

Jefferson County Circuit Court
Case Files - Civil
September 1870

Box 27 Folder 51

Hunter, William T.
Relfe, William S.
Dill, George H.
Reynolds, George D.

vs.

Gamel, Robert

Ejectment

Land in Survey 2991742, 4325, 6E;
\$100 damages; Bill of exceptions

Wm. T. Hunter, Wm. S. Relfe
Geo. H. Dill & George D. Reynolds Plaintiffs
against
Robert Gamel Defendant

In the circuit Court of
Jefferson County Mo September
Term 1870

Plaintiffs state that on
the 1st day of January 1870 they
were entitled to the possession
of the following described Real
Estate situate of Jefferson
County Missouri To wit: The
~~South~~ South West half of Lot No 30
Thirty in ~~the~~ survey No 2991
in Township 42 & 43 Range 5 & 6 E,
as laid down ~~of~~ on the subdivi-
sion made by Choteau &
Sulard in the Partition of said
Survey, and that The defendant
afterwards to wit on the 1st day
of April 1870 unlawfully
entered into the ^{said} premises of the
same and now wrongfully
withholds the ~~premises~~ possession
of the same from plaintiffs
to Their damage in the
sum of one hundred dollars

and for the sum of five Dollars
monthly rents of the same
and for other proper Relief

W. A. Thomas
Atty for Plaintiffs

Wm Dunlap Esq

Esq

Richd Hance

Esquirement

Original

Filed Aug 18/1871
Ed Henry At

Best please
me to Sheriff of
Johnson Co
Wm H. H. H. H.
Atty for Atty.

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

Robert Gamel

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, First Monday after the fourth Monday
of Sept next, then and there to answer unto

W. J. Hunter et al

upon their 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 Eighteenth
day of August A. D. 1870

Elias F. Honey Clerk Circuit Court.
By L. A. Ayford Deputy.

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

Sept Term, 1870
W. J. Huntley et al

Plaintiff

AGAINST
Robert Gamel

Defendant

(Orig)

The within was served on the 19th Day of Aug a D 1870
at Jefferson County Mo by delivering a Copy of the
within writ and Petition to the within named Def^t
Robert Gamel

Frederick Luchemeyer Sheriff
by Fred Volkmann Deput

Wm. J. Hunter, Wm. S. Relfe
George H. Dill & George D. Reynolds Plaintiffs }
against
Robert Gamel Defendant }

In The Circuit Court of Jefferson
County Missouri September Term 1870

Plaintiffs for amended petition
state that on the 1st day of January
A.D. 1870 they were entitled to
the possession of the following described
premises, situate in the county aforesaid,
to wit: The South West half of Lot
No. (30) Thirty in, ^{United States} Survey No (2991)
in Township No. 42 & 43 Range 5th
East, in Jefferson County Mo. as laid
down on the subdivision made by
Choteau & Sulord & Co. in Partition
of said Survey which said plat
is now on file in the Circuit
Clerks office in the papers in said
cause, and that the defendant
afterward to wit, on the 1st day
of April A.D. 1870 unlawfully
entered into the said premises and
now wrongfully withholds the possession
of the same from plaintiffs to their

in the sum One hundred dollars,
Plaintiffs further aver the monthly
value of the rents and profits of the prem-
ises is ten dollars, Wherefore, they demand
judgment for the recovery of the premises,
and one hundred dollars damages
for the unlawfully withholding of
the same from Plaintiffs and ten
dollars for monthly rents and
profits, from the rendition of judgment
until the possession of the premises
is delivered to plaintiff and for
other proper relief.

W. H. Thomas

Att. for Plaintiffs

Wm. D. Tucker & Co.,
Boston
Publishers
of the
Unaudited
Petition

Rec'd Sept 14 1870
G. J. Hayward

Wm J. Hunter, Wm S. Kelle,
George H. Dill & George D. Reynolds
Plaintiffs

against
Robert Gamel

Defendant
In the Circuit Court
of Jefferson County Missouri

Now at this day comes the Defendant and for answer to the ^{amended} Petition of Plaintiffs in this Cause heretofore filed denies that the plaintiffs or either of them were on the 1st day of January 1870 or at any other time entitled to the possession of the Real Estate in said amended Petition described or any part thereof

And Defendant denies that he did afterwards, to wit, on the 1st day of April 1870 or at any other time unlawfully enter into said

Premises and denies that he now does or did when this action was commenced or at any other time did wrongfully withhold the possession of said premises or any part thereof from the Plaintiffs or either of them and Defendant denies that the plaintiffs or either of them are

or were when this action was commenced or at any time whatever Damaged by any act of Defendant in withholding from them or either of them the possession of the premises described in said Petition either in the sum of one hundred Dollars or any other sum,

Defendant denies that the monthly value of the rents and profits of the premises is or was at any time Ten Dollars

Defendant denies that the Plaintiffs or either of them are entitled to judgment for the recovery of the possession of said premises or any part thereof, or for the sum of one hundred Dollars Damages for the withholding of the same from Plaintiffs or for any sum whatever as Damages, or for Ten Dollars for monthly rents & profits from the rendition of judgment in this cause or for any sum for rents and profits.

Defendant admits that he was when this action was commenced and now is in the possession of

Said Real Estate and being the Legal owner thereof was rightfully in the Possession

For further defence Defendant avers that he had when this Suit was commenced been in the quiet, peaceable, uninterrupted, Continuous adverse Possession of said Real Estate for more than Ten whole consecutive years holding and possessing the same ^{claiming it as his own} by virtue of title and claim of right thereto and that his said possession was open, Notorious, Continuous and hostile to any and all claims of all persons whomsoever, and Defendant avers that neither the Plaintiffs or either of them or those under whom they or either of them claim or their Ancestors, predecessors, or Grators or those of either of them have been Seized or possessed of said Real Estate or any part thereof within Ten years next before this Suit was commenced and so Defendant avers that this action of Plaintiffs is long since barred by the Statute of Limitations — and having answered fully Prays Judgment of discharge and for Costs

Jos. J. Williams
Attorney for Defendant

Wm J. Winter
Ch. At.

vs
Robert Hannel

Answer of DEFT.
to Plaintiffs
Amended Petition

Will J. J. 1888
108 George St.

William
for DEFT.

Mr. J. Hunter, Mr. S. Relfe
Geo. H. Dill & Geo. D. Reynolds Pla.
a gainst
Robert Gamel Defendant

In The Circuit court
of Jefferson County Mo.

Now at this day
comes plaintiffs and for replication
to new matter in ~~plaintiffs~~ Defendants
answer deny, That Defendant
~~was~~ had when had been in possession
of the premises sued for ten
whole consecutive years before the
commencement of this suit, And
deny That Defendant had open
notorious, continuous and
hostile possession to the same
but say That they and those
under whom they claim had
possession of said premises

Reynolds, Relfe & M. H. Reynolds
attys for Pla.

W^m J. Hunter Esq,
against
Robert. Gamel

Replication

Filed Sept 22 1871
W. L. Boyce Cl

Wm. T. Hunter et al.

vs
Robert Gamel J. In the Circuit Court of
Jefferson County Mo. Sept. 1871 Term -

For reply to new matter in depts answer,
plffs deny that depts. ^(at any time for a period) ~~of~~ ^{consequently,} ten years ~~consec~~
prior to the commencement of this action depts.
was in the quiet, peaceable, uninterrupted, continuous
or adverse possession of the premises sued for or any
part thereof, holding or claiming to hold the same
under claim or color of title; they deny that he,
for the consecutive years had ^{visible} open, notorious,
continuous, adverse or hostile possession of the
same ^{or any part thereof} against plffs or those under whom they
claim.

They aver that they (plaintiffs) and
those under whom they claim have been
seized and possessed of said premises
described by them in their petition within
the years prior to the commencement of
this action, & that they were in possession
thereof on the thirty-first day of March
1870 - and had been in said possession
lawfully and under claim and title for
more than ten years prior thereto -

Thomas - Ryndor Ref
Atty for depts.

Mr. J. Hunter et al.

vs

Robt. Hannell "

— " —

Answer as reply.

— " —

Thermon, August 28th
Ours for reply.

Also Sept 28 1871
and Borge et

**The State of Missouri,
COUNTY OF JEFFERSON.**

To

John Richardson

You are **Hereby Commanded**, That setting aside all manner of excuse and delay, you appear before ~~the~~ Circuit Court, for the County aforesaid, on the *25th day of September 1871*, 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

W. G. Chamberlin et al are
Plaintiffs, and *Robert Lyman* is

Comendant & being the report of confirmation of jury during 1891 & the said jury the Court is partition Defendant, on the part of Plaintiff and you are further and therein you are to undergo trial and hearing you are in no mind to fail the no wise to fail.

W. D. Boyce
Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof

hereto affixed, at office, this *23^d* day of *Sept* A. D. 1871

W. D. Boyce Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

Sept Term, 1871

Sturken
vs
Gamel

Dep't
John Richardson

John Williams
Sheriff fee 50

The State of Missouri,
COUNTY OF JEFFERSON.

To
Merrill Clark, William Clark, Peter
Andersie, Dean Dower, John Richardson &c

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 26th of
September 1871, 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
Mr. T. Humber and others are

Plaintiffs, and
Robert Gamel is
Defendant ; and herein you are
Defendant, on the part of
in no wise to fail.

W. A. Boyce
Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof
hereto affixed, at office, this 25th
September A. D. 1871

W. A. Boyce
Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

Sept

Term, 1871

Hunter

vs
Lyamel,

250

The State of Missouri,
COUNTY OF JEFFERSON.

Do

Wm. A. D. & Co. & Geo. A. D. & Co.

You are Herely Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 25th day of Sept 1871, 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
Wm. A. D. & Co. and Geo. A. D. & Co.
Plaintiffs, and Robt. D. & Co.

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 11th day of Sept A. D. 1871

Wm. A. D. & Co. Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

Sept

Term, 1871

Hunter et al

vs

Gameb

For Plaintiff

S. Ranskin,
vs S. Deadrick

70

I served the within subpoena by leaving
the same to ed. Ranskin the 14th day of Sept 1871
J. J. Deadrick not found
in my country
John Williams Sheriff
By J. B. M. J. J. J.

The State of Missouri,
COUNTY OF JEFFERSON.

To

John D. Jones

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 20th day of March 1874, 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 D. Jones, Plaintiff, and

Defendant, on the part of John D. Jones; 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 6th day of March A. D. 1872

John D. Jones Clerk.

Porter the Minister in & E. H. Brown County, Mo on
the 18th Day of March 1872 on a Seca Porten
by teaching the same to him

John Williams
Ment H

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

March Term, 1872

Wm J Hunter et al
vs.

Robert Gamel

For Capt. &

Oscar Lover

Sheriff fee

50

The State of Missouri,

COUNTY OF JEFFERSON.

To

Wm. D. Parker, Milton Parker
John Frederick, John Richardson &c

You are Herely Commanded, That setting aside all manner of excuse and delay, you
appear before our Circuit Court, for the County aforesaid, on the 20th day
of March 1872, 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
you are named as

Plaintiff, and
Defendant, on the part of
in no wise to fail.

Witness, ~~ELIAS F. HONEY~~, Clerk of our said Court, with the seal thereof

hereto affixed, at office, this 6th
March A. D. 1872, day of

Wm. D. Parker
Clerk.

SUBPENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

March Term, 1872

U. S. Hunter et al

vs.

Robert Gamel

"

For Dep't.

Maud Parke

Milton Parke

Peter Friedrichs ☐

John Richardson Sr. ☐

Shriffs fee

\$2.00

Recd this writ in Dep't Co Mo by reading
the same to Milton Parke and Maud Parke
in the 11 day of March 1872 Markin Sherry

The State of Missouri,
COUNTY OF JEFFERSON.

To

Dean Owen

You are Herely Commanided, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 18th day of May 1872, 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

Wm. W. Hunter et al are
Plaintiff, and Deak Camel is

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 29th day of April, A. D. 1872,

By Chas. H. McLean, Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

May Term, 1872

Hunter et al
vs
Robert Gamel

Deft.

Car Dover &

May first
Shriffs fee 50

service the within in of the same country the on the
first Day of May 1872 on a clean Cotton by
beating the same to him

John W. Stevens

Shaw's

The State of Missouri,
COUNTY OF JEFFERSON.

Do *John S Decker*

You are Herely Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *15th day of May 1872*, 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 *W J Smith et al* are Plaintiff, and *Robert Samuel*

Defendant, on the part of *he et al*; and herein you are in no wise to fail.

W J Decker
Witness, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof

hereto affixed, at office, this *13th* day of *May* A. D. 187*2*

W J Decker Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

May

Term, 1872

Hunter
vs

Gamble

Monro

50

March 19
I served the within in Jefferson County on the
thirteenth day of March 1872 as
by reading the same to him of J. S. Deane's

John Williams
Sherriff

The State of Missouri,

COUNTY OF JEFFERSON.

To

Wm. Barker, M. W. Barker,
Geo. Benedict, & John P. Buchanan &

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 15th day of May 1872, 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
Geo. D. Hunter et al, are
Plaintiffs, and Robert Hamel is

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 29th day of April, A. D. 1872.

Wm. Barker, Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

May

Term, 1872

W. J. Hunter et al
vs
Robert Gamble

Deft.

Merril Parke
Milton Parke
Peter Frederic
John Richardson Sr
Sheriff fee \$2.00

Rec'd this writ by reaching the same
Merril Parke Milton Parke Peter Frederic
John Richardson on the 10th of May
1872
Merril Parke
Milton Parke
Peter Frederic
John Richardson Sr
Sheriff fee

H. T. Hunter & al, In Circuit Court
of Washington County
Robert Gamel } September Term 1872

Now come the said puffs by attorney
and moves the Court to set aside the non-
suit taken in this cause, and to grant a
new trial therein for the following
reasons to wit =

First The Court Erred in excluding the Deed
from the partition Com^{rs} to Anthony Wilkinson
dated Aug. 13th - 1838 & Recorded Book D. page
585-

Second The Court erred in Excluding the testimony
of H. H. H. Thomas, offered to show that the
Deft. Claimed title to the premises in
question under Anthony Wilkerson ~~(puffs)~~
(under whom puffs claim.)

Third The Court erred in refusing to admit
proper and competent testimony offered
by plaintiffs -

Jno. S. Thomas & Co
for Puffs

M. J. Hunter
et al

ⁿ
Robert Gannet

Motion to let
aside now
sent & for
new trial

Filed Sept 13th 1872
Worcester (Ct)

W^m J. Hunter, W^m S. Relfe
 Geo. H. Dill and George
 D. Reynolds. Plaintiffs
 against
 Robert Laurel, Defendant

In the Circuit
 Court of Jeffers-
 on County
 Missouri.

Be it remembered that on the trial
 of the above entitled cause the Plai-
 niffs to sustain the issues on their
 part introduced the following evi-
 dence.

1. An agreement of the parties as follows
 That Survey No 2991 was confirmed
 by the United States to August Choteau
 and Antoine Soudon
 in right of their wives under Gabriel
 Cene containing 7056 acres; that
 said Survey is situated in Jefferson
 County Missouri and that Survey
 2991 and 877 are the same.
2. A petition for partition ^{notice & service of notice} as follows
 (here copy the petition in the case
 of Soudon et al vs Choteau et
 al & the notice and service of notice)
 but to the introduction of which in evi-
 dence the Defendant objected
 because it was not shown that the
 parties to said petition were the owners
 of the land therein described

or that they were purchasers from
or heirs or devisees of Cheateau
& Souldard the confirmees of

but the Court overruled such objection
and permitted Plaintiffs to read the
said paper in evidence to which decis-
ion of the Court the Defendant at
the time accepted.

3. The judgment in position of the
Jefferson Circuit in said cause
as follows (Here copy judgment
on page of Book Circuit
Court records).

to reading of which in evidence
the Defendant at the time objected
because it did not appear that
the parties named in said judg-
ment were the owners of the
land mentioned therein and
because the parties to this judgment
were not the same as the parties

to the petition read in evidence
and because the land sought to be
partitioned was not shown to be the
^{same} ~~same~~ land confirmed to August Cheateau &
Antone Soulard & also because it did not appear
^{that the land embraced in this suit was any part of the land mentioned}
^{in said petition} the Court overruled such

objections and permitted Plaintiff
to read said judgment in evidence
to which decision of the Court
the Defendant at the time accepted.
4 A report of the ~~Commissioners~~ ^{Commissioners} viz: Booker Richardson
Joshua Herrington and John Figue
to said Circuit Court dated

which report ~~was in proper~~
~~form and in compliance with~~
~~the Statute and recited that said~~
lands could not be divided
without great prejudice to those
interested therein. and was as follows
viz: (Here copy said Report)

5. The order of sale in said partition
suit as follows (Here copy order
of sale or copy of said record)
to the introduction of which in
evidence Defendant at the
time objected because the parties
to it were not the same as to

the petition & because the Land in
suit in this case is not identified
as the Land mentioned in said order
or any part of it.

but the Court overruled such
objection and permitted Plaintiffs to
read in evidence said judgment
to which decision of the Court the
Defendant at the time accepted.

6. The report of Booker Richardson
Joshua Kemmington and John Higgen
Commissioners in said partition
suit to said Circuit Court dated
August 9th 1837 reciting that said
Survey 2991 had been subdivided
into ~~44~~ 44 lots and had been sold
to various parties by such subdivision.
This report also recited that Lot No
30 of said subdivision of said Survey
had been sold to Anthony Milton-
son for \$920 and that all the purchasers
had complied with the terms of sale.
A plot of said Survey showing said
subdivision together with the field
notes accompanied said report.

7. The order of said Circuit Court Confirming the report of the Commissioners as follows (Here copy said order as follows on page of said record)

A copy of
8. A deed by Booker Richardson and
John Giger two of said Commission-
ers to Anthony Milksom for said
lot 30 as follows (See copy
the same on page Deed book)
to the introduction of which the defend-
ant at the time objected because
a copy was offered in evidence without
showing that the original was
lost or destroyed or not in its
possession or under the control
of Plaintiff ^{because} and that only two
Commissioners ^{out of the five appointed by the court} had signed the
deed ^{because the deed not being executed by a majority of the} and
Commissioners was void & inoperative to pass the title.
Because on the record no scrawl
is made by the Clerk to the act=
nowledgment of this showing
the place where the seal of the
officer attesting the acknowl=
ement was affixed if any but
Because there is nothing upon the face
of the Record of said Deed as recorded by way
of scrawl or otherwise indicating that the
acknowledgment appearing to said Deed was
upon the original attested by the seal of the Court ^{Court of Saint Louis County the Clerk of which Court}
of Plaintiff then had H. J. Kelp sworn
to have taken such acknowledgment
who testified that the Plaintiff did not
have the original deed nor did they
know where it was though they had

but the Court overruled such
objections and permitted Plaintiff
to read said report in evidence
to which decision of the Court
Defendant at the time acquiesced.

A copy of -
10 A deed from Anthony Willson
wife to Thomas Loxley as
follows (Here copy deed on page
300 deed book "E.")
to the reading of which in evidence
the Defendant at the time objected
because a copy and not the
original was offered.

The Plaintiffs here called Wm. S. Relfe who testified that the Plaintiffs did not have the original of this deed in their possession or under their control nor did they know it was there though they had made strict inquiry for it. Robert Gamel testified that Thomas Sampley had been dead a great number of years. W. H. H. Thomas testified that he has been acting as the attorney of Plaintiffs and for them has made diligent search and inquiry for said deed but could not find it nor ascertain where it was. ~~that he had inquired of J. B. Remmett~~ Thereupon the Court overruled the objections of the defendant and permitted Plaintiffs to read the copy of said deed in evidence to which defendant at the time accepted.

11. A copy of a deed from Thomas Sampley by the Sheriff of Jefferson County Missouri to James M. White as follows (Here copy same on p. 16 Deed book 7.) to the reading of which in evidence

the defendant at the time objected because
a copy and not the original was offered

The Plaintiffs called W. J. Relfe who
testified that Plaintiffs did not
have the original of said deed
in their possession nor under their
control nor did they know
where it was though they had
made strict inquiry for it.
W. A. H. Thibodeau testified that he
as attorney of Plaintiffs had
made strict search and inquiry
for said deed but could not find
it. He had inquired of Moses
White the only son of J. M. White
and of J. B. Kennett the son
of Fred. Kennett who was admin-
istrator of the estate of J. M. White
deceased. W. S. Boyce testified
that J. M. White had been for

a great number of years and that
he died in Ill. and Fred Kemmett
became his administrator.

Whereupon the Court overruled
the objections of Defendant and
permitted Plaintiff to read
the copy of said deed in evidence
to which Defendant at the
time accepted.

12 Plaintiff then proved that Moses
White was the only heir of
James M. White Decedent.

13. A deed from Moses White
to Plaintiff as follows (Here
copy same)

Defendant here moved the Court to exclude from evidence before the jury the deed above ~~referred~~ referred to from the Commissioners to Anthony Withson and argued the following reasons therefor, viz:

1st That only two out of the five Commissioners appointed by the Court joined in the execution of the Deed & that the same was for that reason void & conveyed no title to the Land described in it,

2nd Because the said Deed as recorded and as read from the Record does not bear ~~the~~ any indication that the Clerk of the County Court of St. Louis County before whom it purports to have been acknowledged authenticated the acknowledgments by the seal of the Court of which he was Clerk & because the record bears no scrawl or other indication showing that the seal of said Court was placed to the acknowledgments on the original Deed & because it was not properly acknowledged or proved

3rd Because it was not admissible not being properly acknowledged as an ancient deed no possession or claim of title having been shown to have been asserted or existed under it

4th Because the Land mentioned in it is not shown to embrace the Land in ~~suit~~ suit in this case

Whereupon the Court excluded said deed from evidence upon the ground that only two of said Commissioners had signed the deed and because the Clerk had not made a scroll on the record ~~showing~~ or indicating that the original was attested by the seal to the acknowledged instrument showing ~~where the seal of the Clerk was~~ if in fact the seal was affixed to the original to which action of the Court the Plaintiffs at the time accepted.

14. The Plaintiffs then called W. H. S. Thomas and asked him to prove a common source of title in Plaintiff and Defendant the following question in order to Question: Did the Defendant have a core in this Court at the last term in which the title to the lot in controversy came in question and if so do you know of the Counsel for Defendant in his presence offering in evidence the above deed from said ~~such~~ Commissioners to said Anthony Milkson and insist that it conveyed the title to said Milkson?

The Defendant objected to this question as irrelevant, illegal and incompetent, which objections the Court sustained and refused to let the

witness to answer the question to which ruling of the Court Plaintiffs at the time accepted.

Plaintiffs then called Robert Gambel, the Defendant and asked the Defendant ^{Dependant} ^{Claimed title from Anthony Wilkison} the following question to prove that. Question: Have you ~~not~~ ^{ever} acknowledged frequently and do you not now state that Anthony Wilkison once had the legal title to Lot 30 in Survey 2991?

The Defendant objected to this question because it was incompetent, irrelevant, illegal which objections the Court sustained and refused to permit the witness to answer the question to which ruling of the Court the Plaintiffs accepted.

The Plaintiffs then asked said Gambel the following question. Question: ^{Do you} claim to have the legal title to the property in controversy and if so do you not derive your title to the same through Anthony Wilkison?

The Defendant objected to this question because it was irrelevant

~~illegal and incompetent~~

which objections the Court sustained and refused to permit the witness to answer the question to which ruling of the Court the Plaintiffs at the time accepted.

Plaintiffs then recalled W. H. H. Thomas and asked him the following question

Question. Have you examined the record in Jefferson County New in reference to the title to the lot in controversy and if so is there any other title to the same than through Anthony Wilson?

The Defendant objected to this question because it was irrelevant, incompetent and illegal which objections the Court sustained and refused to permit the witness to answer the question to which ruling of the Court Plaintiffs at the time accepted.

Whereupon the Plaintiffs took a non suit with leave to move to set the same aside. And on the 13th day of September 1872 Plaintiffs

filed this Motion to set aside said
non suit and for a new trial as
follows (Here copy the same)
which Motion being seen and
fully understood ~~by~~ ^{was} by the
Court overruled to which ruling
of the Court is overruling this
said Motion Plaintiffs at the time
accepted.

And the Court being about ready
to adjourn before was given Plaintiffs
by the Consent of Defendant
and by consent of record to file
a bill of exceptions herein within
30 days from the 19th day of
September 1872 and the Plaintiffs
herein now tender this bill of
bill of exceptions on the day of
October 1872 and prayed that
the same may be signed noted
and made a part of the record
in this cause which is accord-
ingly done.

J H Vail. Judge 26th Cir. 

N. J. How to etaf

or

Robert Samuel

Bill of Merchants

Filed Oct 18th 1872

W. J. Dwyer & Co
13, 14th Street
N. Y.

Done at

Willam
for 25th

Money
for 25th

784 - 287, 306, 369, 375, 385, 450, 538, 542, 578

Judgment Sept 13/1872
against peffs for costs.

Wm J Hunter, Wm S Relfe
Geo M Dill & Geo D Reynolds,
Robert Gamel,.
E J Honey clk.

Cop. pet. ²⁵ Decs ⁵⁰ writ & cop ¹⁰ Docks ¹⁰ 2 files ¹⁰
Ent & filing amended pet. ²⁰ Dockets ¹⁵

1 2.95

20 1 2.25

W S Boyce Clerk

Leave to ans ²⁰ cont ²⁵, Mar 7/71 cont ²⁵ ent file rep ²⁰ Docks ¹⁵

1 05

Cont. ²⁵ amended rep filed ²⁰ Dockets ¹⁵

60

Dockets ¹⁵

15

Dockets ¹⁵ Cont ²⁵

40

Incurrent jry ³⁰ ~~reducer~~ ²⁵ non suit ³⁵ Bridgt ⁵⁰

1.35

Leave to move to set aside.

20

motion ²⁰ rule ²⁰

40

Bill & ³⁵ affs ²⁵

35

Leave to file bond & affs ²⁰ order for appeal ³⁵

55

order to make transcript

35

12 files,

60

Sept 9 1871. 3 spas.

75

May 1 1872 2 Spas

50

May 1 1872 2 Spas

75

Exp

1 00 19.00

J Luchtemeyer sero Sept.

1.00

John Williams Shff. 18 Spas ^{9.00} 1 non est ²⁵

9.25

Calling jry ^{1.00} writ

1.00

10.25

John Richardson 4 days 98 miles

11.84

Milton Park 4 days 48 miles

7.84

O Dover 1 day 9 miles

1.72

John Richardson 2 days 36 miles,

4.88

Peter Fredericks 2 days 48 miles.

5.84

37.12
154.62

Sept 7 1871

Mr Richardson

2-48 \$ 5.84

Miller Park

2 - 2.00

Deer

1-9 1.72

Sept 9 1872

Miller Park

2 118 \$ 5.84

Miller Richardson

2-36

Miller Richardson

2 48

5.84

Miller Richardson

2, ~~50~~ 50

8 44

5.84

6.00

11.84

30

2

48 2.00

2.00

3.84

9 84

288

2.00

No. 3546

Jefferson Circuit Court.

Sept Term, 1870

W. L. Hunter Etal

vs. Robt Gamel

Judgment, - - \$

Date 18

Fee Book No. Page

Judg't Docket, Page

Plaintiff's Atty.

ATTORNEYS: Exercise care and return promptly.
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