

Jefferson County Circuit Court
Case Files - Civil

January 1873

Williams, William F.

vs

McKay, William, exec.
Evans, James, dec.
Evans, Ruth
Evans, Charles, et al

Reform deed of trust

170 acres in S32T41R3E securing
\$500 note to John M. Wilson; other
defendants Thomas Evans, Jane
Evans, John Brown, Caroline Brown

Box

30

Folder-44

William F. Williams, Plaintiff	In the Circuit Court of Jefferson County Missouri
against	
William McKay, Executor of the Estate of James Evans.	
Ruth Evans -	
Charles Evans -	
Thomas Evans -	
Jane Evans &	January Term 1873
John Brown & Caroline Brown, His Wife, Defendants	

Plaintiff states that on and prior to the 21st day of March 1868 one James Evans now deceased owned the following described Real Estate in Jefferson County Missouri viz, The South West quarter of the North West quarter & the East half of the North West quarter &cept twenty acres being the North part of said East half of the North West quarter & also he owned Twenty acres of Land off of The South West fractional quarter (West of Big River) of section Thirty Two to be taken in such a manner as to leave sufficient space between said Twenty acre tract & Big River for a wagon road all said several tracts of Land being in section Thirty Two Township forty one North of Range Three East and in the aggregate making one Hundred and Twenty acres owned by said James Evans

Plaintiff avers that said James Evans being on the 20th of March 1868 and for a long time prior thereto the owner of said Land desired a few days prior to said 20th of March 1868 to borrow five Hundred Dollars from one John M. Wilson and proposed to Plaintiff if Plaintiff would become his security to said Wilson on a promissory note for that sum due one Year from its date bearing Ten per cent interest from date so as to enable him, said Evans, to borrow said sum from said Wilson, who he said would loan him the money on such note, that he said Evans would convey ^{his} ~~said~~ ^{whereon he resided containing one Hundred & twenty} Real Estate, to a Trustee in ^{acres together with his houses, barns & improvements thereon} trust to secure and indemnify Plaintiff against all liability incurred by him in signing said note as his (said Evans) security with power of sale of said Land in such Trustee for the purpose of paying and reimbursing Plaintiff for any & all sums of money which he might be compelled to pay upon said note or in consequence of his having become security for said Evans thereon, - Plaintiff avers that a day or two prior to said 20th of March 1868 & again on said day he acceded to said proposition of said Evans and agreed with him in consideration of his

promise and agreement to execute
 such Deed of Trust to indemnify the
 plaintiff against liability and loss
 occasioned or which might thereafter
 be occasioned to plaintiff by his signing
 said note as security for said Evans. That
 he would sign the same as security for
 said Evans. And plaintiff avers that
 in pursuance of said contract between
 him & said Evans and relying upon said
 Evans's intention to carry it out in good
 faith he signed a note such as ~~he~~
 was contemplated and agreed upon
 by and between himself & said Evans on
 the 20th of March 1868 as security for said
 Evans payable to said John M. Wilson
 or order bearing date March 20th 1868
 for the principal sum of Five
 Hundred Dollars due Twelve months
 after date with Ten per cent interest from
 date whereupon said Wilson received said
 note and loaned to said Evans, ^{thereon} such sum
 to wit, five Hundred Dollars — Plaintiff
 avers further that at the time said note was
 executed it was agreed that plaintiff & said Evans
 should go to the County seat of said Jefferson
 County on the then next day at which time &
 place said Evans was to execute said Deed of
 Trust as agreed upon between him and

Plaintiff as aforesaid. Plaintiff avers that
 in pursuance of said agreement he & said Evans
 visited the County Seat on the 21st of March 1868
 at which time and place said Evans ^{pretending to come} executed
 and delivered to him a Deed of Trust conveying &
 The south west quarter of the north west quarter &
 the East half of the north west quarter of section
 Thirty Two, Township Forty one North of Range
 Three East containing one Hundred & Twenty
 acres to William McKay Trustee in Trust for the
 benefit of Plaintiff to secure & indemnify the
 Plaintiff against all liability incurred or to be
 incurred by him by reason of his having become
 said Evans's security on said promissory note
 to said John M. Wilson which Deed
 contains a provision that if said Plaintiff
 shall be subjected to the payment of said
 note or any part of it or any cost incurred
 by reason thereof that said Trustee shall
 sell said Land upon 30 days notice &
 from the proceeds of such sale ~~and~~ pay
 to Plaintiff all sums of money, interest &
 costs which he may have paid by reason
 of having become security on said note,

(which Deed of Trust herewith filed is
 made a part of this petition) Plaintiff avers
 that at the time of the execution of said Deed of
 Trust said Evans represented & said to
 him that he owned all the Land embraced

in said Deed of Trust & that the same embraced
 120 acres which said Evans had told him prior to
 the signing of said note that he owned upon which
 he had agreed to give him a Deed of Trust as
 before ~~stated~~ stated & that relying upon such
 statements plaintiff received said Deed of Trust
 in good faith believing it to be in accordance
 with his agreement with said Evans but
 plaintiff avers that since that time he has
 discovered that said Evans did not when he
 made said Deed own a part of the Land
 embraced therein, to wit, Twenty acres being the
 North part of the East half of the North West
 Quarter of section Thirty Two therein described
 & that he did in fact own Twenty acres which
 was not put into said Deed of Trust being the
 Land on which his dwelling Houses, Barns &
 most valuable improvements were situated, to wit,
 Twenty acres off of the South West fractional
 quarter (West of Big River) of section Thirty
 Two Township forty one North of Range Three East
 to be taken in such manner as to leave a wagon
 Road between said Twenty acres and Big River,
 plaintiff states that he received no consideration for his
 signature to said note of said Evans to said Wilson &
 was wholly induced to sign the same in consideration of
 said Evans' promise to secure for his security & indemnity
 the Deed of Trust aforesaid on his farm whereon he resided
 which he represented to plaintiff as containing 120 acres
 plaintiff avers that having confidence in the

integrity & good faith of said Evans touching
 the ownership of the Land to be embraced in said
 Deed of Trust he relied upon his statements to
 Plaintiff that the description therein contained was
 correct the facts regarding which were peculiarly
 within said Evans' knowledge, & was thereby induced
 to ^{receive} a security & indemnity less valuable than that
 which by his contract with said Evans he
 was entitled to receive. That said Twenty
 acres left out of said Deed containing the
 most valuable improvements connected
 with the Land on which he was to have the
 Deed of Trust, his security against liability
 upon said note is insufficient & unavailing
 unless said Twenty acres be subjected to
 the operation of said Deed of Trust by a
 reformation thereof, — Plaintiff avers
 that the statements & representations of
 said Evans by which Plaintiff was induced
 to receive said Deed of Trust upon Land
 which said Evans did not own & without
 containing Twenty acres of the most valuable
 of the Land which he did own were untrue
 and made with the view and intent of
 defrauding Plaintiff out of the security
 which he had agreed to give him in
 consideration of his signing said note
~~as a security & indemnity against loss~~
 Plaintiff avers that said Evans has

Since Executing said Deed of Trust departed
this life leaving the Defendants. Ruth,
Charles, Thomas, Jane, & Caroline,
his children & Heirs said Caroline
having married John Brown her
present husband, said defendant
William McKay being Executor of
his Estate, Plaintiff also avers that
said Estate is insolvent so that
Plaintiff will be compelled to pay
said note to said John M. Wilson or
the greater portion of it.

And in Consideration of the
Premises the Plaintiff prays the Court
to adjudge and Decree that
said Deed of Trust so Executed as aforesaid
by said James Evans dated March
21st 1868 be reformed and corrected so
that the Lien thereof attach to & embrace
said Twenty acres of Land owned
at aforesaid on that day by said
Evans viz; Twenty acres off of the
South West fractional quarter
West of Big River of Section Thirty Two
(32) Township forty one North of Range
Three East to be taken in such manner
as to leave a wagon Road between said
Twenty acres and Big River, that the
Defendant William McKay be divested

of the right of Sale thereof for payment
of debts of said Evans' Estate as his the
Executor of his Estate and that the other
Defendants his heirs be divested of all
power of Sale thereof or to encumber
the same which may have descended
to them by Law by inheritance from
said ^{except in so far as the same may legally be done subject to} James ^{said Deed of Trust} ~~Watts~~ and that the Legal
Title may be divested from them and
invested by Decree of this Court in
said William McKay in Trust for the
Security and indemnity of Plaintiff to
indemnify him against all sums of
money damages & costs which he may
hereafter be compelled to pay in
consequence of his having become
Security for said Evans on said note
to said Wilson as aforesaid and that
in all things said Deed be so reformed
as to conform to the original Contract
& agreement of Plaintiff & said
Evans and that said McKay be
empowered and directed by Decree
both he and his successors in said
Deed of Trust in case of Plaintiff's
being hereafter compelled to pay
said Promissory note or any
part thereof to sell said Twenty-
acres of Land together with the

✓ other Lands owned by said Evans
in said Deed described upon the
Terms in said Deed Contemplated, viz,
✓ at the North front door of the Court
House in Hillsboro Jefferson County
Missouri at public vendue for cash
first giving Thirty days Public notice of
the time, Terms, & Place of Sale, And of the
Property to be sold by advertisement in
some news paper printed in Jefferson
County Missouri And upon such sale
to receive the proceeds thereof & pay the
same out in accordance with the prov-
isions of said Deed, viz, by pay to plaintiff
all sums of money which he may have
paid in consequence of said note, &
the remainder if any to the legal
representatives of said Evans & that
he also convey said Land by Deed to the
purchaser, And that the Court will
grant such other relief & make such
other Decrees as the facts of the case
may require

3 Jos. Williams,
3 Atty. for Plaintiff
3

no 87

William F. Williams
vs

William McKays
& others

Original petition to
reform Deed of Trust

Filed Dec 21 1872
W. B. 400 cl
W. B. 400 cl
Depn

issue process
for Williams
for plaintiff

William F Williams, Plaintiff

against

William McKay, Executor of the
Estate of James Evans, Ruth Evans
Charles Evans, Thomas Evans
Jane Evans & John Brown &
Caroline Brown his wife, Defendants.

In the Circuit
Court of Jefferson
County.

Midwin
January Term
1873.

Plaintiff states that on and prior to the 20th day of March 1868 one James Evans now deceased owned the following described Real Estate in Jefferson County, Midwin viz: The South west quarter of the North west quarter & the East half of the North west quarter except twenty acres being the north part of said East half of the North west quarter & also he owned twenty acres of land off of the South west fractional quarter (west of Big River) of Section Thirty two to be taken in such a manner as to leave sufficient space between said twenty acre tract & Big River for a wagon road all said several tracts of land being in Section thirty two Township forty one North of Range Three East and in the aggregate making one hundred and twenty acres owned by said James Evans. Plaintiff avers that said James Evans being on the 20th of March 1868 and for a long time prior thereto the owner of said land desired a few days prior to said 20th of March 1868 to borrow five hundred dollars from one John M Wilson and proposed to plaintiff if plaintiff would

become his security, to said Wilson on a promissory note for that sum due one year from its date bearing ten per cent interest from date so as to enable him said Evans to borrow said sum from said Wilson who he said would loan him the money on such note, that he said Evans, would convey his Real Estate whereon he resided containing one hundred & twenty acres together with his houses, barns & improvements thereon to a trustee in trust to secure and indemnify plaintiff against all liability incurred by him in signing said note as his (said Evans) security with power of sale of said land in such trustee for the purpose of paying and reimbursing plaintiff for any & all sums of money which he might be compelled to pay upon said note or in consequence of his having become security for said Evans thereon Plaintiff avers that a day or two prior to said 20th of March 1868 & again on said day he acceded to said proposition of said Evans and agreed with him in consideration of his promise and agreement to execute such deed of trust to indemnify the plaintiff against liability and loss occasioned or which might thereafter be occasioned to plaintiff by his signing said note as security for said Evans that he would sign the same as security for said Evans, And plaintiff avers that in pursuance of said contract between him & said Evans and relying upon said Evans' intention to carry it out in good faith he signed

a note such as was contemplated and agreed upon by
and between himself & said Evans on the 20th of March 1868
as security for said Evans payable to said John M Wilson
or order bearing date March 20th 1868 for the principal
sum of five hundred dollars due twelve months
after date with ten per cent interest from date
whereupon said Wilson received said note and
loaned to said Evans thereon such sum to wit; five
hundred dollars & Plaintiff avers further that at the
time said note was executed it was agreed that plain-
tiff & said Evans should go to the County seat of said
Jefferson County on the then next day at which time
& place said Evans was to execute said deed of
Trust ~~as~~ as agreed upon between him and Plaintiff
as aforesaid; Plaintiff avers that in pursuance of
said agreement he & said Evans visited the County
seat on the 21st of March 1868 at which time and
place said Evans executed and delivered to him
a deed of Trust conveying & pretending to convey
The South west quarter of the North west quarter
& the East half of the North west quarter of Section
Thirty two, Township Four, one North of Range Three
East containing one hundred & twenty acres to
William McKay, trustee in trust for the benefit
of Plaintiff to secure & indemnify the plaintiff
against all liability incurred or to be incurred
by him by reason of his having become said Evans
security, on said promissory note to said John M
Wilson which deed contains a provision that if

said plaintiff shall be subjected to the payment of said note or any part of it or any cost incurred by reason thereof that said Trustee shall sell said land upon 30 days notice & from the proceeds of such sale pay to plaintiff all sums of money, interest & costs which he may have paid by reason of having become security on said note, (which deed of trust herewith filed is made a part of this petition) Plaintiff avers that at the time of the execution of said deed of Trust said Evans represented & said to him that he ~~owned~~ owned all the land embraced in said deed of Trust & that the same embraced 120 acres which said Evans had told him prior to the signing of said note that he owned & upon which he had agreed to give him a deed of Trust as before stated & that relying upon such statements plaintiff received said deed of Trust in good faith believing it to be in accordance with his agreement with said Evans but plaintiff avers that since that time he has discovered that said Evans did not when he made said deed own a part of the land embraced therein, to wit, twenty acres being the North part of the East half of the North West quarter of Section Thirtiety two therein described & that he did in fact own twenty acres which was not put ~~into~~ into said deed of trust being the land on which his dwelling houses, barns &

to sign the same in consideration of said Evans' promise to execute for his security & indemnity the deed of trust aforesaid on his farm whereon he resided which he represented to plaintiff as containing 120 acres plaintiff avers that having confidence in the integrity & good faith of said Evans touching the ownership of the land to be embraced in said deed of trust he relied upon his statements to plaintiff that the description therein contained was correct the facts regarding which were peculiarly within said Evans' knowledge & was thereby induced to receive a security & indemnity less valuable than that which by his contract with said Evans he was entitled to receive, that said twenty acres left out of said deed containing the most valuable improvements connected with the land on which he was to have the deed of trust for his security against liability upon said note is insufficient & unavailing unless said twenty acres be subjected to the operation of said deed of trust by a reformation thereof, Plaintiff avers that the statements & representations of said Evans by which plaintiff was induced to receive said deed of trust upon lands which said Evans did not own & without containing twenty acres of the most valuable of the land which he did own were untrue and made with the view and intent of defrauding plaintiff out of the security which he had agreed to give him in consideration of his signing said note, Plaintiff avers that said Evans has since executing said Deed of Trust departed this life leaving the Defendants, Ruth, Charles, Thomas, Jane & Caroline his children

heirs, said Caroline having married John Brown her present husband, said defendant William McKay being executor of his estate. Plaintiff also avers that said estate is insolvent so that Plaintiff will be compelled to pay said note to said John M Wilson or the greater portion of it. And in consideration of the premises the Plaintiff prays the court to adjudge and decree that said deed of Trust so executed as aforesaid by said James Evans dated March 21st 1854 be reformed and corrected so that the lien thereof attach to embrace said twenty acres of land owned as aforesaid on that day by said Evans viz: Twenty acres off of the South West fractional quarter West of Big River of Section Thirty two (32) Township forty one North of Range Three East to be taken in such manner as to leave a wagon road between said twenty acres and Big River, that the Defendant William McKay be divested of the right of sale thereof for payment of debts of said Evans' Estate as the Executor of his Estate and that the other Defendants his heirs be divested of all power of sale thereof or to encumber the same which may have descended to them by law by inheritance from said James Evans except so far as the same may be legally be done subject to said deed of trust and that the legal title may be divested from them and invested by decree of this court in said William McKay in Trust for the security and indemnity of Plaintiff to indemnify him against all sums of

money damages & costs which ^{he} may hereafter be compelled to pay in consequence of his having become security for said Evans on said note to said Wilson as aforesaid and that in all things said deed be reformed as to conform to the original contract & agreement of plaintiff & said Evans and that said McKay be empowered and directed by decree to do & he and his successors in said Deed of Trust in case of plaintiff's being hereafter compelled to pay said promissory note or any part thereof to sell said twenty acres of land together with the other lands owned by said Evans in said deed described upon the terms in said deed contemplated viz: At the North front door of the Court House in Hillsboro Jefferson County Missouri at public vendue for cash first giving thirty days public notice of the time, terms & place of sale, and of the property to be sold by advertisement in some newspaper printed in Jefferson County Missouri and upon such sale to receive the proceeds thereof & pay the same out in accordance with the provisions of said deed viz: by pay to plaintiff all sums of money which he may have paid in consequence of said note & the remainder if any to the legal representatives of said Evans & that he also convey said land by deed to the purchaser, and that the court will grant such other relief & make such other decrees as the facts of the case

may require,

Jas. J. Williams

Atty. for Plaintiff

A true copy of the original petition,

Witness W. S. Boyce Clerk of said circuit
Court with the seal thereof hereunto affixed
at Office December 23rd 1877

W. S. Boyce Clerk
By C. H. Horne Depy.

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 *William McKay*
Ruth Evans, Charles Evans, Thomas Evans
Jane Evans, John Brown & Caroline
Evans,

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 *January* next, then and there
to answer unto

William F. Williams

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 *23rd*
day of *December* A. D. 18*72*

W. S. Boyce Clerk Circuit Court.
By *C. H. Horine* Deputy.

I executed the within writ at the County of Jefferson State of Missouri on the 26th day of December A.D. 1872 by delivering to John Brown one of the within defendants a copy of this writ an annexed petition as furnished me by the clerk, and I did on the same day further execute said writ by delivering to the ~~one~~ other defendants herein, viz Caroline Brown Thomas Evans, Charles Evans, Ruth Evans, ~~John Evans~~ & Wm McKay a copy of the within writ,

P. B. Moss Sheriff
By Wm. J. Jones Deputy

80,921,135,181

38333

RETURNABLE
TO
JEFFERSON CIRCUIT COURT.

January TERM, 1873.

William D. Williams

- vs -

Wm McKay,
Ruth Evans
Charles Evans
Thomas Evans
Jane Evans
John Brown
Caroline Brown

Sheriff 97.00
(original)

John Dec 25

Wm F. Williams } In Jefferson
 against } Circuit
 Ruth Evans } Court
 & others }

Plaintiff states that since
 this suit was commenced
 Defendant Jane Evans has
 married Louis Rechie
 wherefore Plaintiff prays
 that said Louis Rechie
 be made a party Defendant
 herein that summons issue
 to him & that the same
 relief be granted against
 said Louis Rechie and
 Jane his wife as prayed
 against said Jane in
 the Plaintiff's original
 petition

— J. F. Williams
 Atty. for Plaintiff

Wm F. Williams

vs

Jane Evans
& others

Petition to

make new
party

Filed May 21st 1873

W H Boyce

Clerk

Wm F. Williams	} In the Circuit Court of Jefferson County Missouri
vs	
Wm McKay Executor of James Evans Jane Evans & others	

The Plaintiff moves the Court to
make Louis Rechie a party
Defendant herein for the following
reasons

1st Because said Louis
Rechie has since this suit
was commenced intermarried
with Jane Evans one of the
Defendants in the original petition

3 Jos. J. Williams
3 Atty for Plaintiff

W. F. Williams

m

Jane Evans

& others

motion to make

Louis Reiche

a defendant

Filed May 21 1883

W. F. Williams

cc

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 *Louis Richie*

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

William F Williams

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 affixed, at office in Hillsboro, this *2nd* day of *July* A. D. 1873

W. S. Boyce Clerk Circuit Court.

By *W. H. Morine* Deputy.

I Executed the within summons and Petition
at the county of Jefferson state of Missouri
on the within named dependant Louis Richie
by delivering to him a true copy of the
original as furnished me by said Clerk
on the 5th day of August 1873

J. P. Moss Sheriff
By J. F. Williams Deputy

11
RETURNABLE
TO
JEFFERSON CIRCUIT COURT.

September TERM, 1873.

Wm F. Williams

vs
Louis Richie

(original)
Sheriff fees \$1.00
per Aug 5

MISSOURI
COUNTY OF JEFFERSON

William J. Williams } Do correct Deed
 asy } Do Bill

May 1873

Wm Kay & ab.

W J Bryce clk,

files 15 dock 10 cop. pet. 200 cos 50 writ 7 cop 100 1.80 \$ 4.80

motion 20 pet to sub. new party 20 .40

order 35 cont. 20 .60

Leave to withdraw motion 20 .20

Sept 1873

order 35 sum 100 cop 10 1.45

copy order 20 cos 50 dock 15 .85

default 35 sub 35 judgt. 50 1.20

figures joined 30 Verd. 35 .85 \$ 10.35

C. Thos. Marine clk,

213 10 cashes, 50 60 .60

J. Bellop Shff.

Serv J. writs June 1 1873 \$ 7.00

" calls 30

" 1 writ in Richie 1.00

8.50
 \$ 19.45