

Jefferson County Circuit Court
Case Files - Civil
September 1872

Box 30 Folder 11

Brewster, Thomas S.

vs

Jefferson County

Account +

Debt \$121 for medicine and
amputating leg and toes of
Antone Wotholhog, resident of
County Poor Farm

Wond May 27th 1872.

Jefferson County Mo., in account with
Thos. S. Brewster M. D. Dr.

Wed April 10th To visit & Med. Antone Wothothog. \$ 2.50

Thurs April 11th To Surgical operation Amputation.

Antone Wothothog Leg. 100.00

Thurs April 11th To One Quart of Whiskey. 1.00

Frid April 12th To Surgical Operation Amputation

Two Doses & Med Treatment to side 4.00

Sat April 13th To visit to same. 2.50

Sund " 14th To visit to same. 2.50

Wond " 15th To visit to same. 2.50

\$ 121.00

(Allowed) \$ 31.00

Thos S Brewster
vs
Jefferson County

Filed May 27th 1872
W R Bunnell (X)

Jefferson County, Missouri

To
Thomas S. Brewster

Dr.

1872

April 10th

To 1 visit & medicine to Antone
Wotholhog, a pauper at Co. Farm, \$2.50

April 11th

" a surgical operation performed
in amputating the leg of
said Antone Wotholhog

100.00

April 11

" 1 quart of whiskey furnished
for said operation

1.00

April 12

" Surgical operation in amputating
two toes & medical treatment
for pauper at Co. Farm, viz,
said Antone Wotholhog

10.00

April 13th

" 1 visit to same pauper

2.50

" 14th

" 1 " " " "

2.50

" 15th

" 1 " " " "

2.50

Total = \$121.00

Thomas S. Brewster, Plaintiff
against
Jefferson County in the
State of Missouri, Defendants

In the
Circuit
Court of
Jefferson
County,
Missouri.

Plaintiff States that he now is and was on the 10th day of April 1872 and prior thereto was and ever since has been a physician and Surgeon by profession and engaged in the active practice of said profession in the Town of Hillsboro in Jefferson County Missouri and that said County of Jefferson did on said 10th day of April 1872 and prior thereto and ever since own a farm three miles from said Town of Hillsboro and within said County known by the designation & name of the "County Farm" that said Farm is and for a long time prior to the 10th of April 1872 was and ever since has been in the possession of Defendant (said County of Jefferson) through the agency of the County Court of said County and managed by an agent of said County appointed by said County Court known ^{as} and

Styled the "Superintendent of the County Farm" that said County farm so owned, possessed, managed and controlled was used on the 10th of April 1872 and for a long time prior thereto and ever since by the Defendant as a home for paupers that is to say as a home for such poor persons disabled from any cause to provide a means of subsistence for themselves as said County Court or said superintendent might receive there for that purpose that upon such pauper or poor person being received for such purpose at said County farm it is and was the duty Defendant acting through Defendants said agent the Superintendent of said County Farm to provide such pauper with proper support and maintenance and in addition thereto proper medical attention when medical attention might be necessary to the life, health or comfort of such pauper or poor person, and to that end it was on the 10th of April 1872 and for many years prior thereto and ever since has been a part of the

duty of said Superintendent of said County farm in the discharge of the duties of said office not only to provide for the support of such paupers and poor persons as were received at said County Farm but in case of sickness or other need of medical or surgical aid or attendance by any of said paupers or poor persons to employ at the expense of Defendant a physician or ~~physician~~ physician and surgeon to give such pauper or poor person such medical treatment and perform for such pauper or poor person such surgical operation or operations as the nature of the case might need or require, within the discretion of said Superintendent and the physician or surgeon employed and Plaintiff avers that under this state of circumstances he was employed in his professional capacity by Defendant through Defendants agent the Superintendent of said County farm on or about the 10th of April 1872 to perform attend in the capacity of a physician and surgeon upon one Antone Wotholz of a pauper and

poor person at said County farm
in the custody of the Superintendent
thereof for maintenance, support
and medical & surgical attention as
before stated and who then and there
was entitled to receive such maintain-
ance, support and medical & surgical
attention at the expense of Defendant
that being so employed Plaintiff
did as such Physician & Surgeon
visit said Antone Wotholhog at
said County Farm on said 10th of
April 1872 giving him medicine
which then was necessary to his then
condition which visit & medicine
were of the value of Two & 50th Dollars
Plaintiff further avers that
being employed by said Superintend-
ant so to do and the same being
necessary to the life and health of
said Antone Wotholhog pauper
& poor person as aforesaid and
situated at said County Farm
in the custody of the Superintendent
thereof as aforesaid Plaintiff did
perform on him said Antone
on the 11th of April 1872 a surgical
operation by amputating one of
the legs of him said Antone

which service was reasonably worth
one Hundred Dollars & at the same
time furnished one quart of whiskey
for the use of said pauper which was
necessary in said operation & was of
the value of one dollar, and did on
the 12th of April 1872 under & by virtue
of the employment aforesaid visit
said Antone at said County Farm
& did then & there perform on said
Antone the further necessary
surgical operation of amputating two toes
then upon the then remaining foot
of said Antone which was reasonably
worth ten dollars and did thereafter &
under such employment & in the
necessary treatment of said case &
at said place make three several visits
to said Antone viz one on the 13th one on
the 14th & one on the 15th of April 1872 which
each were of the value of Two & $\frac{50}{100}$ Dollars
all which items amounting to the aggregate
of one Hundred & Twenty one Dollars,
the particulars of which appear by an
account herewith filed & made a part
of this petition, for all which Defendant
is liable & for which plaintiff asks judgment

3

Jos. J. Williams
Atty. for Plaintiff

Thos S Brewster
vs
Jefferson County

action on account
original

Filed Aug 15 1872
W. H. Royce Clerk
M. C. McDevine
Depy

Clerk issue process
without ~~and~~ copy of
act.

Williams
for Plaintiff
to be served on Co. Clerk
by copy & writ.

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 *Jefferson County*
in the State of *Missouri*

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 *Second* Monday after the fourth Monday
of *September* next, then and there to answer unto

Thomas S Brewster

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

Witness, *W. Spruce*
ELIAS F. HONEY, Clerk of our said
Circuit Court, with the seal thereof hereunto affixed,
at office in Hillsboro, this *Fifteenth*
day of *August* A. D. 1872

W. Spruce Clerk Circuit Court.
By *C. H. Horne* Deputy.

I Executed the within in the county of Jeff
State of Mo. on W.R. Donnal the county clerk
by delivering him a true copy as furnished
me by said court on the 22th day of Aug

1872

T. B. Moss Sheriff

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RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

Sept Term, 1872
Thomas S. Drevolen

Plaintiff

AGAINST

Jefferson County, in Le
State of Missouri Defendant

Original

Sheriff Fee 1.00

Thomas S. Brewster, Plaintiff } In the Circuit
 Against } Court of Jef=
 Jefferson County, in the } ferson County
 State of Missouri, - Defendant } Missouri

The Defendant, by Abner Green, her att=
 orney, for Answer to the Petition of Plaintiff,
 admits that Defendant owns a County Farm
 near Hillsboro, which she uses for the support
 and maintenance of the paupers in said County,
 and that Defendant had a Superintendent
 employed to superintend and control said farm
 on the 10th day of April 1872, and for some years
 prior thereto, and ever since, But, Defendant
 denies that she, or her superintendent, employed
 to manage said County Farm, on the 10th day of
 April 1872, or at any time prior or subse=
 quent, employed the Plaintiff as a Physician
 or Surgeon, or in his professional capacity, to at=
 tend upon one Antone Wotholthog, (a pauper
 then kept on said County Farm) and to visit &
 give said poor person medicine; and Defend=
 ant denies that her superintendent employed
 Plaintiff on the 11th of April 1872, to visit said
 poor person, or to amputate his leg. - And
 Defendant denies that Plaintiff on the 11th
 day of April, or at any other time, did perform
 a surgical operation on said Antone Wotholthog,
 (said pauper) by amputating one of his legs;

and denies that said surgical operation was worth one hundred dollars, or one fourth of that sum; and Defendant denies that Plaintiff on the 12th day of April 1872, or at any other time, performed the further surgical operation of amputating two toes on the remaining foot of said poor person, Antone Wotholhog; and denies that Defendant's Superintendent of said County Farm employed Plaintiff to make three other visits to said pauper, or to give him medicine.

Defendant by her Attorney, states that ^{Dr. G. Stegman} the facts of performed the services, ~~shied for Plaintiff and the case are these; that Dr. Piffl was on the 10th of April 1872, was an acquaintance to attend the little assistance and therefore Defendant offered County Farm as a Physician - and that he (being to pay him thirty one dollars, which Defendant then attending a small free patient) sent the away, was as much as his services were worth. Plaintiff out to the County Farm in his place, which sum Defendant ~~to pay~~ in "open Court" to attend on said Antone Wotholhog. That Plaintiff on seeing him, ^{Honor Greek's Attorney} concluded that his leg ^{for Defendant} would have to be amputated, and not having the necessary surgical implements to perform the operation of amputating a leg, he got Dr. Stegman to go out to the Farm with him. And while there, Dr. Gustav Stegman (having brought his surgical instruments for the purpose) did amputate one of the Legs of said Antone Wotholhog, - and on the next day said Stegman amputated two toes on the remaining foot of said Wotholhog, - Plaintiff, however, was present, and assisted some, - but did not perform the operation of~~

amputating either the leg or toes of said pauper, Defendant states that Plaintiff did not have the necessary surgical implements to perform said operation, and perhaps lacked the necessary surgical skill, and therefore he turned over the said work to Dr. Stegman, - Yet Defendant has always been ready and willing to pay Plaintiff for what little assistance he rendered in said case, And Defendant states that Plaintiff, on the 29th day of May 1872, presented his Bill for attending said Pauper to the County Court of said County, and that said Court, after a full hearing of the evidence, allowed Plaintiff the sum of Twenty one dollars, on ^{his} said Bill, and entered Judgment in favor of Plaintiff against said County for that sum, - and issued a County Warrant for that amount, and tendered it to Plaintiff, - which he refused to accept, Defendant, therefore, states that the same identical Bill, contained in Plaintiff's Petition has been passed upon, and adjudicated by said County Court, - a Court of competent Jurisdiction, - and that Plaintiff is therefore estopped from maintaining any action upon the Bill of Account, stated in his Petition, As Defendant avers that it is the same Account that was adjudicated & passed upon by said County Court, - and which Judgment yet remains unreversed, and has not been appealed to a higher Court, - And Defendant therefore pleads said Judgment

in bar of Plaintiff's action. - Defendant has always been ready & willing, and now tenders to Plaintiff said Judgment of Thirty one dollar, (for the demand claimed in his petition) which is as much as his services were reasonably worth. And Defendant denies that he is en titled to recover the said sum of One hundred & twenty one ^{or any part of it} dollar, - or any sum whatever in this action, As said sum of \$31.00, has franed into a Judgment, and this suit not being founded on said Judgment, Plain^{iff} is not entitled to recover on the cause set up, it being barred as above stated.

And having fully answered, Defendant asks to be discharged with her costs &c,

Abner Green
Attorney for Defendant,

In Jefferson Ch. Court
January Term 1872

Dr. Thos. A. Brewster
vs.
Jefferson County

Defts
(Answer)

Filed Dec. 4th 1872
W. J. Doyce Clerk

Thomas S. Brewster
 vs
 Jefferson County in
 the State of Missouri

In the Circuit
 Court of
 Jefferson County
 Missouri

Now at this day comes the Plaintiff
 and moves the Court to strike out
 the following portions of the
 Defendant's answer filed herein, viz,

"Defendant states the facts ~~to be that~~ of
 the case ~~to be~~ are these; that Dr. Phippen
 was on the 10th of April 1872 under an
 engagement to attend the County farm
 as a physician and that he (being
 then attending a small pox patient)
 sent the Plaintiff out to the County
 farm in his place to attend on said
 Antone Wotholhog - that Plaintiff on
 seeing him concluded that his leg
 would have to be amputated and not
 having the necessary surgical
 implements to perform the operation
 of amputating a leg he got Dr.
 Stegman to go out to the farm
 with him and while there Dr. Gustave
 Stegman (having brought his surgical
 instruments for the purpose) did
 amputate one of the legs of said
 Antone Wotholhog - and on the next
 day said Stegman amputated two toes

on the remaining foot of said
Witholtog - Plaintiff however was
present & assisted some but did not
perform the operation of amputating
either the leg or toes of said pauper
Defendant states that Plaintiff did not
have the necessary surgical implements to
perform said operation and perhaps lacked
the necessary surgical skill and therefore
he turned over the said work to Dr. Stegman.
The Defendant has always been ready and
willing to pay Plaintiff for what little
assistance he rendered in said case, and
Defendant states that Plaintiff, on the
29th day of May 1872, presented his Bill
for attending said Pauper to the County
Court of said County; and that said Court
after a full hearing of the evidence allowed
Plaintiff the sum of Thirty one dollars,
on his said Bill, and entered Judgment
in favor of Plaintiff against said County
for that sum and issued County Warrant
for that amount and tendered it to Plaintiff
which he refused to accept, Defendant,
therefore, states that the same identical
Bill contained in Plaintiff petition
has been passed upon, and adjudicated by
said County Court, - Court of competent
jurisdiction, and that Plaintiff is therefore
estopped from maintaining any action

upon the Bill of Account stated in his petition, As Defendant avers that it is the same Account that was adjudged & passed upon by said County Court, - and which judgment yet remains unreversed, and has not been appealed to a higher Court And Defendant thereof pleads said Judgment in bar of Plaintiffs action, - Defendant has always been ready & willing, and now tenders to Plaintiff said Judgment of Thirty one dollars, (for the demand claimed in his petition) which is as much as his services were reasonably worth, And Defendant deems that he is entitled to recover the said sum of one hundred & twenty one dollars or any part of it or any sum whatever in this action, As said sum of \$31.00 has passed in a Judgment and this suit not being founded on said Judgment, Plaintiff is not entitled to recover on the cause set up it being barred as above stated

1st Because said portions of said answer contain no defence to the Plaintiffs action as set forth in his petition

2nd Because said portions of said answer that undertake to set out the facts in regard to the services rendered by Plaintiff and the circumstances under which they are therein charged to have been rendered
+c

are inconsistent with the preceding & other portions of said answer and are redundant; irrelevant; multifarious; and is not responsive to the allegations contained in the plaintiffs petition and contains no defence to said petition,

3rd Because that portion of the answer ~~which~~ herein set forth which pleads an allowance of the County Court of Jefferson County Missouri ~~in~~ in favor of plaintiff ^{as a} Bar of this action contains no defence to plaintiffs action set forth in said petition in this to wit, that the allegations contained ~~therein~~ in said portion of said answer set forth no Bar to plaintiffs action & petition and constitute no defence to said petition -

3 } Jos. J. Williams
3 } Att. for Plaintiff
3 }

J S Brewster

Jefferson County

motion to
strike out
part of answer

Filed Jan 14 '98 J3
W J Dwyer Clerk

Thomas S. Brewster } In Circuit Court
Plff } Jefferson County
vs } Jan Term 1873
Jefferson County }
in the State of Missouri }

The plaintiff
for reply to the defendants answer
denies that Dr. S. Stegman performed
the services sued for by the plaintiff
in this action. The plaintiff further
denies the allegation of 2^d defendants
answer that he was simply pres-
ent to render some assistance but
alleges that he was the physician in
charge of the case and performed
the operation. And the plaintiff de-
nies the allegation of defendants an-
swer that the defendant offered to
pay him thirty one dollar. And the
defendant plaintiff denies that the sum of
thirty one dollar, was as much as
his services were worth, and the plain-
tiff denies that the sum of thirty one
dollar was tendered him in open Court

J. J. Williams
Plffs atty

In Jefferson County

Dr Thos A Brewster

^{as}
Jefferson County

— " —

Reply

Filed Jan'y 14th 1873
Wm Doyce Cor

STATE OF MISSOURI,
COUNTY OF JEFFERSON.

To

Dr. G. Hegman, Lewis Portney

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *14th* day of *January 1873*, 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

Thomas J. Hewes vs
Plaintiff, and *Jefferson County is*

Def.

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

Witness, W. S. BOYCE, Clerk of our said Court, with the seal thereof hereunto affixed, at office, this *16th* day of

January A. D., 1873.

W. S. Boyce Clerk.
W. C. McNamee Deput.

I Executed the within subpoena at the county of Jefferson
state of Missouri on the within named witnesses Dr
G Stegman Louis Partney by Reading the same in
there presence on the 11th day of January 1873

A. D. Brady sheriff

Wm J. Williams Del.

Brewster
vs
Jeff. Co.

Def^r.
Dr G Stegman ||
Louis Partney

Sheriff fees \$1.00

STATE OF MISSOURI,
COUNTY OF JEFFERSON.

To

Dr L James

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the fourth, 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

Mo S Brewster & Co

Plaintiff, and *Jeff Co*

Defendant, on the part of *the Off.*

in no wise to fail. ; and herein you are

Witness, W. S. BOYCE, Clerk of our said Court, with the seal thereof
hereto affixed, at office, this 14th day of
January A. D., 1873.

W S Boyce Clerk.

Dr Bruster
vs
Aff. co. No
Nov 14

State of Ohio
County of Del.
}

I have taken the within in the County of
the same to A. Jones on the 15 day of
Jan 1873

M. D. Jacobson

Shiriff Fee 50

STATE OF MISSOURI,
COUNTY OF JEFFERSON.

To *Dr L James & Dr C Pipkin*
v Dr W. P. Adair

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *fourth*, 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 *Thos S Brewster* is

Jeff Co is Plaintiff, and *Dr L James* is
Defendant, on the part of *of Dr L James*
in no wise to fail.

; and herein you are

Witness, W. S. BOYCE, Clerk of our said Court, with the seal thereof
hereto affixed, at office, this *14th* day of *Jan* A. D., 1873.

W S Boyce, Clerk.

State of Missouri County of St. Louis. I executed the within
 on the within named Dr. John A. D. D. on the 14. day of June 1873

W. D. D. Sheriff

Breasted
 vs
 Co

Pittkin -
 Legman -

1873-14

Jan. 10 1873

\$ 88 00

765
 95
 72
 53
 3
 11

Sheriff Fee 1.50

STATE OF MISSOURI,
COUNTY OF JEFFERSON.

To

was by

You are hereby commanded, that setting aside all manner of excuse and delay,
you appear before our Circuit Court, for the County aforesaid, on the _____
March _____, 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 *The S Brewster v* _____

Plaintiff, and Jeff Corneo is

Defendant, on the part of *Def.*,
in no wise to fail.

...; and herein you are

Witness, W. S. BOYCE, Clerk of our said Court, with the seal thereof
hereto affixed, at office, this 14th day of
January A. D., 1873.

W. D. Boyce Clerk.

12. The Marine Department

State of Wisconsin
County of Jefferson

I certify that the within Subpoena
was served on G. Hagman by Reading
the same to him on the 10 day of

Jan^y 1898

Y. B. Prop. Sheriff

Sheriff Fee 50

Brewster
vs
County

Served 14th

Dr. G. Hagman

Thomas Brewster }
vs. }
Jefferson County }

Instructions asked by Defendant,

- 1.- The Court instructs the Jury that there is no law regulating the fees of Physicians or surgeons, - and hence no rules that Medical Societies make in regard to the prices of their fees for medical or surgical operations, are binding, - but the Jury are the sole judges of the value of Plaintiff's services, from the evidence before them,
- 2.- The Plaintiff is only entitled to recover for his services actually performed, what the Jury may consider from the evidence, his services are reasonably worth,

1-

Brewster
in
Hennepin County }

The Court instructs the jury that if they believe from the evidence in the Cause that the Defendant through its agent the Superintendent of the County Farm belonging to Defendant employed Plaintiff to attend one Antoine Wotholthog an inmate of said Farm as a physician and in the course of treatment of said patient it became advisable to amputate his leg and that in doing so Plaintiff called in Dr. Stegner to assist him, then Plaintiff is entitled to pay for such amputation as the principal physician without regard to whether he or Dr. Stegner performed the main part of the act of cutting while Dr. Brewster assisted or not.

J. S. Brewster
Jefferson County }

2 The Court instructs the Jury that it stands admitted by the pleadings that Anton Wotholhog the pauper mentioned in Plaintiffs was in the month of April 1872 a pauper or poor person in the custody of the Superintendent of the County farm and entitled as such to receive such medical and surgical care and attention as his case might necessarily require to be paid for by the County and that in case of necessity of medical & surgical care and attention for said pauper The Superintendent of the County farm was authorized as the agent of the County to employ the necessary medical & surgical care and attention for said pauper to be paid for by the County

3 And the Court further instructs the Jury that if in the month of April 1872 said Antone Wotholhog was in need of medical care and attention and if it was necessary in order to his life or health for a surgical operation or operations to be performed on him and if the Superintendent of said farm authorized Dr. Pipkin to engage the services

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cont'd

of the Plaintiff (who is admitted by the pleadings to be a physician & surgeon by profession) to render medical and surgical aid care and attention to said pauper and if said Dr. Pipkin in pursuance of such authority did employ Plaintiff to render such services and if Plaintiff while acting in said capacity performed medical and surgical services for and upon said pauper in the amputation of his leg and two of his toes and if the same were necessary operations and if it was necessary to render other medical care and attention to him and the same were rendered by Plaintiff ~~and~~ by authority and consent of said Superintendent then in that event the Plaintiff is entitled to recover in this case so much as his said services were reasonably worth and if the jury so find they should render a verdict for the Plaintiff for such sum as they may believe from the evidence to have been the value of such services

are the same sort a
green

E. B. Meek

2

C

use the Jumper. Send a packet
of Eighty Eight dollars for
Thomas J. Brainerd.

E. B. Beckwith

29
The Birdnet

No.

3487

Jefferson Circuit Court.

Sept

Term, 1877

Thomas S. Brewster

vs.

Jefferson County

Judgment, - - \$

Date 18

Fee Book No. 1 Page 277

Judg't Docket, Page

J. J. Williams

Plaintiff's Atty.

ATTORNEYS: Exercise care and return promptly.

C. F. Chamberlin & Co., Printers and Stationers, St. Louis.