

Jefferson County Circuit Court
Case Files - Civil
March 1872

Box 29 Folder 38

Farrrell, John

vs.

Russell, Thomas A.

Thomas, William H. H.

Nullify deed

80 acres in S19 T43 R24 E;
depositions

171

John Farrell, - Plaintiff } In the Circuit
 Against } Court of Jefferson
 Thomas A. Russell, and } County, Missouri
 William B. B. Thomas, - Defendants, }
 } March Term 1872

The Plaintiff states that on the 16th day of June 1868, he recovered judgment in the Circuit Court of St. Louis County, Missouri, against Thomas Haynes, for Eleven hundred & ten dollars, and thirty seven cents, and that Execution issued on such judgment on the 31st day of August 1868, which was delivered to the Sheriff of Jefferson County, Missouri, and by him levied on the following described Lands, situate in Jefferson County, Missouri, as the property of said Thomas Haynes, to wit, the South half of Lot, one, of the South West quarter of Section Nineteen, in Township Forty three North, of Range Four East, containing Forty acres; also, the South half of the South half of the South East quarter of Section Nineteen, in Township Forty three North, of Range, Four East, containing Forty acres. And having only advertised said Lands for sale, the said Sheriff, at the November Term 1868, of said Circuit Court, to wit, on the 30th day of November 1868, sold said two Tracts of Land, at public sale to the highest bidder, and the Plaintiff became the purchaser thereof, and on the same day received from said Sheriff, ^{a deed} conveying to Plaintiff all the right, title, and interest of said Thomas Haynes in,

and to the two tracts of Land above described, which Deed is herewith filed, And by virtue of ^{said} Deed Plaintiff acquired all the right, title, and interest of said Thomas Haynes to said Land, and Plaintiff avers that he is the legal and equitable owner of the same,

The Plaintiff states that said Thomas Haynes, on the 5th day of April 1867, (being then the owner of said Land,) was largely indebted to divers persons, and to Plaintiff in the sum of \$1110. 37, for which he got judgment as aforesaid, and being in very embarrassed circumstances, and in fact, insolvent, concerted a plan to cheat and defraud his creditors, and to effect such object, he on the 5th day of April 1867, fraudulently conveyed the land above described to Thomas Ryan, who paid no consideration whatever for said Land, And Plaintiff avers that said Deed was made and contrived by said Thomas Haynes ^{with intent} to cheat and defraud hinder and delay his creditors, ^{of their lawful actions, debts & demands against him} and to deceive and defraud those who should purchase said Land, and that said Thomas Ryan was a party and privy to the fraud intended, And that said Thomas Haynes, afterwards, to wit, on the 30th day of September 1867, in order to complicate said fraud and remove said property further from his Creditors, procured said Thomas Ryan to make a Deed of said Land to Joseph N. Mellow, who paid no consideration whatever for said Land, And Plaintiff states that said Deed from Thomas Ryan to Joseph N. Mellow, for the

Lands aforesaid, was made and contrived, by said parties and said Thomas Haynes, for the purpose, and ^{with} the intent to hinder, delay, and defraud the Creditors of said Thomas Haynes, out of their debts and demands against him, and to defraud those who should purchase said Lands, and that said Thomas Haynes, Thomas Ryan, and Joseph A. Mellow Combined and Confederated together, to contrive a scheme to place the legal title to said Lands beyond the reach of the Creditors of said Thomas Haynes, while he could still have the secret use and benefit of the same. Plaintiff therefore states that both of said Deeds, - the Deed of Thomas Haynes to Thomas Ryan, and deed of said Ryan to Joseph A. Mellow, - were fraudulent and void, and the Defendants well knew of the fraudulent intent with which said Deeds were made.

And Plaintiff states that he on the 10th day of September 1869, brought suit in the Circuit Court of Jefferson County, Missouri against George Frantz, and Thomas Ryan to recover the possession of said Lands, And that while said suit was pending, the Defendants, well knowing of the fraudulent intent with ^{which} the said Deeds from Haynes to Ryan, and from Ryan to Mellow, were made, - as they were employed by said Thomas Ryan and George Frantz, as their Attorneys in defending said suit, and were present when Plaintiff took the Deposition of said Thomas Ryan, Thomas Haynes, & Joseph A. Mellow,

in which the fraudulent intent with which said Deeds
but to defraud Plaintiff of his right to said property
were made, was manifest - received from said Jo-
seph A. Mello, a ^{fraudulent} Deed for forty acres of said Land,
which Deed was made on the 16th day of No-
vember 1867, - and purports to convey the fol-
lowing described Land, situate in Jefferson County
Missouri, to wit, the South half of the South half of
the South East quarter of Section nineteen, in Township
forty three of Range four East, containing forty acres,
to the Defendants, the consideration recited being
\$500, - but, which was not paid, or any part of
it. As Plaintiff avers that the Defendants did not
pay any money or consideration whatever to said
but took said Deed with intent to defraud Plaintiff of his right to said property,
Joseph A. Mello for said forty acres of Land, - it
being a part of the Land previously conveyed
to the Plaintiff by the Sheriff as aforesaid. And
Plaintiff avers that the Defendants had full
notice of Plaintiff's title to said Land, when
they received their pretended Deed, - that they had
full notice of the fact that Thomas Haynes
had on the 5th day of April 1867 conveyed said Land
to Thomas Ryan, to hinder, delay, and defraud
the creditors of said Thomas Haynes, out of their
lawful actions, debts, and demands, and that
said Thomas Haynes had on the 30th day of September
1867, procured said Thomas Ryan to make a pre-
tended Deed for said Land to Joseph A. Mello,
(without any consideration) to carry out such
fraudulent designs of said Thomas Haynes, - and

that both of said Deeds were voluntary and
fraudulent as to the Creditors of said Thomas Haynes,
(and that Plaintiff was an existing creditor of Thomas Haynes)
and that said ~~Deeds~~ ^{Deeds} were made with the intent to cheat and de-
fraud this Plaintiff out of the judgment he
had obtained against said Thomas Haynes, as
aforesaid. And Plaintiff states that on the 4th
of May, 1870, he brought suit in the Circuit Court
of Jefferson County aforesaid against Thomas Haynes,
Thomas Ryan, and Joseph N. Mellow, to set aside
said Deeds, for fraud, - and in which suit, they
still retained the Defendants, as their Counsel,
- and that on the 24th day of February 1871, the
said Thomas Haynes, Thomas Ryan, & Joseph N. Mellow,
knowing their defense against Plaintiff's suit,
was untenable, abandoned their claim to said
Land, and made Plaintiff a Joint-Claim Deed
to both of the Tracts of Land herein above de-
scribed. - And Plaintiff states that, after said
Deed, of the 24th of February 1871, was filed for re-
cord in the Recorder's office of said Jefferson County,
and after Defendants had actual notice of it,
they filed their pretended Deed, (kept in their
pockets till then) for record, and procured the
Recorder to record it first, although filed three
hours after Plaintiff's said Deed, And the Plain-
tiff therefore states that the Defendants had full
notice, before they received their pretended deed from
Joseph N. Mellow, for forty acres of said Land, that
the Deed aforesaid from Thomas Haynes to

Thomas Ryan, for said Land was voluntary ~~and~~
as against the creditors of Thomas Haynes
fraudulent and void - and that said Thomas

Ryan's Deed to Joseph N. Melloe, for said Land,
as to the creditors of Thomas Haynes
was fraudulent and void. Plaintiff there-
fore charges that the Defendants' pretended
Deed for said forty acres, is, for the reasons above
stated, fraudulent and void as against the

Creditors of said Thomas Haynes, and that the De-
fendants were parties and privies to the fraud intended.

The Plaintiff therefore in consideration
of the Premises, asks the Court to adjudge and
decree that the said Deed, made on the 16th day
of November 1869, by Joseph N. Melloe to the
Defendants, be set aside, vacated, and for naught
held, as being fraudulent and void, and
to grant such other and further relief
as may be Equitable and warranted by
the facts of the case.

Abner Green
Attorney for Plaintiff

In Circuit Court
Jefferson County

John Farrell
vs.

Thos. A. Russell
vs Wm. H. H. Thomas

Petition

to set aside Decree

Issue Summons to
St. Louis Co, for Russell,
& Jeff. Co, for Thomas

A. Green
For Pettr.

Filed June 29 1877,
W. S. Boyce clerk,
By Wm. H. H. Thomas
Deft.

\$3.00 by A. Green

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

William H. Thomas

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 *third*
Monday after the fourth Monday of *March* next, then and there
to answer unto

John Farwell

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

Witness, W. S. BOYCE, Clerk of our said

Circuit Court, with the seal thereof hereunto af-
fixed, at office in Hillsboro, this *29th*

day of

January

A. D. 18*72*

W. S. Boyce Clerk Circuit Court.

By

Thos. Norriss

Deputy.

3819
RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

March TERM, 1872.

John Farrell

vs

Thomas A. Russell

Wm H Thomas

Thos A. Russell
By Wm H Thomas
his atty

I do acknowledge service
of the within summons
& petition, waiving the
necessity of service of same
by & officer
This 1st March 1872 Wm H Thomas

of Missouri, which attempted
action on the part of said
plaintiff was a fraud on
these defendants. Defendants
deny that the deed procured as
aforesaid conveys the land.
That the said Mellor conveyed
to these defendants, deny that
they had the recorder to record
their deed before the said pretended
deed, of Ryan, Haynes & Mellor to
said Farrell, ~~deny that~~ Defendants
deny that they had full notice
before they received their deed from
Joseph H. Mellor for forty acres of,
said land, that the deed aforesaid
from Thomas Haynes to Thomas
Ryan was fraudulent, voluntary and
void against the creditors of Thomas
Haynes, deny that they had full
notice before they received their deed
aforesaid that said deed from
Thomas Ryan to Joseph H. Mellor, for
said land was fraudulent and void
as to the creditors of Thomas Haynes,
Defendants deny that their deed
for said forty acres, is fraudulent
and void as against the creditors
of said Thomas Haynes, Defendants

deny that they were parties and privies, to
to any fraud whatever, Defendants
deny that plaintiff is entitled
to the relief asked in his pe-
tition, Defendants having fully
answered ask to be discharged with
costs.

Thomas A. Russell
H. H. Thomas
Defendants
per se attys

John Jarrell
against

L. A. Russell
H. H. Thomas

Answer

Filed Aug 7th 1892
W. H. Boyce Clerk.

NOTICE FOR TAKING DEPOSITIONS BEFORE W. S. Muelberg, NOTARY PUBLIC, St. Louis Co., Mo.

IN THE

John A. Russell
VS.

Incident Court for the Court

Thos. A. Russell vs. W. S. Muelberg

Take Notice, That on the

10th day of *January* 187*3*

between the hours of eight o'clock in the forenoon and six o'clock in the afternoon of that day, at the
Office of W. S. Muelberg, 302 Chestnut Street in the

CITY of SAINT LOUIS, County of SAINT LOUIS, State of MISSOURI, depositions will be taken to be read on the trial
of the above entitled case, on the behalf of the *Plaintiff*; and that the taking of said
depositions, if not completed on that day, will be continued from day to day, at the same place, and between
the same hours, until completed.

To the above named *W. S. Muelberg*
or their Attorney of Record

Wm. Green
Atty. for Plaintiff

NOTARY PUBLIC'S SUBPENA.

THE STATE OF MISSOURI,

To

Joseph W. Allen

Greeting:

You are hereby commanded, that, setting aside all manner of excuse and delay, you be and appear before *V. B. Muller*, a Notary Public, within and for the County of SAINT LOUIS, in the State of Missouri, on

the *10th* day of *January*, A. D. 187*3*, at the hour of *3* o'clock in the *apt. of office of R. S. MacDonnell* in the City

of SAINT LOUIS, in the County of SAINT LOUIS, and State of Missouri, then and there to testify, and the truth to say, in a certain cause now pending in the *Saint Louis Jefferson Court No*

wherein *John Russell* plaintiff, and *Phoebe Russell et al.* defendant, on the part of

the *plaintiff*. Hereof fail not at your peril.

V. B. Muller
Witness, V. B. Muller, Notary Public within and for the County of

SAINT LOUIS, in the State of Missouri, with notarial seal hereto affixed, at

SAINT LOUIS, in said County, on this the *2nd* day of

January A. D. 187*3*

V. B. Muller

Notary Public, St. Louis County, Mo.

State of Missouri V. F. Muelly of Langes
County of St. Louis Page being out error was
this each day the same day
in other matter in the matter
named matters & sending
a copy of the same through
the mail

V. F. Muelly

From W. Sands entered before me
this day of June 7th 1873

Geo. L. Foltz

Notary Public

St. Louis Mo



NOTARY PUBLIC'S SUBPENA.

THE STATE OF MISSOURI

To *Thos. A. Russell Esqr* Greeting:

V. J. Muller
You are hereby commanded, that, setting aside all manner of excuse and delay, you be and appear before
~~V. J. Muller~~, a Notary Public, within and for the County of SAINT LOUIS, in the State of Missouri, on

the *11th* day of *January* A. D. 187*2*³, at the hour of *2* o'clock in the
after-noon of said day at the *office of A. S. Mac Donald 32 Chestnut* in the City

of SAINT LOUIS, in the County of SAINT LOUIS, and State of Missouri, then and there to testify, and the truth
to say, in a certain cause now pending in the *Circuit Court of Jefferson County Mo*

wherein *John Farrell* plaintiff, and
Thos A Russell et al defendant

are the part of

the plaintiff. Hereof fail not at your peril.

Witness, *V. J. Muller*
~~V. J. Muller~~, Notary Public within and for the County of

SAINT LOUIS, in the State of Missouri, with notarial seal hereto affixed, at

SAINT LOUIS, in said County, on this the *1st* day of

January A. D. 187*3*.

V. J. Muller

Notary Public, St. Louis County, Mo.

State of Missouri, ss. I, J. Muller, of
County of St. Louis, Clerk of said County, do hereby certify
that on his oath, says he served the

within notice in the within named
matters on the 2nd of June, 1873

James W. and engaged before
me this day of June, 1873

J. D. Pugh

Notary Public
St. Louis, Mo.

Copy

Sept 12th /71

W W Turner Esq
Hillstons Mr

Dear Sir

Having returned from an extended trip East I find your July 30th before me. I promised to carry my int. in that profit to Miller & if he calls for it I must do so & write each time I cannot well convey to you. Farrell was in & showed me a letter from his atty and threatened to sue me also, but I have not heard from him since. They propose trying to get the land I think by suit, but just how they are to beat you I don't see or me either for that matter if I make a defence. If Miller turns up, I will write you again

Yours
Thos A. Turner

~~No. 1~~

Childs

Filed Aug 28 1873
at Bay City
By Chas. Horne
Depy

John Farrell, - Plaintiff } In the Circuit
Against } Court of Jef-
Thomas A. Russell, and } ferson County
W. H. H. Thomas, - Defendants, - Missouri

The Plaintiff by his Attorney moves the Court to strike out the following portions of the Defendants' Answer, filed August the 7th 1870; to wit, - "but avers that said Execution was not issued in conformity to law, in this, that the Plaintiff in said Execution failed to give notice to the said Thomas Haynes of the issuing of said Execution to the Sheriff of Jefferson County Missouri, he the said Thomas Haynes being at the time the said Judgment was rendered a resident of & living in St. Louis County Mo, Defendants admit that said Execution was levied by the Sheriff of Jefferson County Missouri on the Lands described in Plaintiff's petition, admit that the Sheriff advertised said Lands for sale, admit that the said Sheriff pretended to sell said Lands, but deny that he had any right to sell the same under said Execution, as the Plaintiff had failed to cause a notice in writing to be served on the said Haynes twenty days before the pretended day of sale, notifying him that an execution had issued to what County directed and to what term of the Court said execution was returnable, but the said Plaintiff

in order to conceal the sale of said Land from the said Haynes neglected and failed to serve said notice as required by law, that Plaintiff failed to serve any notice whatever. Defendants admit that at said pretended sale the said Plaintiff bid said Lands off at a nominal sum, but deny that any title passed by said pretended sale as aforesaid. Admit that the Sheriff to carry out pretended sale, made a deed to the Plaintiff for said Lands, but deny that said Deed conveyed to Plaintiff all the right, title, and interest of said Thomas Haynes in and to the said two Tracts of Land described in Plaintiff's Petition, for the reasons above stated. Defendants deny that said Deed is filed with Plaintiff's Petition. - Defendants deny that, by virtue of said Deed Plaintiff acquired all the right, title and interest of said Thomas Haynes to said Land. Deny that Plaintiff is the legal and equitable owner of the same." - for the following reasons, -

- 1- Because the said part of said Answer constitutes no legal or equitable defence to Plaintiff's Cause of action;
- 2- The Execution issued from the Circuit Court's Clerk's Office in St. Louis County, was not void because no Notice of the fact was given to Thomas Haynes,
- 3- Nor was the levy of said Land, and the sale had, under such Execution void for want of

such notice.

4. - Nor is the validity of the Sheriff's Deed to Plaintiff for said Land, affected by reason of a failure to give such notice.

5. - Even if notice was required, the want of it, does not affect these Defendants, nor any interest they had in the said Land, at the time of such sale, (as they then had no no interest) - nor can they urge such plea in a Collateral Proceeding.

6. - Such allegations in said Answer presents no defence to the sale of said Land, under said Execution, nor to the Sheriff's Deed for the same to Plaintiff; and is therefore no defence to Plaintiff's cause of action.

And Plaintiff further moves the Court to strike out of said Answer the following part of the same, to wit, -

"Defendants aver that the Plaintiff, John Farrell, caused the said Thomas Haynes to be indicted in the Criminal Court of St. Louis Co, Mo, for perjury, and that said indictment was tried and the said Thomas Haynes was found guilty and fined one thousand dollars, and that Haynes's Attorneys were endeavoring to get a new trial in said Cause, and the said John Farrell combined and confederated with the said Thomas Haynes, that if the said Haynes would get a Deed from Mellor for the land de-

recited in Plaintiff's Petition, together with some land in Madison County Mo, to the said Farrell, that he, the said Farrell, would not prosecute said Haynes in said Indictment, and in accordance with said agreement the said Haynes procured the said Mellow to convey to the said Farrell the land in Madison County Mo, also, one of the Tracts mentioned in Plaintiff's Petition, to wit. The S $\frac{1}{2}$ of Lot one of the S. W. $\frac{1}{4}$ of Section 17 in Township 43, R 4 E, containing 40 acres, but the said Mellow refused to convey the other Tract, being the one that he had already conveyed to Defendants, by his Deed dated the 16th day of November A.D, 1867, Therefore Defendants state that said deed was made for and illegal Consideration and void, Defendants aver that said John Farrell when he was Combining and Confederating with said Haynes to get a deed from Mellow to him for the forty acres of land, that said Mellow had conveyed to these Defendants, that he knew that Mellow had made a Deed to these Defendants for said forty acres of land, and that the same was not on record, and was thereby attempting to get the said Mellow to Commit a Crime under the laws of the State of Missouri, which attempted action on the part of said Plaintiff was a fraud on these Defendants. - for the following reasons;

1- Because said allegations constitute no

defence to Plaintiff's cause of action, -
2, - If such allegations be true, then Haynes
and Farrell attempted to compromise a felony, - but such allegations are inconsistent
and contradictory. They state that Haynes
was convicted and fined a thousand dol-
lars; then Farrell had no control of the fine,
and could not compromise it. They state
that Mellow refused to, and did not, convey
the forty acres, embraced in Defendants'
deed, - then it is immaterial, as to the
Defendants, what was the consideration
of the deed from Mellow, Haynes, and
Ryan, to Farrell.

3 - The allegations contained in that part
of the Answer, could only be complained
of ^{by} Mellow, and not by Defendants in a
collateral proceeding.

4 - Such allegations do not, in any
point of view, constitute a legal or
equitable defence to Plaintiff's cause
of action, And Plaintiff therefore
moves to strike out the same.

Abner Green
Attorney for Plaintiff

In Circuit Court
Jefferson County

John Farrell
vs,

Thos. A. Russell
& W. H. H. Thomas

Motion
to strike out
parts of Defts. Answer

Filed May 13 78/3
W. S. Boyce
Clerk

NOTICE FOR TAKING DEPOSITIONS BEFORE

V. B. Russell
~~V. B. Russell~~

NOTARY PUBLIC, ST. LOUIS CO., MO.

IN THE
John Farrell
vs.
Thos Russell and
W. B. Thomas
Take Notice, That on the 22nd day of March 1873
Jefferson Dist. Court

between the hours of eight o'clock in the forenoon and six o'clock in the afternoon of that day, at the

Office of Patience Lambert 302 Chestnut in the

CITY of SAINT LOUIS, County of SAINT LOUIS, State of MISSOURI, depositions will be taken to be read on the trial

of the above entitled case, on the behalf of the

Plf

; and that the taking of said

depositions, if not completed on that day, will be continued from day to day, at the same place, and between

the same hours, until completed.

To the above named
their atty at law
Patience Lambert

attys & for Plf

I served the within notice on W. H. Thomas, on
the 14th day of March 1873, in Jefferson County, Missouri, by
delivering to him a copy of the same. Horner Green

I served the within notice on W. H. Thomas on the 14th day
of March 1873 in Jefferson County, Missouri, by delivering
to him a copy of the same

Horner Green

Sworn to & subscribed before
me March 17th 1873
W. S. Boyce Clerk Dist. Ct.
(By C. H. Spurgeon depy.)

Depositions of witnesses produced
shown and examined on the
the 22nd day of May, at 12
15th 3rd held at the office
of R. S. Mac Donald Esq No 302
Chestnut St in the City of St Louis
County of St Louis & State of Missouri
before me U. F. Mulvey a Notary Public
duly commissioned & qualified within
& for the County & State aforesaid in
a certain cause now pending in the Jefferson
County Circuit Court wherein John Farrell
is plaintiff & T. H. Thomas et al depts
of the part of the plaintiff
R. S. Mac Donald being of lawful
aged & sworn his oath deposes
and says

I am an attorney at law in the City
of St Louis. I was employed by the plff
in this case to prosecute ^{Thomas} Haynes for
perjury. At the time that Haynes con-
veyed the property in question in this
action there were no inducements, or
promises or threats ^{held out or made to him} of any kind. The
Conveyance was made by Haynes of
his own free will. He (Haynes)
made the deed to Farrell voluntarily
and as he said to do the "right thing
by Mr Farrell." Russell the deft gave me
a letter directed to the deft Thomas to re-
turn the deed which was sent

to Abner Green Esq of Jefferson Co Mo to
deliver to Thomas and receive the deed
from him.

R. S. MacDonald

I now to subscribed before me
this 22nd day of March A.D. 1873
Witness my hand and
Seal affixed at office
the day & year last
above written

V. F. Muller
Notary Public
St Louis County Mo

I V. F. Muller Notary Public
dub commissioned & qualified
within and for the County of
St Louis and State of Missouri
do certify that in pursuance
of the annexed notice came
before me at the City of St
Louis and County of St Louis
State of Missouri R. S. Mac-
Donald who was by me duly
sworn to testify the whole truth
of his knowledge touching
the matter in controversy
aforesaid and his said de-
position is now herewith
returned, And I do further
certify that R. S. MacDonald

is a resident of the City of
St. Louis County & State
aforesaid

In testimony whereof
I V. F. Muller ^{Notary Public} have hereunto
set my hand and of my said
office within
the 22nd day of March
A.D. 1873

V. F. Muller
Notary Public
St. Louis County Mo



John Sarrall
vs pff

W. H. H. Shumardal
Clefts

Depositions in the
part of the pff

Dated May 15th 1873
W. S. P. M.
Clerk.

Notary \$2.00 pd by pff.

John Forrell Plaintiffs
against
Thomas & Russell &
W H Thomas Defts

In Circuit
Court of
Jefferson
Co Mo.
May term 1873

Now at this day comes the
Defendants & moves the
Court to suppress the deposition
in the above cause for the
following reasons to wit:
1st Because there was no notice
given to the said depositions

2^d Because they were taken
before Plaintiffs atty.

3^d Because said depositions
were not certified to in
accordance with law

4th Because said depositions
are not certified to by the
officer taking the same

W H Thomas
Atty for Defts

Farrell
vs
Russell & Thomey

Motion to suppress
Depts

Filed May 21st 1883

H. S. Boyce

Clerk

John Farrell Plaintiff
against
Thomas A. Russell and
William H. H. Thomas Defendants

In the Circuit Court
of Jefferson County
Mo. May Term 1873

Now at this day
comes the defendants and for amended
answer in the above cause, deny that
Plaintiff recovered judgment in the
circuit court of St Louis, Co. Mo., against
Thomas Haynes, for eleven hundred & ten
dollars, & thirty seven cents, deny that Ex-
ecution issued on such judgment on
the 24th day of August 1868, which was delivered
to the Sheriff of Jefferson Co. Mo. and by him
deny that it was levied on the following
described Lands, situate in Jefferson County
Missouri as the property of said Thomas Haynes
To wit: The S $\frac{1}{2}$ of Lot, one of the S $\frac{1}{4}$ of Sec,
19 in Township 43 N. of Range 4 East, Con. 40 acres
also, the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of the S $\frac{1}{4}$ of Section 19
in Township 43 N. of Range 4 E. containing
40 acres. Deny that ~~the~~ Sheriff after having
duly advertised said Lands for sale, ~~deny~~
~~that said Sheriff~~ at the November Term 1868
of said circuit court to wit, on the 20th day of
November 1868, sold said two Tracts of land, at
public sale to the highest bidder, deny that
the plaintiff became the highest bidder,

deny that ^{the} plaintiff become the purchaser thereof,
deny that on the same day he received from
said sheriff a deed conveying to Plaintiff all the
right, title, and interest of said Thomas Haynes in
and to the two tracts of Land above described, deny
that said deed is herewith the petition filed,
deny that by virtue of said deed Plaintiff
acquired all the right, title, and interest of said
Thomas Haynes to said Land, and deny that
the Plaintiff is the legal and equitable owner
of the same,

Defendants deny that said Thomas
Haynes on the 5th day of April 1867 was largely
indebted to divers persons & to Plaintiff in the
sum of \$1110.37, deny that Plaintiff got judg-
ment for said sum, deny that said Haynes
was in embarrassed circumstances, or insolvent
deny that he concerted a plan to cheat &
defraud his creditors, and to effect such
object, he on the 5th day of April 1867, fraud-
ulently conveyed the land above described
to Thomas Ryan, but that said conveyance
was in good faith & for a valuable con-
sideration as stated in said deed, deny
that Thomas Ryan paid no consideration
whatever for said land, deny that said
deed was made and contrived by said
Thomas Haynes with intent to cheat and

defraud, hinder and delay his creditors of
their lawful actions debts and demands against
him and to deceive and defraud those
who should purchase said Lands, and that
said Dmy that said Thomas Ryan was a
party and privy to the fraud, Dmy that
said Thomas Haynes afterwards, to wit: on the
30th day of September 1869, in order to complicate
said fraud and remove said property further
from his creditors, procured said Thomas
Ryan to make a deed of said Land to
Joseph N. Mellor, who paid no consideration
what ever for said Land, Defendants deny
that said deed from Thomas Ryan to Joseph
N. Mellor, for the Lands aforesaid, was
made and contrived by said parties and
said Thomas Haynes, for the purpose, and
with the intent to hinder, ~~and~~ delay and
defraud the creditors of said Thomas Haynes
out of their debts and demands against him
and to defraud those who should purchase
said Lands, ~~and~~ ^{Dmy} that said Thomas Haynes,
Thomas Ryan, and Joseph N. Mellor combined
and confederated together, to contrive a
scheme to place the legal title to said
Lands beyond the reach of the creditors of said
Thomas Haynes, while he could still have
the secret use and benefit of the same,

Defendants deny that both of said deeds - the deed of Thomas Haynes to Thomas Ryan and the deed of said Ryan to Joseph A. Mellor, were fraudulent and void, - ~~Deny That~~
Defendants deny that they well knew of the fraudulent intent with which said deeds were made.

~~Deny That they Admit That Plaintiff brought suit in expectation in Jefferson Circuit Court, against George Frawley~~

procured said Thomas Ryan to make a deed of said lands to Joseph A. Mellor, but aver that said conveyance ~~was~~ made in good faith and for a valuable consideration as stated in said deed, Deny that said deed from Thomas Ryan to Joseph A. Mellor for the Lands aforesaid was made and contracted by said parties and said Thomas Haynes, for the purpose and with the intent to hinder, delay, and defraud the creditors of said Thomas Haynes, out of their debts and demands against him, Defendants deny that said Thomas Haynes, Thomas Ryan, and Joseph A. Mellor combined and confederated together to contrive a scheme to place the legal title to said Lands beyond the reach of the creditors of said Thomas Haynes, while he could still have the secret use and benefit of the same, Defendants deny that both of said deeds, the deed of Thomas Haynes to Thomas Ryan, and ~~deed~~ deed of said Ryan to Joseph A. Mellor, - were fraudulent and void, Defendants deny that they knew of the fraudulent intent with ^{if up, but any fraud was intended} which said Deeds were made, Defendants aver that both of said deeds were made for the uses and purposes therein contained and for good and valuable considerations,

Defendants admit that Plaintiff

~~that~~ Plaintiff brought suit in the Circuit Court
of Jefferson Co. Mo. against Geo. Hoag
and Thomas Ryan for ejectment
to recover said lands on 10th Sept.
1869. Defendants deny that that while
said suit was pending they knew
of the fraudulent ^{intent} with which the
said deeds from Hoagnes to Ryan and
from Ryan to Mellor ^{if any such fraud was intended} were made,
but aver that it was represented
to them and they believed at
the time that said deeds were
made for valuable consider-
ations as expressed by their
face. Defendants admit that
Thos. A. Russell one of the defendants
was present at the taking of
depositions in said cause
but aver that the taking of said
depositions was long after
these defendants had received
the said deed from Joseph
A. Mellor & wife. Defendants
deny that said depositions showed
any fraudulent intent on the part
of Thomas Ryan, Thomas Hoagnes and
Joseph A. Mellor in making said
deeds. Defendants deny that they

had any notice whatever of the fraudulent intent of said Ryan Haynes & Mellon ^{if any fraud was intended by them} at the time they received said deed. Defendants admit that they received a deed from Joseph S. Mellon & wife on the 16th day of November A.D. 1869 for the S¹/₂ of the S¹/₂ of the S¹/₄ of Section 19 Township 43R 4E, containing 40 acres but deny that said deed was fraudulent, but aver that the same was in good faith and for a good and valuable consideration and without any notice of fraud on the part of Ryan Haynes or Mellon, ^{or either or any of them if in fact any existed} but believing they were getting a good title to the same, Defendants deny that said deed was without consideration, and deny the same was taken with intent to defraud Plaintiff of his right to said property, deny that said land was conveyed to Plaintiff by the Sheriff as aforesaid, Defendants deny that they had full notice of Plaintiff's title to said land when they received their deed, deny that they had notice of the fact that Thomas Haynes had an

The 5 day of April 1867 conveyed said land to Thomas Ryan to hinder and delay & defraud the creditors of said Thomas Haynes out of their lawful actions, debts, and demands, and that said Thomas Haynes had on the 30th day of September 1869 procured said Thomas Ryan to make a pretended deed for said land to Joseph A. Mellon, (without any consideration) to carry out such fraudulent designs of said Thomas Haynes, deny that both of said deeds were voluntary and fraudulent as to creditors of said Thomas Haynes, deny that said deeds were made with the intent to cheat and defraud this Plaintiff out of the judgment he had obtained against said Thomas Haynes.

Defendants admit that on the 4th day of May 1870, ^{Plaintiff} he brought suit in the Circuit Court of Jefferson County against Thomas Haynes, Thomas Ryan and Joseph A. Mellon to set aside deeds, ~~& annul~~ but deny that on the 24th day of February 1871, the said Thomas Haynes, Thomas Ryan, & Joseph A. Mellon knew their claim was untenable, and deny that they abandoned their claim to said

Land, and made Plaintiff a Quit Claim
Deed to both of tracts of Land herein above
described, Defendants deny that, after
any such deed was ever filed for
record, in the recorder's office of
Jefferson Co. Mo. ~~and~~ ^{Defendants} deny that
they had notice of any such deed
being filed, Defendants deny that
they filed their deed for record and
procured the recorder to record it
before ~~any deed~~ ^{any deed} ~~whatever~~ ^{that was filed} before
Plaintiff's deed, Defendants deny
that, Plaintiff filed for record a
deed from Thomas Ryan, Thomas Haynes
and Joseph N. Mellor to Plaintiff for
for both tracts of land in said
petition described, Defendants deny
that said Thomas Haynes, Thomas Ryan
& Joseph N. Mellor ever made a
deed to Plaintiff on the 24th
day of Feb'y 1871, or at any other time
therefore, ^{Plaintiff} could not have filed a
deed for said land for record as
stated in said petition, Defendants
deny that they had full notice or
any notice at all of fraud in the
deed ~~from~~ aforesaid from Thomas
Haynes to Thomas Ryan and that
the same for said land was voluntary

fraudulent and void as against the
creditors of Thomas Haynes. but aver
that said deed was made for a
good and valuable consideration
as in said deed expressed, Defendants
deny that said Thomas Ryans deed
to Joseph N. Mellon, for said land
was fraudulent and void as to creditors
of Thomas Haynes, Defendants deny
that their deed for said forty acres
~~of said~~ is fraudulent and void
as against the creditors of said,
Thomas Haynes, Defendants deny
that they were parties and privies
to the fraud set up in Plaintiff
petition and aver that they
knew nothing of any such

fraud, Defendants deny each and every material allegation
in plaintiffs petition that is not heretofore controverted.

Defendants deny that Plaintiff
is entitled to a decree to set aside
the deed made on the 16th day of Novem-
ber 1869 by Joseph N. Mellon to
defendants, deny that same was
fraudulent and void, deny that
Plaintiff is entitled to any decree
whatever, Defendants having fully
answered asks to be discharge with
costs

W. H. H. Thomas
att'y for defendants

May 72

Leave to ans 20, cont 20-

Sept 17th cont 20

May 73, motion 20, 35-
Order del. rule 20, 20, 20
amend ans 20, motion 20, rule 20, Agreement 20,
~~20~~ 25, sub withdrawn 35, cont 20,
motion 20, motion 20, rule 20,
manuscript 37 and gh 30,

John Farrell
vs
Russell + Thomas

Amended
Answer

Filed May 20 1883
J. S. Boyell

John Farrell, Plaintiff	}	In the Circuit
Against		Court of Jef-
Thomas A. Russell, and		erson County,
W. B. W. Thomas, Defendants		Missouri
		May Term 1873,

The Plaintiff moves the Court to set aside the order of Court this day made, quashing the Depositions of Plaintiff, and for an order permitting Plaintiff to withdraw said Depositions, and directing the Clerk of this Court to enclose said Depositions in a sealed envelope, and direct ^{and send} them to the Notary Public who took the same, for the purpose of having ^{him} to correct, and perfect his Certificate to the same, and to attach thereto, the exhibit "A," referred to in said Depositions, - for the following reasons;

1. - Because the order, quashing said Depositions, was made, upon the agreement of the Defendants in open Court, that the said Depositions might still be read in evidence, and was so entered of record, - and afterwards, while the trial was going on and Plaintiff had read in evidence nearly half of said Depositions, Defendants objected to the further reading of the same because the exhibit "A," referred to in said Depositions, (being an old Deposition) was not attached to the Depositions, - and thereupon the Court granted leave to Plaintiff to withdraw the submission and

Continue the Cause to next Term,

2 - Because Plaintiff only consented to the order quashing said Deposition, upon the agreement of Defendants that the same, might be read in evidence; and, as Defendants afterwards, objected to the reading of said Deposition, in evidence (unless the Court would strike out, or suppress certain portions of the same) in violation of their agreement, the Plaintiff has a right to rescind his part of said agreement, and have the order quashing said Deposition set aside; in order that he may have the formal, technical objection to the Certificate of the Notary (it being merely a clerical error in date) corrected, and perfected.

Alma Green
Attorney for Plaintiff

Wm. H. Green, - Objects -

John Farrell

vs,

Thos. A. Russell

W. K. H. Thomas,

Motion

to rescind order, and
withdraw depositions

Filed May 21st 1873

W. S. Boyce cler