff
General J. L. Latham
S. Deputy

By

Mary Klean

Atty Copy Ret 1.00
2000. 30
order by 1.00
also 1.75-
and copy 1.00
extra order 50
\$4.25-

R. M. Whitehead Plaintiff } In the Jefferson
vs } Circuit Court
Theodore Klein, Defendant }

We R. M. Whitehead as Principal and
John L. Thomas
do hereby acknowledge ourselves indebted
to the above named Defendant in the sum
of five hundred dollars to be paid on this
condition. Whereas said Whitehead is about
to sue out a writ of Injunction against
said Defendant to restrain and enjoin him
from chopping or removing any more timber
on land described in his petition.
Now if the Plaintiff shall abide the decision
of the Circuit Court of Jefferson County
Missouri and pay all
sums of money damages
and costs that may be
adjudged against him
if the injunction should be dis-
solved then this obligation
shall be void, otherwise
it shall remain in full force
and effect.

Witness our hands and seals this
18th day of Jan. 1870

R. M. Whitehead

John L. Thomas (Seal)

Whitehead

W. H. H. H.

Good for Virginia

Black Sand. 21st 1878
W. H. H. H.
etc

State of Missouri } In the Jefferson County Court,
County of Jefferson } January Term 1870,
January 18th 1870,

Be it Remembered that among other proceedings
of said Court of that day, the following appears
and remains of record to wit;

R M Whitehead } Injunction
Theodore Klemm, } Now at this day comes said plaintiff
by his attorney and files his petition stating that he is the
owner of the following real estate situate in Jefferson
County Mo, To-wit; E¹/₂ S E q^r. Sec 29 & N E¹/₄ S E q^r. &
N E¹/₄ Sec 32 Town 39 R 4. That defendant has
possession of said land and is trespassing thereon,
That defendant is insolvent and therefore a suit
against him for damages would be unavailing,
That there is not now any Circuit Court in session
or Judge thereof in the County, And praying that an Injunc-
tion be granted to prohibit, restrain and enjoin defendant
from chopping or removing any more timber from said
land until the suit of ejectment against him in the
Jefferson Circuit Court be determined, And it
appearing to the Court that the defendant has been
duly served with ~~due~~ notice of this application,
and the Plaintiff filing bond for costs in the sum
of five hundred dollars, The Court doth order
that these facts be certified to the Clerk
of the Circuit Court that an injunction may
be issued as prayed for.

I have copied from the record

with my hand and the seal of said court
hereby affixed at office in Shilohboro
the January 19th A.D. 1870,

Wm. M. Smith Clerk

R. M. Whitehead
= no = 3 Injection

Theodore Klemm

"
order for an Injection

R. M. Womuller Clasper \$ 1.50

~~R. M. Womuller~~
Army meter 1.00

Filed Jan'y 21st 1878
Elias H. May Ck
"P"

R m Whitehead } In Circuit Court
vs } Jefferson & Co
Hudson Kleung }

Now comes the Deft and
moves the Court to quash the
injunction and injunctive order
issued in this cause for the follow-
ing reasons to wit.

1st Because said injunctive order
was issued against Law Right &
Justice

2^{or} Because said injunctive order
was not issued by any Officer or
Court authorized by Law to issue
the same.

3^d The said injunctive order
^{was issued & granted}
without the Applicant first filing a
bond with the Clerk of the Circuit
Court of the County to which said
injunction ~~was~~ ^{is} returnable
~~without~~ the security of said Bond
first being approved by the Court
or Judge granting said injunctive
order.

L. F. Dinning
att'y for Deft

Wm Thackeray
London &c

Notice to Sarah
Seymour &c

Wed. Nov. 8/1870
Edw. J. Henry &c

R M Whitehead

24

Morton Allen

In the Jefferson
County Circuit
March term
1870

Now at this day comes the Deft
and by leave of Court first-
hand and obtained files this
his answer to petition of
Plaintiff heretofore filed in this
Cause and Deft during that
The Deft has no title to the Real
Estate described by plaintiff in
his petition or that he is ut-
terly or at all mistaken
so that an action against
him for trespass or damages
would be wholly unavailing
Deft says that the fruit in
plaintiff's petition mentioned
has since the filing of this
petition been heard and fully
determined by this Court and the
issues therein found by the
Court for the Deft. as judg-
ment by said Court rendered
in said Cause for the Deft
Deft asks that the Injunction
granted in this Cause be dissolved
and an inquiry of damages be

had. But further says that
he does that the Chopping or Cut-
ting to chop the timber and
said land and selling the same
would result in irreparable
damage or injury damage at
all to property in or around
of the vicinity of light or
otherwise - But says that the
light has no interest in or
title to the Real Estate mentioned
in his petition.

L. H. Mason

Whitaker
by
Kline

Inspection

Answer

Filed March 19 1870
Elias F. Kline